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**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

**FORM 8-K**

**CURRENT REPORT**

**Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934**

Date of Report (Date of earliest event reported): **July 24, 2016**

**AMC ENTERTAINMENT HOLDINGS, INC.**

(Exact Name of Registrant as Specified in Charter)

**Delaware**  
(State or Other Jurisdiction of  
Incorporation)

**001-33892**  
(Commission File Number)

**26-0303916**  
(I.R.S. Employer Identification  
Number)

**One AMC Way**  
**11500 Ash Street, Leawood, KS 66211**  
(Address of Principal Executive Offices, including Zip Code)

**(913) 213-2000**  
(Registrant's Telephone Number, including Area Code)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

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**Item 1.01 Entry into a Material Definitive Agreement.**

*Amended and Restated Agreement and Plan of Merger*

On July 24, 2016, AMC Entertainment Holdings, Inc. ("AMC"), AMC's indirect wholly-owned subsidiary Congress Merger Subsidiary, Inc. ("Merger Subsidiary"), and Carmike Cinemas, Inc. ("Carmike") entered into an Amended and Restated Agreement and Plan of Merger (the "Merger Agreement"), which amends and restates the Agreement and Plan of Merger, dated March 3, 2016, among AMC, Merger Subsidiary, and Carmike (the "Original Merger Agreement").

The Merger Agreement provides, among other things, that at the effective time of the merger, each share of Carmike's common stock, par value \$0.03 per share, issued and outstanding immediately prior to the effective time (other than shares owned by (i) AMC, Merger Subsidiary, or Carmike (which will be cancelled) or (ii) stockholders that have exercised appraisal rights under Delaware law) will be converted, at the election of the stockholder, into the right to receive either (i) \$33.06 in cash, without interest or (ii) 1.0819 shares of AMC Class A common stock (the "Per Share Merger Consideration"). As described in the Merger Agreement, after the elections are made, the final Per Share Merger Consideration delivered to the stockholders is subject to proration so that 70% of the total shares held by all Carmike stockholders are converted into cash and 30% of the total shares held by all Carmike stockholders are converted into shares of AMC Class A common stock.

Each Carmike stock option, share of restricted stock, restricted stock unit and performance share, will, contingent upon consummation of the merger, become 100% vested, and will be cancelled and converted into the right to receive the Per Share Merger Consideration pursuant to the election procedures described above or, in the case of stock options that have not been exercised, the excess, if any, of the cash amount of the Per Share Merger Consideration over the exercise price of such stock option. Performance shares will be paid based on actual results for each performance period completed prior to closing or at target for all incomplete periods.

The completion of the transactions contemplated by the Merger Agreement is subject to the satisfaction or waiver of various customary closing conditions, including, among other things, the receipt of regulatory and stockholder approvals as provided for in the Original Merger Agreement and that the Form S-4 Registration Statement under the Securities Act of 1933, as amended, to be filed by AMC and Carmike shall have become and remains effective. Carmike's obligation to close is also conditioned on the absence of a Parent Material Adverse Effect (as defined in the Merger Agreement) following the signing of the Merger Agreement.

If the Form S-4 has not become effective by October 25, 2016, then Carmike and AMC may extend the "End Date" (i.e., December 5, 2016) for an additional period of time not to exceed ninety days.

Except as noted above, the material terms of the Merger Agreement are the same as the corresponding material terms of the Original Merger Agreement, a description of which is included under "Item 1.01. Entry into a Material Definitive Agreement — Agreement and Plan of Merger" of the Current Report on Form 8-K filed by AMC with the U.S. Securities and Exchange Commission (the "SEC") on March 4, 2016 (the "Prior Current Report") and "Item 1.01. Entry into a Material Definitive Agreement — Agreement and Plan of Merger" of the Prior Current Report is incorporated herein by reference.

The foregoing summary of the Merger Agreement is qualified in its entirety by reference to the full text of the Merger Agreement, a copy of which is attached as Exhibit 2.1 to this Current Report on Form 8-K and is incorporated herein by reference.

The Merger Agreement has been attached to provide investors and security holders with information regarding its terms and is not intended to provide any factual information about AMC, Merger Subsidiary or Carmike. The representations, warranties and covenants in the Merger Agreement were made only for the purpose of the Merger Agreement and solely for the benefit of the parties to the Merger Agreement as of specific dates. Such representations, warranties and covenants may have been made for the purposes of allocating contractual risk between the parties to the Merger Agreement instead of establishing these matters as facts, may or may not have been accurate as of any specific date, and may be subject to important limitations and qualifications (including exceptions thereto set forth in disclosure schedules agreed to by the contracting parties) and may therefore not be complete. The representations, warranties and covenants in the Merger Agreement may also be subject to standards of materiality applicable to the contracting parties that may differ from those applicable to investors. Investors should not rely on the representations, warranties and covenants or any descriptions thereof as characterizations of the actual state of facts or condition of AMC, Carmike or any of their respective subsidiaries or affiliates. Moreover, information concerning the subject matter of the representations, warranties and covenants may change after the date of the Merger Agreement, which subsequent information may or may not be fully reflected in the AMC's public disclosures.

#### **Second Amended and Restated Debt Commitment Letter**

In connection with the entry into the Merger Agreement, AMC entered into a second amended and restated debt financing commitment letter (the "Debt Commitment Letter") with Citigroup Global Markets Inc., Bank of America, N.A., Merrill Lynch, Pierce, Fenner & Smith Incorporated, Barclays Bank PLC, Credit Suisse AG, Cayman Islands Branch, Credit Suisse Securities (USA) LLC, HSBC Bank USA, N.A. and HSBC Securities (USA) Inc. (the "Commitment Parties") on July 24, 2016, pursuant to which the Commitment Parties have committed to arrange and provide AMC with (i) a senior secured incremental term loan in an aggregate amount of up to \$225.0 million and (ii) a senior subordinated bridge loan in an aggregate amount of up to \$300.0 million, in each case, on the terms and subject to the conditions set forth in the Debt Commitment Letter. It is expected that AMC will seek long-term debt financing in lieu of drawings under the senior subordinated bridge loan, subject to market and other conditions.

The Commitment Parties or their affiliates from time to time have provided in the past and may provide in the future investment banking, commercial lending and financial advisory services to AMC and its affiliates in the ordinary course of business.

The foregoing summary of the Debt Commitment Letter and the transactions contemplated thereby does not purport to be complete and is subject to, and qualified in its entirety by, the full text of the Debt Commitment Letter, a copy of which is filed as Exhibit 10.1 to this Current Report on Form 8-K and incorporated herein by reference.

#### **Important Additional Information Regarding the Merger**

This Current Report on Form 8-K may be deemed to be solicitation material in respect of the proposed merger of Carmike with and into a wholly-owned subsidiary of AMC. In connection with the proposed merger, AMC and Carmike will file with the SEC a Registration Statement on Form S-4 (the

3

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"Registration Statement") containing a prospectus with respect to the AMC common stock to be issued in the proposed merger and a proxy statement of Carmike in connection with the proposed merger (the "Proxy Statement/Prospectus"). The proxy statement of Carmike contained in the Proxy Statement/Prospectus will replace the definitive proxy statement which Carmike previously filed with the SEC on May 23, 2016 and mailed to its stockholders on or about May 25, 2016. Each of AMC and Carmike intends to file other documents with the SEC regarding the proposed merger. The definitive Proxy Statement/Prospectus will be mailed to stockholders of Carmike and will contain important information about the proposed merger and related matters.

BEFORE MAKING ANY INVESTMENT OR VOTING DECISION, CARMIKE'S STOCKHOLDERS ARE URGED TO READ CAREFULLY THE DEFINITIVE PROXY STATEMENT/PROSPECTUS IN ITS ENTIRETY WHEN IT BECOMES AVAILABLE (INCLUDING ANY AMENDMENTS OR SUPPLEMENTS THERETO) AND ANY OTHER RELEVANT DOCUMENTS THAT AMC OR CARMIKE HAS FILED OR MAY FILE WITH THE SEC IN CONNECTION WITH THE PROPOSED MERGER, OR WHICH ARE INCORPORATED BY REFERENCE IN THE DEFINITIVE PROXY STATEMENT/PROSPECTUS, BECAUSE THEY WILL CONTAIN IMPORTANT INFORMATION ABOUT THE PROPOSED MERGER.

Carmike's stockholders will be able to obtain, free of charge, copies of the definitive Proxy Statement/Prospectus and Registration Statement, when available, and other relevant documents filed by AMC and Carmike with the SEC, at the SEC's website at [www.sec.gov](http://www.sec.gov). In addition, Carmike's stockholders may obtain free copies of the Proxy Statement/Prospectus and other relevant documents filed by Carmike with the SEC from Carmike's website at <http://www.carmikeinvestors.com/>.

This communication does not constitute an offer to buy or exchange, or the solicitation of an offer to sell or exchange, any securities, nor shall there be any sale of securities in any jurisdiction in which such offer, sale or exchange would be unlawful prior to registration or qualification under the securities laws of any such jurisdiction. This communication is not a substitute for any prospectus, proxy statement or any other document that AMC or Carmike may file with the SEC in connection with the proposed merger.

#### **Participants in the Solicitation**

This communication does not constitute a solicitation of a proxy from any stockholder with respect to the proposed merger. However, each of AMC, Carmike and their respective directors and executive officers, may be deemed to be participants in the solicitation of proxies from Carmike's stockholders with respect to the proposed merger. More detailed information regarding the identity of these potential participants, and any direct or indirect interests they may have in the proposed merger, by security holdings or otherwise, will be set forth in the Proxy Statement/Prospectus, which will replace the definitive proxy statement which Carmike previously filed with the SEC on May 23, 2016 and mailed to its stockholders on or about May 25, 2016. Additional information concerning AMC's directors and executive officers is set forth in the definitive proxy statement filed by AMC with the SEC on March 15, 2016 and in the Annual Report on Form 10-K filed by AMC with the SEC on March 8, 2016. These documents are available to Carmike stockholders free of charge from the SEC's website at [www.sec.gov](http://www.sec.gov) and from the investor relations section of AMC's website at [amctheatres.com](http://amctheatres.com). Additional information concerning Carmike's directors and executive officers and their ownership of Carmike common stock is set forth in the proxy statement for Carmike's most recent annual meeting of stockholders, which was filed with the SEC on April 15, 2016 and in the Annual Report on Form 10-K filed by Carmike with the SEC on February 29, 2016. These documents are available to Carmike stockholders free of charge from the SEC's website at [www.sec.gov](http://www.sec.gov) and from Carmike's website at <http://www.carmikeinvestors.com/>.

4

## CAUTIONARY LANGUAGE REGARDING FORWARD-LOOKING STATEMENTS

This Form 8-K includes “forward-looking statements” within the meaning of the “safe harbor” provisions of the United States Private Securities Litigation Reform Act of 1995. Forward-looking statements may be identified by the use of words such as “forecast,” “plan,” “estimate,” “will,” “would,” “project,” “maintain,” “intend,” “expect,” “anticipate,” “strategy,” “future,” “likely,” “may,” “should,” “believe,” “continue,” and other similar expressions that predict or indicate future events or trends or that are not statements of historical matters. Similarly, statements made herein and elsewhere regarding the pending acquisition of Carmike are also forward-looking statements, including statements regarding the anticipated closing date of the acquisition, the source and structure of financing, management’s statements about effect of the acquisition on AMC’s future business, operations and financial performance and AMC’s ability to successfully integrate Carmike into its operations. These forward-looking statements are based on information available at the time the statements are made and/or managements’ good faith belief as of that time with respect to future events, and are subject to risks, trends, uncertainties and other facts that could cause actual performance or results to differ materially from those expressed in or suggested by the forward-looking statements. These risks, trends, uncertainties and facts include, but are not limited to, risks related to: the parties’ ability to satisfy closing conditions in the anticipated time frame or at all; obtaining regulatory approval, including the risk that any approval may be on terms, or subject to conditions, that are not anticipated; obtaining the Carmike stockholders’ approval; the possibility that the acquisition does not close, including in circumstances in which AMC would be obligated to pay Carmike a termination fee or other damages or expenses; related to financing the transaction, including AMC’s ability to finance the transaction on acceptable terms; responses of activist stockholders to the transaction; AMC’s ability to realize expected benefits and synergies from the acquisition; AMC’s effective implementation, and customer acceptance, of its two brand strategy; disruption from the proposed transaction making it more difficult to maintain relationships with customers, employees or suppliers; the diversion of management time on transaction-related issues; the negative effects of this announcement or the consummation of the proposed acquisition on the market price of AMC’s common stock; unexpected costs, charges or expenses relating to the acquisition; unknown liabilities; litigation and/or regulatory actions related to the proposed transaction; AMC’s significant indebtedness, including the indebtedness incurred to acquire Carmike; AMC’s ability to utilize net operating loss carry-forwards to reduce future tax liability; continued effectiveness of AMC’s strategic initiatives; the impact of governmental regulation, including anti-trust investigations concerning potentially anticompetitive conduct, including film clearances and participation in certain joint ventures; and other business effects, including the effects of industry, market, economic, political or regulatory conditions, future exchange or interest rates, changes in tax laws, regulations, rates and policies; and risks, trends, uncertainties and other facts discussed in the reports AMC and Carmike have filed with the SEC. Should one or more of these risks, trends, uncertainties or facts materialize, or should underlying assumptions prove incorrect, actual results may vary materially from those indicated or anticipated by the forward-looking statements contained herein. Accordingly, you are cautioned not to place undue reliance on these forward-looking statements, which speak only as of the date they are made. Forward-looking statements should not be read as a guarantee of future performance or results, and will not necessarily be accurate indications of the times at, or by, which such performance or results will be achieved. For a detailed discussion of risks, trends and uncertainties facing AMC, see the section entitled “Risk Factors” in AMC’s Annual Report on Form 10-K, filed with the SEC on March 8, 2016, and the risks, trends and uncertainties identified in its other public filings. AMC does not intend, and undertakes no duty, to update any information contained herein to reflect future events or circumstances, except as required by applicable law.

5

### Item 9.01 Financial Statements and Exhibits.

(d) Exhibits.

<u>Exhibit</u>	<u>Description</u>
2.1*	Amended and Restated Agreement and Plan of Merger dated as of July 24, 2016, by and among AMC Entertainment Holdings, Inc., Congress Merger Subsidiary, Inc., and Carmike Cinemas, Inc.
10.1	Second Amended and Restated Debt Commitment Letter July 24, 2016, by and among AMC Entertainment Holdings, Inc. and Citigroup Global Markets Inc., Bank of America, N.A., Merrill Lynch, Pierce, Fenner & Smith Incorporated, Barclays Bank PLC, Credit Suisse AG, Cayman Islands Branch, Credit Suisse Securities (USA) LLC, HSBC Bank USA, N.A. and HSBC Securities (USA) Inc.

\*Certain schedules and exhibits to this agreement had been omitted pursuant to Item 601(b)(2) of Regulation S-K and the Registrant agrees to furnish supplementally to the SEC a copy of any omitted schedule and/or exhibit upon request.

6

## SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, the Registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

AMC ENTERTAINMENT HOLDINGS, INC.

Date: July 25, 2016

By: /s/ Craig R. Ramsey  
Craig R. Ramsey  
Executive Vice President and  
Chief Financial Officer

7

## EXHIBIT INDEX

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## AMENDED AND RESTATED AGREEMENT AND PLAN OF MERGER

dated as of

July 24, 2016

Among

Carmike Cinemas, Inc.,

AMC Entertainment Holdings, Inc.

and

Congress Merger Subsidiary, Inc.

## TABLE OF CONTENTS

	<u>PAGE</u>
<b>ARTICLE 1 DEFINITIONS</b>	<b>1</b>
<i>Section 1.01. Definitions</i>	<i>1</i>
<i>Section 1.02. Other Definitional and Interpretative Provisions</i>	<i>15</i>
<b>ARTICLE 2 THE MERGER</b>	<b>16</b>
<i>Section 2.01. The Merger</i>	<i>16</i>
<i>Section 2.02. Conversion of Shares</i>	<i>17</i>
<i>Section 2.03. Election Procedures; Proration</i>	<i>18</i>
<i>Section 2.04. Surrender and Payment</i>	<i>22</i>
<i>Section 2.05. Dissenting Shares</i>	<i>24</i>
<i>Section 2.06. Company Equity and Equity-Based Awards</i>	<i>25</i>
<i>Section 2.07. Adjustments</i>	<i>27</i>
<i>Section 2.08. Withholding Rights</i>	<i>27</i>
<i>Section 2.09. Lost Certificates</i>	<i>27</i>
<b>ARTICLE 3 THE SURVIVING CORPORATION</b>	<b>27</b>
<i>Section 3.01. Governing Documents</i>	<i>27</i>
<i>Section 3.02. Directors and Officers</i>	<i>28</i>
<b>ARTICLE 4 REPRESENTATIONS AND WARRANTIES OF THE COMPANY</b>	<b>28</b>
<i>Section 4.01. Corporate Existence and Power</i>	<i>28</i>
<i>Section 4.02. Corporate Authorization</i>	<i>28</i>
<i>Section 4.03. Governmental Authorization</i>	<i>29</i>
<i>Section 4.04. Non-contravention</i>	<i>29</i>
<i>Section 4.05. Capitalization</i>	<i>29</i>
<i>Section 4.06. Subsidiaries</i>	<i>30</i>
<i>Section 4.07. SEC Filings</i>	<i>31</i>
<i>Section 4.08. Financial Statements</i>	<i>33</i>
<i>Section 4.09. Disclosure Documents</i>	<i>33</i>
<i>Section 4.10. Absence of Certain Changes</i>	<i>34</i>
<i>Section 4.11. No Undisclosed Material Liabilities</i>	<i>34</i>
<i>Section 4.12. Compliance with Laws</i>	<i>34</i>
<i>Section 4.13. Litigation</i>	<i>35</i>
<i>Section 4.14. Properties</i>	<i>35</i>
<i>Section 4.15. Intellectual Property</i>	<i>37</i>
<i>Section 4.16. Information Technology</i>	<i>37</i>
<i>Section 4.17. Data Protection</i>	<i>38</i>
<i>Section 4.18. Taxes</i>	<i>39</i>
<i>Section 4.19. Employee Benefit Plans</i>	<i>40</i>
<i>Section 4.20. Labor and Employment</i>	<i>42</i>
<i>Section 4.21. Environmental Matters</i>	<i>43</i>
<i>Section 4.22. Material Contracts</i>	<i>44</i>
<i>Section 4.23. Food and Beverage Inventories</i>	<i>46</i>
<i>Section 4.24. Goodwill Passes; Prepaid Tickets</i>	<i>46</i>
<i>Section 4.25. Insurance</i>	<i>46</i>
<i>Section 4.26. Finders' Fees</i>	<i>47</i>
<i>Section 4.27. Opinion of Financial Advisor</i>	<i>47</i>
<i>Section 4.28. Antitakeover Statutes</i>	<i>47</i>
<i>Section 4.29. Amended and Restated Merger Agreement</i>	<i>47</i>
<i>Section 4.30. Non-Reliance on Parent Estimates, Projections, Forecasts, Forward-Looking Statements and Business Plans</i>	<i>48</i>
<b>ARTICLE 5 REPRESENTATIONS AND WARRANTIES OF PARENT</b>	<b>48</b>

<i>Section 5.01. Corporate Existence and Power</i>	48
<i>Section 5.02. Corporate Authorization</i>	48
<i>Section 5.03. Governmental Authorization</i>	49
<i>Section 5.04. Non-contravention</i>	49
<i>Section 5.05. Capitalization</i>	50
<i>Section 5.06. Subsidiaries</i>	50
<i>Section 5.07. SEC Filings</i>	51
<i>Section 5.08. Financial Statements</i>	53
<i>Section 5.09. Disclosure Documents</i>	53
<i>Section 5.10. Absence of Certain Changes</i>	54
<i>Section 5.11. No Undisclosed Material Liabilities</i>	54
<i>Section 5.12. Compliance with Laws</i>	54
<i>Section 5.13. Litigation</i>	54
<i>Section 5.14. Absence of Certain Agreements</i>	55
<i>Section 5.15. Business Activities</i>	55
<i>Section 5.16. Finders' Fees</i>	55

---

<i>Section 5.17. Financing</i>	55
<i>Section 5.18. Solvency</i>	57
<i>Section 5.19. Ownership of Shares</i>	57
<i>Section 5.20. Management Agreements</i>	57
<i>Section 5.21. Amended and Restated Merger Agreement</i>	58
<i>Section 5.22. Non-Reliance on Company Estimates, Projections, Forecasts, Forward-Looking Statements and Business Plans</i>	58
<b>ARTICLE 6 COVENANTS OF THE COMPANY</b>	<b>58</b>
<i>Section 6.01. Conduct of the Company</i>	58
<i>Section 6.02. Company Stockholder Meeting</i>	61
<i>Section 6.03. Access to Information</i>	62
<i>Section 6.04. No Solicitation; Other Offers</i>	63
<i>Section 6.05. Company Employee Plan Matters</i>	67
<i>Section 6.06. No Other Representations and Warranties</i>	67
<b>ARTICLE 7 COVENANTS OF PARENT</b>	<b>67</b>
<i>Section 7.01. Conduct of Parent</i>	67
<i>Section 7.02. Obligations of Merger Subsidiary</i>	68
<i>Section 7.03. Voting of Shares</i>	68
<i>Section 7.04. Director and Officer Liability</i>	68
<i>Section 7.05. Employee Matters</i>	70
<i>Section 7.06. NYSE Listing</i>	72
<i>Section 7.07. No Other Representations and Warranties</i>	72
<b>ARTICLE 8 COVENANTS OF PARENT AND THE COMPANY</b>	<b>72</b>
<i>Section 8.01. Regulatory Undertakings</i>	72
<i>Section 8.02. Certain Filings</i>	75
<i>Section 8.03. Parent Financing</i>	77
<i>Section 8.04. Public Announcements</i>	81
<i>Section 8.05. Further Assurances</i>	81
<i>Section 8.06. Notices of Certain Events</i>	81
<i>Section 8.07. Section 16 Matters</i>	82
<i>Section 8.08. Defense of Litigation</i>	82
<i>Section 8.09. No Control of Other Party's Business</i>	82
<b>ARTICLE 9 CONDITIONS TO THE MERGER</b>	<b>82</b>
<i>Section 9.01. Conditions to the Obligations of Each Party</i>	82

---

<i>Section 9.02. Conditions to the Obligations of Parent and Merger Subsidiary</i>	83
<i>Section 9.03. Conditions to the Obligations of the Company</i>	84
<i>Section 9.04. Frustration of Closing Conditions</i>	85
<b>ARTICLE 10 TERMINATION</b>	<b>85</b>
<i>Section 10.01. Termination</i>	85
<i>Section 10.02. Effect of Termination</i>	87
<b>ARTICLE 11 MISCELLANEOUS</b>	<b>87</b>
<i>Section 11.01. Notices</i>	87
<i>Section 11.02. Survival of Representations and Warranties</i>	89
<i>Section 11.03. Amendments and Waivers</i>	89
<i>Section 11.04. Expenses</i>	89
<i>Section 11.05. Disclosure Letter and SEC Document References</i>	91
<i>Section 11.06. Binding Effect; Benefit; Assignment</i>	91
<i>Section 11.07. Governing Law</i>	92
<i>Section 11.08. Jurisdiction</i>	92
<i>Section 11.09. WAIVER OF JURY TRIAL</i>	93
<i>Section 11.10. WAIVERS IRREVOCABLE</i>	93
<i>Section 11.11. Counterparts; Effectiveness</i>	93
<i>Section 11.12. Entire Agreement</i>	93
<i>Section 11.13. Severability</i>	94

Exhibit A — Surviving Corporation Certificate of Incorporation  
Exhibit B — Surviving Corporation Bylaws

iv

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## AMENDED AND RESTATED AGREEMENT AND PLAN OF MERGER

This AMENDED AND RESTATED AGREEMENT AND PLAN OF MERGER, dated as of March 3, 2016 and amended and restated as of July 24, 2016 (this “**Agreement**”), among Carmike Cinemas, Inc., a Delaware corporation (the “**Company**”), AMC Entertainment Holdings, Inc., a Delaware corporation (“**Parent**”), and Congress Merger Subsidiary, Inc., a Delaware corporation and an indirect wholly-owned subsidiary of Parent (“**Merger Subsidiary**”). The Company, Parent and Merger Subsidiary are sometimes hereinafter referred to individually as a “**Party**” and collectively as the “**Parties**”.

### WITNESSETH:

WHEREAS, Parent, Merger Subsidiary and the Company entered into an Agreement and Plan of Merger dated as of March 3, 2016 (the “**Original Merger Agreement**”), and they now desire to amend and restate the Original Merger Agreement in the form of this Amended and Restated Agreement and Plan of Merger (this “**Amended and Restated Merger Agreement**”) (it being understood and agreed that all references herein to “the date hereof”, “the date of this Agreement” or other similar terms refer to March 3, 2016 and all references to the date of this Amended and Restated Merger Agreement refer to July 24, 2016);

WHEREAS, the respective Boards of Directors of the Company, Parent and Merger Subsidiary have approved the execution of this Agreement and the transactions contemplated hereby and declared it advisable that the respective stockholders of the Company and Merger Subsidiary approve and adopt this Agreement pursuant to which, among other things, Parent will acquire the Company by means of a merger of Merger Subsidiary with and into the Company on the terms and subject to the conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the foregoing and the representations, warranties, covenants and agreements contained herein, the Parties, intending to be legally bound, hereby agree that the Original Merger Agreement be and is hereby amended and restated in its entirety as follows:

### ARTICLE 1

#### DEFINITIONS

##### Section 1.01. *Definitions.*

(a) As used herein, the following terms have the following meanings:

“**Acceptable Confidentiality Agreement**” means a confidentiality agreement (i) in effect on the date hereof, or (ii) that contains provisions that are substantially comparable in the aggregate to those contained in the Confidentiality Agreement; *provided* that such confidentiality agreement may contain a less restrictive or no standstill restriction and, if entered into after the date hereof, shall not restrict the Company or its Representatives from complying with its disclosure obligations under Section 6.04 of this Agreement.

1

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“**Acquisition Proposal**” means, other than with respect to the transactions contemplated by this Agreement or any other transaction involving Parent and the Company, any offer, proposal or indication of interest relating to (i) any acquisition or purchase, direct or indirect, of 20% or more of the consolidated assets of the Company and its Subsidiaries, assets of the Company and its Subsidiaries representing 20% or more of the consolidated net revenues or consolidated net income of the Company and its Subsidiaries, or 20% or more of any class of equity or voting securities of the Company or any of its Subsidiaries whose assets, individually or in the aggregate, constitute 20% or more of the consolidated assets of the Company and its Subsidiaries, (ii) any tender offer (including a self-tender offer) or exchange offer that, if consummated, would result in a Third Party’s beneficially owning 20% or more of any class of equity or voting securities of the Company or any of its Subsidiaries whose assets, individually or in the aggregate, constitute 20% or more of the consolidated assets of the Company and its Subsidiaries, or (iii) a merger, consolidation, business combination, reorganization, recapitalization, liquidation, dissolution or other similar transaction involving the Company or any of its Subsidiaries whose assets, individually or in the aggregate, constitute 20% or more of the consolidated assets of the Company and its Subsidiaries.

“**Affiliate**” means, with respect to any Person, any other Person directly or indirectly Controlling, Controlled by, or under common Control with such Person; *provided, however*, that with respect to Parent, Affiliate shall not include Parent’s controlling stockholder or any of its Affiliates (other than Parent or any of its Controlled Affiliates).

“**Antitrust Action**” means (i) any divestiture, license, hold separate (including by trust or otherwise) of any businesses or assets of any Party or its respective Affiliates, or (ii) any other commitment of any Party or any of its respective Affiliates to take any action that limits any freedom of action with respect to such Party or its Affiliates’ ability to retain, operate, manage, govern or influence any of their respective businesses or assets.

“**Applicable Law**” means, with respect to any Person, any federal, state, local or non-U.S. law (statutory, common or otherwise), constitution, treaty, convention, ordinance, code, rule, regulation, order, injunction, judgment, decree, ruling or other similar legal requirement enacted, adopted or promulgated by a Governmental Authority that is binding upon or applicable to such Person, as amended, unless expressly specified otherwise.

“**Business Day**” means a day, other than Saturday, Sunday or other day on which commercial banks in New York, New York are authorized or required by Applicable Law to close.

“**Circumstance**” means any event, change, occurrence, condition, development, state of facts, or circumstance.

“**Code**” means the Internal Revenue Code of 1986, as amended.

“**Company 10-K**” means the Company’s annual report on Form 10-K for the fiscal year ended December 31, 2015.

“**Company Balance Sheet**” means the consolidated balance sheet of the Company as of September 30, 2015 and the footnotes thereto set forth in the Company’s quarterly report on Form 10-Q for the fiscal quarter ended September 30, 2015.

“**Company Balance Sheet Date**” means September 30, 2015.

“**Company Disclosure Letter**” means the disclosure letter, dated the date hereof, regarding this Agreement that has been provided by the Company to Parent and Merger Subsidiary.

“**Company Employee**” means, at any specified time, a current or former employee of the Company or any of its Subsidiaries.

“**Company Employee Plan**” means any (i) “employee benefit plan” as defined in Section 3(3) of ERISA, (ii) employment, severance, change in control, transaction bonus, retention or other similar agreement or plan, or (iii) other plan, agreement or arrangement providing for compensation, bonuses, equity or equity-based compensation or other forms of incentive or deferred compensation, fringe benefits, vacation or paid time off benefits prerequisites, disability or sick leave benefits, supplemental unemployment benefits or post-employment or retirement benefits, in each case, (A) for the benefit of any Company Employee or current or former member of the Company’s Board of Directors and (B) (1) that is sponsored, maintained, administered, contributed to or entered into by the Company or any of its ERISA Affiliates or (2) with respect to which the Company might have any liability.

“**Company Material Adverse Effect**” means a material adverse effect on (i) the financial condition, business, assets, liabilities or results of operations of the Company and its Subsidiaries, taken as a whole, or (ii) the ability of the Company and its Subsidiaries to consummate the transactions contemplated by this Agreement, in each case, excluding any effect resulting from any Circumstance involving, resulting from, relating to or with respect to (A) changes in GAAP or any other accounting requirements applicable to the industry in which the Company or any of its Subsidiaries operates, (B) financial, securities, debt or financing markets or general economic or political conditions, (C) the industry in which the Company or any of its Subsidiaries operate, (D) changes in Applicable Law of general applicability to companies in the industry in which the Company or any of its Subsidiaries operate, or any official interpretation thereof by a Governmental Authority, (E) acts or declarations of war or other armed hostilities, sabotage, terrorism (including cyber-terrorism or cyber-attacks) or natural disasters or weather-related events or conditions, (F) the execution and delivery of this Agreement or the announcement or consummation of the transactions contemplated by this Agreement or the identity of, or any facts or circumstances relating to, Parent, including the impact thereof on the relationships, contractual or otherwise, of the Company or any of its Subsidiaries with employees, customers, suppliers or other Third Parties by this Agreement, (G) any failure by the Company or any of its Subsidiaries to meet any internal or published estimates, budgets, projections, forecasts or predictions of financial performance for any period, including as a result of any failure of the Company or any of its Subsidiaries to realize the anticipated benefits of any business-related launch, initiative or roll-out (it being agreed that the underlying cause of any such failure described in this clause (G), unless expressly excluded by another clause of this definition, may be considered in determining whether or not a Company

Material Adverse Effect has occurred), (H) any action taken (or omitted to be taken) at the written request, or with the written consent, of Parent or Merger Subsidiary, (I) the price and/or trading volume of the Company Stock on NASDAQ or any other market in which such securities are quoted for purchase and sale, (J) any action taken by Parent, the Company, any of their respective Subsidiaries or Affiliates, or any Wanda Group Party that is required, contemplated or permitted pursuant to this Agreement (including pursuant to [Section 8.01](#)), including any actions required under this Agreement to obtain any approval or authorization under antitrust, competition, trade regulation, or other Applicable Laws for the consummation of the Merger, or (K) any litigation, action, suit, proceeding or investigation made or brought by any of the stockholders of the Company (on their own behalf or on behalf of the Company) that assert allegations of a breach of fiduciary duty relating to this Agreement, violations of securities laws in connection with the Company Proxy Statement/Prospectus or otherwise arising out of any of the transactions contemplated by this Agreement; *provided*, in the case of clauses (A), (B), (C), (D) and (E), such Circumstances may be taken into account in determining whether or not there has been a Company Material Adverse Effect to the extent such Circumstance has a materially disproportionate adverse effect on the Company and its Subsidiaries, taken as a whole, as compared to other participants in the industry in which the Company and its Subsidiaries operate.

“**Company Stock**” means the common stock, \$0.03 par value, of the Company.

“**Company Stock Plans**” means the Carmike 2004 Incentive Stock Plan and the Carmike 2014 Incentive Stock Plan.

“**Company Stockholder Meeting**” means the special meeting of the stockholders of the Company originally convened on June 30, 2016.

“**Compliant**” means, with respect to the Required Financial Information, that (i) such Required Financial Information does not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make such Required Financial Information, taken as a whole, in light of the circumstances under which the statements contained in the Required Financial Information are made, not materially misleading, (ii) such Required Financial Information is, and remains throughout the Marketing Period, compliant in all material respects with all applicable requirements of Regulation S-X and Regulation S-K under the 1933 Act for offerings of debt securities on a registration statement on Form S-3 and (iii) the Company’s auditors have not withdrawn any audit opinion with respect to any financial statements contained in the Required Financial Information.

“**Confidentiality Agreement**” means the confidentiality agreement, dated October 23, 2014, among the Company, Parent, Wanda America Investment Holding Co. Ltd. and Dalian Wanda Group Co., Ltd., as amended January 20, 2016.

“**Control**” or “**Controlled**” means, when used with respect to any specified Person, the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise.

“**Debt Financing Documents**” means the definitive credit documentation required to be executed and delivered as a condition to the consummation of the Financing to be provided pursuant to the Debt Commitment Letters, including: all (i) credit agreements, loan documents, purchase agreements, underwriting agreements, indentures, debentures, notes, intercreditor agreements and security documents pursuant to which the Financing will be governed or otherwise contemplated by the Debt Commitment Letters, (ii) officer, secretary, solvency and perfection certificates, legal opinions, and resolutions contemplated by the Debt Commitment Letters, and (iii) agreements, documents or certificates that facilitate the creation of Liens securing the Financing as required by the Debt Commitment Letters.



“**Delaware Law**” means the General Corporation Law of the State of Delaware.

“**Environment**” means the air (including ambient or indoor air), soil, sediments, water (including surface waters, groundwater, streams, and water in drains), land (including surface or subsurface), plant or animal life, or natural resources.

“**Environmental Laws**” means Applicable Law, or any agreement with any Governmental Authority, pertaining to, regulating, relating to, or imposing liability, standards or obligations of conduct concerning (i) pollution or protection of human health or the Environment or (ii) generation, handling, treatment, storage, disposal, transportation, manufacture, processing, distribution, use, threatened Release, or Release of Hazardous Substances.

“**Environmental Permits**” means all permits, licenses, franchises, certificates, approvals, grants, registrations, exemptions, exceptions, variances, and other similar authorizations of Governmental Authorities relating to or required by an Environmental Law.

“**ERISA**” means the Employee Retirement Income Security Act of 1974.

“**ERISA Affiliate**” of any entity means any other entity that, together with the first entity, would be treated as a single employer under Section 414 of the Code.

“**Executive Officer**” has the meaning specified in Rule 3b-7 under the 1934 Act.

“**Existing Credit Facility**” means that certain Credit Agreement, dated as of April 30, 2013, by and among the Parent, the lenders and issuers thereto, Citicorp North America, Inc., as agent, and the other agents and arrangers party thereto, as amended by that certain First Amendment to Credit Agreement, dated as of December 11, 2015, and all Loan Documents (as defined therein) related thereto.

“**Financing Sources**” means the financial institutions party to the Debt Commitment Letters, including, to the extent permitted under Section 8.03(a), the parties to any joinder agreements or amendments entered into in connection therewith, and the former, current and future equity holders, controlling persons, directors, officers, employees, agents, Subsidiaries, members, managers, general or limited partners or assignees of such lenders (and alternative debt financing sources) and/or their respective Subsidiaries, successors and assigns.

“**GAAP**” means generally accepted accounting principles in the United States.

5

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“**Governmental Authority**” means any transnational, domestic or foreign federal, state or local governmental, regulatory or administrative authority, department, court, agency or official, including any political subdivision thereof.

“**Hazardous Substance**” means any substance, pollutant, contaminant, material, waste, or chemical that is (i) regulated pursuant to any Environmental Law, (ii) defined or treated under any Environmental Law as a “pollutant,” “contaminant,” “hazardous constituent,” “solid waste,” “toxic substance,” “special waste,” “toxic waste,” “hazardous substance,” “hazardous waste,” “hazardous material,” or (iii) asbestos or asbestos containing materials, lead, polychlorinated biphenyls, petroleum or petroleum products, urea formaldehyde foam insulation, and radon gas.

“**HSR Act**” means the Hart-Scott-Rodino Antitrust Improvements Act of 1976.

“**Intellectual Property**” means all (i) trademarks, service marks, trade names, domain names, know-how (including any registrations or applications for registration of any of the foregoing) or any other similar type of proprietary brand names, logos, corporate names, certification marks, trade dress, and other indications of origin, the goodwill associated with the foregoing and registrations in any jurisdiction of, and applications in any jurisdiction to register, the foregoing, including any extension, modification or renewal of any such registration or application, (ii) inventions and discoveries, whether patentable or not, in any jurisdiction; patents, applications for patents (including, without limitation, divisions, continuations, continuations-in-part and renewal applications), and any renewals, reexaminations, extensions or reissues thereof, in any jurisdiction, (iii) copyrightable works of authorship, mask works and any and all copyright rights, whether registered or not (including such rights in software); and registrations or applications for registration of copyrights in any jurisdiction, and any renewals or extensions thereof, (iv) Trade Secrets, (v) moral rights, database rights, shop rights, design rights, industrial property rights, publicity rights and privacy rights and (vi) any similar proprietary rights.

“**Intervening Event**” means any event, change, effect, development, state of facts, condition, circumstance or occurrence that was not known to the Board of Directors of the Company on the date of this Agreement (or, if known, the consequences of which were not known to the Board of Directors of the Company as of the date of this Agreement), which event, change, effect, development, state of facts, condition, circumstance or occurrence (or the consequences thereof) becomes known to the Board of Directors of the Company before receipt of the Company Stockholder Approval; *provided* that in no event will the receipt, existence of, or terms of any Acquisition Proposal, or any inquiry relating thereto, constitute an Intervening Event.

“**IT Assets**” means computers, computer software, firmware (including software delivered on a cloud computing or software as a service basis), middleware, servers, workstations, routers, hubs, switches, circuits, networks, data communications lines, and all other information technology infrastructure and equipment, and all associated Trade Secrets documentation, owned, licensed or leased by the Company or its Subsidiaries for information technology operations (excluding any public networks and any and all cinema video projection or display systems, cinema sound systems and cinema motion seating systems).

6

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“**knowledge**” means (i) with respect to the Company, the actual knowledge after reasonable inquiry of the individuals listed on Section 1.01(a) of the Company Disclosure Letter and (ii) with respect to Parent, the actual knowledge after reasonable inquiry of the individuals listed on Section 1.01(a) of the Parent Disclosure Letter.

“**Lien**” means, with respect to any property or asset, any mortgage, lien, pledge, charge, security interest, encumbrance or other similar adverse claim in respect of such property or asset.

“**Marketing Period**” means the first period of (x) prior to the date of delivery of the Required Financial Information with respect to the fiscal quarter ending September 30, 2016, at least fifteen (15) consecutive Business Days after the date of this Agreement or (y) on or after such date of delivery, at least eight (8) consecutive Business Days after the date of this Agreement, (i) commencing on the first Business Day after Parent has received the Required Financial Information in Compliant form; provided, that if the Company shall in good faith reasonably believe it has provided the Required Financial Information the Company may deliver to Parent a written notice to that effect, in which case the Company shall be deemed to have complied with clause (i) above unless Parent in good faith reasonably believes the Company has not completed

the delivery of the Required Financial Information and, within three (3) Business Days after the delivery of such notice by the Company, delivers a written notice to the Company to that effect (stating with specificity which Required Financial Information that the Company has not delivered), and (ii) throughout which nothing has occurred and no condition exists that has caused the conditions set forth in Section 9.02(a) or (b) (other than those conditions that by their terms are to be satisfied at the Closing but subject to the satisfaction or waiver of such conditions at Closing) to fail to be satisfied, in each case, assuming the Closing were to be scheduled for any time during such period; provided, however, that (i) for purposes of calculating such period, November 24, 2016 and November 25, 2016 shall be disregarded as Business Days, (ii) to the extent such period has not been completed on or prior to August 23, 2016, such period shall not be deemed to have commenced prior to September 5, 2016 and (iii) to the extent such period has not been completed on or prior to December 20, 2016, such period shall not be deemed to have commenced prior to January 2, 2017 and the Marketing Period shall end on the date the Financing is consummated if such date is prior to the end of an applicable period. Notwithstanding the foregoing, the "Marketing Period" shall not commence and shall be deemed not to have commenced if, during or prior to the completion of such period (a) Deloitte & Touche LLP shall have withdrawn its audit opinion with respect to any audited financial statements in the Company Financial Statements, in which case the Marketing Period shall not be able to commence until a new audit opinion is issued with respect to the audited financial statements in the Company Financial Statements for the applicable periods by Deloitte & Touche LLP or another independent public accounting firm reasonably acceptable to Parent, (b) the Company indicates its intent to restate any financial statements or other financial information included in the Required Financial Information, in which case the Marketing Period shall be deemed not to commence unless and until such restatement has been completed and the applicable Required Financial Information has been amended or the Company has provided written notice to Parent or otherwise publicly announced that it has concluded that no restatement shall be required, and the requirements in clauses (a) and (b) above would be satisfied throughout and on the last day of such period or (c) the Required Financial Information is not Compliant throughout and on the last day of such period (it being understood, for the avoidance of doubt, that if at any time during the Marketing Period the Required Financial

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Information provided on the first day of the Marketing Period ceases to be Compliant, then the Marketing Period shall be deemed not to have commenced).

"**MOFCOM**" means the Ministry of Commerce of the PRC as well as its local counterpart in Dalian, Liaoning province of the PRC.

"**1933 Act**" means the Securities Act of 1933.

"**1934 Act**" means the Securities Exchange Act of 1934.

"**NASDAQ**" means the NASDAQ Global Market.

"**NDRC**" means the National Development and Reform Commission of the PRC as well as its local counterpart in Dalian, Liaoning province of the PRC.

"**NYSE**" means the New York Stock Exchange.

"**Parent Balance Sheet**" means the consolidated balance sheet of Parent as of March 31, 2016 and the footnotes thereto set forth in Parent's quarterly report on Form 10-Q for the fiscal quarter ended March 31, 2016.

"**Parent Balance Sheet Date**" means March 31, 2016.

"**Parent Class A Common Stock**" means the class A common stock, \$0.01 par value, of Parent.

"**Parent Class B Common Stock**" means the class B common stock, \$0.01 par value, of Parent.

"**Parent Disclosure Letter**" means the disclosure letter, dated the date of this Amended and Restated Merger Agreement, regarding this Agreement that has been provided by Parent to the Company.

"**Parent Employee**" means, a current employee of Parent or any of its Subsidiaries.

"**Parent Employee Plan**" means any (i) "employee benefit plan" as defined in Section 3(3) of ERISA, (ii) employment, severance, change in control, transaction bonus, retention or other similar agreement or plan, or (iii) other plan, agreement or arrangement providing for compensation, bonuses, equity or equity-based compensation or other forms of incentive or deferred compensation, fringe benefits, vacation or paid time off benefits prerequisites, disability or sick leave benefits, supplemental unemployment benefits or post-employment or retirement benefits, in each case, (A) for the benefit of any Parent Employee and (B)(1) that is sponsored, maintained, administered, contributed to or entered into by Parent or any of its ERISA Affiliates or (2) with respect to which Parent might have any liability.

"**Parent Material Adverse Effect**" means a material adverse effect on (i) the financial condition, business, assets, liabilities or results of operations of Parent and its Subsidiaries, taken as a whole, or (ii) the ability of Parent and its Subsidiaries to consummate the transactions

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contemplated by this Agreement, in each case, excluding any effect resulting from any Circumstance involving, resulting from, relating to or with respect to (A) changes in GAAP or any other accounting requirements applicable to the industry in which Parent or any of its Subsidiaries operates, (B) financial, securities, debt or financing markets or general economic or political conditions, (C) the industry in which Parent or any of its Subsidiaries operate, (D) changes in Applicable Law of general applicability to companies in the industry in which Parent or any of its Subsidiaries operate, or any official interpretation thereof by a Governmental Authority, (E) acts or declarations of war or other armed hostilities, sabotage, terrorism (including cyber-terrorism or cyber-attacks) or natural disasters or weather-related events or conditions, (F) the execution and delivery of this Agreement or the announcement or consummation of the transactions contemplated by this Agreement or the identity of, or any facts or circumstances relating to, the Company, including the impact thereof on the relationships, contractual or otherwise, of Parent or any of its Subsidiaries with employees, customers, suppliers or other Third Parties by this Agreement, (G) any failure by Parent or any of its Subsidiaries to meet any internal or published estimates, budgets, projections, forecasts or predictions of financial performance for any period, including as a result of any failure of Parent or any of its Subsidiaries to realize the anticipated benefits of any business-related launch, initiative or roll-out, (H) any action taken (or omitted to be taken) at the written request, or with the written consent, of the Company, (I) the price and/or trading volume of the Parent Class A Common Stock on the NYSE or any other market in which such securities are quoted for purchase and sale, (J) any action taken by Parent, the Company, any of their respective Subsidiaries or Affiliates, or any Wanda Group Party that is required, contemplated or permitted pursuant to this Agreement (including pursuant to Section 8.01), including any actions required under this Agreement to obtain any approval or authorization under antitrust, competition, trade regulation, or other Applicable Laws for the consummation of the Merger, or (K) any litigation, action, suit, proceeding or investigation made or brought by any of the stockholders of Parent (on their own behalf or on behalf of Parent) that assert allegations of a breach of fiduciary duty relating to this Agreement or otherwise arising out of any of the transactions contemplated by this Agreement; provided, in the case of clauses (B), (C), (D) and (E), such Circumstances may be taken into account in determining whether or not there has been a Parent

Material Adverse Effect to the extent such Circumstance has a materially disproportionate adverse effect on Parent and its Subsidiaries, taken as a whole, as compared to other participants in the industry in which Parent and its Subsidiaries operate.

“**Parent 10-K**” means Parent’s annual report on Form 10-K for the fiscal year ended December 31, 2015.

“**Parent SEC Documents**” means all reports, schedules, forms, statements, prospectuses, registration statements and other documents required to be filed or furnished by Parent to the SEC since January 1, 2014, together with any exhibits and schedules thereto and other information incorporated therein.

“**Parent Trading Price**” means the volume weighted average price per share (calculated to the nearest one-hundredth of one cent) of Parent Class A Common Stock on the NYSE, for the consecutive period of five trading days beginning on the eighth trading day immediately preceding the Closing Date and concluding at the close of trading on the third trading day

9

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immediately preceding the Closing Date, as calculated by Bloomberg Financial LP under the function “VWAP”.

“**Permitted Lien**” means (i) any Lien for Taxes or other governmental charges or assessments not yet delinquent or which are being contested in good faith by appropriate proceedings and for which adequate reserves have been established in the applicable financial statements in accordance with GAAP, (ii) mechanics’, materialmen’s, carriers’, workers’, landlords’, repairmen’s, warehousemen’s, construction and other similar Liens arising or incurred in the ordinary course of business consistent with past practice or with respect to liabilities that are not yet due and payable or, if due, are not delinquent or are being contested in good faith by appropriate proceedings and for which adequate reserves have been established in the applicable financial statements in accordance with GAAP, (iii) Liens imposed or promulgated by Applicable Law or any Governmental Authority with respect to real property, including zoning, building or similar restrictions, excluding any Liens created by or on account of the violation of any of the foregoing, (iv) pledges or deposits in connection with workers’ compensation, unemployment insurance, and other social security legislation, (v) utility easements, minor encroachments, rights of way, imperfections in title, charges, easements, rights of way (whether recorded or unrecorded), restrictions, declarations, covenants, conditions, defects and other Liens that do not individually or in the aggregate materially interfere with the present occupancy or use of the respective Company Owned Real Property or Leased Real Property or otherwise materially impair the business operations of the Company and its Subsidiaries, (vi) matters disclosed by any existing title insurance policies or title reports, when copies of the same have been made available to Parent, (vii) non-exclusive licenses granted by the Company or any of its Subsidiaries in the ordinary course of business for Intellectual Property owned by the Company or any of its Subsidiaries, (viii) any other mortgage, lien, pledge, charge, security interest, easement, covenant, or other restriction or title matter or encumbrance of any kind in respect of such asset that does not materially interfere with the Company’s use of such asset in the ordinary course of business, and (ix) Liens set forth on [Section 1.01\(b\)](#) of the Company Disclosure Letter.

“**Person**” means an individual, corporation, partnership, limited liability company, association, trust or other entity or organization, including a Governmental Authority.

“**PRC**” means the People’s Republic of China, excluding Hong Kong, Macau and Taiwan.

“**Previously Disclosed by Parent**” means disclosed by Parent (i) in the Parent Disclosure Letter, or (ii) prior to the date of this Amended and Restated Merger Agreement in the Parent SEC Documents.

“**Previously Disclosed by the Company**” means disclosed by the Company (i) in the Company Disclosure Letter, or (ii) prior to the execution of this Agreement in the Company SEC Documents.

“**Proscribed Theatres**” means those theatres set forth on [Section 1.01\(c\)](#) of the Company Disclosure Letter.

10

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“**Regulatory Material Adverse Effect**” means any divestiture, license or hold separate of:

(i) any theatres of the Company, Parent or any of their respective Affiliates required by any Governmental Authority pursuant to [Section 8.01\(e\)](#) that would result in the loss of adjusted theatre-level cash flows (determined in accordance with the financial information provided by the Parties on or prior to the date hereof) for the twelve months ended December 31, 2015 in excess of Twenty-Five Million Dollars (\$25,000,000) in the aggregate (the “**Theatre Asset Threshold**”); *provided* that the sale of any Proscribed Theatres shall not be counted towards the Theatre Asset Threshold for purposes of determining the occurrence of any Regulatory Material Adverse Effect; *provided, further*, that, if, in any geographic area, region, or market, any Governmental Authority, pursuant to [Section 8.01\(e\)](#), provides Parent with the ability to select among the theatres of the Company and its Affiliates or Parent and its Affiliates, respectively, to be divested, licensed or held separate, then the theatre with the lowest adjusted theatre-level cash flow (determined in accordance with this clause (i)) in such geographic area, region, or market, shall be deemed to have been divested, licensed, or held separate for purposes of determining the occurrence of any Regulatory Material Adverse Effect due to the divestiture, license or hold separate of theatres in excess of the Theatre Asset Threshold; *provided, further*, that if Parent or its Affiliates acquire any theatre following the date of this Agreement (a “**Newly Acquired Theatre**”), then the adjusted theatre-level cash flow of (A) such Newly Acquired Theatre, or (B) any other theatre of the Company, Parent, or their respective Affiliates in the geographic area, region, or market of such Newly Acquired Theatre that is required to be divested, licensed, or held separate shall not be counted towards the Theatre Asset Threshold for purposes of determining the occurrence of any Regulatory Material Adverse Effect if such requirement to divest, license or hold separate is reasonably related to such acquisition of a Newly Acquired Theatre, or

(ii) any non-theatre assets of the Company, Parent, or any of their respective Affiliates required by any Governmental Authority pursuant to [Section 8.01\(e\)](#) with an aggregate net book value (determined by reference to the most recent financial statements set forth in the Company SEC Documents or Parent SEC Documents, as applicable, prior to the date hereof) in excess of Twenty Million Dollars (\$20,000,000); *provided* that if any Governmental Authority, pursuant to [Section 8.01\(e\)](#), provides Parent with the ability to select among non-theatre assets owned by the Company and its Affiliates or Parent and its Affiliates, respectively, to be divested, licensed or held separate, then for each selection of non-theatre assets permitted by the Governmental Authority, the non-theatre assets with the lowest net book value shall be deemed to have been divested, licensed or held separate for purposes of determining the occurrence of any Regulatory Material Adverse Effect.

“**Release**” means any release, spill, leak, emission, deposit, pumping, pouring, emptying, discharging, injecting, escaping, leaching, disposing, dumping, dispersion or migration of Hazardous Substances into, under, above, onto or from the Environment.

“**Representatives**” means, with respect to any Person, such Person’s directors, officers, employees, Affiliates, investment bankers, attorneys, accountants and other advisors or representatives.

“**Required Financial Information**” means (i) all financial and other information regarding the Company and its Subsidiaries to the extent required under the Debt Commitment Letters in order for Parent to complete and deliver (A) a customary confidential information memorandum (other than the portions thereof customarily provided by financing or other sources) to syndicate the Financing under the Debt Commitment Letters and (B) a customary offering document relating to an offering of high-yield debt securities under Rule 144A of the 1933 Act (other than the portions thereof customarily provided by investment banks or their counsel) and (ii) all financial and other information of the Company and its Subsidiaries required by paragraphs 4, 5 and 6 of Exhibit D to the Debt Commitment Letters; in each case of the foregoing subclauses (i) and (ii), *provided* that, for the avoidance of doubt, the Company’s obligations with respect to information related to post-Closing pro forma cost savings, synergies, capitalization, ownership or other pro forma adjustments desired to be incorporated into any pro forma financial information or projections shall be limited to providing Parent with the information regarding the Company and its Subsidiaries that is (x) reasonably necessary in order for Parent to produce such pro forma financial information or projections and (y) requested by Parent in writing no later than ten (10) Business Days prior to the filing by the Company of the relevant financial statements on Form 10-K and Form 10-Q.

“**SAFE**” means the State Administration of Foreign Exchange of the PRC as well as its applicable local counterpart.

“**Sarbanes-Oxley Act**” means the Sarbanes-Oxley Act of 2002.

“**SEC**” means the Securities and Exchange Commission.

“**Subsidiary**” means, with respect to any Person, any entity of which securities or other ownership interests having ordinary voting power to elect a majority of the board of directors or other persons performing similar functions are at any time directly or indirectly owned by such Person.

“**Superior Proposal**” means a bona fide, written Acquisition Proposal for at least a majority of the outstanding shares of Company Stock or more than 50% of the consolidated assets of the Company and its Subsidiaries (or assets of the Company and its Subsidiaries representing more than 50% of the consolidated net revenues or consolidated net income of the Company and its Subsidiaries) that the Board of Directors of the Company determines in good faith, after considering the advice of its outside counsel and a financial advisor of nationally recognized reputation, (i) is reasonably likely to be consummated in accordance with its terms, and (ii) taking into account all relevant factors (including the legal, financial and regulatory aspects of the proposal and the party making the proposal), if consummated, would result in a transaction that is more favorable to the Company’s stockholders from a financial point of view than as provided hereunder (including any revisions to the terms of this Agreement contemplated by Section 6.04(f)).

“**Tax**” means (i) any tax or other like assessment or charge of any kind whatsoever (including withholding on amounts paid to or by any Person), together with any interest, penalty, addition to tax or additional amount imposed by any Governmental Authority (a “**Taxing Authority**”) responsible for the imposition of any such tax (domestic or foreign), and any

liability for any of the foregoing as transferee and (ii) in the case of any Person, liability for the payment of any amount of the type described in clause (i) as a result of being or having been before the Effective Time a member of an affiliated, consolidated, combined or unitary group, or a party to any Tax Sharing Agreement, as a result of which liability of such Person to a Taxing Authority is determined or taken into account with reference to the activities of any other Person.

“**Tax Return**” means any report, return, document, declaration or other information or filing required to be supplied to any Taxing Authority with respect to Taxes, including information returns, any documents with respect to or accompanying payments of estimated Taxes, or with respect to or accompanying requests for the extension of time in which to file any such report, return, document, declaration or other information.

“**Tax Sharing Agreements**” means all existing agreements or arrangements (whether or not written) legally binding on a Person that provide for the allocation, apportionment, sharing or assignment of any Tax liability or benefit, or the transfer or assignment of income, revenues, receipts, or gains for the purpose of determining any Person’s Tax liability.

“**Third Party**” means any Person, including as defined in Section 13(d) of the 1934 Act, other than Parent, the Merger Subsidiary or the Company, and their respective Affiliates.

“**Trade Secrets**” means trade secrets and other proprietary and confidential information that provides the Company or any of its Subsidiaries with a competitive advantage and is maintained in confidence, including know how, and rights in any jurisdiction to limit the use or disclosure thereof by any Person.

“**Ultimate Parent Entity**” has the meaning set forth in 16 Code of Federal Regulations 801.1(a)(3).

“**Wanda Group Parties**” means Beijing Wanda Culture Industry Group Co., Ltd. and its Controlled Affiliates.

(b) Each of the following terms is defined in the Section set forth opposite such term:

Term	Section
Adverse Recommendation Change	6.04
Agreement	Preamble
Alternative Acquisition Agreement	6.04
Amended and Restated Merger Agreement	Recitals
Antitrust Laws	8.01
Approvals	8.01
Bankruptcy and Equity Exception	4.02
Cash Consideration	2.02
Cash Consideration Number	2.03
Cash Election	2.03
Cash Election Shares	2.03
Certificate	2.02
Closing	2.01
Closing Date	2.01

<b>Term</b>	<b>Section</b>
Collective Bargaining Agreement	4.20
Company	Preamble
Company Board Recommendation	4.02
Company Financial Statements	4.08
Company Material Contract	4.22
Company Owned Real Property	4.14
Company Performance Shares	2.06
Company Permits	4.12
Company Preferred Shares	4.05
Company Proxy Statement/Prospectus	4.09
Company Restricted Shares	2.06
Company Restricted Stock Units	2.06
Company SEC Documents	4.07
Company Securities	4.05
Company Stock Option	2.06
Company Stockholder Approval	4.02
Company Subsidiary Securities	4.06
Compensation Committee	7.05
Continuing Employee	7.05
D&O Insurance	7.04
Debt Commitment Letters	5.17
Dissenting Shares	2.05
DOJ	8.01
Effective Time	2.01
Election	2.03
Election Deadline	2.03
e-mail	11.01
End Date	10.01
ESPP	2.06
Exchange Agent	2.03
Exchange Agent Agreement	2.03
Exchange Fund	2.04
Executive Plan	7.05
Fee Letters	5.17
Financing	5.17
Form of Election	2.03
Form S-4	4.09
FTC	8.01
Improvements	4.14
Indemnified Person	7.04
Insurance Policies	4.25
internal controls	4.07
Intervening Event Notice	6.04
Intervening Negotiation Period	6.04
Inventories	4.23

<b>Term</b>	<b>Section</b>
Leased Real Property	4.14
Lenders	5.17
Merger	2.01
Merger Consideration	2.02
Merger Subsidiary	Preamble
Negotiation Period	6.04
Newly Acquired Theatre	1.01
Non-Election Shares	2.03
Odeon Registration Statement	8.02(d)
Option Exercise Period	2.06
Order	8.01
Original Merger Agreement	Recitals
Parent	Preamble
Parent Financial Statements	5.08
Parent Permits	5.12
Parent Preferred Shares	5.05
Parent Securities	5.05
Parent Subsidiary Securities	5.06
Parties	Preamble
Party	Preamble
Personal Data	4.17
Proceeding	7.04

Process Agent	11.08
Real Property Leases	4.14
Regulatory Termination Fee	11.04
Shortfall Number	2.03
Solvent	5.18
Stock Consideration	2.02
Stock Conversion Number	2.03
Stock Election	2.03
Stock Election Number	2.03
Stock Election Shares	2.03
Substitute Financing	8.03
Superior Proposal Notice	6.04
Surviving Corporation	2.01
Tail Cap	7.04
Taxing Authority	1.01
Termination Fee	11.04
Theatre Asset Threshold	1.01
Uncertificated Shares	2.02
Underwater Option	2.06
WARN Act	4.20

Section 1.02. *Other Definitional and Interpretative Provisions.* The words “hereof”, “herein” and “hereunder” and words of like import used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. The captions

herein are included for convenience of reference only and shall be ignored in the construction or interpretation hereof. References to Articles, Sections, Exhibits, and Schedules are to Articles, Sections, Exhibits, and Schedules of this Agreement unless otherwise specified. All Exhibits and Schedules annexed hereto or referred to herein are hereby incorporated in and made a part of this Agreement as if set forth in full herein. Any capitalized terms used in any Exhibit or Schedule but not otherwise defined therein, shall have the meaning as defined in this Agreement. Any singular term in this Agreement shall be deemed to include the plural, and any plural term the singular. Whenever the words “include”, “includes” or “including” are used in this Agreement, they shall be deemed to be followed by the words “without limitation”, whether or not they are in fact followed by those words or words of like import. “Writing”, “written” and comparable terms refer to printing, typing and other means of reproducing words (including electronic media) in a visible form. References to any statute shall be deemed to refer to such statute as amended from time to time on or prior to the Effective Time and to any rules or regulations promulgated thereunder on or prior to the Effective Time. References to any agreement or contract are to that agreement or contract as amended, modified or supplemented from time to time in accordance with the terms hereof and thereof. References to any Person include the successors and permitted assigns of that Person. References from or through any date mean, unless otherwise specified, from and including or through and including, respectively. References to “law”, “laws” or to a particular statute or law shall be deemed also to include any Applicable Law. If the last day of any time period under this Agreement is a non-Business Day, the period in question shall end on the next succeeding Business Day.

## ARTICLE 2

### THE MERGER

#### Section 2.01. *The Merger.*

(a) At the Effective Time, Merger Subsidiary shall be merged (the “**Merger**”) with and into the Company in accordance with Delaware Law, whereupon the separate existence of Merger Subsidiary shall cease, and the Company shall be the surviving corporation (the “**Surviving Corporation**”).

(b) Subject to the provisions of Article 9, the closing of the Merger (the “**Closing**”) shall take place in Atlanta, Georgia at the offices of King & Spalding LLP, 1180 Peachtree Street NE, Atlanta, Georgia 30309, as soon as possible after, but in any event no later than two (2) Business Days after, the date the conditions set forth in Article 9 (other than conditions that by their nature are to be satisfied at the Closing, but subject to the satisfaction or, to the extent permissible, waiver of those conditions at the Closing) have been satisfied or, to the extent permissible, waived by the Party or Parties entitled to the benefit of such conditions, or at such other place, at such other time or on such other date as Parent and the Company may mutually agree in writing; provided, however, that if the Marketing Period has not ended at the time of the satisfaction or waiver of the conditions set forth in Article 9 (other than those conditions that by their terms are to be satisfied at the Closing but subject to the satisfaction or waiver of those conditions at such time), the Closing shall instead occur on the earlier to occur of (a) a date during the Marketing Period specified by Parent on not less than two (2) Business Days’ written notice to the Company and (b) the second Business Day immediately following the last day of

the Marketing Period (subject, in each case, to the satisfaction or waiver of all of the conditions set forth in Article 9 for the Closing as of the date determined pursuant to this proviso (other than those conditions that by their terms are to be satisfied at the Closing but subject to the satisfaction or waiver of those conditions at such time)). The date upon which the Closing occurs is referred to herein as the “**Closing Date**”.

(c) At the Closing, the Company and Merger Subsidiary shall file a certificate of merger with the Delaware Secretary of State and make all other filings or recordings required by Delaware Law in connection with the Merger. The Merger shall become effective at such time (the “**Effective Time**”) as the certificate of merger is duly filed with the Delaware Secretary of State (or at such later time as may be agreed to by the Parties and specified in the certificate of merger).

(d) From and after the Effective Time, the Surviving Corporation shall possess all the rights, powers, privileges and franchises and be subject to all of the obligations, liabilities, restrictions and disabilities of the Company and Merger Subsidiary, all as provided under Delaware Law.

Section 2.02. *Conversion of Shares.* At the Effective Time, by virtue of the Merger and without any action on the part of Parent, Merger Subsidiary, the Company or the holders of any shares of Company Stock or any shares of capital stock of Parent or any shares of capital stock of Merger Subsidiary:

(a) Except as otherwise provided in Section 2.02(b), Section 2.04(f) or Section 2.05, each share of Company Stock issued and outstanding immediately prior to the Effective Time shall be converted into the right to receive, as elected pursuant to and as provided in Section 2.03, either (i) Thirty-Three Dollars and 06/100 (\$33.06) in

cash, without interest (the “**Cash Consideration**”) or (ii) 1.0819 shares of Parent Class A Common Stock (the “**Stock Consideration**”, and together with the Cash Consideration, the “**Merger Consideration**”).

(b) Each share of Company Stock held by the Company or owned by Parent, Merger Subsidiary or any of their respective Subsidiaries immediately prior to the Effective Time shall be canceled and shall cease to exist, and no consideration shall be delivered in exchange therefor.

(c) Each share of common stock of Merger Subsidiary outstanding immediately prior to the Effective Time shall be converted into and become one share of common stock of the Surviving Corporation with the same rights, powers and privileges as the shares so converted and shall constitute the only outstanding shares of capital stock of the Surviving Corporation.

(d) All of the shares of Company Stock converted into the right to receive the Merger Consideration pursuant to this Article 2 shall no longer be outstanding and shall automatically be canceled and shall cease to exist as of the Effective Time, and, subject to Section 2.04, each certificate previously representing any such shares of Company Stock (each a “**Certificate**”) or uncertificated shares of Company Stock (the “**Uncertificated Shares**”) shall thereafter represent only the right to receive (i) the Merger Consideration, (ii) cash in lieu of fractional shares into which the shares of Company Stock represented by such Certificate or Uncertificated Shares

17

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have been converted pursuant to this Section 2.02 and Section 2.04(f), and (iii) any dividends or distributions to which holders of Company Stock are entitled in accordance with Section 2.04(c).

Section 2.03. *Election Procedures; Proration.*

(a) Each holder of record (or, in the case of nominee, trustee or representative holders, the beneficial owner through proper instructions and documentation) of shares of Company Stock that are to be converted into the right to receive the Merger Consideration pursuant to Section 2.02 shall have the right, subject to the limitations set forth in this Article 2, to submit an election in accordance with the following procedures (an “**Election**”):

(i) Parent shall prepare a form of election reasonably acceptable to the Company (the “**Form of Election**”). The Form of Election shall specify that delivery of Certificates (or affidavits of loss in lieu thereof) or the transfer of Uncertificated Shares to the Exchange Agent in connection with the making of an Election shall be effected, and risk of loss and title shall pass, only upon proper delivery of the Certificates (or affidavits of loss in lieu thereof) or transfer of the Uncertificated Shares to the Exchange Agent, shall otherwise include customary provisions and instructions for making Elections and effecting the surrender of Certificates and Uncertificated Shares in connection with the making of an Election and shall include such other documents or information as Parent reasonably determines to include.

(ii) Each Person who is a record holder of shares of Company Stock as of the Election Deadline shall have the right to submit a Form of Election. Holders of record of Company Stock who hold such Company Stock as nominees, trustees or in other representative capacities may submit a separate Form of Election (with proper instructions and documentation) on or before the Election Deadline with respect to each beneficial owner for whom such nominee, trustee or representative holds such Company Stock. Parent shall prepare and cause the Exchange Agent to mail a Form of Election to the record holders (with sufficient copies for beneficial owners as may be requested) of Company Stock as of a date reasonably determined by the Company after consultation with Parent no later than the date that is thirty (30) days prior to the anticipated Election Deadline or such other date as mutually agreed upon by the Company and Parent, which Form of Election shall be used by each record holder (or, in the case of nominee, trustee or representative holders, the beneficial owner through proper instructions and documentation) of shares of Company Stock who wishes to make an Election. Parent shall make available one or more Forms of Election as may reasonably be requested from time to time by all Persons who become record holders or beneficial owners of Company Stock after the initial mailing but before the Election Deadline, and the Company shall use commercially reasonable efforts to provide the Exchange Agent with all information reasonably necessary for it to perform its duties as specified herein.

(iii) Each Form of Election shall permit the Company’s stockholders (or in the case of nominee, trustee or representative record holders, the beneficial owner through proper instructions and documentation) to (A) elect to receive the Cash Consideration for all or a portion of such stockholder’s shares (a “**Cash Election**”), (B) elect to receive the Stock Consideration for all or a portion of such stockholder’s shares (a “**Stock Election**”) )

18

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or (C) make no election with respect to the receipt of the Cash Consideration or the Stock Consideration; *provided, however*, that, notwithstanding any other provision of this Agreement to the contrary, thirty percent (30%) of the total number of shares of Company Stock issued and outstanding at the Effective Time, excluding any treasury shares and shares described in Section 2.02(b), (the “**Stock Conversion Number**”), shall be converted into the right to receive Stock Consideration and seventy percent (70%) of the total number of shares of Company Stock issued and outstanding at the Effective Time, excluding any treasury shares and shares described in Section 2.02(b) shall be converted into the right to receive the Cash Consideration (the “**Cash Consideration Number**”), in each case, in accordance with the allocation procedures set forth in Section 2.03(b); *provided, further*, that for purposes of the immediately preceding proviso, Dissenting Shares and shares of Company Stock converted into the right to receive a fraction of a share of Parent Class A Common Stock shall both be treated as if such shares were converted into the right to receive the Cash Consideration (and solely for purposes of this clause, \$33.06 in cash will be deemed payable in respect of each Dissenting Share). Shares of Company Stock as to which a Cash Election has been made and not revoked as of the Election Deadline, shares of Company Stock that constitute Dissenting Shares as of the Election Deadline and shares of Company Stock converted into the right to receive a fraction of a share of Parent Class A Common Stock are referred to herein as “**Cash Election Shares**”. Shares of Company Stock as to which a Stock Election has been made and not revoked as of the Election Deadline are referred to herein as “**Stock Election Shares**”. Shares of Company Stock as to which no election has been made (or as to which a Form of Election is not properly completed and returned in a timely fashion or as to which a Form of Election has been revoked and not replaced) as of the Election Deadline are referred to herein as “**Non-Election Shares**”. The aggregate number of shares of Company Stock with respect to which a Stock Election has been made and not revoked or changed as of the Election Deadline is referred to herein as the “**Stock Election Number**”. For the avoidance of doubt, if a stockholder of the Company does not submit a properly completed Form of Election by the Election Deadline, the shares of Company Stock held by such stockholder shall be designated Non-Election Shares.

(iv) Any Election shall have been made properly only if the Person authorized to receive Elections and to act as exchange agent in connection with the transactions contemplated by this Agreement, which Person shall be selected by Parent and be reasonably acceptable to the Company (the “**Exchange Agent**”), pursuant to an agreement reasonably acceptable to Parent and the Company entered into prior to the mailing of the Form of Election to the Company’s stockholders (the “**Exchange Agent Agreement**”), shall have received, by the Election Deadline, a Form of Election properly completed and signed and accompanied by, in the case of physical certificates representing shares of Company Stock, Certificates to which such Form of Election relates (or affidavits of loss in lieu thereof) or by an appropriate customary guarantee of delivery of such Certificates, as set forth in such Form of Election, from a member of any registered national securities exchange or a commercial bank or trust company in the United States; *provided* that such Certificates are in fact delivered to the Exchange Agent by the Election Deadline. Failure to deliver Certificates representing shares of Company Stock covered by such a guarantee of delivery by the Election Deadline shall be deemed

to invalidate any otherwise properly made Election, unless otherwise determined by Parent in its reasonable discretion, and such shares shall be deemed to be Non-Election Shares. For Uncertificated Shares, Parent shall establish Election procedures for such shares of Company Stock, which procedures shall be reasonably acceptable to the Company. If a stockholder of the Company has demanded appraisal of shares of Company Stock, any Election submitted by such stockholder with respect to such shares of Company Stock (unless such demand shall have been withdrawn prior to the Election Deadline) shall be deemed invalid. All Forms of Election shall automatically be revoked, and all Certificates returned, if the Exchange Agent is notified in writing by Parent and the Company that this Agreement has been terminated in accordance with its terms. After an Election is properly made with respect to any share of Common Stock, any subsequent transfer of such share shall automatically revoke such Election.

(v) As used herein, “**Election Deadline**” means 5:00 p.m. local time (in the city in which the principal office of the Exchange Agent is located) on the date that is five (5) Business Days prior to, but not including, the Closing Date unless otherwise mutually agreed by Parent and the Company, in which event Parent and the Company shall reasonably promptly announce such rescheduled Election Deadline. An Election may be revoked or changed only by delivering to the Exchange Agent, prior to the Election Deadline, a written notice of revocation or, in the case of a change, a properly completed revised Form of Election that identifies the Company Stock to which such revised Form of Election applies. Delivery to the Exchange Agent prior to the Election Deadline of a revised Form of Election with respect to any Company Stock shall constitute the revocation of all prior Forms of Election with respect to all such Company Stock. Parent and the Company shall use reasonable best efforts to publicly announce the Election Deadline at least five (5) Business Days prior to the Election Deadline or such other date mutually agreed upon by Parent and the Company.

(vi) Subject to the terms of the Exchange Agent Agreement, if Parent shall determine in its reasonable discretion that any Election is not properly made with respect to any shares of Company Stock (neither Parent nor the Company nor the Exchange Agent being under any duty to notify any stockholder of the Company of any such defect), such Election shall be deemed to be not in effect, and the shares of Company Stock covered by such Election shall, for purposes hereof, be deemed to be Non-Election Shares, unless a proper Election is thereafter made prior to the Election Deadline. Neither Parent nor the Exchange Agent shall be under any obligation to notify any Person of any defect in a Form of Election.

(vii) Parent, the Company and the Exchange Agent may agree upon election procedures in addition to or different from the procedures set forth above in order to effectuate Elections; *provided, however*, that subject to the terms of the Exchange Agent Agreement and any specific terms of this Agreement, Parent, in the exercise of its reasonable discretion, shall have the right to make all determinations, not inconsistent with the terms of this Agreement, governing (A) the validity of the Forms of Election and compliance by any stockholder of the Company with the Election procedures set forth herein, (B) the manner and extent to which Elections are to be taken into account in making the determinations prescribed by Section 2.03(b), (C) the issuance and delivery of

shares of Parent Class A Common Stock into which shares of Company Stock are converted in the Merger and (D) the method of payment of cash for shares of Company Stock converted into the right to receive the Cash Consideration and cash in lieu of fractional shares of Parent Class A Common Stock.

(b) The allocation of rights to receive the Cash Consideration and the Stock Consideration among the Company’s stockholders will be made as set forth in this Section 2.03(b).

(i) If the Stock Election Number exceeds the Stock Conversion Number, then all Cash Election Shares (other than Dissenting Shares) and all Non-Election Shares shall be converted into the right to receive the Cash Consideration and, subject to Section 2.04(f) hereof, each holder of Stock Election Shares will be entitled to receive the Stock Consideration in respect of that number of Stock Election Shares held by such holder equal to the product obtained by multiplying (A) the number of Stock Election Shares held by such holder by (B) a fraction, the numerator of which is the Stock Conversion Number and the denominator of which is the Stock Election Number, with the remaining number of such holder’s Stock Election Shares being converted into the right to receive the Cash Consideration; and

(ii) If the Stock Election Number is less than the Stock Conversion Number (the amount by which the Stock Conversion Number exceeds the Stock Election Number being referred to herein as the “**Shortfall Number**”), then all Stock Election Shares shall be converted into the right to receive the Stock Consideration and the Non-Election Shares and the Cash Election Shares shall be treated in the following manner:

(A) If the Shortfall Number is less than or equal to the number of Non-Election Shares, then all Cash Election Shares (other than Dissenting Shares) shall be converted into the right to receive the Cash Consideration and, subject to Section 2.04(f) hereof, each holder of Non-Election Shares shall receive the Stock Consideration in respect of that number of Non-Election Shares held by such holder equal to the product obtained by multiplying (1) the number of Non-Election Shares held by such holder by (2) a fraction, the numerator of which is the Shortfall Number and the denominator of which is the total number of Non-Election Shares, with the remaining number of such holder’s Non-Election Shares being converted into the right to receive the Cash Consideration; or

(B) If the Shortfall Number exceeds the number of Non-Election Shares, then all Non-Election Shares shall be converted into the right to receive the Stock Consideration and, subject to Section 2.04(f) hereof, each holder of Cash Election Shares (other than Dissenting Shares) shall receive the Stock Consideration in respect of that number of Cash Election Shares equal to the product obtained by multiplying (1) the number of Cash Election Shares held by such holder by (2) a fraction, the numerator of which is the amount by which (x) the Shortfall Number exceeds (y) the total number of Non-Election Shares, and the denominator of which is the total number of Cash Election Shares, with

the remaining number of such holder’s Cash Election Shares being converted into the right to receive the Cash Consideration.

#### Section 2.04. *Surrender and Payment.*

(a) At or prior to the Effective Time, Parent shall make available to the Exchange Agent (i) evidence of the Parent Class A Common Stock in book-entry form (and/or certificates representing the shares of Parent Class A Common Stock at Parent’s election) sufficient to deliver the aggregate Stock Consideration, (ii) immediately available funds equal to any dividends or distributions payable in accordance with Section 2.04(c), (iii) immediately available funds equal to the aggregate Cash Consideration, and (iv) cash in lieu of any fractional shares to be issued pursuant to Section 2.02 and paid pursuant to Section 2.04(f), in exchange for outstanding shares of Company Stock



(other than Dissenting Shares) (such cash and book-entry or certificates for shares of Parent Class A Common Stock collectively being referred to as the “Exchange Fund”). Such cash funds may be invested by the Exchange Agent as directed by Parent; *provided* that (A) no such investment or losses thereon shall affect the Merger Consideration or other amounts payable hereunder, (B) if, for any reason (including if Dissenting Shares cease to be Dissenting Shares or if a dividend or distribution payable in accordance with [Section 2.04\(c\)](#) is paid), the cash and the evidence of book-entry or certificates for shares of Parent Class A Common Stock in the Exchange Fund becomes insufficient to make the payments contemplated by this [Article 2](#), then Parent shall promptly provide additional cash, evidence of book-entry or certificates for shares of Parent Class A Common Stock, as applicable to the Exchange Agent for the benefit of the former stockholders of the Company sufficient to make the payments contemplated by this [Article 2](#) and (C) such investments shall only be in short-term obligations of the United States of America with maturities of no more than thirty (30) days or guaranteed by the United States of America and backed by the full faith and credit of the United States of America or in commercial paper obligations rated A-1 or P-1 or better by Moody’s Investors Service, Inc. or Standard & Poor’s Corporation, respectively. Any interest or income produced by such investments will be payable to the Surviving Corporation or Parent, as Parent directs.

(b) Promptly after the Effective Time (but not later than three (3) Business Days thereafter), Parent shall send, or shall cause the Exchange Agent to send, to each holder of shares of Company Stock who did not properly complete and timely submit and not revoke a Form of Election a letter of transmittal and instructions (which shall specify that the delivery shall be effected, and risk of loss and title shall pass, only upon proper delivery of the Certificates (or affidavits of loss in lieu thereof) or transfer of the Uncertificated Shares to the Exchange Agent) and shall be in such form and have such other or different provisions as Parent shall reasonably designate for use in such exchange. Upon proper surrender of the Certificates for exchange (or affidavits of loss in lieu thereof) and cancellation or transfer of the Uncertificated Shares to the Exchange Agent, together with such properly completed letter of transmittal, the holder of such Certificates or Uncertificated Shares shall be entitled to receive in exchange therefor, as applicable, (i) a certificate or book-entry transfer representing the number of whole shares of Parent Class A Common Stock to which such holder of Company Stock shall have become entitled pursuant to the provisions of [Article 2](#), (ii) a check representing the amount of the aggregate Cash Consideration (rounded up to the nearest whole cent) and any cash in lieu of fractional shares which such holder has the right to receive in respect of the Certificates or

22

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Uncertificated Shares surrendered pursuant to the provisions of this [Article 2](#), and (iii) a check representing the amount of any dividends or distributions then payable pursuant to [Section 2.04\(c\)](#), and the Certificates or Uncertificated Shares so surrendered shall forthwith be canceled. No interest will be paid or accrued on any cash in lieu of fractional shares or on any unpaid dividends and distributions payable to holders of Certificates or Uncertificated Shares. Until so surrendered, each Certificate or Uncertificated Share shall represent after the Effective Time for all purposes only the right to receive the Merger Consideration, together with any cash in lieu of fractional shares and any dividends or distributions as contemplated by [Section 2.04\(c\)](#). The Parent, the Company and the Exchange Agent may agree on transfer procedures in addition to or different from the procedures set forth above in order to effect the transfer and conversion of Company Stock.

(c) No dividends or other distributions declared with respect to Parent Class A Common Stock shall be paid to the holder of any Certificate that has not been surrendered or Uncertificated Share that has not been transferred until the holder thereof shall surrender such Certificate or transfer such Uncertificated Share in accordance with this [Article 2](#). After the surrender of a Certificate or transfer of an Uncertificated Share in accordance with this [Article 2](#), the record holder thereof shall be entitled to receive (i) the amount of dividends or other distributions with a record date after the Effective Time theretofore paid, without any interest thereon, with respect to the whole shares of Parent Class A Common Stock represented by such Certificate or Uncertificated Share and (ii) at the appropriate payment date, the amount of dividends or other distributions with a record date after the Effective Time but prior to surrender and a payment date subsequent to surrender, with respect to shares of Parent Class A Common Stock represented by such Certificate or Uncertificated Share.

(d) If any certificate representing shares of Parent Class A Common Stock is to be issued in, or any Cash Consideration is to be paid to a Person other than the Person in whose name the surrendered Certificate or the transferred Uncertificated Share is registered, it shall be a condition to such payment that (i) either such Certificate shall be properly endorsed or shall otherwise be in proper form for transfer or such Uncertificated Share shall be properly transferred, accompanied by all documents reasonably required to evidence and effect such transfer, and (ii) the Person requesting such payment shall pay to the Exchange Agent any transfer or other Taxes required as a result of such payment to a Person other than the registered holder of such Certificate or Uncertificated Share or establish to the satisfaction of the Exchange Agent that such Tax has been paid or is not payable.

(e) The shares of Parent Class A Common Stock delivered and cash paid in accordance with the terms of this [Article 2](#) upon conversion of any shares of the Company Stock shall be deemed to have been delivered and paid in full satisfaction of all rights pertaining to such shares of the Company Stock. From and after the Effective Time, subject to Delaware Law in the case of Dissenting Shares, all holders of Certificates and Uncertificated Shares shall cease to have any rights as stockholders of the Company other than the right to receive the Merger Consideration into which the shares represented by such Certificates or Uncertificated Shares have been converted pursuant to this Agreement and any funds payable in accordance with [Section 2.04\(c\)](#) upon the surrender of such Certificate or Uncertificated Share in accordance with this [Article 2](#). After the Effective Time, there shall be no further registration of transfers of shares of Company Stock. If, after the Effective Time, Certificates or Uncertificated Shares are

23

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presented to the Surviving Corporation or the Exchange Agent, they shall be canceled and exchanged for the Merger Consideration provided for, and in accordance with the procedures set forth, in this [Article 2](#) plus any funds payable in accordance with [Section 2.04\(c\)](#).

(f) Notwithstanding anything to the contrary contained in this Agreement, no certificates or scrip representing fractional shares of Parent Class A Common Stock shall be issued upon the surrender of Certificates for exchange or transfer of Uncertificated Shares, no dividend or distribution with respect to Parent Class A Common Stock shall be payable on or with respect to any fractional share, and such fractional share interests shall not entitle the owner thereof to vote or to any other rights of a stockholder of Parent. In lieu of the issuance of any such fractional share, Parent shall pay to each former stockholder of the Company who otherwise would be entitled to receive such fractional share an amount in cash, without interest (rounded to the nearest cent) determined by multiplying (i) the Parent Trading Price by (ii) the fraction of a share (rounded to the nearest thousandth when expressed in decimal form) of Parent Class A Common Stock to which such holder would otherwise be entitled to receive pursuant to [Section 2.02](#).

(g) Any portion of the Exchange Fund that remains unclaimed by the former holders of shares of Company Stock as of the one year anniversary of the Effective Time shall be returned to Parent upon demand. Any former stockholders of the Company who have not theretofore complied with this [Article 2](#) shall thereafter look only to Parent (subject to abandoned property, escheat or other similar Applicable Laws), as general creditors thereof, for payment of the Merger Consideration, cash in lieu of any fractional shares and any unpaid dividends and distributions payable in accordance with [Section 2.04\(c\)](#), in respect of each share of Company Stock, as the case may be, such stockholder holds as determined pursuant to this Agreement, in each case, without any interest thereon. Notwithstanding the foregoing, none of Parent, Merger Subsidiary, the Company, the Exchange Agent or any other person shall be liable to any former holder of shares of Company Stock for any amount delivered in good faith to a public official pursuant to applicable abandoned property, escheat or similar laws. Notwithstanding any other provision of this Agreement, any portion of the Merger Consideration or the cash to be paid in accordance with this [Article 2](#) that remains undistributed to any former holder of Company Stock, as of immediately prior to the date on which the Merger Consideration or such cash that would otherwise escheat to or become the property of any Governmental Authority, shall, to the extent permitted by Applicable Law, become the property of the Surviving Corporation, free and clear of all claims or interest of any Person previously entitled thereto.

Section 2.05. *Dissenting Shares.* Notwithstanding Section 2.02, shares of Company Stock outstanding immediately prior to the Effective Time and held by a holder who has not voted in favor of the Merger or consented thereto in writing with respect to such shares and who has demanded appraisal for such shares in accordance with Delaware Law (“**Dissenting Shares**”) shall not be converted into the right to receive the Merger Consideration. At the Effective Time, all Dissenting Shares shall be cancelled and cease to exist, and the holders of Dissenting Shares shall only be entitled to the rights granted to them pursuant to Delaware Law. If, after the Effective Time, such holder fails to perfect or effectively withdraws or otherwise loses the right to appraisal with respect to such shares, in any case pursuant to Delaware Law, such shares shall be treated as Cash Election Shares, without interest thereon. The Company shall give Parent prompt notice of any demands received by the Company for appraisal of shares,

24

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and Parent shall have the right to participate in all negotiations and proceedings with respect to such demands. Except with the prior written consent of Parent or as required by Applicable Law, the Company shall not make any payment with respect to, or offer to settle or settle, any such demands.

Section 2.06. *Company Equity and Equity-Based Awards.*

(a) At least seven days prior to the Effective Time, each option to purchase shares of Company Stock that is then-outstanding under the Company Stock Plans (each, a “**Company Stock Option**”), whether or not vested or exercisable, shall, contingent upon consummation of the Merger, (i) become 100% vested and (ii) be exercisable at any time during the seven day period prior to the Effective Time (the “**Option Exercise Period**”), reasonable notice of which shall be provided by the Company. Each share of Company Stock received in connection with the exercise of Company Stock Options will be entitled to receive the Merger Consideration pursuant to Section 2.02 plus any dividends or distributions to which holders of Company Stock are entitled in accordance with Section 2.04(c). To the extent not exercised within the Option Exercise Period, each outstanding Company Stock Option shall, at the Effective Time, be canceled, automatically and without any action on behalf of the holder thereof, and the Company shall pay each holder of such canceled Company Stock Option an amount in cash (less any applicable Tax withholding), determined by multiplying (x) the excess, if any, of the Cash Consideration over the exercise price per share of Company Stock subject to such Company Stock Option by (y) the number of shares of Company Stock subject to such Company Stock Option; *provided* that if the per share exercise price payable with respect to a Company Stock Option exceeds the Cash Consideration (an “**Underwater Option**”), then such Underwater Option shall be canceled without payment of any consideration with respect thereto.

(b) Immediately prior to the Effective Time, each share of restricted stock that is then outstanding under the Company Stock Plans (each, an award of “**Company Restricted Shares**”), whether or not vested, shall, contingent upon consummation of the Merger, become 100% vested and all outstanding issuance and forfeiture conditions shall be deemed 100% satisfied, and the holders of such shares shall be entitled to receive the Merger Consideration pursuant to Section 2.02 plus any dividends or distributions to which holders of Company Stock are entitled in accordance with Section 2.04(c).

(c) Immediately prior to the Effective Time, each award of restricted stock units that is then outstanding under the Company Stock Plans (each, an award of “**Company Restricted Stock Units**”), whether or not vested, shall, contingent upon consummation of the Merger, become 100% vested and all outstanding issuance and forfeiture conditions shall be deemed 100% satisfied, and the Company shall with respect to the holder of any such Company Restricted Stock Units (i) issue the number of shares of Company Stock underlying such Company Restricted Stock Units, which shares shall be entitled to receive the Merger Consideration pursuant to Section 2.02 plus any dividends or distributions to which holders of Company Stock are entitled in accordance with Section 2.04(c), and (ii) pay in cash all dividend equivalents, if any, accrued but unpaid as of the Effective Time with respect to the number of shares of Company Stock underlying such Company Restricted Stock Units.

25

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(d) Immediately prior to the Effective Time, each award of performance shares that is then outstanding under the Company Stock Plans (each, an award of “**Company Performance Shares**”), whether or not vested, or whether or not performance criteria have been achieved, shall, contingent upon consummation of the Merger, become 100% vested and all outstanding issuance and forfeiture conditions shall be deemed 100% satisfied with respect to (i) the actual number of shares of Company Stock earned for each performance period completed prior to the Effective Time, as determined by the Company prior to the Effective Time in accordance with the terms of the applicable award agreements and the Company Stock Plans in existence as of the date hereof, and (ii) the number of shares of Company Stock equal to the specified number of target shares for any performance period during which the Effective Time occurs and for each succeeding performance period covered by such Company Performance Shares, and the holders of such shares shall be entitled to receive the Merger Consideration pursuant to Section 2.02 plus any dividends or distributions to which holders of Company Stock are entitled in accordance with Section 2.04(c).

(e) The Company shall terminate the Company Stock Plans immediately as of the Effective Time, and following the Effective Time, no participant in any Company Stock Plan shall have any right under any such Company Stock Plan other than the right to receive the awards or payments in accordance with the terms of this Section 2.06. Prior to the Effective Time, the Company shall take all actions necessary to obtain any consents and make any amendments to the terms of any outstanding awards under the Company Stock Plans as may be necessary to give effect to the transactions contemplated by this Section 2.06. The Company will take steps necessary to arrange for all required Tax withholdings with respect to the Company Restricted Shares, Company Restricted Stock Units, and Company Performance Shares. The Company shall, or Parent and the Company shall cause the Exchange Agent to, provide a Form of Election to each holder of Company Stock Options, Company Restricted Shares, Company Restricted Stock Units and Company Performance Shares reasonably in advance of the Election Deadline (and in any event no later than the date that is thirty (30) days prior to the anticipated Election Deadline or such other date as mutually agreed upon by the Company and Parent). The Company shall ensure that, as of immediately following the Effective Time, no holder of a Company Stock Option, Company Restricted Shares, Company Restricted Stock Units or Company Performance Shares (or former holder or a participant in any Company Stock Plan) shall have any rights thereunder to acquire, or other rights in respect of, the capital stock of the Company, the Surviving Corporation or any of their Subsidiaries, or any other equity interest therein, except for the right to receive the Merger Consideration described in this Section 2.06. All payments under this Section 2.06 shall be made at or as soon as practicable after the Effective Time, pursuant to the Company’s ordinary payroll practices, and shall be subject to any applicable withholding.

(f) The Company shall take all of the following actions (including adoption of any required amendments) with respect to the Carmike Employee Stock Purchase Plan (the “**ESPP**”): (i) unless otherwise agreed between the Parties, suspend the ESPP effective no later than after the close of business on March 31, 2016, so that no purchases of Company Stock shall be permitted with respect to purchase periods commencing on or after April 1, 2016 and (ii) terminate the ESPP immediately as of the Effective Time so that no further purchase rights shall accrue after the Effective Time. All ESPP participants will automatically receive their accrued purchase rights under the ESPP upon the termination of the ESPP.

26

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Section 2.07. *Adjustments.* If, during the period between the date of this Amended and Restated Merger Agreement and the Effective Time, any change in the outstanding shares of capital stock of Parent shall occur by reason of any reclassification, recapitalization, stock split or combination, or any stock dividend thereon with a

record date during such period or any similar event, the Merger Consideration and any other amounts payable pursuant to this Agreement shall be appropriately adjusted, including to provide to the holders of Company Stock, Company Stock Options, Company Restricted Shares, Company Restricted Stock Units and Company Performance Shares the same economic effect as contemplated by this Agreement prior to such action, and as so adjusted shall, from and after the date of such event, be the Merger Consideration, subject to further adjustment in accordance with this provision.

Section 2.08. *Withholding Rights.* The Exchange Agent (or the Company, if necessary pursuant to [Section 2.06](#)) (or, subsequent to the one year anniversary of the Effective Time, Parent or the Surviving Corporation) shall be entitled to deduct and withhold from any cash portion of the Merger Consideration, any cash in lieu of fractional shares of Parent Class A Common Stock, cash dividends or distributions payable pursuant to [Section 2.04\(c\)](#) and any other cash amounts otherwise payable pursuant to this Agreement, such amounts as the Exchange Agent, the Company, or Parent, as the case may be, is required to deduct and withhold under the Code, or any provision of state, local or foreign Tax Law, with respect to the making of such payment. To the extent the amounts are so withheld by the Exchange Agent, the Company, Parent, or the Surviving Corporation, as the case may be, such withheld amounts shall be treated for all purposes of this Agreement as having been paid to the Person in respect of whom such deduction and withholding was made.

Section 2.09. *Lost Certificates.* If any Certificate shall have been lost, stolen or destroyed, upon the making of an affidavit of that fact by the Person claiming such Certificate to be lost, stolen or destroyed and, if required by the Surviving Corporation, Parent or the Exchange Agent, the posting by such Person of a bond, in such amount as the Surviving Corporation, Parent or the Exchange Agent may determine is reasonably necessary, as indemnity against any claim that may be made against it with respect to such Certificate, the Exchange Agent (or if subsequent to the termination of the Exchange Fund and subject to [Section 2.04\(g\)](#), Parent) will issue, in exchange for such lost, stolen or destroyed Certificate, the Merger Consideration, any cash in lieu of fractional shares deliverable in respect thereof pursuant to this Agreement, and any unpaid dividends and distributions payable in accordance with [Section 2.04\(c\)](#).

## ARTICLE 3

### THE SURVIVING CORPORATION

Section 3.01. *Governing Documents.* At the Effective Time, the certificate of incorporation and bylaws of the Company shall be amended and restated in their entirety to read as set forth in Exhibits A and B, and, as so amended, shall be the certificate of incorporation and bylaws of the Surviving Corporation, until thereafter amended, subject to [Section 7.04](#), in accordance with Delaware Law and the applicable provisions of such certificate of incorporation and bylaws.

27

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#### Section 3.02. *Directors and Officers.*

(a) The Parties shall take all actions necessary so that the directors of Merger Subsidiary immediately prior to the Effective Time shall, from and after the Effective Time, be the directors of the Surviving Corporation until their successors have been duly elected and qualified or until their earlier death, resignation, or removal in accordance with the bylaws of the Surviving Corporation.

(b) Except as otherwise determined by Parent prior to the Effective Time, the officers of Merger Subsidiary immediately prior to the Effective Time shall be the initial officers of the Surviving Corporation and shall hold office until their respective successors are duly elected and qualified, or their earlier death, resignation or removal.

## ARTICLE 4

### REPRESENTATIONS AND WARRANTIES OF THE COMPANY

Subject to [Section 11.05](#), except as Previously Disclosed by the Company, the Company represents and warrants to Parent that:

Section 4.01. *Corporate Existence and Power.* The Company is a corporation duly incorporated, validly existing and in good standing under the laws of the State of Delaware and has all corporate power and authority required to carry on its business as now conducted, except for any failure to be so organized, existing and in good standing as, and to have corporate power and authority the absence of which, has not had, and would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect. The Company is duly qualified to do business as a foreign corporation and is in good standing in each jurisdiction where such qualification is necessary, except for those jurisdictions where failure to be so qualified or in good standing has not had, and would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect.

#### Section 4.02. *Corporate Authorization.*

(a) Assuming the accuracy and completeness of the representation and warranty in [Section 5.19](#) the execution, delivery and performance by the Company of the Original Merger Agreement and the consummation by the Company of the transactions contemplated thereby are within the Company's corporate power and authority and, except for the required approval of the Company's stockholders in connection with the consummation of the Merger, have been duly authorized by all necessary corporate action on the part of the Company. Assuming the accuracy and completeness of the representation and warranty in [Section 5.19](#) the affirmative vote of the holders of a majority of the outstanding shares of Company Stock is the only vote of the holders of any of the Company's capital stock necessary in connection with the consummation of the Merger (the "**Company Stockholder Approval**"). Assuming the accuracy and completeness of the representation and warranty in [Section 5.19](#) subject to the receipt of the Company Stockholder Approval, the Original Merger Agreement constitutes a valid and binding agreement of the Company enforceable against the Company in accordance with its terms, subject to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and similar Applicable

28

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Laws of general applicability relating to or affecting creditors' rights and to general equity principles (the "**Bankruptcy and Equity Exception**").

(b) The Company's Board of Directors has unanimously (i) determined that this Agreement and the transactions contemplated hereby are in the best interests of the Company's stockholders, (ii) approved, adopted and declared advisable this Agreement and the transactions contemplated hereby in accordance with the requirements of Delaware Law and (iii) resolved, subject to [Section 6.04](#), to recommend approval and adoption of this Agreement by its stockholders (such recommendation, the "**Company Board Recommendation**").

Section 4.03. *Governmental Authorization.* The execution, delivery and performance by the Company of this Agreement and the consummation by the Company of the transactions contemplated hereby require no action by or in respect of, or filing by the Company with, any Governmental Authority other than (a) the filing of a certificate of merger with respect to the Merger with the Delaware Secretary of State and appropriate documents with the relevant authorities of other states in which the Company is

qualified to do business, (b) compliance with any applicable requirements of the HSR Act and of laws analogous to the HSR Act existing in foreign jurisdictions, (c) compliance with any applicable requirements of the 1933 Act, the 1934 Act, any other applicable state or federal securities laws and the rules and regulations of NASDAQ and (d) any actions or filings the absence of which would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect. Neither the Company nor any of its Affiliates has any interests in any entities, has any material assets or derives any material revenue from outside the United States.

Section 4.04. *Non-contravention*. The execution, delivery and performance by the Company of this Agreement and the consummation of the transactions contemplated hereby do not and will not (a) contravene, conflict with, or result in any violation or breach of any provision of the certificate of incorporation or bylaws of the Company, (b) assuming compliance with the matters referred to in [Section 4.03](#), and the accuracy and completeness of the representation and warranty in [Section 5.19](#) contravene, conflict with or result in a violation or breach of any Applicable Law, (c) assuming compliance with the matters referred to in [Section 4.03](#), require any consent by any Person under, constitute a default under, or cause or permit the termination, cancellation, acceleration or other change of any right or obligation or the loss of any benefit to which the Company or any of its Subsidiaries is entitled under any agreement or other instrument binding upon the Company or any of its Subsidiaries, or (d) result in the creation or imposition of any Lien on any asset of the Company or any of its Subsidiaries, with only such exceptions, in the case of each of clauses (b), (c) and (d), as would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect.

Section 4.05. *Capitalization*.

(a) The authorized capital stock of the Company consists of (i) 52,500,000 shares of Company Stock and (ii) 1,000,000 shares of preferred stock, par value One Dollar (\$1.00) per share (“**Company Preferred Shares**”). As of March 2, 2016, there were outstanding: (i) 24,548,635 shares of Company Stock (excluding Company Restricted Shares), (ii) no Company Preferred Shares, (iii) Company Stock Options to purchase an aggregate of 623,334 shares of Company Stock, (iv) 1,750 Company Restricted Shares, (v) 178,965 Company

29

Performance Shares and (vi) 77,503 Company Restricted Stock Units. All outstanding shares of capital stock of the Company have been, and all shares that may be issued pursuant to any grant of Company Stock Options, Company Restricted Shares, Company Performance Shares, or Company Restricted Stock Units will be, duly authorized and validly issued and fully paid.

(b) Except (i) as set forth in [Section 4.05\(a\)](#) of this Agreement, (ii) for changes since March 2, 2016 resulting from the issuance of shares of Company Stock pursuant to the ESPP or the exercise or settlement of Company Stock Options, Company Restricted Shares, Company Performance Shares or Company Restricted Stock Units set forth on the Company Disclosure Letter or issued in accordance with [Section 6.01](#), and (iii) for the issuance of any Company Stock Options, Company Restricted Shares, Company Performance Shares or Company Restricted Stock Units issued in accordance with [Section 6.01](#), there are no issued, reserved for issuance or outstanding (A) shares of capital stock or other voting securities or ownership interests in the Company, (B) securities of the Company convertible into or exchangeable for shares of capital stock or other voting securities of or ownership interests in the Company, (C) warrants, calls, options or other rights to acquire from the Company, or other obligations of the Company to issue, any capital stock, voting securities or securities convertible into or exchangeable for capital stock or voting securities of the Company, or (D) restricted shares, stock appreciation rights, performance units, contingent value rights, “phantom” stock or similar securities or rights, in each case issued by the Company, that are derivative of, or provide economic benefits based, directly or indirectly, on the value or price of, any capital stock or voting securities of the Company (the items in clauses (A) through (D) being referred to collectively as the “**Company Securities**”). There are no outstanding obligations of the Company or any of its Subsidiaries to repurchase, redeem or otherwise acquire any of the Company Securities.

(c) None of the Company Securities are owned by any Subsidiary of the Company.

Section 4.06. *Subsidiaries*.

(a) Each Subsidiary of the Company has been duly organized, is validly existing and (where applicable) in good standing under the laws of its jurisdiction of organization, and has all organizational power and authority required to carry on its business as now conducted, except for any failure to be so organized, existing and in good standing as, and to have power and authority as, the absence of which, has not had, and would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect. Each such Subsidiary is duly qualified to do business as a foreign entity and is in good standing in each jurisdiction where such qualification is necessary, except for those jurisdictions where failure to be so qualified or in good standing has not had, and would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect. All material Subsidiaries of the Company and their respective jurisdictions of organization are identified in the Company 10-K.

(b) All of the outstanding capital stock or other voting securities of, or ownership interests in, each Subsidiary of the Company is owned by the Company, directly or indirectly, free and clear of any material Lien. As of March 2, 2016, there were no issued, reserved for issuance or outstanding (i) securities of the Company or any of its Subsidiaries convertible into, or exchangeable for, shares of capital stock or other voting securities of, or ownership interests

30

in, any Subsidiary of the Company, (ii) warrants, calls, options or other rights to acquire from the Company or any of its Subsidiaries, or other obligations of the Company or any of its Subsidiaries to issue, any capital stock or other voting securities of, or ownership interests in, or any securities convertible into, or exchangeable for, any capital stock or other voting securities of, or ownership interests in, any Subsidiary of the Company or (iii) restricted shares, stock appreciation rights, performance units, contingent value rights, “phantom” stock or similar securities or rights, in each case issued by the Company or any Subsidiary, that are derivative of, or provide economic benefits based, directly or indirectly, on the value or price of, any capital stock or other voting securities of, or ownership interests in, any Subsidiary of the Company (the items in clauses (i) through (iii) being referred to collectively as the “**Company Subsidiary Securities**”). There are no outstanding obligations of the Company or any of its Subsidiaries to repurchase, redeem or otherwise acquire any of the Company Subsidiary Securities.

Section 4.07. *SEC Filings*.

(a) The Company has filed with or furnished to the SEC all reports, schedules, forms, statements, prospectuses, registration statements and other documents required to be filed or furnished by the Company since January 1, 2014 (collectively, together with any exhibits and schedules thereto and other information incorporated therein, the “**Company SEC Documents**”).

(b) As of its filing date (and as of the date of any amendment), each Company SEC Document complied, and each Company SEC Document filed subsequent to the date hereof will comply, in all material respects with the applicable requirements of the 1933 Act and the 1934 Act, as the case may be.

(c) As of their respective filing dates (or, if amended or superseded by a filing prior to the date hereof, on the date of such filing), except as may have been corrected by any subsequent filing prior to the date hereof, the Company SEC Documents filed pursuant to the 1934 Act did not, and the Company SEC Documents filed

subsequent to the date hereof will not, contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading.

(d) As of the date hereof, there are no outstanding or unresolved comments received from the SEC with respect to the Company SEC Documents. To the Company's knowledge, as of the date hereof, none of the Company SEC Documents are the subject of any ongoing SEC review or investigation.

(e) Except as may have been corrected by any subsequent filing, each Company SEC Document that is a registration statement, as amended or supplemented, if applicable, filed pursuant to the 1933 Act, as of the date such registration statement or amendment became effective, did not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading.

31

(f) The Company has complied in all material respects with (i) all current listing and corporate governance rules and regulations of the NASDAQ and (ii) all rules, regulations and requirements of the Sarbanes-Oxley Act.

(g) The Company maintains disclosure controls and procedures required by Rule 13a-15(e) or 15d-15(e) under the 1934 Act. Such disclosure controls and procedures are reasonably designed to ensure that material information required to be disclosed by the Company is made known to the Company's principal executive officer and principal financial officer by others within the Company. Such disclosure controls and procedures are reasonably effective in timely alerting the Company's principal executive officer and principal financial officer to material information required to be included in the Company's periodic and current reports required under the 1934 Act. For the purposes of this Agreement, "principal executive officer" and "principal financial officer" shall have the meanings given to such terms in the Sarbanes-Oxley Act.

(h) Since January 1, 2014, the Company, under the supervision of its principal executive officer and principal financial officer, has established and maintained a system of internal control over financial reporting (as defined in Rule 13a-15(f) or 15d-15(f), as applicable under the 1934 Act) ("**internal controls**"). Such internal controls are sufficient to provide reasonable assurance regarding the reliability of the Company's financial reporting and the preparation of the Company's financial statements for external purposes in accordance with GAAP. The Company has disclosed, based on its most recent evaluation of internal controls prior to the date of this Agreement, to the Company's auditors and audit committee of the Company's Board of Directors (x) all "significant deficiencies" and "material weaknesses" (as such terms are defined by the Public Company Accounting Oversight Board) in the design or operation of internal controls which are reasonably likely to adversely affect in any material respect the Company's ability to record, process, summarize and report financial information and (y) any fraud, whether or not material, that involves management or other employees who have a significant role in the Company's internal controls. The Company has made available to Parent prior to the date of this Agreement a summary of any such disclosure made by management to the Company's auditors and audit committee of the Company's Board of Directors since January 1, 2014.

(i) There are no outstanding loans or other extensions of credit including in the form of a personal loan (within the meaning of Section 402 of the Sarbanes-Oxley Act) made by the Company to any Executive Officer or director of the Company. The Company has not taken any action prohibited by Section 402 of the Sarbanes-Oxley Act since January 1, 2014.

(j) Since January 1, 2014, each of the principal executive officer and principal financial officer of the Company (or each former principal executive officer and principal financial officer of the Company, as applicable) have made all certifications required by Rule 13a-14 and 15d-14 under the 1934 Act and Sections 302 and 906 of the Sarbanes-Oxley Act, and the statements contained in any such certifications were, or will be, when made complete and correct.

(k) Since January 1, 2014, no Executive Officer or director of the Company has received from any former or current auditor, accountant, consultant or representative of the

32

Company or any Governmental Authority, written notice of, any material complaint or allegation, whether written or oral, that the Company has engaged in material improper accounting practices. No attorney representing the Company has reported to the current Board of Directors of the Company or any committee thereof or to any current director or Executive Officer of the Company evidence of a material violation of United States or other securities laws or material breach of fiduciary duty by the Company or any of its officers or directors.

(l) To the Company's knowledge, no employee of the Company is providing, or since January 1, 2014 has provided, information to any law enforcement agency regarding any conduct which the employee reasonably believes constitutes a violation of, nor filed, caused to be filed, testified, participated in, or otherwise assisted in a proceeding relating to an alleged material violation of, chapter 63 of title 18, United States Code, sections 1341, 1343, 1344, or 1348, any rule or regulation of the SEC, or any provision of Federal law relating to fraud against shareholders as described in Section 806 of the Sarbanes-Oxley Act by the Company.

(m) Except for such items that are of the type to be set forth in the notes to the consolidated financial statements of the Company, the Company is not a party to any off-balance sheet contract or other "off-balance sheet arrangements" (as defined in Item 303(a)(4)(ii) of Regulation S-K of the SEC), where the result, purpose or intended effect of such contract is to avoid disclosure of any material transaction involving, or material liabilities of, the Company or any of its Subsidiaries in the Company SEC Documents.

Section 4.08. *Financial Statements.* The consolidated financial statements (including all related notes and schedules) of the Company included in or incorporated by reference into the Company SEC Documents (the "**Company Financial Statements**") (i) fairly present in all material respects the consolidated financial position of the Company, as of the respective dates thereof, and the consolidated results of its operations and its consolidated cash flows for the respective periods then ended, (ii) were prepared in conformity with GAAP (except, in the case of the unaudited statements, subject to normal year-end audit adjustments and the absence of footnote disclosure) applied on a consistent basis during the periods involved (except as may be indicated therein or in the notes thereto), and (iii) have been prepared from and are in accordance with, in all material respects, the books and records of the Company and its Subsidiaries. The books and records of the Company have been, and are being, maintained in all material respects in accordance with GAAP and any other applicable legal and accounting requirements. As of the date hereof, Deloitte & Touche LLP has not resigned (or informed the Company that it intends to resign) or been dismissed as independent public accountants of the Company as a result of or in connection with any disagreements with the Company on a matter of accounting principles or practices, financial statement disclosure or auditing scope or procedure.

Section 4.09. *Disclosure Documents.* The proxy statement of the Company to be filed with the SEC in connection with the Merger (as it may be amended, supplemented or modified, the "**Company Proxy Statement/Prospectus**") will comply as to form in all material respects with the applicable requirements of the 1934 Act. The Company Proxy Statement/Prospectus and the information supplied by the Company for use in the registration statement on Form S-4 (as it may be amended, supplemented or modified, the "**Form S-4**") in which the Company Proxy Statement/Prospectus will be included as a prospectus, at the time the Form S-4 becomes effective or, in the case of the Company Proxy Statement/Prospectus, at the date of mailing to the

Company's stockholders and at the date of the Company Stockholder Meeting (as reconvened after the date of this Amended and Restated Merger Agreement), will not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading. The representations and warranties contained in this [Section 4.09](#) will not apply to statements or omissions included or incorporated by reference in the Company Proxy Statement/Prospectus or the Form S-4 based upon information supplied by Parent, its Subsidiaries or any of their Representatives specifically for use or incorporation by reference therein.

Section 4.10. *Absence of Certain Changes.* Since the Company Balance Sheet Date until the date hereof, there has not been any Circumstance that has had, or would reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect. Since the Company Balance Sheet Date (a) the business of the Company and its Subsidiaries has been conducted in the ordinary course consistent with past practices in all material respects and (b) there has not been any action taken by the Company or any of its Subsidiaries that, if taken during the period from the date of this Agreement through the Effective Time without Parent's consent, would constitute a breach of [Sections 6.01\(a\), 6.01\(b\), 6.01\(c\) or 6.01\(d\)](#).

Section 4.11. *No Undisclosed Material Liabilities.* There are no liabilities or obligations of the Company or any of its Subsidiaries, of any kind whatsoever, whether accrued, contingent, absolute, determined, determinable or otherwise, other than (a) liabilities or obligations disclosed and provided for in the Company Balance Sheet or in the notes thereto, (b) liabilities or obligations incurred in connection with the transactions contemplated by this Agreement, (c) liabilities or obligations that have not had, and would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, (d) liabilities or obligations incurred in the ordinary course of business consistent with past practices since the Company Balance Sheet Date, and (e) liabilities or obligations not required under GAAP to be disclosed and provided for in a consolidated balance sheet of the Company.

Section 4.12. *Compliance with Laws.* Except with respect to matters that have not had, and would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, the Company (a) is in compliance with, and since January 1, 2014 has been in compliance with, all Applicable Laws, (b) has not received written notice of any violation of Applicable Laws since January 1, 2014, and (c) is not subject to a pending, or to the knowledge of the Company, threatened investigation by any Governmental Authority with respect to a violation of Applicable Laws. The Company holds all material federal, state and local governmental licenses, franchises, grants, registrations, clearances, authorizations, permits, consents, certifications, approvals, variances, exemptions and orders necessary for the Company to own, lease, and operate its properties and assets, and to carry on its business as now conducted (the "**Company Permits**"), except for those the absence of which has not had, and would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect. The Company is and has been in compliance with the terms of the Company Permits, except for failures to comply or violations that have not had, and would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect. For the avoidance of doubt, for purposes of this [Section 4.12](#), the term "Applicable Laws" shall include the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973.

Section 4.13. *Litigation.* There is no Proceeding pending against or, to the knowledge of the Company, threatened against, (a) the Company or any of its Subsidiaries, (b) any present or former officer, director or employee of the Company or any of its Subsidiaries in their respective capacities as such, (c) any Person for whom the Company or any of its Subsidiaries may be liable with respect to such Proceeding or (d) any of the Company or its Subsidiaries' assets or properties, before (or, in the case of threatened Proceedings, would be before) any arbitrator or Governmental Authority, except, in each case, for those Proceedings that have not had, or would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect. As of the date hereof, there is no Proceeding pending against or, to the knowledge of the Company, threatened against, the Company or any of its Subsidiaries that challenges or seeks to prevent, enjoin, alter or delay the Merger or any of the other transactions contemplated hereby. There is no judgment, decree, injunction, rule or order of any arbitrator or Governmental Authority outstanding or, to the knowledge of the Company threatened against, or investigation by any Governmental Authority involving, the Company or any of its Subsidiaries, except for those that have not had or would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect.

Section 4.14. *Properties.*

(a) The Company and its Subsidiaries have a good and valid leasehold (or, as applicable, license or other) interest in all leases, subleases and other agreements under which the Company and its Subsidiaries use or occupy or have the right to use or occupy any real property (such property subject to a lease, sublease or other agreement, the "**Leased Real Property**") and such leases, subleases and other agreements are, collectively, the "**Real Property Leases**"), in each case, free and clear of all Liens other than any Permitted Liens. [Section 4.14\(a\)](#) of the Company Disclosure Letter sets forth a true, correct and complete list of all Leased Real Property as of the date hereof. Except as would not be material to the Company and its Subsidiaries, each Real Property Lease (i) is a valid and binding obligation of the Company or its Subsidiary that is party thereto and, to the knowledge of the Company, of each other party thereto, and is in full force and effect, subject to the Bankruptcy and Equity Exception, (ii) no uncured default on the part of the Company or its Subsidiaries or the landlord thereunder, exists under any such Real Property Lease, and (iii) no event has occurred or circumstance exists which, with the giving of notice, the passage of time, or both, would constitute a breach or default under any such Real Property Lease. Neither the Company nor any of its Subsidiaries has received any written notice of the intention of any other party to a Real Property Lease to terminate for default, convenience or otherwise any Real Property Lease, nor is any such party, to the knowledge of the Company, threatening to do so. Neither the Company nor any of its Subsidiaries are currently subleasing, licensing or otherwise granting any Person any right to use or occupy Leased Real Property.

(b) [Section 4.14\(b\)](#) of the Company Disclosure Letter sets forth a list, as of the date hereof, of all real property owned by the Company or any of its Subsidiaries (the "**Company Owned Real Property**"). Except as would not be material to the Company and its Subsidiaries, the Company and its Subsidiaries have valid and marketable title to the Company Owned Real Property, including all appurtenances thereto and fixtures thereon, free and clear of any and all Liens except Permitted Liens. Neither the Company nor any of its Subsidiaries is currently

leasing, licensing or otherwise granting any Person any right to use or occupy Company Owned Real Property.

(c) Except as would not be material to the Company and its Subsidiaries, all buildings, structures, fixtures and improvements included within the Company Owned Real Property or Leased Real Property (the "**Improvements**") are in good repair and operating condition, subject only to ordinary wear and tear, and are adequate and suitable for the purposes for which they are presently being used or held for use and there are no facts or conditions affecting any of the Improvements that, in the aggregate, would reasonably be expected to interfere with the current use, occupancy or operation thereof.

(d) There is no pending, or to the knowledge of the Company, threatened proceedings in eminent domain or condemnation against any of the Company Owned Real Property or Leased Real Property that are material to the Company or its Subsidiaries.

(e) Section 4.14(e) of the Company Disclosure Letter sets forth, as of the date of this Agreement (i) all theatre locations that are scheduled to be closed within the twelve-month period following the date of this Agreement, (ii) all new theatre locations that the Company and its Subsidiaries are scheduled to open within the twelve-month period following the date of this Agreement, and (iii) all theatre locations that are under renovation or construction (excluding renovations and construction for any single location that do not exceed Two Hundred Fifty Thousand Dollars (\$250,000)), together with the budgeted renovation or construction costs, (iv) the current landlord and tenant under each Real Property Lease, (v) the lease commencement and expiration date under each Real Property Lease, and (vi) the number of extension periods or extension terms (or, for the avoidance of doubt, the number of opportunities to extend the term of each Real Property Lease as provided therein) for each Real Property Lease.

(f) True, correct and complete copies of each Real Property Lease, any amendment thereto and any material agreement between the landlord and tenant or any third party relating to or impacting the terms and provisions of any Real Property Lease, have been made available to Parent.

(g) In the event that the term of any Real Property Lease will expire on or prior to February 28, 2017, the Company has provided any notice required pursuant to the terms and provisions of such Real Property Lease, in such form and containing such content as required under such Real Property Lease, in order to extend the term thereof, such that each Real Property Lease currently carries the maximum term provided under the Real Property Lease (subject to any subsequent opportunities to extend the term thereof).

(h) Except as would not be material to the Company and its Subsidiaries, each theatre located on the Leased Real Property or Company Owned Real Property, together with the related items of personal property located therein, constitutes a fully-operable motion picture theatre, and each such motion picture theatre and related personal property is fit for the use for which it is intended and to which it is presently devoted.

(i) To the knowledge of the Company, (i) no petition or application to rezone or otherwise alter or amend the land use regulations affecting the Leased Real Property or Company

Owned Real Property is pending nor threatened, (ii) neither the Company nor any of its Subsidiaries has received any written notice of any violation of Applicable Laws, including zoning and land use regulations affecting the Leased Real Property or Company Owned Real Property, and there are no present violations of applicable zoning and land use regulations affecting the Leased Real Property or Company Owned Real Property and (iii) neither the Company nor any of its Subsidiaries has received written notice of any pending improvements, Liens or special assessments from any Governmental Authority to be made against (A) the Leased Real Property for which the tenant under the Real Property Leases would be responsible or (B) the Company Owned Real Property for which the Company would be responsible.

Section 4.15. *Intellectual Property.* Except as has not had and would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, (a) the Company and its Subsidiaries own, or have a valid and enforceable license to use (in each case, free and clear of any Liens except for Permitted Liens), all Intellectual Property used in, or necessary for the conduct of, its business, including any registrations or patents for Intellectual Property, in each case (i) owned by the Company and any of its Subsidiaries (all of which are valid and enforceable) or (ii) licensed by the Company and any of its Subsidiaries, (b) to the knowledge of the Company, neither the Company nor any of its Subsidiaries infringe, misappropriate or otherwise violate the Intellectual Property rights of any Third Party in connection with the conduct of the business of the Company and its Subsidiaries as currently conducted, (c) to the knowledge of the Company, no Person is challenging, infringing, misappropriating or otherwise violating any Intellectual Property rights owned by and/or licensed to the Company or its Subsidiaries, (d) neither the Company nor any of its Subsidiaries have received since January 1, 2013 any written notice of any pending claim, action, suit, order or proceeding with respect to any Intellectual Property owned or used by the Company or its Subsidiaries or alleging that any services provided, processes used or products used, imported, offered for sale or sold by the Company or its Subsidiaries infringe, misappropriate or otherwise violate any Intellectual Property rights of any Person, (e) the consummation of the transactions contemplated by this Agreement will not alter, encumber, impair or extinguish any material Intellectual Property right of the Company or its Subsidiaries or impair the right of Parent immediately after the Closing Date to develop, use, sell, license or dispose of, or to bring any action for the infringement of, any material Intellectual Property right held by the Company or its Subsidiaries immediately before the Closing Date, (f) the Company and its Subsidiaries take reasonable steps in accordance with normal industry practice to maintain the confidentiality of all material Trade Secrets, owned, used or held for use by the Company and its Subsidiaries and no such Trade Secrets have been disclosed by the Company or any of its Subsidiaries other than to employees, representatives and agents of the Company or its Subsidiaries or any Third Party under a confidentiality agreement, and (g) neither the Company nor any of its Subsidiaries have granted any licenses or other use rights, of any kind or nature, in or to any of the Intellectual Property owned by the Company to any Third Party except as disclosed in the Company Disclosure Letter.

Section 4.16. *Information Technology.*

(a) To the knowledge of the Company, since January 1, 2014, neither the Company nor any of its Subsidiaries have experienced any material disruption to, or material interruption in, the conduct of the business attributable to a defect, bug, breakdown, unauthorized access,

introduction of a virus or other malicious programming, or other material failure or material deficiency on the part of any computer software or computer equipment of the IT Assets used by the Company or its Subsidiaries.

(b) The material IT Assets are reasonably sufficient for the needs of the business of the Company and its Subsidiaries as currently conducted, including as to capacity, scalability and ability to process current and anticipated peak volumes in a timely manner. The material IT Assets are in good working condition to effectively perform the information technology operations necessary for the needs of the business of the Company and its Subsidiaries as currently conducted. All material IT Assets, other than software, outsourced services and hosted systems (including web sites), used in the conduct of the business by the Company and its Subsidiaries as currently conducted are owned and operated by or are under the control of the Company and its Subsidiaries and are not wholly or partly dependent on any facilities which are not under the ownership, operation or control of the Company and its Subsidiaries.

(c) The Company and its Subsidiaries implement commercially reasonable backup and disaster recovery plans and systems consistent with industry practices applicable to the business of the Company and its Subsidiaries as currently conducted.

Section 4.17. *Data Protection.*

(a) Except as would not be material to the Company and its Subsidiaries, the Company and its Subsidiaries have complied with all Applicable Laws and contractual obligations relating to the protection and security of Personal Data (as defined below) to which Company and its Subsidiaries are currently or have been subject.

Neither the Company nor any of its Subsidiaries have received any written inquiries from or been subject to any audit or other proceeding by any Governmental Authority regarding its compliance with the foregoing. The Company and its Subsidiaries have established policies, programs and procedures with respect to the collection, use, processing, storage and transfer of all personally identifiable or confidential information relating to individuals in connection with the business (collectively, “**Personal Data**”).

(b) The Company and its Subsidiaries have complied in all material respects with all rules, policies and procedures established by the Company and its Subsidiaries with respect to privacy, publicity, data protection or collection and use of Personal Data gathered or accessed in the course of the operations of the Company and its Subsidiaries and there have not been any incidents of (i) a material violation by Company or any of its Subsidiaries of any Person’s privacy, personal or confidentiality rights under any such rules, policies or procedures or (ii) any material breach, material misappropriation, or material unauthorized disclosure, intrusion, access, use or dissemination of any Personal Data asserted or, to the knowledge of the Company, threatened against the Company or its Subsidiaries by any Person. To the knowledge of the Company, the Company and its Subsidiaries have taken commercially reasonable steps (including implementing and monitoring compliance with adequate measures with respect to technical and physical security) to reasonably ensure that any Personal Data collected by the Company and its Subsidiaries is protected against loss and against unauthorized access, use, modification, disclosure or other misuse.

38

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Section 4.18. *Taxes.* Except as would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect:

(a) (i) All material income and franchise Tax Returns required by Applicable Law to be filed with any Taxing Authority by, or on behalf of, the Company or any of its Subsidiaries have been filed when due (taking into account extensions) in accordance with Applicable Law, and all such material Tax Returns were, at the time of filing, accurate in all material respects, and (ii) each of the Company and its Subsidiaries has paid (or has had paid on its behalf) all Taxes shown as due and payable on the income and franchise Tax Returns that have been filed, except for any such Taxes (x) contested in good faith or (y) for which adequate reserves have been established under GAAP.

(b) As of the date hereof, there is no claim, audit, action, suit or proceeding now pending or threatened in writing, by any Taxing Authority against the Company or its Subsidiaries in respect of any material Tax.

(c) During the two-year period ending on the date hereof, neither the Company nor any of its Subsidiaries was a “distributing corporation” or a “controlled corporation” in a transaction intended to be governed by Section 355 of the Code.

(d) The Company will not be required to include any material item of income in, or exclude any material item of deduction from, taxable income for any taxable period (or portion thereof) ending after the Effective Time as a result of any (i) “closing agreement” as described in Section 7121 of the Code (or any corresponding or similar provision of state, local or non-U.S. income Tax law) executed on or prior to the Effective Time, (ii) installment sale or open transaction disposition made on or prior to the Effective Time, (iii) prepaid amount received on or prior to the Effective Time, (iv) intercompany item under Treasury Regulation Section 1.1502-13, or (v) change in accounting method for a taxable period ending on or before the Effective Time.

(e) The Company has not requested, received or executed with any Taxing Authority any ruling or binding agreement which could have a material effect in a post-Closing period.

(f) No claim has been made in writing by any Taxing Authority in a jurisdiction where the Company and/or the Company’s Subsidiaries do not file Tax Returns that the Company or any of its Subsidiaries is or may be subject to taxation by, or required to file any Tax Return in, that jurisdiction.

(g) Neither the Company nor any of its Subsidiaries is a party to any Tax Sharing Agreement.

(h) Neither the Company nor any of its Subsidiaries have a permanent establishment in any foreign country.

(i) Neither the Company nor any of its Subsidiaries is or has been a party to any “reportable transaction,” as defined in Section 6707A(c)(1) of the Code and Treasury Regulations Section 1.6011-4(b)(1).

39

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Section 4.19. *Employee Benefit Plans.*

(a) Section 4.19(a) of the Company Disclosure Letter contains a correct and complete list identifying each material Company Employee Plan. Copies of such plans and all material amendments thereto and written interpretations thereof, any related trusts, funding agreements, or insurance contracts, summary plan descriptions, the most recent determination letters, the most recent request for determination letter and any correspondence with the IRS related thereto and summaries of material modifications, administrative service agreements, the three (3) most recent annual reports (Form 5500 including, if applicable, Schedule B thereto) and Tax returns (Form 990) prepared in connection with any such plan or trust, the most recent determination letter from the Internal Revenue Service related to any Company Employee Plan as well as all correspondence related to the most recent request therefore (including forms, enclosures and attachments), and any correspondence to or from the Internal Revenue Service or Department of Labor related to any Company Employee Plan during the last three (3) years (or earlier if such correspondence currently has any bearing on plan administration or obligations related to the plan), if any, have been furnished or made available to Parent.

(b) Except to the extent that any breach of any of the following representations would not be material to the Company and its Subsidiaries:

(i) No Company Employee Plan is covered by Title IV of ERISA or is subject to Section 412 of the Code or Section 302 of ERISA. Neither the Company nor any ERISA Affiliate has ever maintained or contributed to, or had any obligation to contribute to any “multiple employer plan” (within the meaning of the Code or ERISA), any “multiemployer plan” (within the meaning of Section 3(37) of ERISA) or any plan that is or was subject to Title IV of ERISA. The Company has never been a member of a controlled group which contributed to any such plan, and the Company has never been under common control with an employer which contributed to any such plan.

(ii) Each Company Employee Plan that is intended to be qualified under Section 401(a) of the Code has received a favorable determination letter or opinion letter, or has pending or has time remaining in which to file, an application for such determination or opinion from the Internal Revenue Service, and the Company is not aware of any reason why any such determination letter or opinion letter should be revoked or not be reissued.

(iii) Each Company Employee Plan has been maintained in compliance with its terms and with the requirements prescribed by all legal requirements (including statutes and regulations, such as ERISA and the Code), which are applicable to such Company Employee Plan, and each Company Employee Plan that is a “nonqualified deferred compensation plan” within the meaning of Section 409A of the Code has been written, operated and administered in a manner so as not to have



resulted in, and so as not to result in the future in, any adverse consequences to any participant or beneficiary related to Section 409A of the Code and any proposed and final guidance thereunder. No claim (other than routine claims for benefits), action, suit or proceeding (including an audit) is pending against or involves or, to the Company's knowledge, is threatened against or reasonably expected to involve, any Company Employee Plan. No events have occurred

with respect to any Company Employee Plan that could result in payment or assessment by or against the Company of any material excise Taxes under Sections 4972, 4975, 4976, 4977, 4979, 4980B, 4980D, 4980E, 4980H or 5000 of the Code. Each Company Employee Plan and related funding instrument is legal, valid and binding and in full force and effect, and there are no defaults thereunder. None of the rights of the Company thereunder will be impaired by the consummation of the transactions contemplated by this Agreement, and all of the rights of the Company thereunder will be enforceable by Parent at or after the Closing without the consent or agreement of any other party. All contributions to the Company Employee Plans have been made on a timely basis in accordance with ERISA and the Code. All insurance premiums have been paid in full, subject only to normal retrospective adjustments in the ordinary course, with regard to the Company Employee Plans for policy years or other applicable policy periods ending on or before the Closing Date, and all insurance premiums have been timely paid in full for the payroll period during which the Closing Date occurs.

(iv) The consummation of the transactions contemplated by this Agreement will not, either alone or together with any other event: (A) entitle any Company Employee to any payment or benefit, including any bonus, retention or severance benefit, (B) accelerate the time of payment or vesting or trigger any payment or funding (through a grantor trust or otherwise) of compensation or benefits under, or increase the amount payable or trigger any other material obligation under, any Company Employee Plan, or (C) limit or restrict the right of the Company or any of its Subsidiaries or, after the Effective Time, Parent, to merge, amend or terminate any Company Employee Plan, (D) give rise to the payment of any amount pursuant to any contract or agreement (written or otherwise) under any Company Employee Plan that would not be deductible pursuant to the terms of Section 280G or 162(m) of the Code or give rise to taxable income to any individual under Code Section 105(h) or other similar statute. Section 4.19(b)(iv) of the Company Disclosure Letter includes the individual amounts for each individual with respect to each Code Section identified as an exception to this representation assuming the Merger were to close on or before December 31, 2016.

(v) Section 4.19(b)(v) of the Company Disclosure Letter, if applicable, lists (i) all the agreements, arrangements and other instruments which give rise to an obligation to make or set aside amounts payable to or on behalf of the current or former employees, including officers, directors, or independent contractors of the Company as a result of the transactions contemplated by this Agreement and/or any subsequent employment termination (whether by the Company or the officer), true and complete copies of which have been furnished or made available to Parent prior to the date of this Agreement and (ii) the maximum aggregate amounts so payable or benefits conferred to each named "executive officer" and the aggregate amount payable, by category, to senior vice presidents and vice presidents, as a group, as a result of the transactions contemplated by this Agreement and/or any subsequent employment termination (whether by the Company or the officer).

(vi) The Company has no liability in respect of post-retirement health, medical or life insurance benefits for retired, former or current employees of the Company except as required to avoid excise Tax under Section 4980B of the Code or applicable state law.

(vii) There has been no amendment to or announcement (whether or not written) by the Company or any of its Affiliates relating to, or change in employee participation or coverage under, an Company Employee Plan which would increase materially the expense of maintaining such Company Employee Plan above the level of the expense incurred in respect thereof for the fiscal year ended December 31, 2015. No condition exists that would prevent the Company (or Parent after the Closing) from amending or terminating any Company Employee Plan without liability, other than the obligation for benefits accrued prior to the termination of such plan.

(viii) The Company nor any of its respective directors, officers, employees, or any plan fiduciary has any liability for failure to comply with applicable laws, including ERISA, HIPAA, COBRA or the Code, for any action or failure to act in connection with any Company Employee Plan, including with respect to the administration or investment thereof. The Company has no liability by virtue of being a member of a controlled group with a Person who has liability under the Code or ERISA. The Company has not terminated or taken action to terminate (in part or in whole) any employee benefit plans as defined in ERISA Section 3(3).

#### Section 4.20. *Labor and Employment.*

(a) The Company and the Subsidiaries are in compliance with all Applicable Laws relating to employment and employment practices, including those relating to wages, hours, leaves of absence, collective bargaining, unemployment compensation, workers' compensation, equal employment opportunity, age and disability discrimination, whistleblower and other retaliation protecting immigration compliance and control, employee classification, information privacy and security, payment and withholding of Taxes, and continuation coverage with respect to group health plans except where the failure to so comply has not had, and would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect. Neither the Company nor any of its Subsidiaries is a party to, or otherwise bound by, any consent decree with any Governmental Authority relating to employees or employment practices. Neither the Company nor any of its Subsidiaries has received since January 1, 2014 a claim from any Governmental Authority or Third Party to the effect that the Company or any Subsidiary has misclassified, and the Company and its Subsidiaries have not misclassified, any Person as (i) an independent contractor rather than as an employee or (ii) an employee exempt from state, federal, provincial or other applicable overtime regulations, except where misclassification of such Person has not had, and would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect.

(b) Neither the Company nor any of its Subsidiaries is a party to, or otherwise bound by, any collective bargaining agreement, contract or other agreement or understanding with a labor union or labor organization (a "**Collective Bargaining Agreement**"). Neither the Company nor any of its Subsidiaries is subject to any charge, demand, petition or representation proceeding seeking to compel, require or demand it to bargain with any labor union or labor organization nor is there pending or, to the knowledge of the Company, threatened, any labor strike, dispute or lockout involving the Company or any of its Subsidiaries. Neither the Company nor any of its Subsidiaries has engaged in any unfair labor practice with respect to any Persons employed by or otherwise performing services primarily for the Company or any of its

Subsidiaries, and there is no unfair labor practice complaint or grievance against the Company or any of its Subsidiaries by the National Labor Relations Board or any comparable state agency pending or, to the knowledge of the Company, threatened in writing with respect to employees of the Company or its Subsidiaries.

(c) The Company and its Subsidiaries are in compliance with all Applicable Laws relating to worker health and safety, except where the failure to so comply has not had, and would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect.

(d) Since January 1, 2014, neither the Company nor any of its Subsidiaries has effectuated (i) a “plant closing” (as defined in the Worker Adjustment and Retraining Notification Act, as amended (the “WARN Act”)), or (ii) a “mass layoff” (as defined in the WARN Act); nor has the Company or any of its Subsidiaries engaged in layoffs or employment terminations sufficient in number to trigger application of any state, local or foreign Law or regulation similar to the WARN Act.

Section 4.21. *Environmental Matters.*

(a) Except to the extent that such matter has not had and would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect: (i) no notice, notification, demand, request for information, citation, summons, or order has been received by the Company or its Subsidiaries and no complaint has been filed, no penalty has been assessed, and no investigation, action, claim, suit, proceeding, or review is pending, unresolved in any respect or, to the knowledge of the Company, is threatened by any Governmental Authority or other Person, in each case relating to the Company or its Subsidiaries and relating to or arising out of any Environmental Law; (ii) the business and operations of the Company and its Subsidiaries are, and since January 1, 2011 have at all times been, in material compliance with all Environmental Laws and all Environmental Permits; (iii) the Company and its Subsidiaries have all Environmental Permits necessary for the conduct of their operations, each Environmental Permit is in full force and effect and is final with all administrative and statutory appeal periods having expired, and all required applications for renewal or reissuance of such Environmental Permits have been timely filed; (iv) there has been no Release that the Company or its Subsidiaries have been or would be obligated to investigate, remove, remediate, or otherwise respond to or pay any part of the costs of response pursuant to any Environmental Law or any contract entered into with any other Person, or that would result in a material liability to the Company or one of its Subsidiaries; (v) during the term of the Company’s ownership or operation of any facility or property now or to the knowledge of the Company previously owned, leased, or operated by the Company or its Subsidiaries, there are and have been no underground storage tanks or related piping on, in, beneath or emanating from or to any facility or property now or to the knowledge of the Company previously owned, leased, or operated by the Company or its Subsidiaries; and (vi) to the knowledge of the Company no new expenditure will be required in order for Parent or the Merger Subsidiary to comply or continue to comply with any Environmental Laws in effect at the time of the Closing in connection with the operation or continued operation of the Surviving Corporation or any facility or property now owned or operated by the Company in a manner consistent with the current operation thereof by the Company.

43

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(b) Since January 1, 2011, there has been no environmental investigation, study, audit, test, review, assessment, or other analysis conducted by the Company, in relation to the current or prior business of the Company or its Subsidiaries or any property or facility now or previously owned, leased, or operated by the Company during the period since January 1, 2011 to identify actual or potential liabilities or obligations of the Company or its Subsidiaries arising under or relating to any Environmental Law or Hazardous Substance or the presence of mold, that has not been made available to Parent prior to the date of this Agreement.

(c) For purposes of this Section, the term “Company” shall include any entity that is, in whole or in part, a predecessor of the Company and any Subsidiaries of such predecessor.

Section 4.22. *Material Contracts.*

(a) As of the date hereof, neither the Company nor any of its Subsidiaries is a party to or bound by:

- (i) any “material contract” (as such term is defined in Item 601(b)(10) of Regulation S-K of the SEC, other than any Company Employee Plan);
- (ii) any material contract with any director, officer or Affiliate of the Company or any of its Subsidiaries (other than employment agreements and indemnification agreements);
- (iii) any contract containing any provision or covenant that imposes any material restriction on the right or ability of the Company or any Subsidiaries to (A) compete with any other Person, (B) solicit any client or customer, or (C) acquire or dispose of the securities of another Person, or any other provision that materially restricts the conduct of any line of business by the Company or any Subsidiaries;
- (iv) any contract or series of contracts that (A) is expected to result in the payment of more than Two Hundred Fifty Thousand Dollars (\$250,000) by the Company or any Subsidiaries in the fiscal year ending December 31, 2016 or the fiscal year ending December 31, 2017, or (B) obligates the Company or its Subsidiaries to conduct business with any Third Party on an exclusive basis; and with respect to contracts responsive to (A) or (B) that require consent of or notice to a Third Party in connection with the Merger or the transaction contemplated under this Agreement;
- (v) any contract that contains a “most favored nation” provision;
- (vi) any Collective Bargaining Agreement;
- (vii) any agreement relating to indebtedness of the Company or any of its Subsidiaries having an outstanding principal amount in excess of Two Hundred Thousand Dollars (\$200,000);
- (viii) any contract that grants any right of first refusal, right of first offer or similar right with respect to any securities, material assets, material rights or material properties of the Company or any Subsidiary;

44

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- (ix) any contract or series of contracts that provides for the acquisition or disposition of any material business (whether by merger, sale of stock, sale of assets or otherwise) and with any outstanding material obligations as of the date of this Agreement;
- (x) any material joint venture, partnership or limited liability company agreement or other similar contract; and
- (xi) any contract limiting or restricting the ability of the Company or any Subsidiary (A) to make distributions or declare or pay dividends in respect of their capital stock, partnership interests, membership interests or other equity interests, as the case may be, (B) to redeem or repurchase any capital stock, partnership interests, membership interests or other equity interests, (C) to make loans or (D) to grant Liens on the property of the Company or any of its Subsidiaries;
- (xii) any contract that obligates the Company or any Subsidiary to make any loans, advances or capital contributions to, or investments in excess of Two Hundred Fifty Thousand Dollars (\$250,000) in, any Person (other than the Company);

- (xiii) any contract (A) granting the Company or any of its Subsidiaries a license to use any Intellectual Property (other than commercially available software licenses with annual fees of less than One Hundred Thousand Dollars (\$100,000)), (B) permitting any Third Party to use, enforce or register any Intellectual Property owned by the Company, including any license agreements, coexistence agreements and covenants not to sue (other than non-exclusive licenses to customers and suppliers in the ordinary course of business) or (C) restricting the right of the Company or any of its Subsidiaries to use or register any Intellectual Property owned by the Company or any of its Subsidiaries (other than any of the contracts identified in Section 4.22(a)(iii) of the Company Disclosure Letter);
- (xiv) any contract for on-screen advertising and internet ticketing agreement;
- (xv) any agreement governing any licensed or franchised business operated at any theatre owned or operated by the Company or any of its Subsidiaries;
- (xvi) any contract that involved the receipt of more than Five Hundred Thousand Dollars (\$500,000) by the Company or any of its Subsidiaries in the fiscal year ending December 31, 2015 or that is expected to result in the receipt of such amount by the Company or any of its Subsidiaries in the fiscal year ending December 31, 2016;
- (xvii) any contract obligating the Company or any of its Subsidiaries not to acquire assets or securities of a Third Party (excluding standstill agreements that will expire prior to January 31, 2017) or agreements by a Third Party not to acquire assets or securities of the Company (excluding standstill agreements); or
- (xviii) any contract guaranteeing the performance of any Third Party in excess of Two Hundred Fifty Thousand Dollars (\$250,000).

45

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All contracts of the types referred to in clauses (i) through (xviii) above (whether or not set forth on Section 4.22 of the Company Disclosure Letter) are referred to herein as a “**Company Material Contract**.” The Company has made available to Parent prior to the date of this Agreement a complete and correct copy of each Company Material Contract (including all amendments, modifications, extensions, and renewals thereto and waivers thereunder) as in effect on the date of this Agreement (subject to any redaction of information contained therein reasonably deemed necessary or appropriate by the Company in order to comply with any applicable antitrust law or any applicable confidentiality provision).

(b) Except as would not be material to the Company and its Subsidiaries, (i) neither the Company nor any of its Subsidiaries is in breach of, or default under, any Company Material Contract and, to the knowledge of the Company, no other party to any Company Material Contract is in breach of, or default under, any Company Material Contract, (ii) no event has occurred that with notice or the lapse of time or both would constitute a breach of or default under any Company Material Contract, (iii) each Company Material Contract is a valid and binding obligation of the Company or its Subsidiary, as applicable, and, to the knowledge of the Company, of each other party thereto, subject to the Bankruptcy and Equity Exception, and (iv) each Company Material Contract is in full force and effect. There are no disputes pending or, to the knowledge of the Company, threatened with respect to any Company Material Contract and neither the Company nor any of its Subsidiaries has received any written notice of the intention of any other party to a Company Material Contract to terminate for default, convenience or otherwise any Company Material Contract nor, to the knowledge of the Company, is any such party threatening to do so, in each case except as would not be material to the Company and its Subsidiaries.

Section 4.23. *Food and Beverage Inventories.* All inventory, packaging, supplies, food, beverages, concessions, and other inventories located at any theatre owned or operated by the Company or any of its Subsidiaries (the “**Inventories**”) (a) are, in all material respects, accurately valued and properly reflected on the Company Financial Statements consistent with past practices, (b) consist, in all material respects, of items of a quality, quantity and condition useable and saleable in the ordinary course of business consistent with past practices, (c) were acquired and have been maintained in all material respects in the ordinary course of business consistent with past practices, and (d) are not subject to any material write-down or write-off.

Section 4.24. *Goodwill Passes; Prepaid Tickets.* All unexpired and outstanding (a) tickets sold to consumers entitling the holder thereof to admission and (b) motion picture theatre admission tickets, gift cards, or gift certificates which have been purchased by and which entitle such ticketholders to admission without any further consideration or at a discount after the Closing Date are appropriately reflected in the Company’s books and records in all material respects and managed in material compliance with all Applicable Laws.

Section 4.25. *Insurance.* Section 4.25 of the Company Disclosure Letter sets forth a correct and complete list of all of the material insurance policies of the Company and its Subsidiaries currently in effect (the “**Insurance Policies**”). Except as would not be material to the Company and its Subsidiaries, (a) all such Insurance Policies are legal, valid, binding and enforceable in accordance with their terms and in full force and effect, (b) all premiums due and payable thereunder have been paid, (c) neither the Company nor any of its Subsidiaries is in

46

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breach or default thereunder (including any such breach or default with respect to the payment of premiums or the giving of notice), and (d) neither the Company nor any of its Subsidiaries has taken any action or failed to take any action which, with notice or the lapse of time, would constitute such a breach or default of thereunder or permit termination or modification thereof. Neither the Company nor any of its Subsidiaries has received any written notice of cancellation or termination with respect to any such Insurance Policy of the Company or any of its Subsidiaries. Section 4.25 of the Company Disclosure Letter sets forth a list of all (i) material claims made under any of the Insurance Policies since January 1, 2014 and (ii) material open claims under any of the Insurance Policies. The Company has previously made available to Parent true, correct and complete copies of each Insurance Policy.

Section 4.26. *Finders’ Fees.* Except for J.P. Morgan Securities LLC, there is no investment banker, broker, finder or other intermediary that has been retained by or is authorized to act on behalf of the Company or any of its Subsidiaries who will be entitled to any fee or commission from the Company or any of its Affiliates in connection with the Merger.

Section 4.27. *Opinion of Financial Advisor.* The Company has received the verbal opinion (to be confirmed in writing) of J.P. Morgan Securities LLC, financial advisor to the Company, to the effect that, as of the date of this Amended and Restated Merger Agreement and subject to the limitations, qualifications and assumptions set forth therein, the Merger Consideration is fair to the Company’s stockholders from a financial point of view. The Company has been authorized by J.P. Morgan Securities LLC to include its written opinion in its entirety in the Form S-4.

Section 4.28. *Antitakeover Statutes.* Assuming the accuracy of the representations and warranties in Section 5.19, (a) the Company has taken all action necessary such that the restrictions on “business combinations” in Section 203 of the Delaware General Corporation Law do not apply to the Merger, this Agreement or the transactions contemplated hereby, and (b) no other “fair price,” “moratorium,” “control share acquisition,” or other anti-takeover statute or regulation enacted under U.S. state or federal law applies to the Merger, this Agreement or the transactions contemplated thereby.

Section 4.29. *Amended and Restated Merger Agreement.* Assuming the accuracy and completeness of the representation and warranty in [Section 5.19](#), the execution, delivery and performance by the Company of this Amended and Restated Merger Agreement and the consummation by the Company of the transactions contemplated by this Agreement are within the Company's corporate power and authority and, except for the required approval of the Company's stockholders in connection with the consummation of the Merger, have been duly authorized by all necessary corporate action on the part of the Company. Assuming the accuracy and completeness of the representation and warranty in [Section 5.19](#), the Company Stockholder Approval is the only vote of the holders of any of the Company's capital stock necessary in connection with the consummation of the Merger. Assuming the accuracy and completeness of the representation and warranty in [Section 5.19](#), subject to the receipt of the Company Stockholder Approval, this Agreement constitutes a valid and binding agreement of the Company enforceable against the Company in accordance with its terms, subject to the Bankruptcy and Equity Exception.

Section 4.30. *Non-Reliance on Parent Estimates, Projections, Forecasts, Forward-Looking Statements and Business Plans.* In connection with the due diligence investigation of Parent by the Company, the Company has received and may continue to receive from Parent certain estimates, projections, forecasts and other forward-looking information, as well as certain business plan information, regarding Parent and its business and operations. The Company hereby acknowledges that there are uncertainties inherent in attempting to make such estimates, projections, forecasts and other forward-looking statements, as well as in such business plans, with which the Company is familiar, that the Company is taking full responsibility for making its own evaluation of the adequacy and accuracy of all estimates, projections, forecasts and other forward-looking information, as well as such business plans, so furnished to it (including the reasonableness of the assumptions underlying such estimates, projections, forecasts, forward-looking information or business plans), and that the Company will have no claim, right or obligation under this Agreement or otherwise (including under [Article 9](#)) against Parent or any of its Subsidiaries, or any of their respective Representatives, or any other Person, with respect thereto. Accordingly, the Company hereby acknowledges that none of Parent nor any of its Subsidiaries, nor any of their respective Representatives, nor any other Person, has made or is making any representation or warranty with respect to such estimates, projections, forecasts, forward-looking statements or business plans (including the reasonableness of the assumptions underlying such estimates, projections, forecasts, forward-looking statements or business plans).

#### ARTICLE 5

##### REPRESENTATIONS AND WARRANTIES OF PARENT

Subject to [Section 11.05](#), except as Previously Disclosed by Parent, Parent represents and warrants to the Company that:

Section 5.01. *Corporate Existence and Power.* Each of Parent and Merger Subsidiary is a corporation duly incorporated, validly existing and in good standing under the laws of its jurisdiction of incorporation and has all corporate power and authority required to carry on its business as now conducted, except for any failure to be so organized, existing and in good standing as, and to have corporate power and authority the absence of which, has not had, and would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect. Parent is duly qualified to do business as a foreign corporation and is in good standing in each jurisdiction where such qualification is necessary, except for those jurisdictions where failure to be so qualified or in good standing, has not had, and would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect. Since the date of its incorporation, Merger Subsidiary has not engaged in any activities other than in connection with or as contemplated by this Agreement. Merger Subsidiary was incorporated solely for the purpose of consummating the Merger and the transactions contemplated by this Agreement. All of the outstanding shares of capital stock of Merger Subsidiary have been validly issued, are fully paid and nonassessable and are owned by, and at the Effective Time will be owned by a subsidiary of Parent, free and clear of all Liens.

Section 5.02. *Corporate Authorization.* The execution, delivery and performance by Parent and Merger Subsidiary of the Original Merger Agreement and the consummation by Parent and Merger Subsidiary of the transactions contemplated thereby are within the corporate

power and authority of Parent and Merger Subsidiary and have been duly authorized by all necessary corporate action of Parent and Merger Subsidiary other than the adoption of the Original Merger Agreement by the sole stockholder of Merger Subsidiary, which Parent caused to take place within twenty-four (24) hours of the signing of the Original Merger Agreement. The Original Merger Agreement constitutes a valid and binding agreement of each of Parent and Merger Subsidiary enforceable against Parent and the Merger Subsidiary in accordance with its terms, subject to the Bankruptcy and Equity Exception. No vote of the holders of shares of Parent Class A Common Stock, Parent Class B Common Stock or any other shares of Parent's capital stock is necessary to consummate the Merger and the other transactions contemplated by the Original Merger Agreement.

Section 5.03. *Governmental Authorization.* The execution, delivery and performance by Parent and Merger Subsidiary of this Agreement and the consummation by Parent and Merger Subsidiary of the transactions contemplated hereby require no action by or in respect of, or filing by Parent or Merger Subsidiary with, any Governmental Authority, other than (a) the filing of a certificate of merger with respect to the Merger with the Delaware Secretary of State and appropriate documents with the relevant authorities of other states in which Parent is qualified to do business, (b) compliance with any applicable requirements of the HSR Act and of laws analogous to the HSR Act existing in foreign jurisdictions, (c) compliance with any applicable requirements of the 1933 Act, the 1934 Act, any other state or federal securities laws and the rules and regulations of the NYSE and (d) any actions or filings the absence of which would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect. Assuming the accuracy of the representation and warranty of the Company contained in the last sentence of [Section 4.03](#), neither Parent nor any of its Affiliates nor any Wanda Group Party is required to take any action in respect of, make any filing with, or obtain any approval from, any Governmental Authority in the PRC prior to Closing in connection with the execution, delivery and performance by Parent and Merger Subsidiary of this Agreement or the consummation by Parent and Merger Subsidiary of the transactions contemplated hereby, including (i) the NDRC, (ii) the MOFCOM or (iii) SAFE. Neither Parent nor any of its Affiliates is obtaining from any Wanda Group Party any financing or the benefit of any guarantees, in each case, in connection with or relating to the transactions contemplated by this Agreement.

Section 5.04. *Non-contravention.* The execution, delivery and performance by Parent and Merger Subsidiary of this Agreement and the consummation by Parent and Merger Subsidiary of the transactions contemplated hereby do not and will not (a) contravene, conflict with, or result in any violation or breach of any provision of the certificate of incorporation or bylaws of Parent or Merger Subsidiary, (b) assuming compliance with the matters referred to in [Section 5.03](#), contravene, conflict with or result in a violation or breach of any Applicable Law, (c) assuming compliance with the matters referred to in [Section 5.03](#), require any consent or other action by any Person under, constitute a default under, or cause or permit the termination, cancellation, acceleration or other change of any right or obligation or the loss of any benefit to which Parent or any of its Subsidiaries is entitled under any provision of any agreement or other instrument binding upon Parent or any of its Subsidiaries or (d) result in the creation or imposition of any Lien on any asset of Parent or any of its Subsidiaries, with only such exceptions, in the case of each of clauses (b) through (d), as would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect.

Section 5.05. *Capitalization.*

(a) The authorized capital stock of Parent consists of 650,000,000 shares of capital stock, consisting of (i) 524,173,073 shares of Parent Class A Common Stock, (ii) 75,826,927 shares of Parent Class B Common Stock and (iii) 50,000,000 shares of preferred stock, par value \$0.01 per share (“**Parent Preferred Shares**”). As of July 22, 2016, there were outstanding: (i) 21,650,301 shares of Parent Class A Common Stock, (ii) 75,826,927 shares of Parent Class B Common Stock, (iii) no Parent Preferred Shares, (iv) 753,447 Parent vested restricted stock units and (v) 615,207 Parent unvested restricted stock units assuming such units were to vest at 100% of the applicable service and performance targets. All outstanding shares of capital stock of Parent have been, and all shares that may be issued pursuant to any grant of Parent restricted stock units and Parent performance stock units will be, duly authorized and validly issued and fully paid. All of the shares of Parent Class A Common Stock issuable upon conversion of Company Stock at the Effective Time in accordance with this Agreement will be, when so issued, duly authorized, validly issued, fully paid and nonassessable and free of preemptive rights.

(b) Except as set forth in Section 5.05(a) of this Agreement, there are no issued, reserved for issuance or outstanding: (i) shares of capital stock or other voting securities or ownership interests in Parent, (ii) securities of Parent convertible into or exchangeable for shares of capital stock or other voting securities of or ownership interests in Parent, (iii) warrants, calls, options or other rights to acquire from Parent, or other obligations of Parent to issue, any capital stock, voting securities or securities convertible into or exchangeable for capital stock or voting securities of Parent or (iv) restricted shares, stock appreciation rights, performance units, contingent value rights, “phantom” stock or similar securities or rights, in each case issued by Parent, that are derivative of, or provide economic benefits based, directly or indirectly, on the value or price of, any capital stock or voting securities of Parent (the items in clauses (i) through (iv) being referred to collectively as the “**Parent Securities**”). There are no outstanding obligations of Parent or any of its Subsidiaries to repurchase, redeem or otherwise acquire any Parent Securities.

Section 5.06. *Subsidiaries.*

(a) Each Subsidiary of Parent has been duly organized, is validly existing and (where applicable) in good standing under the laws of its jurisdiction of organization, and has all organizational power and authority required to carry on its business as now conducted, except for any failure to be so organized, existing and in good standing as, and to have power and authority as, the absence of which, has not had, and would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect. Each such Subsidiary is duly qualified to do business as a foreign entity and is in good standing in each jurisdiction where such qualification is necessary, except for those jurisdictions where failure to be so qualified or in good standing has not had, and would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect. All material Subsidiaries of Parent and their respective jurisdictions of organization are identified in the Parent 10-K.

(b) All of the outstanding capital stock or other voting securities of, or ownership interests in, each Subsidiary of Parent is owned by Parent, directly or indirectly, free and clear of

any material Lien. As of July 22, 2016, there were no issued, reserved for issuance or outstanding (i) securities of Parent or any of its Subsidiaries convertible into, or exchangeable for, shares of capital stock or other voting securities of, or ownership interests in, any Subsidiary of Parent, (ii) warrants, calls, options or other rights to acquire from Parent or any of its Subsidiaries, or other obligations of Parent or any of its Subsidiaries to issue, any capital stock or other voting securities of, or ownership interests in, or any securities convertible into, or exchangeable for, any capital stock or other voting securities of, or ownership interests in, any Subsidiary of Parent or (iii) restricted shares, stock appreciation rights, performance units, contingent value rights, “phantom” stock or similar securities or rights, in each case issued by Parent or any Subsidiary, that are derivative of, or provide economic benefits based, directly or indirectly, on the value or price of, any capital stock or other voting securities of, or ownership interests in, any Subsidiary of Parent (the items in clauses (i) through (iii) being referred to collectively as the “**Parent Subsidiary Securities**”). There are no outstanding obligations of Parent or any of its Subsidiaries to repurchase, redeem or otherwise acquire any of the Parent Subsidiary Securities.

Section 5.07. *SEC Filings.*

(a) Parent has filed with or furnished to the SEC all Parent SEC Documents.

(b) As of its filing date (and as of the date of any amendment), each Parent SEC Document complied, and each Parent SEC Document filed subsequent to the date of this Amended and Restated Merger Agreement will comply, in all material respects with the applicable requirements of the 1933 Act and the 1934 Act, as the case may be.

(c) As of their respective filing dates (or, if amended or superseded by a filing prior to the date of this Amended and Restated Merger Agreement, on the date of such filing), except as may have been corrected by any subsequent filing prior to the date of this Amended and Restated Merger Agreement, the Parent SEC Documents filed pursuant to the 1934 Act did not, and the Parent SEC Documents filed subsequent to the date of this Amended and Restated Merger Agreement will not, contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading.

(d) Except as may have been corrected by any subsequent filing, each Parent SEC Document that is a registration statement, as amended or supplemented, if applicable, filed pursuant to the 1933 Act, as of the date such registration statement or amendment became effective, did not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading.

(e) As of the date of this Amended and Restated Merger Agreement, there are no outstanding or unresolved comments received from the SEC with respect to the Parent SEC Documents. To Parent’s knowledge, as of the date of this Amended and Restated Merger Agreement, none of the Parent SEC Documents is the subject of any ongoing SEC review or investigation.

(f) Parent has complied in all material respects with (i) all current listing and corporate governance rules and regulations of the NYSE and (ii) all rules, regulations and requirements of the Sarbanes-Oxley Act.

(g) Parent maintains disclosure controls and procedures required by Rule 13a-15(e) or 15d-15(e) under the 1934 Act. Such disclosure controls and procedures are reasonably designed to ensure that material information required to be disclosed by Parent is made known to Parent’s principal executive officer and principal financial officer by others within Parent. Such disclosure controls and procedures are reasonably effective in timely alerting Parent’s principal executive officer and principal financial officer to material information required to be included in Parent’s periodic and current reports required under the 1934 Act. For the purposes of this Agreement, “principal executive officer” and “principal financial officer” shall have the meanings given to such terms in the Sarbanes-Oxley Act.

(h) Since January 1, 2014, Parent, under the supervision of its principal executive officer and principal financial officer, has established and maintained a system of internal controls. Such internal controls are sufficient to provide reasonable assurance regarding the reliability of Parent's financial reporting and the preparation of Parent's financial statements for external purposes in accordance with GAAP. Parent has disclosed, based on its most recent evaluation of internal controls prior to the date of this Amended and Restated Merger Agreement, to Parent's auditors and audit committee of Parent's Board of Directors (x) all "significant deficiencies" and "material weaknesses" (as such terms are defined by the Public Company Accounting Oversight Board) in the design or operation of internal controls which are reasonably likely to adversely affect in any material respect Parent's ability to record, process, summarize and report financial information and (y) any fraud, whether or not material, that involves management or other employees who have a significant role in Parent's internal controls. Parent has made available to Parent prior to the date of this Amended and Restated Merger a summary of any such disclosure made by management to Parent's auditors and audit committee of Parent's Board of Directors since January 1, 2014.

(i) There are no outstanding loans or other extensions of credit including in the form of a personal loan (within the meaning of Section 402 of the Sarbanes-Oxley Act) made by Parent to any Executive Officer or director of Parent. Parent has not taken any action prohibited by Section 402 of the Sarbanes-Oxley Act since January 1, 2014.

(j) Since January 1, 2014, each of the principal executive officer and principal financial officer of Parent (or each former principal executive officer and principal financial officer of Parent, as applicable) have made all certifications required by Rule 13a-14 and 15d-14 under the 1934 Act and Sections 302 and 906 of the Sarbanes-Oxley Act, and the statements contained in any such certifications were, or will be, when made complete and correct.

(k) Since January 1, 2014, no Executive Officer or director of Parent has received from any former or current auditor, accountant, consultant or representative of Parent or any Governmental Authority written notice of, any material complaint or allegation, whether written or oral, that Parent has engaged in material improper accounting practices. No attorney representing Parent has reported to the current Board of Directors of Parent or any committee thereof or to any current director or Executive Officer of Parent evidence of a material violation

52

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of United States or other securities laws or material breach of fiduciary duty by Parent or any of its officers or directors.

(l) To Parent's knowledge, no employee is providing, or since January 1, 2014 has provided, information to any law enforcement agency regarding any conduct which the employee reasonably believes constitutes a violation of, nor filed, caused to be filed, testified, participated in, or otherwise assisted in a proceeding relating to an alleged material violation of, chapter 63 of title 18, United States Code, sections 1341, 1343, 1344, or 1348, any rule or regulation of the SEC, or any provision of Federal law relating to fraud against shareholders as described in Section 806 of the Sarbanes-Oxley Act by Parent.

(m) Except for such items that are of the type to be set forth in the notes to the consolidated financial statements of Parent, Parent is not a party to any off-balance sheet contract or other "off-balance sheet arrangements" (as defined in Item 303(a)(4)(ii) of Regulation S-K of the SEC), where the result, purpose or intended effect of such contract is to avoid disclosure of any material transaction involving, or material liabilities of, Parent or any of its Subsidiaries in the Parent SEC Documents.

Section 5.08. *Financial Statements.* The consolidated financial statements (including all related notes and schedules) of Parent included in or incorporated by reference into the Parent SEC Documents (the "**Parent Financial Statements**") (i) fairly present in all material respects the consolidated financial position of Parent, as at the respective dates thereof, and the consolidated results of their operations and their consolidated cash flows for the respective periods then ended, (ii) were prepared in conformity with GAAP (except, in the case of the unaudited statements, subject to normal year-end audit adjustments and the absence of footnote disclosure) applied on a consistent basis during the periods involved (except as may be indicated therein or in the notes thereto), and (iii) have been prepared from and are in accordance with, in all material respects, the books and records of Parent and its consolidated Subsidiaries. The books and records of Parent have been, and are being, maintained in all material respects in accordance with GAAP and any other applicable legal and accounting requirements. As of the date of this Amended and Restated Merger Agreement, KPMG LLP has not resigned (or informed Parent that it intends to resign) or been dismissed as independent public accountants of Parent as a result of or in connection with any disagreements with Parent on a matter of accounting principles or practices, financial statement disclosure or auditing scope or procedure.

Section 5.09. *Disclosure Documents.* The Form S-4 to be filed with the SEC in connection with the Merger will comply as to form in all material respects with the applicable requirements of the 1933 Act. The Form S-4 and the information supplied by Parent for use in the Company Proxy Statement/Prospectus, at the time the Form S-4 becomes effective or, in the case of the Company Proxy Statement/Prospectus, at the date of mailing to the Company's stockholders and at the date of the Company Stockholder Meeting (as reconvened after the date of this Amended and Restated Merger Agreement), will not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading. The representations and warranties contained in this Section 5.09 will not apply to statements or omissions included or incorporated by reference in the Company Proxy Statement/Prospectus or the Form S-4 based upon information supplied by the Company, its

53

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Subsidiaries or any of their Representatives specifically for use or incorporation by reference therein.

Section 5.10. *Absence of Certain Changes.* Since the Parent Balance Sheet Date until the date of this Amended and Restated Merger Agreement, there has not been any Circumstance that has had, or would reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect. Since the Parent Balance Sheet Date (a) the business of Parent and its Subsidiaries has been conducted in the ordinary course consistent with past practices in all material respects and (b) there has not been any action taken by Parent or any of its Subsidiaries that, if taken during the period from the date of the date of this Amended and Restated Merger Agreement through the Effective Time without the Company's consent, would constitute a breach of Section 7.01.

Section 5.11. *No Undisclosed Material Liabilities.* There are no liabilities or obligations of Parent or any of its Subsidiaries, of any kind whatsoever, whether accrued, contingent, absolute, determined, determinable or otherwise, other than (a) liabilities or obligations disclosed and provided for in the Parent Balance Sheet or in the notes thereto, (b) liabilities or obligations incurred in connection with the transactions contemplated by this Agreement, (c) liabilities or obligations that have not had, and would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect, (d) liabilities or obligations not required under GAAP to be disclosed and provided for in a consolidated balance sheet of Parent and (e) liabilities or obligations incurred in the ordinary course of business consistent with past practices since the Parent Balance Sheet Date.

Section 5.12. *Compliance with Laws.* Except with respect to matters that have not had, and would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect, Parent (a) is in compliance with, and since January 1, 2014 has been in compliance with, all Applicable Laws, (b) has not received written notice of any violation of Applicable Laws since January 1, 2014, and (c) is not subject to a pending, or to the knowledge of Parent, threatened investigation by any Governmental Authority with respect to a violation of Applicable Laws. Parent holds all material federal, state and local governmental licenses, franchises, grants,

registrations, clearances, authorizations, permits, consents, certifications, approvals, variances, exemptions and orders necessary for Parent to own, lease, and operate its properties and assets, and to carry on its business as now conducted (the “**Parent Permits**”), except for those the absence of which has not had, and would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect. Parent is and has been in compliance with the terms of the Parent Permits, except for failures to comply or violations that have not had, and would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect. For the avoidance of doubt, for purposes of this Section 5.12, the term “Applicable Laws” shall include the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973.

Section 5.13. *Litigation*. There is no Proceeding pending against or, to the knowledge of Parent, threatened against, (a) Parent or any of its Subsidiaries, (b) any present or former officer, director or employee of Parent or any of its Subsidiaries in their respective capacities as such, (c) any Person for whom Parent or any of its Subsidiaries may be liable with respect to such Proceeding or (d) any of Parent or its Subsidiaries’ assets or properties, before (or, in the case of

54

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threatened Proceedings, would be before) any arbitrator or Governmental Authority, except, in each case, for those Proceedings that have not had, or would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect. As of the date hereof, there is no Proceeding pending against or, to the knowledge of Parent, threatened against, Parent or any of its Subsidiaries that in any manner challenges or seeks to prevent, enjoin, alter or delay the Merger or any of the other transactions contemplated hereby. There is no judgment, decree, injunction, rule or order of any arbitrator or Governmental Authority outstanding or, to the knowledge of Parent threatened against, or investigation by any Governmental Authority involving, Parent or any of its Subsidiaries, except for those that have not had or would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect.

Section 5.14. *Absence of Certain Agreements*. Neither Parent nor any of its Affiliates has entered into any contract, arrangement or understanding (in each case, whether oral or written), or authorized, committed or agreed to enter into any contract, arrangement or understanding (in each case, whether oral or written), pursuant to which: (a) any stockholder of the Company would be entitled to receive consideration of a different amount or nature than the Merger Consideration or pursuant to which any stockholder of the Company (i) agrees to vote to adopt this Agreement or the Merger or (ii) agrees to vote against any Superior Proposal or (b) any Third Party has agreed to provide, directly or indirectly, equity capital to Parent or the Company to finance in whole or in part the Merger.

Section 5.15. *Business Activities*. None of Parent, its Subsidiaries, its Affiliates or the Wanda Group Parties engages in the motion picture exhibition business in the United States except through Parent and its Affiliates. None of Parent, any of its Subsidiaries, any of its Affiliates or any of the Wanda Group Parties is owned or controlled by a Governmental Authority.

Section 5.16. *Finders’ Fees*. Except for Citigroup Global Markets Inc., whose fees will be paid by Parent, there is no investment banker, broker, finder or other intermediary that has been retained by or is authorized to act on behalf of Parent or any of its Subsidiaries who will be entitled to any fee or commission from Parent or any of its Affiliates upon consummation of the transactions contemplated by this Agreement.

Section 5.17. *Financing*.

(a) Assuming the satisfaction or waiver of the conditions set forth in Section 9.02(a), Section 9.02(b) and Section 9.02(c), Parent has available to it, or will have available to it as of the date the Closing is required to occur pursuant to Section 2.01, immediately available funds to enable it to consummate the Merger pursuant to the terms of this Agreement, including to pay all Cash Consideration for all of the shares of Company Stock on a fully-diluted basis, to make all payments in respect of the Company Stock Options, Company Restricted Shares, Company Performance Shares and Company Restricted Stock Units to pay all related fees and expenses of Parent, Merger Subsidiary and their respective Representatives, and to make all other payments required by this Agreement and the Financing.

55

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(b) Parent has delivered to the Company true and complete copies of fully executed commitment letters, dated on the date of this Amended and Restated Merger Agreement (including the exhibits and annexes thereto, the “**Debt Commitment Letters**”), from the lenders party thereto (the “**Lenders**”) confirming their respective commitments to provide Parent with debt financing in connection with the transactions contemplated hereby (the “**Financing**”) (for the avoidance of doubt, it being acknowledged and agreed that Parent may amend the Debt Commitment Letters to add purchasers, lenders, lead arrangers, book-runners, syndication agents or similar entities who had not executed any Debt Commitment Letter as of the date of this Amended and Restated Merger Agreement; *provided* that no such addition shall relieve the original Lenders of their obligations under the Debt Commitment Letters prior to the initial funding of the Financing, except as set forth in the Debt Commitment Letters with respect to the “Additional Initial Lenders” (as defined thereunder)).

(c) Parent has delivered to the Company on or prior to the date of this Amended and Restated Merger Agreement true, correct and complete copies of any fee letters executed in connection with the Debt Commitment Letters (the “**Fee Letters**”) which have been redacted in a manner required by the terms thereof. As of the date of this Amended and Restated Merger Agreement, there are no side letters or other agreements, contracts or arrangements related to the funding of the Financing, other than as expressly set forth in the Debt Commitment Letters and the Fee Letters and delivered to the Company on or prior to the date of this Amended and Restated Merger Agreement, that could adversely affect the availability of the full amount of the Financing.

(d) Each of the Debt Commitment Letters is in full force and effect and is a valid and binding obligation of Parent and the other parties thereto, except (i) to the extent that enforceability may be limited by the Bankruptcy and Equity Exception and (ii) that the availability of equitable remedies, including specific performance, is subject to the discretion of the court before which any proceeding thereof may be brought. As of the date of this Amended and Restated Merger Agreement, none of the Debt Commitment Letters have been amended or modified (other than such amendments or modifications attached thereto that have been provided to the Company) in any respect, and the respective commitments contained therein have not been withdrawn, rescinded or otherwise modified in a manner that would adversely affect or delay in any respect the availability of the full amount of the Financing at the Closing. As of the date of this Amended and Restated Merger Agreement, no event has occurred which would constitute a breach or default (or an event which with notice or lapse of time or both would constitute a default), or the failure of any condition on the part of Parent under the Debt Commitment Letters or on the part of the Lenders that would adversely affect or delay in any respect the availability of the full amount of the Financing at the Closing. There are no conditions precedent to the funding of the full amount of the Financing other than the conditions precedent set forth in the Debt Commitment Letters. Assuming the satisfaction or waiver of the conditions set forth in Section 9.02(a), Section 9.02(b) and Section 9.02(c), Parent has no reason to believe that the Financing will not be available on the Closing Date. Assuming the satisfaction or waiver of the conditions set forth in Section 9.02(a), Section 9.02(b) and Section 9.02(c) and subject to the terms of the Debt Commitment Letters, the aggregate proceeds of the Financing are in an amount sufficient to consummate the Merger upon the terms contemplated by this Agreement (including to pay the Cash Consideration for all of the shares of Company Stock on a fully diluted basis and to make all payments in respect of the Company Stock Options, Company Restricted Shares,

56

Company Performance Shares and Company Restricted Stock Units), to make any repayment or refinancing of debt contemplated in this Agreement or the Debt Commitment Letters, and to pay all related fees and expenses of Parent, Merger Subsidiary and their respective Representatives pursuant to this Agreement and the Financing. Parent (or an Affiliate thereof) has fully paid or caused to be paid any and all commitment fees or other fees required by the Debt Commitment Letters to be paid to the extent the same are due and payable on or before the date of this Amended and Restated Merger Agreement.

(e) Parent acknowledges and agrees that notwithstanding anything to the contrary in this Agreement, the consummation of the Financing shall not be a condition to the obligation of Parent and Merger Subsidiary to consummate the Merger and the other transactions contemplated hereby.

Section 5.18. *Solvency.* Assuming (a) the satisfaction of the conditions to Parent's obligations to consummate the Merger and (b) the accuracy of the representations and warranties set forth in Article 4 and, after giving effect to the transactions contemplated by this Agreement, including the Financing, any alternative financing, the payment of the aggregate Merger Consideration, any repayment or refinancing of debt contemplated in this Agreement or the Debt Commitment Letters, and the payment of all related fees and expenses, the Surviving Corporation and its Subsidiaries on a consolidated basis will be Solvent as of the Effective Time and immediately after the consummation of the transactions contemplated hereby. For purposes of this Agreement, "Solvent" when used with respect to any Person, on a consolidated basis, means that, as of any date of determination, (i) the fair value of the assets of such Person will exceed their consolidated debt and liabilities, contingent or otherwise, (ii) the present fair saleable value of the property of such Person will be greater than the amount that will be required to pay the probable liability on their debts and other liabilities contingent or otherwise, as such debts and other liabilities become absolute and mature, (iii) such Person will not have unreasonably small capital with which to conduct the business in which it is engaged as such business is now conducted and is proposed to be conducted following such date and (iv) such Person will not have incurred and do not intend to incur, or believe they will incur, any debts and liabilities, contingent or otherwise, including current obligations, that they do not believe that they will be able to pay (based on their assets and cash flow) as such debts and liabilities become due (whether at maturity or otherwise).

Section 5.19. *Ownership of Shares.* Neither Parent nor Merger Subsidiary, nor any of their "affiliates" or "associates" is, nor at any time in the three year period prior to the date of this Agreement has been, an "interested stockholder" of the Company (as such terms are defined in Section 203 of the Delaware General Corporation Law). Neither Parent nor Merger Subsidiary, nor any of their "associates" or "controlled affiliates" owns any shares of Company Stock, and no "affiliates" of Parent or Merger Subsidiary that are not "controlled affiliates" "owns" individually or in the aggregate more than five (5) percent of the outstanding shares of Company Stock.

Section 5.20. *Management Agreements.* Other than as contemplated by this Agreement, as of the date hereof, there are no contracts, undertakings, commitments, agreements or obligations or understandings between Parent or Merger Subsidiary, on the one hand, and any member of the Company's management or the Company's Board of Directors, on the other hand,

57

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relating in any way to the transactions contemplated by this Agreement or the operations of the Company after the Effective Time.

Section 5.21. *Amended and Restated Merger Agreement.* The execution, delivery and performance by Parent and Merger Subsidiary of this Amended and Restated Merger Agreement and the consummation by Parent and Merger Subsidiary of the transactions contemplated by this Agreement are within the corporate power and authority of Parent and Merger Subsidiary and have been duly authorized by all necessary corporate action of Parent and Merger Subsidiary other than the adoption of this Amended and Restated Merger Agreement by the sole stockholder of Merger Subsidiary, which Parent shall cause to take place within twenty-four (24) hours of the signing of this Amended and Restated Merger Agreement. This Agreement constitutes a valid and binding agreement of each of Parent and Merger Subsidiary enforceable against Parent and the Merger Subsidiary in accordance with its terms, subject to the Bankruptcy and Equity Exception. No vote of the holders of shares of Parent Class A Common Stock, Parent Class B Common Stock or any other shares of Parent's capital stock is necessary to consummate the Merger and the other transactions contemplated by this Agreement.

Section 5.22. *Non-Reliance on Company Estimates, Projections, Forecasts, Forward-Looking Statements and Business Plans.* In connection with the due diligence investigation of the Company by Parent and Merger Subsidiary, Parent and Merger Subsidiary have received and may continue to receive from the Company certain estimates, projections, forecasts and other forward-looking information, as well as certain business plan information, regarding the Company and its business and operations. Parent and Merger Subsidiary hereby acknowledge that there are uncertainties inherent in attempting to make such estimates, projections, forecasts and other forward-looking statements, as well as in such business plans, with which Parent and Merger Subsidiary are familiar, that Parent and Merger Subsidiary are taking full responsibility for making their own evaluation of the adequacy and accuracy of all estimates, projections, forecasts and other forward-looking information, as well as such business plans, so furnished to them (including the reasonableness of the assumptions underlying such estimates, projections, forecasts, forward-looking information or business plans), and that Parent and Merger Subsidiary will have no claim, right or obligation under this Agreement or otherwise (including under Article 9) against the Company or any of its Subsidiaries, or any of their respective Representatives, or any other Person, with respect thereto. Accordingly, Parent and Merger Subsidiary hereby acknowledge that none of the Company nor any of its Subsidiaries, nor any of their respective Representatives, nor any other Person, has made or is making any representation or warranty with respect to such estimates, projections, forecasts, forward-looking statements or business plans (including the reasonableness of the assumptions underlying such estimates, projections, forecasts, forward-looking statements or business plans).

## ARTICLE 6

### COVENANTS OF THE COMPANY

Section 6.01. *Conduct of the Company.* Except with the prior written consent of Parent (which consent shall not be unreasonably withheld, conditioned or delayed), as contemplated by this Agreement, as set forth in Section 6.01 of the Company Disclosure Letter or as required by Applicable Law, from the date hereof until the Effective Time, the Company shall, and shall

58

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cause each of its Subsidiaries to, (i) conduct its business in the ordinary course consistent with past practices, (ii) conduct its business in material compliance with all Applicable Laws (except where such failure to be in compliance would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect) and (iii) use its commercially reasonable efforts to preserve intact its business organizations and relationships with Third Parties and keep available the services of its present officers and key employees. Without limiting the generality of the foregoing, except with the prior written consent of Parent (which consent shall not be unreasonably withheld, conditioned or delayed), as contemplated by this Agreement or set forth in Section 6.01 of the Company Disclosure Letter, the Company shall not, nor shall it permit any of its Subsidiaries to:

(a) amend its certificate of incorporation, bylaws or other similar organizational documents;



(b) (i) split, combine or reclassify any shares of its capital stock, (ii) declare, set aside or pay any dividend or other distribution (whether in cash, stock or property or any combination thereof) in respect of its capital stock, except for dividends by any of its wholly-owned Subsidiaries or (iii) redeem, repurchase or otherwise acquire or offer to redeem, repurchase, or otherwise acquire any Company Securities or any Company Subsidiary Securities except pursuant to any Company Stock Plan;

(c) (i) grant, issue, deliver or sell, or authorize the grant, issuance, delivery or sale of, any shares of any Company Securities or Company Subsidiary Securities, other than the issuance of (A) any shares of the Company Stock upon the exercise of outstanding Company Stock Options in accordance with the terms of such Company Stock Options, (B) any Company Restricted Shares and Company Restricted Stock Units to directors of the Company in the ordinary course consistent with past practices, and (C) any shares of earned Company Performance Shares that have been granted prior to the date of this Agreement or (ii) amend any term of any Company Security or any Company Subsidiary Security;

(d) acquire (by merger, consolidation, acquisition of stock or assets or otherwise), directly or indirectly, any assets, securities, properties, interests or businesses having a value (i) in excess of Two Million Dollars (\$2,000,000) individually, or Five Million Dollars (\$5,000,000) in the aggregate, from any other Person, (ii) merge or consolidate with any other Person or (iii) adopt a plan of complete or partial liquidation, dissolution, recapitalization, restructuring merger or other reorganization;

(e) sell, lease, license or otherwise transfer any Subsidiary or any amount of assets, securities, properties, interests or businesses, having a value in excess of Two Million Dollars (\$2,000,000) individually, or Five Million Dollars (\$5,000,000) in the aggregate, except (i) pursuant to existing contracts or commitments disclosed in the Company Disclosure Letter, and (ii) in the ordinary course of business consistent with past practices in an amount not to exceed Eight Million Dollars (\$8,000,000) in the aggregate;

(f) make any loans, advances or capital contributions to, or investments in, any other Person in excess of One Million Dollars (\$1,000,000) either by purchase of stock or securities, contributions to capital, property transfer, purchase of any property or assets of any Person or

59

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otherwise (other than (i) loans or advances between and among the Company and/or any of its wholly-owned Subsidiaries made in the ordinary course of business consistent with past practices and (ii) capital contributions to or investments in wholly-owned Subsidiaries made in the ordinary course of business consistent with past practices);

(g) create, assume, incur or otherwise be liable with respect to any indebtedness for borrowed money or guarantees thereof (or amend and restate or refinance any existing indebtedness for borrowed money), other than (i) (A) up to Twenty-Five Million Dollars (\$25,000,000) of indebtedness under lines of credit existing on the date of this Agreement, (B) any indebtedness or guarantee (including any lease guarantee) incurred in the ordinary course of business consistent with past practices in an amount not to exceed Five Million Dollars (\$5,000,000) in the aggregate, or (ii) indebtedness incurred between or among the Company and/or any of its wholly-owned Subsidiaries made in the ordinary course of business consistent with past practices or between any of such wholly-owned Subsidiaries or guarantees by the Company of indebtedness of any wholly-owned Subsidiary made in the ordinary course of business consistent with past practices;

(h) prepay, redeem, repurchase, defease, cancel or otherwise terminate (or amend, restate or refinance any existing indebtedness for borrowed money) any indebtedness for borrowed money of the Company or any of its Subsidiaries;

(i) except as required by Applicable Law and except as required under any Company Employee Plan, (i) grant or increase any severance or termination pay to (or amend any existing severance pay or termination arrangement with) any Company Employee or director of the Company or any Subsidiary, (ii) increase benefits payable under any severance or termination pay policies or employment agreements existing as of the date of this Agreement, (iii) enter into any employment, deferred compensation, retention or other similar agreement (or any amendment to any such existing agreement) with any Company Employee or directors of the Company or any Subsidiary, (iv) establish, adopt or amend any Collective Bargaining Agreement or Company Employee Plan, or (v) increase compensation, bonus or other benefits payable to any Company Employee or director of the Company or any Subsidiary other than (A) annual salary increases in the ordinary course of business consistent with past practice; (B) increases in amounts in accounts under the Executive Plan resulting from the annual salary increases described in (A); or (C) as contemplated by [Section 7.05\(f\)](#);

(j) change the Company's methods of accounting or accounting principles or practices, except as required by concurrent changes in GAAP or in Regulation S-X of the 1934 Act approved by its independent public accountants;

(k) make or change any material Tax election, change any annual Tax accounting period, adopt or change any material method of Tax accounting, amend any material Tax Returns or file claims for material Tax refunds, enter into any material closing agreement, settle any material Tax claim, audit or assessment, surrender any right to claim a material Tax refund, offset or other reduction in Tax liability or take any material position on any Tax Return filed on or after the date of this Agreement or adopt any material accounting method that is inconsistent with elections made, positions taken or methods used in preparing or filing similar Tax Returns in prior periods;

60

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(l) make any capital expenditure, or incur any obligation or liability in respect thereof, other than those capital expenditure projects that are (i) not in excess of Four Million Dollars (\$4,000,000) in the aggregate or (ii) contemplated by the Company's 2016 fiscal year forecast, which forecast has been made available to Parent on February 22, 2016;

(m) create or incur any Lien on any material asset other than in the ordinary course of business consistent with past practices;

(n) enter into (i) any contract that would have been a Company Material Contract were the Company a party or subject thereto on the date of this Agreement other than entry into renewals of existing Company Material Contracts in the ordinary course of business consistent with past practices (but in no event, for terms of more than twenty-four (24) months) or (ii) lease agreement for real property;

(o) terminate or amend in any material respect any Company Material Contract or Real Property Lease, or waive, release or assign any material right, claims or benefit of the Company thereunder, except for such terminations, amendments, waivers, releases or assignments in the ordinary course of business consistent with past practices;

(p) terminate, renew, suspend, abrogate, amend or modify in any material respect any Company Permit other than in the ordinary course of business consistent with past practices;

(q) settle, or offer or propose to settle, any litigation, investigation, arbitration, proceeding or other claim involving or against the Company or any Subsidiary involving a payment by the Company or any Subsidiary in excess of One Million Five Hundred Thousand Dollars (\$1,500,000) individually or Three Million Dollars (\$3,000,000) in the aggregate;

(r) fail to use commercially reasonable efforts to maintain existing material insurance policies or comparable replacement policies; or

(s) except as, in the reasonable judgment of the Company, is necessary to comply with the ongoing requirements of the 1934 Act or prepare or make any filings with the SEC agree, resolve or commit to do any of the foregoing.

Parent acknowledges and consents to, for purposes of this Section 6.01, the Company's amendment to the engagement letter with J.P. Morgan Securities LLC, dated as of July 19, 2016, a copy of which has not been provided to Parent.

Section 6.02. *Company Stockholder Meeting.* The Company shall cause the Company Stockholder Meeting to be duly noticed and reconvened as promptly as reasonably practicable (and, subject to the provisions in the remainder of this Section 6.02, in no event more than forty-five (45) days) after the Company Proxy Statement/Prospectus is declared effective by the SEC, for the purpose of voting on the approval and adoption of this Agreement and the Merger, a resolution to adjourn the Company Stockholder Meeting, if necessary or appropriate to solicit additional proxies if there are not sufficient votes to adopt the Agreement, and a resolution to vote on a non-binding advisory proposal to approve change-in-control payments to executives of the Company. Except as required by Applicable Law, the Company shall not submit any other proposal to its stockholders at the Company Stockholder Meeting without the prior written

61

consent of Parent, which consent shall not be unreasonably withheld, conditioned or delayed. The record date of the reconvened Company Stockholder Meeting and the date of reconvening of the Company Stockholder Meeting shall be selected by the Company after reasonable consultation with Parent. Subject to Section 6.04, (a) the Board of Directors of the Company shall recommend approval and adoption of this Agreement and the Merger by the Company's stockholders and the Company shall include the Company Board Recommendation in the Company Proxy Statement/Prospectus, (b) the Company shall use its reasonable best efforts to obtain the Company Stockholder Approval and (c) the Company shall otherwise comply in all material respects with the legal requirements applicable to the Company Stockholder Meeting. Notwithstanding the foregoing, (i) if on a date within two (2) Business Days of any date the Company Stockholder Meeting is scheduled to reconvene, the Company has not received proxies representing the Company Stockholder Approval, whether or not a quorum is present, the Company may postpone or adjourn, or make one or more successive postponements or adjournments of, the Company Stockholder Meeting as long as the date of the Company Stockholder Meeting is not, without the prior written consent of Parent (which consent shall not be unreasonably withheld, conditioned or delayed), postponed or adjourned to a date that is later than the later of (accounting for all postponements or adjournments in reliance upon this proviso (i)) (A) thirty (30) calendar days in the aggregate from the date that the reconvened Company Stockholder Meeting is scheduled to reconvene after the mailing of the Company Proxy Statement/Prospectus and (B) ten (10) Business Days following the termination of the Negotiation Period pursuant to Section 6.04(f) and (ii) if required by Applicable Law to provide the Company's stockholders additional information or disclosure in connection with the matters to be voted upon at the Company Stockholder Meeting, the Company shall make one or more successive adjournments of the Company Stockholder Meeting only for such period of time as is reasonably necessary in order to give the Company's stockholders sufficient time to evaluate such additional information or disclosure. The Company shall use its reasonable best efforts to keep Parent reasonably updated concerning proxy solicitation results for the Company Stockholder Meeting.

Section 6.03. *Access to Information.* From the date hereof until the Effective Time and subject to Applicable Law and the Confidentiality Agreement, the Company shall (a) give Parent and its Representatives, upon reasonable notice, reasonable access during normal business hours to the offices, properties, books and records of the Company and its Subsidiaries, (b) furnish to Parent and its Representatives such financial and operating data and other information as such Persons may reasonably request and (c) instruct its Representatives to cooperate reasonably with Parent in its investigation of the Company and its Subsidiaries; *provided, however*, that if the Company does not provide access or information in reliance on the preceding clause, it shall provide notice to Parent that it is withholding such access or information and shall use its commercially reasonable efforts to communicate, to the extent feasible, the applicable information in a way that would not violate Applicable Law or binding agreement or risk the waiver of attorney-client privilege. Any investigation pursuant to this Section 6.03 shall be conducted in such manner as not to interfere unreasonably with the conduct of the business of the Company and its Subsidiaries. Nothing in this Section 6.03 shall require the Company to provide any access, or to disclose any information (i) if providing such access or disclosing such information could reasonably be expected to violate any Applicable Law (including antitrust or privacy laws) or any binding agreement entered into prior to the date of this Agreement or

62

(ii) protected by attorney-client privilege to the extent such privilege cannot be protected by the Company through exercise of its reasonable efforts.

Section 6.04. *No Solicitation; Other Offers.*

(a) Except as provided by the remainder of this Section 6.04, from the date hereof until the Effective Time or, if earlier, the termination of this Agreement in accordance with Article 10, neither the Company nor any of its Subsidiaries nor any of their respective officers or directors shall, and the Company and its Subsidiaries shall not authorize any of its other Representatives to, directly or indirectly, (i) solicit, initiate or take any action to knowingly facilitate or knowingly encourage any inquiries or the making of any proposal or offer that constitutes, or would reasonably be expected to lead to, any Acquisition Proposal, including by way of furnishing any non-public information or data concerning the Company or its Subsidiaries or any assets owned (in whole or part) by the Company or its Subsidiaries to any Person in furtherance of an Acquisition Proposal or if it would reasonably be expected to lead to an Acquisition Proposal or (ii) enter into, continue or otherwise participate in any discussions or negotiations with, or afford access to the business, properties, assets, books or records of the Company or any of its Subsidiaries to, any Third Party with respect to any potential Acquisition Proposal, (iii) enter into any agreement in principle, memorandum of understanding, letter of intent, merger agreement, acquisition agreement, joint venture agreement, option agreement or other similar agreement (but excluding an Acceptable Confidentiality Agreement) providing for a transaction that is the subject of an Acquisition Proposal (an "**Alternative Acquisition Agreement**"), or (iv) grant any waiver, amendment or release under any standstill or confidentiality agreement concerning an Acquisition Proposal; *provided* that notwithstanding the foregoing and the last sentence of this Section 6.04(a) the Company shall be permitted to waive, amend, release or fail to enforce any provision of any confidentiality, "standstill" or similar obligation of any Person if the Board of Directors of the Company determines in good faith, after consultation with its outside legal counsel, that the failure to take such action would be inconsistent with its fiduciary duties under Applicable Law. The Company shall, and shall cause each of its Subsidiaries and its and their respective Representatives to, cease immediately and cause to be terminated any and all activities, discussions or negotiations, if any, existing as of the date of this Agreement with any Third Party and its Representatives with respect to any Acquisition Proposal or that would reasonably be expected to lead to an Acquisition Proposal. The Company shall use its commercially reasonable efforts to promptly inform its Representatives of the obligations in this Section 6.04. The Company also agrees that it will promptly request each Person that has executed a confidentiality agreement prior to the date hereof in connection with its consideration of acquiring the Company or any of its Subsidiaries to return or destroy (as provided in the terms of such confidentiality agreement) all confidential information furnished to such Person prior to the date hereof by or on behalf of it or any of its Subsidiaries. The Company and its Subsidiaries shall use commercially reasonable efforts to enforce any confidentiality agreements entered into with any Person in connection with any Acquisition Proposal if requested to do so by Parent, subject to the remaining provisions of this Section 6.04.

(b) Notwithstanding anything contained in Section 6.04(a) to the contrary, following the receipt of an Acquisition Proposal that was made after the date hereof that did not result from a material breach by the Company, any of its Subsidiaries or its or their respective

Representatives of this [Section 6.04](#) and prior to obtaining the Company Stockholder Approval, if (i) the Company or any of its Representatives has received an Acquisition Proposal that the Board of Directors of the Company, after consultation with its outside legal counsel and with its financial advisor, reasonably believes is or could reasonably result in a Superior Proposal and (ii) the Board of Directors of the Company determines in good faith, after consultation with outside legal counsel, that the failure to take such action would be inconsistent with its fiduciary duties under Applicable Law, then, subject to providing written notice to Parent of its decision to take such action and compliance in all material respects with [Section 6.04\(c\)](#), the Company, directly or indirectly through its Representatives, may (A) engage in negotiations or discussions with such Third Party and its Representatives, and (B) furnish to such Third Party or its Representatives non-public information relating to the Company or any of its Subsidiaries pursuant to an Acceptable Confidentiality Agreement; *provided* that the Company shall promptly (and in any event within twenty-four (24) hours) provide to Parent any such information relating to the Company that it provided to any such Person which was not previously provided to or made available to Parent.

(c) The Company shall promptly (and, in any event, within twenty-four (24) hours) notify Parent orally and in writing after the receipt by the Company of any Acquisition Proposal or any request for information or access relating to the Company or any of its Subsidiaries with respect to an Acquisition Proposal indicating, in connection with such notice, the name of such Person (except to the extent disclosure of such identity would breach a confidentiality obligation in effect prior to the execution of this Agreement) and the material terms and conditions of any proposals or offers (including, if applicable, copies of any written requests, proposals or offers, including proposed agreements, which in each case may be redacted, if necessary to remove the identity of any Third Party to comply with any confidentiality obligation in effect prior to the execution of this Agreement) and thereafter, subject to the foregoing confidentiality qualifications, shall (i) keep Parent reasonably informed, on a prompt and timely basis, of the status and terms of any such proposals or offers (including any material amendments thereto) and the status of any such discussions or negotiations, and (ii) provide to Parent as soon as practicable copies of all written proposals or offers (including proposed agreements) sent or provided to the Company or any of its Subsidiaries from any Person (or such Person's Representative) making an Acquisition Proposal that describes any of the financial or other material terms or conditions of such Acquisition Proposal.

(d) Except as set forth in [Section 6.04\(e\)](#) and [Section 6.04\(g\)](#), the Board of Directors of the Company and each committee of the Board of Directors of the Company shall not:

- (i) withhold, withdraw, qualify or modify (or publicly propose or announce any intention to or resolve to withhold, withdraw, qualify or modify), in a manner adverse to Parent or Merger Subsidiary, the Company Board Recommendation;
- (ii) other than in the case of an Acquisition Proposal in the form of a tender offer or exchange offer, fail to publicly affirm the Company Board Recommendation upon Parent's written request within five (5) Business Days after such request after a public announcement of an Acquisition Proposal;

(iii) (A) fail to recommend against acceptance of any tender offer or exchange offer that is publicly disclosed (other than by Parent or any of its Subsidiaries) prior to the eleventh (11th) Business Day after the commencement of such tender or exchange offer pursuant to Rule 14d-2 under the 1934 Act or (B) recommend that the stockholders of the Company tender their shares of Company Stock in such tender offer or exchange offer;

(iv) fail to include the Company Board Recommendation in the Company Proxy Statement/Prospectus in connection with the Company Stockholder Meeting; or

(v) approve, adopt, recommend, or publicly propose to approve, adopt or recommend, any Acquisition Proposal (any action described in [Sections 6.04\(d\)\(i\)](#) through [6.04\(d\)\(v\)](#) being referred to as an "Adverse Recommendation Change").

(e) Notwithstanding anything to the contrary set forth in this Agreement but subject to [Section 6.04\(f\)](#), prior to the time, but not after, the Company Stockholder Approval is obtained, if an Acquisition Proposal has been made after the execution of this Agreement, the Board of Directors of the Company may make an Adverse Recommendation Change in response to such Acquisition Proposal or terminate this Agreement pursuant to [Section 10.01](#) if, and only if, (i) such Acquisition Proposal did not result from a material breach by the Company, any of its Subsidiaries or its or their respective Representatives of this [Section 6.04](#); and (ii) the Board of Directors of the Company determines in good faith after consultation with its outside legal counsel and with its financial advisor that such Acquisition Proposal constitutes a Superior Proposal.

(f) Prior to making any Adverse Recommendation Change in connection with an Acquisition Proposal and prior to terminating this Agreement pursuant to [Section 10.01](#) (to the extent permitted under [Section 6.04](#)), the Company shall deliver to Parent a written notice (a "**Superior Proposal Notice**") stating that the Board of Directors of the Company intends to take such action pursuant to [Section 6.04](#) and, if applicable, intends to cause the Company to enter into an Alternative Acquisition Agreement, a copy of the proposed form of which shall be delivered with such notice, together with copies of any documents setting forth the Acquisition Proposal (which notice or intent shall not be an Adverse Recommendation Change or a violation of [Section 6.04\(d\)](#) or any other provision of this [Section 6.04](#)). During the three (3) Business Day period commencing on the first Business Day following the date of Parent's receipt of such Superior Proposal Notice (the "**Negotiation Period**"), the Company shall make its Representatives reasonably available for the purpose of engaging in negotiations with Parent (to the extent Parent desires to negotiate) regarding a possible amendment of this Agreement so that the Acquisition Proposal that is the subject of the Superior Proposal Notice ceases to be a Superior Proposal. Any written proposal made by Parent to amend this Agreement during the Negotiation Period shall be considered by the Board of Directors of the Company in good faith. Each time the financial or other material terms of such Acquisition Proposal are changed, the Company shall be required to deliver to Parent a new Superior Proposal Notice (including as attachments thereto a copy of the new Alternative Acquisition Agreement relating to such amended Acquisition Proposal and copies of any related documents), and the Negotiation Period shall be extended by an additional three (3) Business Days from the date of Parent's receipt of such new Superior Proposal Notice.

(g) Notwithstanding anything to the contrary set forth in this Agreement, prior to the time, but not after, the Company Stockholder Approval is obtained, the Board of Directors of the Company may make an Adverse Recommendation Change in response to an Intervening Event if, and only if, the Board of Directors of the Company determines in good faith after consultation with its outside legal counsel and with its financial advisor that a failure to make an Adverse Recommendation Change in response to such Intervening Event would be reasonably likely to be inconsistent with its fiduciary duties under Applicable Law; *provided, however*, that the Company shall deliver to Parent a written notice (the "**Intervening Event Notice**") advising Parent of all available material information with respect to such Intervening Event and stating that the Board of Directors of the Company intends to take such action pursuant to this [Section 6.04\(g\)](#) (which notice or intent shall not be an Adverse Recommendation Change or a violation of [Section 6.04\(d\)](#) or any other provision of this [Section 6.04](#)). During the three (3) Business Day period commencing on the date of Parent's receipt of the Intervening Event Notice (the "**Intervening Negotiation Period**"), the Company shall make its Representatives reasonably available for the purpose of engaging in negotiations with Parent (to the extent Parent desires to negotiate) regarding a possible amendment of this Agreement in order to enable the Board of Directors of the Company to proceed with the

Company Board Recommendation. Any written proposal made by Parent to amend this Agreement during the Intervening Negotiation Period shall be considered by the Board of Directors of the Company in good faith.

(h) Notwithstanding anything to the contrary set forth this Agreement, unless this Agreement is terminated pursuant to, and in accordance with, Section 10.01, (i) the obligation of the Company to establish a record date for, give notice of, and, subject to Section 6.02, reconvene and hold the Company Stockholder Meeting and to hold a vote of the Company's stockholders on the adoption of this Agreement and the Merger at the Company Stockholder Meeting pursuant to Section 6.02 shall not be limited or otherwise affected by the commencement, disclosure, announcement or submission to it of any Acquisition Proposal (whether or not a Superior Proposal) or by an Adverse Recommendation Change, and (ii) in any case in which the Company makes an Adverse Recommendation Change pursuant to this Section 6.04, the Company shall nevertheless submit this Agreement to a vote of its stockholders at the Company Stockholder Meeting for the purpose of the approval of this Agreement.

(i) Nothing contained in this Agreement shall prevent the Company or the Board of Directors of the Company from (i) taking and disclosing to its stockholders a position contemplated by Rule 14d-9 and Rule 14e-2(a) promulgated under the 1934 Act (or any similar communication to its stockholders in connection with the making or amendment of a tender offer or exchange offer) or from making any disclosure to its stockholders with regard to the transactions contemplated by this Agreement or an Acquisition Proposal which the Board of Directors of the Company (after consultation with outside counsel) determines in its good faith judgment that failure to make such disclosure would reasonably be expected to violate U.S. federal or state securities Law or other Applicable Law or its fiduciary obligations under Applicable Law; *provided that* the Board of Directors of the Company may not effect an Adverse Recommendation Change unless permitted to do so by this Section 6.04; *provided, further*, that notwithstanding anything herein to the contrary, any "stop, look and listen" disclosure in and of itself shall not be considered an Adverse Recommendation Change or (ii) contacting and engaging in discussions with any Person or group and their respective Representatives who has

66

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made an Acquisition Proposal solely for the purpose of clarifying such Acquisition Proposal and the terms thereof.

Section 6.05. *Company Employee Plan Matters.* At the reasonable request of Parent, the Company shall, prior to the Effective Time, adopt such amendments and take such other actions with respect to the Company Employee Plans as Parent may reasonably request to facilitate the transactions contemplated by this Agreement.

Section 6.06. *No Other Representations and Warranties.* Except for the representations and warranties set forth in Article 5, the Company acknowledges and agrees that no other representation or warranty of any kind whatsoever, express or implied, at law or in equity, is made or shall be deemed to have been made by or on behalf of Parent or its Subsidiaries with respect to their respective businesses, affairs, assets, liabilities, financial conditions, results of operations or prospects or with respect to the accuracy or completeness of any other information provided or made available to Company by or on behalf of Parent or its Subsidiaries, and each of Parent and Merger Subsidiary hereby disclaims any such representation or warranty, whether by or on behalf of Parent or Merger Subsidiary, and notwithstanding the delivery or disclosure to the Company, or any of their Representatives or Affiliates of any documentation or other information by Parent, Merger Subsidiary, any of their respective Subsidiaries or any of their Representatives or any of their respective Subsidiaries with respect to any one or more of the foregoing. Neither Parent, Merger Subsidiary nor any of their Representatives will have or be subject to any liability or obligation to the Company or any other Person resulting from the distribution in written or verbal communications to the Company of any such information, including any information, documents, projections, forecasts or other material made available to the Company in online "data rooms," confidential information memoranda or management interviews and presentations.

## ARTICLE 7

### COVENANTS OF PARENT

Section 7.01. *Conduct of Parent.* Except with the prior written consent of the Company (which consent shall not be unreasonably withheld, conditioned or delayed), as contemplated by this Agreement, as set forth in Section 7.01 of the Parent Disclosure Letter or as required by Applicable Law, from the date of this Amended and Restated Merger Agreement until the Effective Time, Parent shall, and shall cause each of its Subsidiaries to, conduct its business in all material respects in the ordinary course. Without limiting the generality of the foregoing, except with the prior written consent of the Company (which consent shall not be unreasonably withheld, conditioned or delayed), as contemplated by this Agreement or set forth in Section 7.01 of the Parent Disclosure Letter, from the date hereof (except in the case of Section 7.01(a), which shall be from the date of this Amended and Restated Merger Agreement) until the Effective Time, Parent shall not, nor shall it permit any of its Subsidiaries to:

(a) amend its certificate of incorporation, bylaws or other similar organizational documents, in each case, in any manner that would have a material adverse effect on the rights of holders of Parent Class A Common Stock;

67

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(b) take any action or fail to take any action that is intended or is reasonably likely to result in (i) a delay in the consummation of the Merger or the transactions contemplated by this Agreement, (ii) any impediment to Parent's ability to consummate the Merger or the transactions contemplated by this Agreement, (iii) any of its representations and warranties set forth in this Agreement being or becoming untrue in any material respect at any time at or prior to the Effective Time, (iv) any of the conditions to the Merger set forth in Article 9 not being satisfied or (v) a material violation of any provision of this Agreement, except, in each case, as required by Applicable Law; or

(c) agree, resolve or commit to do any of the foregoing.

Section 7.02. *Obligations of Merger Subsidiary.* Parent shall take all action necessary to cause Merger Subsidiary to perform its obligations under this Agreement and to consummate the Merger on the terms and conditions set forth in this Agreement.

Section 7.03. *Voting of Shares.* Parent shall vote all shares of Company Stock beneficially owned by it or any of its Subsidiaries in favor of adoption of this Agreement at the Company Stockholder Meeting.

Section 7.04. *Director and Officer Liability.* Parent shall, and Parent shall cause the Surviving Corporation, and the Surviving Corporation hereby agrees, to do the following:

(a) From and after the Effective Time, Parent and the Surviving Corporation shall indemnify and hold harmless, and provide advancement of expenses to, the present and former officers and directors of the Company and its Subsidiaries (each, an "Indemnified Person") in respect of acts or omissions in their capacity as a director or officer of the Company or its Subsidiaries or as an officer, director, employee, fiduciary or agent of another enterprise if the Indemnified Person was serving in such capacity at the request of the Company or any of its Subsidiaries, in any case occurring at or prior to the Effective Time, to the fullest extent permitted by Delaware Law or any other Applicable Law (in the case of non-Delaware entities) or provided under the certificate of incorporation, bylaws, any indemnification agreements and any other governing

documents of the Company and its Subsidiaries in effect on the date hereof. In the event of any threatened or pending claim, action, suit, proceeding or investigation, whether civil, criminal, administrative or investigative and whether formal or informal (each, a “**Proceeding**”) to which an Indemnified Person is, has been or becomes a party or with respect to which an Indemnified Person is, has been or becomes otherwise involved (including as a witness), arising in whole or in part out of, or pertaining in whole or in part to, the fact that the Indemnified Person is or was an officer or director of the Company or any of its Subsidiaries or is or was serving at the request of the Company or any of its Subsidiaries as an officer, director, employee, fiduciary or agent of another enterprise (including any Proceeding arising out of or pertaining to matters occurring or existing or alleged to have occurred or existed, or acts or omissions occurring or alleged to have occurred, at or prior to the Effective Time, or arising out of or pertaining to this Agreement and the transactions and actions contemplated hereby), Parent shall, or shall cause the Surviving Corporation to, advance fees, costs and expenses (including attorney’s fees and disbursements) incurred by each Indemnified Person in connection with and prior to the final disposition of such Proceedings, such fees, costs and expenses (including attorney’s fees and disbursements) to be advanced within twenty (20) days of receipt by Parent

68

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from the Indemnified Person of a request therefor, *provided* such Indemnified Person provides a written affirmation of such Indemnified Person’s good faith belief that he or she has met all applicable standards of conduct applicable to indemnification and an undertaking to repay such advance if it is ultimately determined by a final non-appealable order of a court of competent jurisdiction that such Indemnified Person is not entitled to indemnification under this [Section 7.04\(a\)](#) or otherwise.

(b) For a period of six (6) years after the Effective Time, the certificate of incorporation and bylaws of the Surviving Corporation shall contain provisions regarding (i) elimination of liability of directors and managers, (ii) indemnification of officers, directors and managers, and (iii) advancement of expenses, in each case, for periods prior to and including the Effective Time, that are no less advantageous to the intended beneficiaries than the corresponding provisions in the Company’s governing documents in existence on the date of this Agreement. The indemnification agreements with the Company’s directors and officers that survive the Merger shall continue in full force and effect in accordance with their terms.

(c) For a period of six (6) years after the Effective Time, Parent shall cause to be maintained in effect all provisions in the certificate of incorporation, bylaws and other governing documents of the Company’s Subsidiaries regarding (i) elimination of liability of directors and managers, (ii) indemnification of officers, directors and managers, and (iii) advancement of expenses, in each case, that are no less advantageous to the intended beneficiaries than the corresponding provisions in existence on the date of this Agreement.

(d) Prior to the Effective Time, the Company shall, or, if the Company is unable to or does not, Parent shall and shall cause the Surviving Corporation as of the Effective Time to, obtain and fully pay the premium for the non-cancellable extension of the directors’ and officers’ liability coverage of the Company’s existing directors’ and officers’ insurance policies and the Company’s existing fiduciary liability insurance policies (collectively, “**D&O Insurance**”), in each case for a claims reporting or discovery period of six years from and after the Effective Time with respect to any claim related to any period of time at or prior to the Effective Time, from an insurance carrier with the same or better credit rating as the Company’s current insurance carrier with respect to D&O Insurance, with terms, conditions, retentions and limits of liability that are no less favorable than the coverage provided under the Company’s existing policies with respect to any actual or alleged error, misstatement, misleading statement, act, omission, neglect, breach of duty or any matter claimed against a director or officer of the Company or any of its Subsidiaries by reason of him or her serving in such capacity that existed or occurred at or prior to the Effective Time (including in connection with this Agreement or the transactions or actions contemplated hereby); *provided* that neither the Company nor the Surviving Corporation shall purchase such a “tail” policy for a premium amount for any one year in excess of 300% of the annual premium currently paid by the Company for such insurance (the “**Tail Cap**”) without the prior written consent of Parent, which consent shall not be unreasonably withheld, conditioned or delayed; *provided, further*, that if the premiums of such “tail” policy exceed the Tail Cap, the Company, after prior consultation with Parent, may obtain such a “tail” policy with the greatest coverage available, with respect to matters occurring prior to the Effective Time, for a cost not exceeding the Tail Cap. If the Company or the Surviving Corporation for any reason fail to obtain such “tail” insurance policies as of the Effective Time, the Surviving Corporation shall, and Parent shall cause the Surviving Corporation to, either

69

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(i) continue to maintain in effect, for a period of at least six years from and after the Effective Time, the D&O Insurance in place as of the date hereof with the Company’s current insurance carrier or with an insurance carrier with the same or better credit rating as the Company’s current insurance carrier with respect to D&O Insurance with terms, conditions, retentions and limits of liability that are no less favorable than the coverage provided under the Company’s existing policies as of the date hereof or (ii) purchase from the Company’s current insurance carrier or from an insurance carrier with the same or better credit rating as the Company’s current insurance carrier with respect to D&O Insurance comparable D&O Insurance for such six-year period with terms, conditions, retentions and limits of liability that are no less favorable than as provided in the Company’s existing policies as of the date hereof; *provided* that in no event shall Parent or the Surviving Corporation be required to expend for such policies pursuant to this sentence a premium amount for any one year in excess of the Tail Cap; and *provided, further*, that if the premiums of such insurance coverage with respect to any policy year exceed the Tail Cap, the Surviving Corporation shall be obligated to obtain a policy with the greatest coverage available, with respect to matters occurring prior to the Effective Time, for a cost not exceeding the Tail Cap.

(e) Notwithstanding anything herein to the contrary, if an Indemnified Person is or has been a party to or is or has been otherwise involved (including as a witness) in any Proceeding (whether arising before, at or after the Effective Time) on or prior to the sixth anniversary of the Effective Time, the provisions of this [Section 7.04](#) shall continue in effect until the final disposition of such Proceeding.

(f) If Parent, the Surviving Corporation or any of their successors or assigns (i) consolidates with or merges into any other Person and shall not be the continuing or surviving company or entity of such consolidation or merger, or (ii) transfers or conveys all or substantially all of its properties and assets to any Person, then, and in each such case, to the extent necessary, proper provision shall be made so that the successors and assigns of Parent or the Surviving Corporation, as the case may be, shall assume the obligations set forth in this [Section 7.04](#).

(g) The rights of each Indemnified Person under this [Section 7.04](#) shall be in addition to any rights such Person may have under the certificate of incorporation, bylaws or other governing documents of the Company or any of its Subsidiaries, under Delaware Law or any other Applicable Law (in the case of non-Delaware entities) under any agreement of any Indemnified Person with the Company or any of its Subsidiaries. These rights shall survive consummation of the Merger and are intended to benefit, and shall be enforceable by, each Indemnified Person and his or her heirs and representatives, and are in addition to, and not in substitution for, any other rights to indemnification or contribution that any such person may have by contract or otherwise.

#### Section 7.05. *Employee Matters.*

(a) For a period of twelve (12) months following the Closing, Parent shall, and shall cause its Subsidiaries (including the Company and its Subsidiaries) to, provide to each Company Employee who is employed immediately prior to the Closing and who becomes an employee of Parent, the Company or any of its Subsidiaries upon the Closing (each such individual,

70

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a “**Continuing Employee**”) employee benefits that are no less favorable in the aggregate than the level of such employee benefits provided to such employees on the date hereof.

(b) For a period of twelve (12) months following the Closing, Parent shall maintain the employee severance protections set forth in Section 7.05(b) of the Company Disclosure Letter, which shall be in lieu of any Parent severance plans or benefits.

(c) Parent shall, and shall cause its Subsidiaries (including the Company and its Subsidiaries) to, cause each Parent Employee Plan to (i) recognize the pre-Closing service of participating Continuing Employees with the Company for all purposes of vesting, eligibility and benefit entitlement (but not for purposes of pension benefit accrual), except to the extent such service credit would result in a duplication of benefits for the same period, (ii) waive any pre-existing condition limitations for participating Continuing Employees and (iii) use commercially reasonable efforts to provide credit to each participating Continuing Employee under the applicable Parent Employee Plan for amounts paid by the Continuing Employee prior to the Closing during the year in which the Closing occurs under any analogous Company Employee Plan during the same period for purposes of applying deductibles, co-payments and out-of-pocket maximums as though such amounts had been paid in accordance with the terms of such Parent Employee Plan.

(d) Parent shall cause the Company and its Subsidiaries to continue to credit under any applicable Parent Employee Plans each Continuing Employee for all vacation and personal holiday pay that such Continuing Employee is entitled to use but has not used as of the Closing.

(e) Parent and Merger Subsidiary hereby acknowledge that (i) the Merger will constitute a “Change in Control” (or concept of similar import) under the Company Employee Plans and (ii) as a result of the Merger, the individuals identified in Section 7.05(e) of the Company Disclosure Letter will be deemed to have experienced a “Good Reason” event (or concept of similar import), as applicable, for all purposes under the Company Employee Plans.

(f) The Company shall pay annual cash bonuses to executive officers and other key corporate office employees covered by the Carmike Annual Executive Bonus Program (the “**Executive Plan**”) for the period ending December 31, 2016 as follows: (i) if the Closing occurs prior to December 31, 2016, annual cash bonuses will be paid at the target performance level on a pro-rata basis, (ii) if the Closing occurs on or after December 31, 2016 and if the compensation committee of the Company’s Board of Directors (the “**Compensation Committee**”) has certified the performance results prior to Closing, annual cash bonuses will be paid based on actual achieved performance, and (iii) if the Closing occurs on or after December 31, 2016 and if the Compensation Committee has not certified the performance results prior to Closing, annual cash bonuses will be paid at the target performance level. The Company shall pay annual cash bonuses to individuals not covered by the Executive Plan in accordance with the terms of the applicable bonus plan. The Company shall pay the annual cash bonuses that are contemplated by this Section 7.05(f) on the earlier of (A) immediately prior to the Closing and (B) the date that is consistent with the Company’s past practices. For the avoidance of doubt, it is the intent of the Parties that the annual cash bonuses contemplated by this Section 7.05(f) are in addition to the severance arrangements set forth on Section 4.19(a) of the Company Disclosure Letter.

71

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(g) Nothing in this Section 7.05, express or implied, is intended to or shall confer upon any other Person, including any Continuing Employee, any right, benefit or remedy of any nature whatsoever under or by reason of this Agreement, and no provision of this Section 7.05 shall constitute an amendment of, or an undertaking to amend, any Company Employee Plan or Parent Employee Plan.

Section 7.06. *NYSE Listing.* Parent shall cause the shares of Parent Class A Common Stock which are to be issued to the holders of the Company Stock upon consummation of the Merger to be approved for listing on the NYSE, subject to official notice of issuance, prior to the Effective Time.

Section 7.07. *No Other Representations and Warranties.* Except for the representations and warranties set forth in Article 4, each of Parent and Merger Subsidiary acknowledges and agrees that no other representation or warranty of any kind whatsoever, express or implied, at law or in equity, is made or shall be deemed to have been made by or on behalf of the Company or its Subsidiaries with respect to their respective businesses, affairs, assets, liabilities, financial conditions, results of operations or prospects or with respect to the accuracy or completeness of any other information provided or made available to Parent or Merger Subsidiary by or on behalf of the Company or its Subsidiaries, and the Company hereby disclaims any such representation or warranty, whether by or on behalf of the Company, and notwithstanding the delivery or disclosure to Parent or Merger Subsidiary, any of their respective Subsidiaries or any of their Representatives or Affiliates of any documentation or other information by the Company or any of its Representatives with respect to any one or more of the foregoing. Neither the Company nor any of its Representatives or Affiliates will have or be subject to any liability or obligation to Parent or Merger Subsidiary or any other Person resulting from the distribution in written or verbal communications to Parent or Merger Subsidiary of any such information, including any information, documents, projections, forecasts or other material made available to Parent or to Merger Subsidiary in online “data rooms,” confidential information memoranda or management interviews and presentations.

## ARTICLE 8

### COVENANTS OF PARENT AND THE COMPANY

#### Section 8.01. *Regulatory Undertakings.*

(a) Upon the terms and subject to the conditions of this Agreement, each of the Parties shall use its reasonable best efforts to take, or cause to be taken, all actions, and to do, or cause to be done, and to assist and cooperate with the other Parties in doing, all things necessary, proper or advisable to consummate and make effective, as soon as practicable (and in any event prior to the End Date), the transactions contemplated by this Agreement, including (i) obtaining and maintaining all necessary actions or nonactions, waivers, consents, licenses, permits, authorizations, orders and approvals (collectively, “**Approvals**”) from Governmental Authorities and the making of all other necessary registrations and filings, (ii) obtaining all Approvals from third parties that are necessary or desirable in connection with the transactions contemplated by this Agreement, (iii) the execution and delivery of any additional instruments necessary to consummate any of the transactions contemplated by, and to fully carry out the purposes of, this

72

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Agreement and (iv) providing all such information concerning such Party, its Ultimate Parent Entity, its Affiliates, its Affiliates’ officers, directors, employees and partners, and, in the case of Parent, the Wanda Group Parties and their respective officers, directors, employees and partners, as may reasonably be requested in connection with any of the matters set forth in this Section 8.01. None of the Parties shall, nor shall it permit any of its Affiliates to take or agree to take any action that would reasonably be expected to impose any material delay in the obtaining of, or materially increase the risk of not obtaining, any Approvals from any Governmental Authority with respect to the

transactions contemplated by this Agreement. Nothing set forth in this Section 8.01 limits, modifies, waives, amends or otherwise adversely affects (A) the Company's rights under Section 6.04 or (B) any Party's rights under Article 10.

(b) Subject to Section 8.01(c), each of Parent and the Company shall (i) make or cause to be made the filings required of such Party or any of its Affiliates, and in the case of Parent, any Wanda Group Party or its Ultimate Parent Entity, under the HSR Act with respect to the transactions contemplated by this Agreement as promptly as practicable and advisable as mutually agreed by the Parties, and not later than September 30, 2016, unless otherwise agreed to by the Parties in writing, (ii) make or cause to be made such other filings as are required under Applicable Law by such Party or any of its Affiliates in foreign jurisdictions governing antitrust, competition, trade regulation or similar matters as soon as reasonably practicable after the date of this Agreement, (iii) comply with any request for additional information, documents or other materials received by such Party or any of its Affiliates from the Federal Trade Commission (the "FTC"), the Department of Justice (the "DOJ") or any other Governmental Authority under the HSR Act or any other Applicable Laws when practicable and advisable as mutually agreed by the Parties and (iv) subject to Section 8.01(e), cooperate in good faith with the other Party in obtaining all Approvals required under Applicable Laws and in connection with any such filing and in connection with resolving any investigation or other inquiry of any such agency or other Governmental Authority under any Applicable Laws with respect to any such filing or any such Approval.

(c) Parent and the Company shall coordinate with respect to the overall strategy relating to the Antitrust Laws, including with respect to any filings, notifications, submissions and communications with or to any antitrust regulatory authority; *provided, however*, that (x) subject to the other provisions of this Section 8.01, Parent shall make the final determination as to the appropriate course of action and (y) neither Parent nor the Company shall be constrained from complying with Applicable Law. Each Party shall (i) consult and cooperate with the other Party regarding, allow the other Party to have a reasonable opportunity to review in advance prior to their submission (if applicable) and consider in good faith the views of the other Party regarding the form and content of, any filings, correspondence, written communications, analyses, appearances, presentations, memoranda, briefs, arguments, opinions and proposals made or submitted by or on behalf of either Party in connection with proceedings under or relating to any Antitrust Laws, (ii) promptly furnish the other Party with copies of all correspondence, filings and written communications between them and their Affiliates and their respective representatives, on the one hand, and any such Governmental Authority or its respective staff on the other hand, with respect to this Agreement and the transactions contemplated by this Agreement and (iii) give the other Party the opportunity to attend and participate in any in-person meetings, and to the extent reasonably practicable, substantive telephone calls with the DOJ, the FTC or any other Governmental Authority (to the extent

73

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permitted by the DOJ, the FTC or such Governmental Authority) with respect to the subject matter of this Section 8.01 (including with respect to any of the actions referred to in Section 8.01(d) and Section 8.01(e)) and, if the other Party is prohibited by Applicable Laws or by the DOJ, the FTC or such Governmental Authority from attending and participating in any such meetings or calls, keep the other Party reasonably apprised with respect thereto to the extent permitted under Applicable Law. Each Party shall use its reasonable best efforts to furnish to each other all information required for any application or other filing to be made pursuant to any Applicable Law in connection with the transactions contemplated by this Agreement. Neither Party will directly or indirectly extend any waiting period under the HSR Act or enter into any agreement with a Governmental Authority related to this Agreement or the transactions contemplated by this Agreement except with the prior written consent of the other Party (such consent not to be unreasonably withheld, conditioned or delayed). Notwithstanding any provisions of this Section 8.01 to the contrary, (A) materials provided to the other Party pursuant to this Section 8.01 may be redacted (x) to remove references concerning the valuation of Parent, the Company or any of their Subsidiaries, (y) as necessary to comply with contractual arrangements, and (z) as necessary to address privilege or confidentiality concerns and (B) each Party shall have the right to designate any information as attorneys eyes only.

(d) In connection with and without limiting Section 8.01(a), but subject to Section 8.01(e), each of Parent and the Company shall use its reasonable best efforts to take such action as may be required to cause the expiration or termination of the waiting periods under the HSR Act or other Antitrust Laws with respect to the transactions contemplated by this Agreement as soon as practicable after the execution of this Agreement (and in any event prior to the End Date), including using its reasonable best efforts to resolve such objections, if any, as may be asserted by any Governmental Authority under the HSR Act, the Sherman Act, as amended, the Clayton Act, as amended, the Federal Trade Commission Act, as amended, and any other federal, state or foreign statutes, rules, regulations, orders, decrees, administrative or judicial doctrines or other laws that are designed to prohibit, restrict or regulate actions having the purpose or effect of monopolization or restraint of trade (collectively, "**Antitrust Laws**"). In connection therewith and subject to Section 8.01(e), if any Proceeding is instituted (or threatened to be instituted) challenging any transaction contemplated by this Agreement as violative of any Applicable Laws, each of Parent and the Company shall, and shall cause their respective Affiliates to vigorously contest and resist any such Proceeding (through negotiation, litigation or otherwise), including any administrative or judicial action, and to have vacated, lifted, reversed or overturned any decree, judgment, injunction or other order whether temporary, preliminary or permanent (each an "**Order**"), that is in effect and that prohibits, prevents, delays or restricts the consummation of the transactions contemplated by this Agreement, including by vigorously pursuing all available avenues of administrative and judicial appeal.

(e) Notwithstanding anything to the contrary in this Agreement, the Company shall not, without the written consent of Parent, agree to or effect any Antitrust Action required by any Governmental Authority. If necessary to avoid the commencement of any Proceeding by any Governmental Authority challenging the transactions under this Agreement under any Applicable Laws, or if already commenced, to avoid the entry of, or to effect the dissolution of, any Order that would prohibit, prevent or restrict the consummation of the transactions contemplated by this Agreement, then, subject to the penultimate sentence of this Section 8.01(e), Parent shall, and shall cause its Affiliates to, offer, negotiate and agree to, and

74

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shall effect, any Antitrust Action with respect to Parent's, the Company's or their respective Affiliates' businesses or assets; *provided* that Parent shall not be required to agree to or effect any Antitrust Actions with respect to any of Parent's, the Company's or their respective Affiliates' businesses or assets if such Antitrust Actions have a Regulatory Material Adverse Effect. Notwithstanding the foregoing or anything contained in this Agreement to the contrary, Parent shall not be required to agree to or effect any Antitrust Action with respect to the Company, Parent or any of their respective Affiliates' businesses or assets unless such actions are conditioned upon the occurrence of the Closing or are effective on or after the Closing, and no Party shall be required to waive any of the conditions set forth in Article 9 as they apply to such Party. None of the actions taken or proposed to be taken pursuant to this Section 8.01(e) shall be deemed to result in a breach of the representations and warranties set forth in this Agreement or shall be considered for purposes of determining whether a Company Material Adverse Effect or a Parent Material Adverse Effect has occurred.

(f) (i) Prior to the Closing, Parent shall, and shall cause its Affiliates to, offer, negotiate and agree to, the sale of the Proscribed Theatres; and (ii) Parent shall, and the Company shall reasonably cooperate to, effect the sale of the Proscribed Theatres simultaneously with the Closing on the terms negotiated by Parent; *provided* that (A) neither Parent nor the Company shall be constrained from complying with Applicable Law; and (B) the sale of the Proscribed Theatres is contingent on the Closing.

#### Section 8.02. *Certain Filings.*

(a) The Company and Parent shall cooperate with one another (i) in connection with the preparation of the Company Proxy Statement/Prospectus and the Form S-4, (ii) in determining whether any action by or in respect of, or filing with, any Governmental Authority is required, or any actions, consents, approvals or waivers are required to be obtained from Parties to any material contracts, in connection with the consummation of the transactions contemplated by this Agreement and (iii) in taking such actions or making any such filings, furnishing information required in connection therewith or with the Company Proxy Statement/Prospectus and the Form S-4 and seeking

timely to obtain any such actions, consents, approvals or waivers. The Company shall, and shall cause its Subsidiaries, officers and employees to, use commercially reasonable efforts to (A) obtain accountants' comfort letters reasonably requested by Parent in connection with the Form S-4 and (B) cause accountants to consent to the use of their reports in the Form S-4.

(b) As promptly as reasonably practicable following the date of this Amended and Restated Merger Agreement, Parent and the Company shall prepare and file with the SEC the Form S-4 which includes the Company Proxy Statement/Prospectus. Each of Parent and the Company shall use reasonable best efforts to have the Form S-4 declared effective under the 1933 Act as promptly as practicable after such filing and to keep the Form S-4 effective as long as is necessary to consummate the Merger and other transactions contemplated hereby, and the Company shall mail or deliver the Company Proxy Statement/Prospectus to the Company's stockholders as promptly as practicable after the Form S-4 is declared effective. Each of Parent and the Company shall furnish all information as may be reasonably requested by the other in connection with any such action and the preparation, filing and distribution of the Form S-4 and the Company Proxy Statement/Prospectus. Each of Parent and the Company shall, as promptly

75

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as practicable after receipt thereof, provide the other Party with copies of any written comments and advise the other Party of any oral comments with respect to the Company Proxy Statement/Prospectus or the Form S-4 received by the SEC. Each Party shall cooperate and provide the other Party with a reasonable opportunity to review and comment on any amendment or supplement to the Company Proxy Statement/Prospectus and the Form S-4 prior to filing such with the SEC and if required, the Company shall disseminate to the Company's stockholders, as promptly as reasonably practicable, any amendment of or supplement to the Company Proxy Statement/Prospectus required as a result of such comments or as otherwise required by Applicable Law. No filing of, or amendment or supplement to, the Form S-4 or the Company Proxy Statement/Prospectus, or response to SEC comments with respect thereto, will be made by Parent or the Company, as applicable, without the other's prior consent (which shall not be unreasonably withheld, conditioned or delayed). Parent and the Company shall use reasonable best efforts to take any other action required to be taken under the 1933 Act, 1934 Act, Delaware Law and the rules of NASDAQ and the NYSE, in connection with the filing and distribution of the Company Proxy Statement/Prospectus and the Form S-4, and the solicitation of proxies from the Company's stockholders, as the case may be, thereunder.

(c) If at any time prior to the Effective Time any information relating to Parent or the Company, or any of their respective Subsidiaries, officers or directors, is discovered by Parent or the Company which should be set forth in an amendment or supplement to any of the Form S-4 or the Company Proxy Statement/Prospectus, so that any of such documents would not include a misstatement of a material fact or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, the Party that discovers such information shall promptly notify the other Parties hereto and an appropriate amendment or supplement describing such information shall be promptly filed with the SEC and, to the extent required by Applicable Law, disseminated to the stockholders of the Company.

(d) From the date of this Amended and Restated Merger Agreement until the Effective Time, the Company shall, and shall cause its Subsidiaries, officers and employees to, use commercially reasonable efforts to provide to Parent, upon Parent's reasonable request, financial and other pertinent information relating to the Company and its Subsidiaries to assist Parent in preparing any registration statement that Parent may be required to file with the SEC in connection with its pending acquisition of Odeon and UCI Cinemas Holdings Limited and its Affiliates (the "Odeon Registration Statement"). The Company shall, and shall cause its Subsidiaries, officers and employees to, use commercially reasonable efforts to (A) obtain accountants' comfort letters reasonably requested by Parent in connection with the Odeon Registration Statement and (B) cause accountants to consent to the use of their reports in the Odeon Registration Statement.

(e) Parent shall promptly, upon request by the Company, reimburse the Company for any of its reasonable and documented out-of-pocket costs and expenses (including reasonable attorneys' fees) incurred by the Company or any of its Subsidiaries or their respective Affiliates in connection with Section 8.02(d), and Parent shall indemnify and hold harmless the Company and its Subsidiaries and their respective Affiliates and Representatives for and against any and all losses, suffered or incurred by them in connection therewith, any action taken by them in connection therewith and any information utilized in connection therewith; *provided, however,*

76

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that the foregoing indemnification obligation shall not apply to the extent that the relevant amounts result from the Company's or its Subsidiaries or their respective Affiliates' bad faith, willful misconduct or gross negligence or material breach of this Agreement, in each case as determined by a final and non-appealable judgment of a court of competent jurisdiction.

### Section 8.03. *Parent Financing.*

(a) Parent shall use its reasonable best efforts to, and shall cause its Subsidiaries to use reasonable best efforts to, obtain and consummate the Financing on the terms and conditions described in or contemplated by the Debt Commitment Letters (including the "market flex" provisions in any Debt Commitment Letter or Fee Letter) including using its reasonable best efforts to (i) negotiate and enter into the Debt Financing Documents on such terms and conditions (as such terms may be modified or adjusted in accordance with (x) the terms of, and within the limits of any such "market flex" provisions and (y) this Section 8.03), (ii) if all of the conditions to the Closing contained in Article 9 are satisfied or waived (other than those conditions that by their terms are to be satisfied or waived at the Closing or will be satisfied or waived upon funding) and the Marketing Period has ended, satisfy on a timely basis (or obtain a waiver of) all conditions applicable to Parent and Merger Subsidiary contained in the Debt Commitment Letters that are within its or their control, (iii) cause the lenders party to the Debt Commitment Letters to fund at the Closing the full amount of the Financing required to consummate the transactions contemplated by this Agreement, if all of the conditions to the Closing contained in Article 9 are satisfied or waived (other than those conditions that by their terms are to be satisfied or waived at the Closing or will be satisfied or waived upon funding) and (iv) maintain in effect and comply with its obligations under (x) the Debt Commitment Letters and (y) to the extent necessary to obtain and consummate the Financing, the Existing Credit Facility. Parent shall not agree to any amendment or modification to be made to, or any waiver of any provision or remedy, under the Debt Commitment Letters or the Existing Credit Facility without the prior written consent of the Company; *provided* that notwithstanding the foregoing Parent shall be permitted to amend the Debt Commitment Letters (A) to add purchasers, lenders, lead arrangers, book-runners, syndication agents or similar entities who had not executed any Debt Commitment Letter as of the date of this Amended and Restated Merger Agreement provided, further, that no such addition shall relieve the original Lenders of their obligations under the Debt Commitment Letters prior to the initial funding of the Financing, except as set forth in the Debt Commitment Letters in respect of the "Additional Initial Lenders" (as defined thereunder), or (B) so long as such amendments or modifications do not, or could not be reasonably expected to, materially delay, prevent or adversely affect the Closing or the consummation of the Financing. Parent shall pay, or cause to be paid, as the same shall become due and payable, all fees and other amounts payable under the Debt Commitment Letters, Fee Letters and the Debt Financing Documents as required for funding of the full amount of the Financing at Closing. Upon any amendment, supplement or modification of the Debt Commitment Letters or the Existing Credit Facility (as the case may be) in accordance with this Section 8.03, Parent shall provide a copy thereof to the Company and the term "Debt Commitment Letters" shall mean the Debt Commitment Letters as so amended, supplemented or modified and the term "Existing Credit Facility" shall mean the Existing Credit Facility as so amended, supplemented or modified.

77



(b) If all or any portion of the Financing becomes unavailable on the terms and conditions set forth therein (including the “market flex” provisions in any Debt Commitment Letter or Fee Letter), Parent shall promptly notify the Company, and Parent shall, and shall cause its Subsidiaries to, use its reasonable best efforts to promptly obtain substitute financing (on terms and conditions that are not materially less favorable to Parent and Merger Subsidiary, taken as a whole, than the terms and conditions as set forth in the Debt Commitment Letters, taking into account any “market flex” provisions in any Debt Commitment Letter or Fee Letter) sufficient to enable Parent to consummate the Merger and the other transactions contemplated hereby in accordance with their terms (the “**Substitute Financing**”) and obtain a new commitment letter that provides for such Substitute Financing and, promptly after execution thereof, deliver to the Company true, complete and correct copies of the new commitment letter and fee letter (redacted in the manner required thereby). Such Substitute Financing shall be deemed to be a part of the “Financing” and any commitment letter and fee letter for such Substitute Financing shall be deemed a “Debt Commitment Letter” and “Fee Letter” for all purposes of this Agreement.

(c) Parent and Merger Subsidiary shall give the Company prompt written notice: (i) of any material breach or default under the Debt Commitment Letter by any party thereto or an Event of Default as defined in and under the Existing Credit Facility, (ii) of the receipt of any written notice from any party to any Debt Commitment Letter with respect to any actual or threatened material breach, default, withdrawal, termination or repudiation of any provisions of any Debt Commitment Letter by such party, (iii) of the receipt of any written notice from any party to the Existing Credit Facility with respect to any Event of Default as defined in and under the Existing Credit Facility, and (iv) if for any reason Parent or Merger Subsidiary believes in good faith that it will not be able to timely obtain all or any portion of the Financing on the terms, in the manner or from the sources contemplated by the Debt Commitment Letters. Promptly following any reasonable written request by the Company therefor, Parent shall provide the Company any information reasonably requested by the Company in writing relating to any circumstance referred to in the immediately preceding sentence. Parent shall keep the Company reasonably informed on a reasonably current basis in reasonable detail of the status of its efforts to arrange the Financing (or Substitute Financing obtained in accordance with Section 8.03(b)), including all material activity and timing considerations.

(d) On and prior to the Closing, the Company shall, subject to expense reimbursement as provided in clause (e) below, and shall cause its Subsidiaries, officers and employees, and shall use commercially reasonable efforts to cause its advisors and representatives (including legal and accounting) to, cooperate, as may be reasonably requested, with Parent’s efforts to consummate the Financing, including to do the following: (i) at reasonable times and upon reasonable notice, participate in, and assist in preparation for, customary meetings, presentations, road shows, conference calls, drafting sessions, due diligence sessions and sessions with rating agencies in connection with the Financing or any offering of high-yield debt securities under Rule 144A of the 1933 Act, (ii) assist with the preparation of materials for rating agency presentations, offering documents, private placement memoranda, bank information memoranda, prospectuses and similar documents required in connection with the Financing or any offering of high-yield debt securities under Rule 144A of the 1933 Act and executing and delivering customary authorization letters; *provided, however*, that any private placement memoranda or prospectuses in relation to high yield debt or equity securities need not

78

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be issued by the Company or any of its Subsidiaries; *provided, further*, that any such memoranda or prospectuses shall contain disclosure and financial statements with respect to the Company or the Surviving Corporation reflecting the Surviving Corporation and/or its Subsidiaries as the obligor(s), (iii) furnish Parent and Merger Subsidiary and their Financing Sources with the Required Financial Information and other pertinent information regarding the Company as may be reasonably requested by Parent that are necessary for the satisfaction of the obligations and conditions set forth in the Debt Commitment Letters, (iv) using commercially reasonable efforts to obtain accountants’ comfort letters reasonably requested by Parent and to cause accountants to consent to the use of their reports in any material relating to the Financing or any offering of high-yield debt securities under Rule 144A of the 1933 Act, (v) assist in preparation, negotiation, execution and delivery of definitive financing documentation and schedules and exhibits thereto, (vi) facilitate the entrance into other documents and instruments relating to guarantees, the pledge of collateral and other matters ancillary to the Financing or any offering of high-yield debt securities under Rule 144A of the 1933 Act as may be reasonably requested by Parent in connection with the Financing or any offering of high-yield debt securities under Rule 144A of the 1933 Act and otherwise reasonably facilitating the pledge of collateral and providing of guarantees contemplated by the Debt Commitment Letters; *provided*, that any obligations of the Company or any of its Subsidiaries contained in all such agreements and documents shall be subject to the occurrence of the Closing and effective no earlier than the Closing, (vii) assist in obtaining customary debt pay-off letters (if any) with respect to the Company’s existing credit facility, (viii) using commercially reasonable efforts to ensure that the syndication efforts in respect of the Financing benefit from the existing lending relationships of the Company, (ix) furnish Parent and its Financing Sources as promptly as practicable, and in any event no later than 3 Business Days prior to the Closing, all documentation and other information required by regulatory authorities under applicable “know your customer” and anti-money laundering rules and regulations, including without limitation the USA PATRIOT Act, to the extent requested in writing by Parent at least 10 Business Days prior to the Closing, (x) coordinate (A) a request for a waiver under the Company’s existing indenture governing its senior notes in connection with any change of control that may result from the transactions provided for in this Agreement (it being understood and agreed that any waiver fee shall be paid by Parent and any solicitation agent appointed in connection with a waiver or consent solicitation shall be appointed and paid for by Parent) and (B) a request for any amendments to the indenture as may be reasonably requested by the Parent (including using commercially reasonable efforts to conduct a consent solicitation (it being understood and agreed that any consent fee shall be paid by Parent and any solicitation agent appointed in connection with a consent solicitation shall be appointed and paid by Parent), to enter into and cause the trustee to enter into a supplemental indenture effecting such waiver (if successful) and applicable amendments requested by Parent, and provide and cause counsel to provide any opinion or certificate required under the indenture in connection with a successful request for a waiver or amendment) and (xi) cause the taking of corporate actions by the Company and its Subsidiaries reasonably necessary to permit the consummation of the Financing or any offering of high-yield debt securities under Rule 144A of the 1933 Act at the Closing; *it being understood and agreed that no such corporate action will be required to take effect prior to the Closing; provided that*, notwithstanding anything to the contrary contained in this Agreement (including this Section 8.03), (A) nothing in this Agreement (including this Section 8.03) shall require any such cooperation to the extent that it would (1) require the Company or any of its Subsidiaries or Representatives, as applicable, to waive or amend any

79

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terms of this Agreement or agree to pay any commitment or other fees or reimburse any expenses prior to the Effective Time, or incur any liability or give any indemnities or otherwise commit to take any action (other than with respect to any authorization letter described above in clause (d)(ii)) that is not contingent upon the Effective Time, (2) unreasonably interfere with the ongoing business or operations of the Company and its Subsidiaries it being understood and agreed that compliance with the requirements set forth in clause (d) above will not unreasonably interfere with the business or operations of the Company or any of its Subsidiaries, (3) require the Company or any of its Subsidiaries to take any action that will conflict with or violate the Company’s organizational documents or any Applicable Law or result in the material contravention of, or that would reasonably be expected to result in a material violation or material breach of, or material default under, any Company Material Contract, (4) require the Company or its Subsidiaries to enter into or approve any financing or purchase agreement with respect to any matter relating to the Financing, (5) require any pre-Closing directors or managers of the Company or any of its Subsidiaries, acting in such capacity, to adopt any resolutions approving any Debt Financing Documents or to execute, enter into, deliver or perform any Debt Financing Documents, (6) require any officers or other authorized signatories of the Company or any of its Subsidiaries to execute, enter into, deliver or perform any Debt Financing Documents whose effectiveness is not contingent upon the Closing or that would be or become effective prior to the Effective Time, or (7) result in any officer, director or Representative of the Company or any of its Subsidiaries incurring any personal liability with respect to any matters relating to the Financing, and (B) no action, liability or obligation of the Company or any of its Subsidiaries or any of their respective Representatives under any Debt Financing Documents shall be effective until the Effective Time, other than with respect to any authorization letter described above in clause (d)(ii)). The Company consents to the reasonable use of

the Company's logos in connection with any Financing in a manner customary for such financing transaction, provided that such logos are used solely in a manner that is not intended to or reasonably likely to harm or disparage the Company or any of its products, services, offerings or intellectual property rights.

(e) Parent shall promptly, upon request by the Company, reimburse the Company for any of its reasonable and documented out-of-pocket costs and expenses (including reasonable attorneys' fees) incurred by the Company or any of its Subsidiaries or their respective Affiliates at Parent's request in connection with the cooperation of the Company contemplated by this Section 8.03 and shall indemnify and hold harmless the Company and its Subsidiaries and their respective Affiliates and Representatives for and against any and all losses, suffered or incurred by them in connection with the arrangement of the Financing, any action taken by them at the request of Parent pursuant to this Section 8.03 and any information utilized in connection therewith (other than information provided by the Company and its Affiliates); *provided, however*, that this clause (e) shall not apply to the extent that the relevant amounts result from the Company's or its Subsidiaries or their respective Affiliates' bad faith, willful misconduct or gross negligence or material breach of this Agreement, in each case as determined by a final and non-appealable judgment of a court of competent jurisdiction.

(f) The Company shall, and shall cause its Subsidiaries to (i) periodically update any applicable Required Financial Information provided by them or on their behalf as may be necessary so that such Required Financial Information is (A) Compliant, and (B) meets the applicable requirements set forth in the definition "Required Financial Information", and (ii)

80

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notify Parent in writing if (1) the Company determines that it must restate any financial statements included in the Required Financial Information or (2) the applicable independent accountants for the Company shall have withdrawn any audit opinion with respect to any financial statements contained in the Required Financial Information for which they have provided an opinion.

(g) All non-public or other confidential information provided by the Company, its Subsidiaries or their respective Representatives pursuant to this Section 8.03 shall be kept confidential in accordance with the Confidentiality Agreement; *provided* that notwithstanding the terms of the Confidentiality Agreement, Parent shall be permitted to disclose such information to the Financing Sources identified in the Debt Commitment Letters, any provider of Substitute Financing and their respective Representatives in connection with the Financing and any Substitute Financing and any other potential source of debt financing in connection with the transactions contemplated herein so long as such Persons agree to be bound by the confidentiality provisions of the Confidentiality Agreement, the confidentiality provisions set forth in the Debt Commitment Letters or other reasonable and customary confidentiality undertakings in respect of transactions similar to that contemplated by the Financing or any Substitute Financing.

Section 8.04. *Public Announcements.* Except in connection with actions taken pursuant to, and otherwise in accordance with, Section 6.04 and Article 10, each of Parent and the Company shall (a) not issue any such press release or make any such other public statement with respect to this Agreement or the transactions contemplated hereby without the prior consent of the other Party, which shall not be unreasonably withheld, conditioned or delayed, except in respect of any public statement or press release as may be required by Applicable Law or any listing agreement with or rule of any national securities exchange or association, in which case such Party shall use reasonable best efforts to consult with the other Party to extent practicable and (b) consult with each other before scheduling any press conference or conference call with investors or analysts with respect to this Agreement or the transactions contemplated hereby.

Section 8.05. *Further Assurances.* At and after the Effective Time, the officers and directors of the Surviving Corporation shall be authorized to execute and deliver, in the name and on behalf of the Company or Merger Subsidiary, any deeds, bills of sale, assignments or assurances and to take and do, in the name and on behalf of the Company or Merger Subsidiary, any other actions and things to vest, perfect or confirm of record or otherwise in the Surviving Corporation any and all right, title and interest in, to and under any of the rights, properties or assets of the Company acquired or to be acquired by the Surviving Corporation as a result of, or in connection with, the Merger.

Section 8.06. *Notices of Certain Events.* Each of the Company and Parent shall promptly notify the other of:

- (a) any notice or other communication from any Person alleging that the consent of such Person is required in connection with the transactions contemplated by this Agreement;
- (b) any notice or other communication from any Governmental Authority in connection with the transactions contemplated by this Agreement; and

81

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(c) any actions, suits, claims, investigations or proceedings commenced or threatened against, or involving the Company any of its Subsidiaries or Parent, as the case may be, that, if pending on the date of this Agreement, would have been required to have been disclosed pursuant to any Section of this Agreement or that relate to the consummation of the transactions contemplated by this Agreement.

Notwithstanding any of the foregoing, the delivery of any notice pursuant to this Section 8.06 shall not limit or otherwise affect the remedies available hereunder to the Party receiving that notice.

Section 8.07. *Section 16 Matters.* Prior to the Effective Time, the Company shall take all such steps as may be required to cause any dispositions of Company Stock (including derivative securities with respect to Company Stock) by each individual who is subject to the reporting requirements of Section 16(a) of the 1934 Act with respect to the Company to be exempt under Rule 16b-3 promulgated under the 1934 Act.

Section 8.08. *Defense of Litigation.* The Company shall control, and the Company shall consult with Parent and keep Parent reasonably informed with respect to any material developments regarding, the defense of any Proceeding brought by any of the Company's stockholders against the Company or its directors or officers arising out of or relating to transactions contemplated by this Agreement; *provided, however*, that the Company shall not settle any such Proceeding (a) without the prior written consent of Parent (which consent shall not be unreasonably withheld, conditioned or delayed), (b) unless permitted by Section 6.01(q) or (c) unless such settlement would not impose any material obligations that relate to the operation of the business of the Company or its Subsidiaries following the Effective Time.

Section 8.09. *No Control of Other Party's Business.* Subject to the terms and conditions of this Agreement, nothing contained in this Agreement is intended to give Parent, directly or indirectly, the right to control the Company's or its Subsidiaries' operations prior to the Effective Time, and nothing contained in this Agreement is intended to give the Company, directly or indirectly, the right to control Parent's or its Subsidiaries' operations prior to the Effective Time. Prior to the Effective Time, each of the Company and Parent shall exercise, consistent with the terms and conditions of this Agreement, complete control over its and its Subsidiaries' respective operations.

ARTICLE 9

CONDITIONS TO THE MERGER

Section 9.01. *Conditions to the Obligations of Each Party.* The obligations of the Company, Parent and Merger Subsidiary to consummate the Merger are subject to the satisfaction of the following conditions:

(a) the Company Stockholder Approval shall have been obtained in accordance with Delaware Law;

82

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(b) the shares of Parent Class A Common Stock to be issued to the holders of Company Stock upon consummation of the Merger shall have been authorized for listing on the NYSE, subject to official notice of issuance;

(c) the Form S-4 shall have become effective under the 1933 Act and no stop order suspending the effectiveness of the Form S-4 shall have been issued and no proceedings for that purpose shall have been initiated or threatened by the SEC;

(d) no Proceeding brought by any Governmental Authority in the United States of America pursuant to Antitrust Laws is pending that challenges or seeks to prevent, enjoin, alter or delay the Merger or any of the other transactions contemplated hereby, and no restraining order, preliminary or permanent injunction or other order issued by any court of competent jurisdiction or any Governmental Authority in the United States of America preventing the consummation of the Merger shall have taken effect after the date hereof and shall still be in effect; and

(e) any applicable waiting period (and any extension of such period) under the HSR Act relating to the Merger shall have expired or been terminated and any agreement with any Governmental Authority with respect to the HSR Act not to close the transaction shall have expired or been terminated.

Section 9.02. *Conditions to the Obligations of Parent and Merger Subsidiary.* The obligation of Parent and Merger Subsidiary to consummate the Merger is further subject to the satisfaction at or prior to the Effective Time of each of the following conditions:

(a) The representations and warranties of the Company set forth in (i) Article 4 (other than in Sections 4.01 (first sentence only), 4.02(a), 4.04(a), 4.05, 4.09, 4.27, 4.29 and 4.30) shall be true and correct both at and as of the date of this Agreement and at and as of the Closing Date as though made at and as of the Closing Date, except where such failures to be so true and correct (without regard to “materiality,” Company Material Adverse Effect and similar qualifiers contained in such representations and warranties) have not had, and would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, (ii) Section 4.05 shall be true and correct (without regard to “materiality,” Company Material Adverse Effect and similar qualifiers contained in such representations and warranties) at and as of the date of this Agreement and at and as of the Closing Date as though made at and as of the Closing Date, except for inaccuracies that are not material, (iii) Sections 4.01 (first sentence only) and 4.04(a) shall be true and correct in all material respects at and as of the date of this Agreement and at and as of the Closing Date as though made at and as of the Closing Date, (iv) Section 4.02(a) shall be true and correct in all material respects at and as of the date of this Agreement and as of the date immediately preceding the date of this Amended and Restated Merger Agreement, (v) Sections 4.27 and 4.29 shall be true and correct in all material respects at and as of the date of this Amended and Restated Merger Agreement and at and as of the Closing Date as though made at and as of the Closing Date and (vi) Sections 4.09 and 4.30 shall be true and correct both at and as of the date of this Amended and Restated Merger Agreement and at and as of the Closing Date, except where such failures to be so true and correct (without regard to “materiality,” Company Material Adverse Effect and similar qualifiers contained in such representations and warranties) have not had, and would not reasonably be expected to have,

83

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individually or in the aggregate, a Company Material Adverse Effect; *provided, however*, that representations and warranties that are made as of a particular date or period shall be true and correct (in the manner set forth in clauses (i), (ii), (iii), (iv), (v) and (vi) as applicable) only as of such date and period;

(b) the Company and its Subsidiaries shall have performed and complied in all material respects with the covenants and obligations under this Agreement contemplated to be performed or complied with by the Company or its Subsidiaries prior to the Effective Time;

(c) since the date of this Agreement, there shall not have been any Circumstances that have had, or would reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect and that are continuing;

(d) the aggregate number of Dissenting Shares shall not equal or exceed 20% of the shares of Company Stock outstanding at the record date for the Company Stockholder Meeting; and

(e) the Company shall have delivered to Parent a certificate signed by an executive officer of the Company dated as of the date of the Effective Time certifying that the conditions specified in Section 9.02(a), Section 9.02(b) and Section 9.02(c) have been satisfied.

Section 9.03. *Conditions to the Obligations of the Company.* The obligation of the Company to consummate the Merger is further subject to the satisfaction at or prior to the Effective Time of each of the following conditions:

(a) The representations and warranties of Parent set forth in (i) Article 5 (other than in Sections 5.01 (first sentence only), 5.02, 5.05, 5.06, 5.07, 5.08, 5.09, 5.10, 5.11, 5.12, 5.17, 5.18 and 5.21) shall be true and correct both at and as of the date of this Agreement and at and as of the Closing Date as though made at and as of the Closing Date, except where such failures to be so true and correct (without regard to “materiality,” Parent Material Adverse Effect and similar qualifiers contained in such representations and warranties) have not had, and would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect, (ii) Section 5.01 (first sentence only) shall be true and correct in all material respects at and as of the date of this Agreement and at and as of the Closing Date as though made at and as of the Closing Date, (iii) Section 5.02 shall be true and correct in all material respects at and as of the date of this Agreement and as of the date immediately preceding the date of this Amended and Restated Merger Agreement, (iv) Section 5.21 shall be true and correct in all material respects at and as of the date of this Amended and Restated Merger Agreement and at and as of the Closing Date as though made at and as of the Closing Date, (v) Section 5.05(a) shall be true and correct (without regard to “materiality,” Parent Material Adverse Effect and similar qualifiers contained in such representations and warranties) at and as of the date of this Amended and Restated Merger Agreement and at and as of the Closing Date as though made at and as of the Closing Date, except for inaccuracies that are not material and (vi) Sections 5.05(b), 5.06, 5.07, 5.08, 5.09, 5.10, 5.11, 5.12, 5.17 and 5.18 shall be true and correct both at and as of the date of this Amended and Restated Merger Agreement and at and as of the Closing Date as though made at and as of the Closing Date, except where such failures to be so true and correct (without regard to “materiality,” Parent Material Adverse Effect and similar qualifiers contained

84

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in such representations and warranties) have not had, and would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect; provided, however, that representations and warranties that are made as of a particular date or period shall be true and correct (in the manner set forth in clauses (i), (ii), (iii), (iv), (v) and (vi), as applicable) only as of such date and period;

(b) Parent and its Subsidiaries shall have performed and complied in all material respects with the covenants and obligations under this Agreement contemplated to be performed or complied with by Parent and its Subsidiaries prior to the Effective Time;

(c) since the date of this Amended and Restated Merger Agreement, there shall not have been any Circumstances that have had, or would reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect and that are continuing; and

(d) Parent shall have delivered to the Company a certificate signed by an executive officer of Parent dated as of the date of the Effective Time certifying that the conditions specified in Section 9.03(a), Section 9.03(b) and Section 9.03(c) have been satisfied.

Section 9.04. *Frustration of Closing Conditions.* Neither the Company nor Parent may rely, either as a basis for not consummating the Merger or terminating this Agreement and abandoning the Merger, on the failure of any condition set forth in Section 9.01, Section 9.02 or Section 9.03, as the case may be, to be satisfied if such failure was caused by such Party's breach in any material respect of any provision of this Agreement or failure in any material respect to use the standard of efforts required from such Party to consummate the Merger and the other transactions contemplated hereby.

## ARTICLE 10

### TERMINATION

Section 10.01. *Termination.* This Agreement may be terminated and the Merger may be abandoned at any time prior to the Effective Time (notwithstanding any approval of this Agreement by the stockholders of the Company or the members of Merger Subsidiary, except as provided in Section 10.01(d)(i)), it being understood that any termination by Parent shall also constitute a termination by Merger Subsidiary:

(a) by mutual written agreement of the Company and Parent;

(b) by either the Company or Parent, if:

(i) the Merger has not been consummated on or before December 5, 2016 (the "End Date"); *provided* that if on the third Business Day prior to the End Date, the condition to Closing set forth in Section 9.01(d) or 9.01(e) shall not have been satisfied but all other conditions to Closing shall be satisfied or shall be capable of being satisfied upon satisfaction of the condition to Closing set forth in such sections, then Parent or the Company shall have the right to extend the End Date an additional ninety (90) days (which, if so validly extended, shall become the "End Date" for all purposes under this Agreement) by notifying the other Party in writing of such election before the End Date;

85

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*provided, further*, that if the Marketing Period has not ended as of the third Business Day prior to the End Date and all other conditions to Closing shall be satisfied or waived (other than those conditions that by their terms are to be satisfied at the Closing), the End Date shall be extended automatically to the third Business Day immediately following the last day of the Marketing Period; *provided, further*, that if the condition to Closing set forth in Section 9.01(e) shall not have been satisfied by October 25, 2016, then Parent (only in the case where Parent has complied in all material respects with its obligations in Section 8.02 with respect to the Form S-4) or the Company (only in the case where the Company has complied in all material respects with its obligations in Section 8.02 with respect to the Form S-4) shall have the right to extend the End Date for a reasonable period of time to allow the condition to Closing set forth in Section 9.01(e) to be satisfied and the Company Stockholder Meeting to be reconvened and held, but in any event such extension shall not exceed ninety (90) days from December 5, 2016 (which, if so validly extended, shall become the "End Date" for all purposes under this Agreement) by notifying the other Party in writing of such election before the End Date, *provided, further, however*, that (X) the right to extend the End Date for a failure to satisfy the condition to Closing set forth in Section 9.01(d) or 9.01(e) shall not be available to any Party whose intentional failure to provide all of the information required pursuant to the HSR Act in the initial filing or upon additional requests from the appropriate regulators or to fulfill any obligation of such Party under this Agreement shall have caused Section 9.01(d) or 9.01(e) not to be satisfied and (Y) the right to terminate this Agreement pursuant to this Section 10.01(b)(i) shall not be available to any Party whose breach of any provision of this Agreement results in the failure of the Merger to be consummated by the End Date;

(ii) there shall be any permanent injunction or other order issued by any court of competent jurisdiction preventing the consummation of the Merger and such injunction or other order shall have become final and nonappealable; or

(iii) at the Company Stockholder Meeting (including after taking into account any adjournment or postponement thereof in accordance with this Agreement), the Company Stockholder Approval shall not have been obtained; or

(c) by Parent, if:

(i) an Adverse Recommendation Change shall have occurred; or

(ii) a breach of any representation or warranty or failure to perform any covenant or agreement on the part of the Company set forth in this Agreement shall have occurred that would cause the condition set forth in Section 9.02(a) or Section 9.02(b) not to be satisfied and to be incapable of being satisfied by the End Date; or

(d) by the Company, if:

(i) at any time prior to (but not after) receipt of the Company Stockholder Approval (A) the Board of Directors of the Company authorizes the Company, in accordance with Section 6.04, to enter into an Alternative Acquisition Agreement with

86

respect to a Superior Proposal that did not result from a material breach of Section 6.04, (B) concurrently with the termination of this Agreement the Company, in accordance with Section 6.04, enters into an Alternative Acquisition Agreement with respect to a Superior Proposal that did not result from a material breach of Section 6.04 and (C) prior to or concurrently with such termination, the Company pays to Parent the Termination Fee pursuant to Section 11.04; or

(ii) a breach of any representation or warranty or failure to perform any covenant or agreement on the part of Parent or Merger Subsidiary set forth in this Agreement shall have occurred that would cause the conditions set forth in Section 9.03(a) or Section 9.03(b) not to be satisfied and to be incapable of being satisfied by the End Date; or

(iii) all of the conditions set forth in Article 9 have been satisfied (other than those conditions that by their terms are to be satisfied at the Closing), the Company has given written notice to Parent and Merger Subsidiary that it is prepared to consummate the Closing, and Parent and Merger Subsidiary fail to consummate the transactions contemplated by this Agreement on the date that the Closing should have occurred pursuant to Section 2.01.

The Party desiring to terminate this Agreement pursuant to this Section 10.01 (other than pursuant to Section 10.01(a)) shall give notice of such termination to the other Party.

Section 10.02. Effect of Termination. Except as provided in Section 11.04, if this Agreement is terminated pursuant to Section 10.01, this Agreement shall become void and of no effect without liability of any Party (or any stockholder, director, officer, employee, agent, consultant or representative of such Party) to the other Parties; *provided* that if such termination shall result from the intentional failure of any Party to (a) fulfill a condition to the performance of the obligations of the other Parties or (b) perform a covenant hereof (including the failure to consummate the Merger or any other transaction contemplated by this Agreement when required to do so, which shall be deemed intentional for purposes of this Section 10.02), such Party shall be fully liable for any and all liabilities and damages (which the Parties acknowledge and agree shall not be limited to reimbursement of expenses or out-of-pocket costs) incurred or suffered as a result of such failure. The provisions of this Section 10.02 and Sections 8.02(e), 8.03(e), 11.04, 11.06, 11.07, 11.08, 11.09, 11.10 and 11.15 shall survive any termination hereof pursuant to Section 10.01.

## ARTICLE 11

### MISCELLANEOUS

Section 11.01. Notices. All notices, requests and other communications to any Party hereunder shall be in writing (including facsimile transmission and electronic mail (“e-mail”) transmission, so long as a receipt of such e-mail is requested and received) and shall be given,

87

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if to Parent or Merger Subsidiary, to:

AMC Entertainment Holdings, Inc.  
One AMC Way  
11500 Ash Street, Leawood, KS 66211  
Attention: Kevin Connor, General Counsel  
Facsimile: 913-213-2058  
Email: kconnor@amctheatres.com

with a copy to:

Husch Blackwell LLP  
4801 Main, Ste. 1000  
Kansas City, Missouri 64112  
Attention: James M. Ash  
Phone No.: 816.983.8137  
Facsimile No.: 816.983.8080  
E-mail: james.ash@huschblackwell.com

if to the Company, to:

Carmike Cinemas, Inc.  
1301 First Avenue  
Columbus, GA 31901  
Attention: Daniel E. Ellis, Senior Vice President, General Counsel and Secretary  
Phone No.: 706.576.3400  
Facsimile No.: 706.324.0470  
E-mail: dellis@carmike.com

with a copy to:

King & Spalding LLP  
1180 Peachtree Street  
Atlanta, Georgia 30309  
Attention: Alan J. Prince and C. William Baxley  
Facsimile No.: (404) 572-5100  
E-mail: aprince@kslaw.com and bbaxley@kslaw.com

or to such other address or facsimile number as such Party may hereafter specify for the purpose by notice to the other Parties. All such notices, requests and other communications shall be deemed received on the date of receipt by the recipient thereof if received prior to 5:00 p.m. on a Business Day in the place of receipt. Otherwise, any such notice, request or communication shall be deemed to have been received on the next succeeding Business Day in the place of receipt.

88

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Section 11.02. *Survival of Representations and Warranties.* The representations and warranties contained herein and in any certificate or other writing delivered pursuant hereto shall not survive the Effective Time.

Section 11.03. *Amendments and Waivers.*

(a) Any provision of this Agreement may be amended or waived prior to the Effective Time if, but only if, such amendment or waiver is in writing and is signed, in the case of an amendment, by each Party to this Agreement or, in the case of a waiver, by each Party against whom the waiver is to be effective; *provided* that after the Company Stockholder Approval has been obtained there shall be no amendment or waiver that would require the further approval of the stockholders of the Company under Delaware Law without such approval having first been obtained.

(b) No failure or delay by any Party in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by Applicable Law.

(c) In the event that any party seeks an amendment or waiver to this [Section 11.03](#) or [Section 11.06](#), [Section 11.07](#), [Section 11.08](#), [Section 11.09](#), or [Section 11.15](#), that is adverse to any Financing Source, the prior written consent of the adversely affected Financing Source shall be required before any such amendment or waiver may become effective.

Section 11.04. *Expenses.*

(a) Except as otherwise provided herein, all costs and expenses incurred in connection with this Agreement shall be paid by the Party incurring such cost or expense.

(b)

(i) If this Agreement is terminated by Parent pursuant to [Section 10.01\(c\)\(i\)](#), then the Company shall pay to Parent in immediately available funds Thirty Million Dollars (\$30,000,000) (the “**Termination Fee**”) within three Business Days after such termination.

(ii) If this Agreement is terminated by the Company pursuant to [Section 10.01\(d\)\(i\)](#), then the Company shall pay to Parent in immediately available funds the Termination Fee concurrently with such termination.

(iii) If (A) this Agreement is terminated by Parent or the Company pursuant to [Section 10.01\(b\)\(i\)](#) (other than in circumstances in which Parent is required to pay the Regulatory Termination Fee pursuant to [Section 11.04\(b\)\(iv\)](#), upon such termination) or [Section 10.01\(b\)\(iii\)](#), and at the time of termination all conditions to the consummation of the Merger set forth in [Article 9](#), other than the condition set forth in [Section 9.01\(a\)](#), have been satisfied or waived, (B) an Acquisition Proposal shall have been made (or, in the case of termination by Parent or the Company pursuant to [Section 10.01\(b\)\(iii\)](#),

89

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publicly announced) after the date of this Agreement and not withdrawn prior to the Company Stockholder Meeting and (C) within eighteen (18) months following the date of such termination, the Company or any Subsidiary enters into a definitive agreement with respect to an Acquisition Proposal (which is thereafter consummated) or an Acquisition Proposal shall have been consummated (*provided* that for purposes of this clause (C), each reference to “20%” in the definition of Acquisition Proposal shall be deemed to be a reference to “50%”), then the Company shall pay to Parent in immediately available funds the Termination Fee upon the consummation of such Acquisition Proposal.

(iv) If this Agreement is terminated (i) by the Company or Parent pursuant to [Section 10.01\(b\)\(ii\)](#), (ii) by the Company pursuant to [Section 10.01\(d\)\(ii\)](#) due to a material breach by Parent of [Section 8.01](#), which breach results in the conditions set forth in either [Section 9.01\(d\)](#) or [Section 9.01\(e\)](#) being incapable of being satisfied or (iii) by the Company or Parent pursuant to [Section 10.01\(b\)\(i\)](#) (in the case of termination by Parent, only under circumstances in which the Company has a concurrent right to terminate pursuant to [Section 10.01\(b\)\(i\)](#)) and as of the End Date, (A) one or more of the conditions set forth in [Section 9.01\(d\)](#) or [Section 9.01\(e\)](#) has not been satisfied, including as a result of Parent not agreeing to take or not taking any Antitrust Actions that have a Regulatory Material Adverse Effect and (B) all of the other conditions set forth in [Article 9](#) have been satisfied (other than any such conditions which by their nature cannot be satisfied until the Closing Date but subject to such conditions being capable of being satisfied if the Closing Date were the date of termination), then Parent will, within three Business Days following any such termination, pay to the Company or its designee in cash by wire transfer in immediately available funds to an account designated by the Company a termination fee in an amount equal to Fifty Million Dollars (\$50,000,000) (the “**Regulatory Termination Fee**”).

(c) In no event shall more than one Termination Fee or Regulatory Termination Fee be payable.

(d) Each Party acknowledges that the agreements contained in this [Section 11.04](#) are an integral part of this Agreement, and that, without these agreements, Parent, Merger Subsidiary and the Company would not enter into this Agreement; accordingly, if the Company or Parent fails to promptly pay any applicable amount when due pursuant to this [Section 11.04](#), and, in order to obtain such payment, Parent, Merger Subsidiary or the Company, as applicable, commences a suit that results in a judgment against the Company or Parent, as applicable, for the fee set forth in this [Section 11.04](#) or any portion of such fee, then (i) in the case of the Termination Fee, the Company shall pay to Parent and (ii) in the case of the Regulatory Termination Fee, Parent shall pay to the Company, its reasonable costs and expenses (including reasonable attorneys’ fees and expenses) in connection with such suit, together with interest on the amount of the fee at the prime rate published in *The Wall Street Journal* on the date such payment was required to be made through the date of payment. Except as set forth in the preceding sentence or in the case of fraud, Parent and Merger Subsidiary agree that, upon any termination of this Agreement under circumstances where the Termination Fee is payable by the Company pursuant to this Section and such Termination Fee is paid in full, Parent and Merger Subsidiary shall be precluded from any other remedy against the Company, at law or in equity or otherwise, and neither Parent nor Merger Subsidiary shall seek to obtain any recovery, judgment,

90

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or damages of any kind, including consequential, indirect, or punitive damages, against the Company or any of the Company’s Subsidiaries or any of their respective directors, officers, employees, partners, managers, members, stockholders or Affiliates or their respective Representatives in connection with this Agreement or the transactions contemplated hereby. Except as set forth in the first sentence or in the case of fraud, the Company agrees that, upon any termination of this Agreement under circumstances where the Regulatory Termination Fee is payable by Parent pursuant to this Section and such Regulatory Termination Fee is paid in full, the Company shall be precluded from any other remedy against Parent or Merger Subsidiary, at law or in equity or otherwise, and the Company shall not seek to obtain any recovery, judgment, or damages of any kind, including consequential, indirect, or punitive damages, against Parent, Merger Subsidiary or any of their Subsidiaries or any of their respective directors, officers,

employees, partners, managers, members, stockholders or Affiliates or their respective Representatives in connection with this Agreement or the transactions contemplated hereby.

Section 11.05. *Disclosure Letter and SEC Document References.* The Parties agree that any reference in a particular Section of either the Company Disclosure Letter or the Parent Disclosure Letter shall be deemed to be an exception to (or, as applicable, a disclosure for purposes of) (a) the representations and warranties (or covenants, as applicable) of the relevant Party that are contained in the corresponding Section of this Agreement and (b) any other representations and warranties of such Party that are contained in this Agreement to the extent that such disclosure is set forth with such specificity that it is reasonably apparent on the face of such disclosure that such disclosure is applicable to such Sections. The mere inclusion of an item in either the Company Disclosure Letter or the Parent Disclosure Letter as an exception to a representation or warranty shall not be deemed an admission that such item represents a material exception or material fact, event or circumstance or that such item has had or would reasonably be expected to have a Company Material Adverse Effect or a Parent Material Adverse Effect, as applicable.

Section 11.06. *Binding Effect; Benefit; Assignment.*

(a) The provisions of this Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns, and no provision of this Agreement is intended to confer any rights, benefits, remedies, obligations or liabilities hereunder upon any Person other than the Parties and their respective successors and assigns, other than: (i) with respect to the provisions of Section 7.04 which shall inure to the benefit of the persons or entities benefiting therefrom who are intended to be third-party beneficiaries thereof, (ii) at and after the Effective Time, the rights of the former holders of shares of Company Stock to receive the Merger Consideration in accordance with the terms and conditions of this Agreement, (iii) at and after the Effective Time, the rights of the holders of Company Stock Options, Company Restricted Shares, Company Performance Shares and Company Restricted Stock Units to receive the payments contemplated by the applicable provisions of Section 2.06, in each case, at the Effective Time in accordance with the terms and conditions of this Agreement; *provided, however*, that (A) Parent may, without the consent of the Company, assign or otherwise transfer its rights, interests and obligations hereunder to any of its Financing Sources for purposes of creating a security interest herein or otherwise assigning as collateral in respect of the Financing and any refinancings, extensions, refundings or renewals thereof; *provided* that such assignment or transfer shall not in any way affect Parent's obligations and

91

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liabilities under this Agreement and (B) each Financing Source is an express third party beneficiary of Section 11.03, Section 11.06, Section 11.07, Section 11.08, Section 11.09 or Section 11.15. The representations and warranties in this Agreement are the product of negotiations among the Parties and are for the sole benefit of the Parties.

(b) No Party may assign, delegate or otherwise transfer any of its rights or obligations under this Agreement without the consent of each other Parties.

Section 11.07. *Governing Law.* This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, without regard to the conflicts of law rules of such state; *provided* that all claims or causes of action (whether at law, in equity, in contract, in tort or otherwise) against any of the Financing Sources in any way relating to the Debt Commitment Letter or the performance thereof or the financings contemplated thereby, shall be exclusively governed by, and construed in accordance with, the law of the State of New York (without regard to the conflicts of law provisions thereof); *provided, however*, that (a) the interpretation of the definition of Company Material Adverse Effect and whether there shall have occurred a Company Material Adverse Effect, (b) whether the Merger has been consummated as contemplated by this Agreement, and (c) the determination of whether the representations made by the Company are accurate and whether as a result of any inaccuracy of any such representations Parent has the right to terminate its obligations, or has the right not to consummate the Merger, under this Agreement, shall be governed by, and construed in accordance with, the domestic laws of the State of Delaware without regard to the principles of conflicts of law.

Section 11.08. *Jurisdiction.*

(a) The Parties agree that any Proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement (including any matter involving any Financing Source) or the transactions contemplated hereby (whether brought by any Party or any of its Affiliates or against any Party or any of its Affiliates) shall be brought exclusively in the Court of Chancery of the State of Delaware or, if such court shall not have jurisdiction, exclusively in any federal court located in the State of Delaware or other Delaware state court, and each of the Parties hereby irrevocably consents to the jurisdiction of such courts (and of the appropriate appellate courts therefrom) in any such Proceeding and irrevocably waives, to the fullest extent permitted by law, any objection that it may now or hereafter have to the laying of the venue of any such Proceeding in any such court or that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum; *provided* that, notwithstanding the foregoing, the Parties agree that in connection with any suit, action or other Proceeding to which the Financing Sources are a party shall be subject to the exclusive jurisdiction of the United States District Court for the Southern District of New York located in the Borough of Manhattan or, if such court shall not have jurisdiction, in the state courts of the State of New York located in New York County, and each of the Parties hereby irrevocably consents to the jurisdiction of such courts (and of the appropriate appellate courts therefrom) in any such Proceeding and irrevocably waives to the fullest extent permitted by law, any objection that it may now or hereafter have to the laying of the venue of any such Proceeding in any such court or that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum. Process in any such Proceeding may be served on any Party anywhere in

92

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the world, whether within or without the jurisdiction of any such court. Without limiting the foregoing, each Party agrees that service of process on such Party as provided in Section 11.01 shall be deemed effective service of process on such Party.

(b) EACH OF PARENT, MERGER SUBSIDIARY AND THE COMPANY HEREBY IRREVOCABLY DESIGNATES THE CORPORATION TRUST COMPANY (IN SUCH CAPACITY, THE "PROCESS AGENT"), WITH AN OFFICE AT 1209 ORANGE STREET, CITY OF WILMINGTON, COUNTY OF NEW CASTLE, DELAWARE 19801 AS ITS DESIGNEE, APPOINTEE AND AGENT TO RECEIVE, FOR AND ON ITS BEHALF SERVICE OF PROCESS IN SUCH JURISDICTION IN ANY PROCEEDING WITH RESPECT TO THIS AGREEMENT OR ANY OTHER AGREEMENT EXECUTED IN CONNECTION WITH THIS AGREEMENT, AND SUCH SERVICE SHALL BE DEEMED COMPLETE UPON DELIVERY THEREOF TO THE PROCESS AGENT; *PROVIDED* THAT IN THE CASE OF ANY SUCH SERVICE UPON THE PROCESS AGENT, THE PARTY EFFECTING SUCH SERVICE SHALL ALSO DELIVER A COPY THEREOF TO EACH OTHER SUCH PARTY IN THE MANNER PROVIDED IN SECTION 11.01 OF THIS AGREEMENT. EACH PARTY SHALL TAKE ALL SUCH ACTION AS MAY BE NECESSARY TO CONTINUE SAID APPOINTMENT IN FULL FORCE AND EFFECT OR TO APPOINT ANOTHER AGENT SO THAT SUCH PARTY WILL AT ALL TIMES HAVE AN AGENT FOR SERVICE OF PROCESS FOR THE ABOVE PURPOSES IN WILMINGTON, DELAWARE. NOTHING HEREIN SHALL AFFECT THE RIGHT OF ANY PARTY TO SERVE PROCESS IN ANY MANNER PERMITTED BY APPLICABLE LAW.

Section 11.09. *WAIVER OF JURY TRIAL.* EACH OF THE PARTIES HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT, THE DEBT COMMITMENT LETTER OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (INCLUDING WITH RESPECT TO ANY PROCEEDING THAT INVOLVES ANY FINANCING SOURCES).

Section 11.10. *WAIVERS IRREVOCABLE*. EACH PARTY EXPRESSLY ACKNOWLEDGES THAT THE WAIVERS IN SECTION 11.08(a) AND SECTION 11.09 ARE INTENDED TO BE IRREVOCABLE UNDER THE LAWS OF THE STATE OF DELAWARE AND OF THE UNITED STATES OF AMERICA.

Section 11.11. *Counterparts; Effectiveness*. This Agreement may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. This Agreement shall become effective when each Party shall have received a counterpart hereof signed by all of the other Parties. Until and unless each Party has received a counterpart hereof signed by all of the other Parties, this Agreement shall have no effect and no Party shall have any right or obligation hereunder (whether by virtue of any other oral or written agreement or other communication). The exchange of a fully executed Agreement by electronic transmission in .PDF format or by facsimile shall be sufficient to bind the Parties to the terms and conditions of this Agreement.

Section 11.12. *Entire Agreement*. This Agreement and the Confidentiality Agreement constitute the entire agreement among the Parties with respect to the subject matter of this

93

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Agreement and supersede all prior agreements and understandings, both oral and written, among the Parties with respect to the subject matter of this Agreement.

Section 11.13. *Severability*. If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction or other Governmental Authority to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any Party. Upon such a determination, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in an acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the fullest extent possible.

Section 11.14. *Specific Performance*. Notwithstanding anything in this Agreement to the contrary, the Parties agree that irreparable damage would occur if any provision of this Agreement were not performed in accordance with the terms hereof (and, more specifically, that irreparable damage would occur if the Merger were not consummated and the Company's stockholders and holders of Company Stock Options, Company Restricted Shares, Company Performance Shares and Company Restricted Stock Units did not receive the aggregate Merger Consideration in accordance with the terms but subject to the conditions of this Agreement) and that the Parties shall be entitled to an injunction or injunctions to prevent breaches of this Agreement or to enforce specifically the performance of the terms and provisions hereof (including the Parties' obligation to consummate the Merger and Parent's obligation to pay, and the Company's stockholders' and holders of Company Stock Options', Company Restricted Shares', Company Performance Shares' and Company Restricted Stock Units' right to receive, the aggregate Merger Consideration pursuant to the Merger, subject in each case to the terms and conditions of this Agreement) in any federal court located in the State of Delaware or any Delaware state court, in addition to any other remedy to which they are entitled at law or in equity, and the Parties further waive any requirement for the securing or posting of any bond or proof of actual damages in connection with any such remedy. If, prior to the End Date, any Party brings an action to enforce specifically the performance of the terms and provisions of this Agreement by another Party, the End Date shall automatically be extended by (a) the amount of time during which such action is pending, plus twenty Business Days, or (b) such other time period established by the court presiding over such action.

Section 11.15. *Non-Recourse*. Notwithstanding anything to the contrary herein, the Company agrees on behalf of itself and its Affiliates that none of the Financing Sources shall have any liability or obligation to the Company or any of its Affiliates relating to this Agreement or the Debt Commitment Letter or any of the transactions contemplated herein or therein (including the Financing). This Section 11.15 is intended to benefit and may be enforced by the Financing Sources and shall be binding on all successors and assigns of the Company.

*[The remainder of this page has been intentionally left blank; the next page is the signature page.]*

94

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IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed by their respective authorized officers as of the date set forth on the cover page of this Agreement.

**CARMIKE CINEMAS, INC.**

By: /s/ S. David Passman III  
Name: S. David Passman III  
Title: President and Chief Executive Officer

[Signature Page to Amended and Restated Agreement and Plan of Merger]

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IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed by their respective authorized officers as of the date set forth on the cover page of this Agreement

**AMC ENTERTAINMENT HOLDINGS, INC.**

By: /s/ Adam M. Aron  
Name: Adam M. Aron  
Title: Chief Executive Officer and President

**CONGRESS MERGER SUBSIDIARY, INC.**



By: /s/ Adam M. Aron  
Name: Adam M. Aron  
Title: Chief Executive Officer and President

[Signature Page to Amended and Restated Agreement and Plan of Merger]

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**Exhibit A**  
**Surviving Corporation Certificate of Incorporation**

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**EXHIBIT A**

**AMENDED AND RESTATED  
CERTIFICATE OF INCORPORATION  
OF  
CARMIKE CINEMAS, INC.**

[ ] [ ], 2016

Carmike Cinemas, Inc., a corporation organized and existing under the laws of the State of Delaware (the "Corporation"), certifies that:

1. The name under which the Corporation was originally incorporated was "Martin Cinemas, Inc." and its original Certificate of Incorporation was filed with the Secretary of State of Delaware on April 2, 1982. The Certificate of Incorporation was last restated on January 31, 2002.
2. This Amended and Restated Certificate of Incorporation was duly adopted in accordance with Sections 242 and 245 of the General Corporation Law of the State of Delaware, and restates, integrates, and further amends the provisions of the Corporation's Certificate of Incorporation.
3. The text of the Certificate of Incorporation is amended and restated to read in its entirety as follows:

**ARTICLE I**

The name of Corporation is Carmike Cinemas, Inc.

**ARTICLE II**

The address of its registered office in the State of Delaware is 3411 Silverside Rd. #104 Rodney Building, in the city of Wilmington, county of New Castle. The name of its registered agent at such address is Corporate Creations Network, Inc.

**ARTICLE III**

The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of the State of Delaware.

**ARTICLE IV**

The total number of shares that the Corporation shall have the authority to issue is 10,000 shares of common stock, \$0.01 par value per share.

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**ARTICLE V**

The Board of Directors is authorized to adopt, amend, or repeal the Bylaws of the Corporation, but the stockholders may adopt additional Bylaws and may amend or repeal any Bylaws whether adopted by them or otherwise.

**ARTICLE VI**

The Corporation is to have perpetual existence.

**ARTICLE VII**

The number of directors of the Corporation shall be fixed by, or in the manner provided in, the Bylaws of the Corporation.

**ARTICLE VIII**

The Corporation reserves the right to amend, alter, change, or repeal any provision contained in this Certificate of Incorporation, in the manner now or hereafter prescribed by statute, and all rights conferred upon stockholders herein are granted subject to this reservation.

**ARTICLE IX**

The Corporation shall, to the fullest extent permitted by Section 145 of the General Corporation Law of the State of Delaware, as the same may be amended and supplemented, indemnify any and all persons whom it shall have power to indemnify under said Section from and against any and all of the expenses, liabilities or other matters referred to in or covered by said Section, and the indemnification provided for herein shall not be deemed exclusive of any other rights to which those indemnified may be

entitled under any By-Law, agreement, vote of stockholders or disinterested directors or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

#### **ARTICLE X**

A director of the Corporation shall not be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except to the extent such exemption from liability or limitation thereof is not permitted under the General Corporation Law of the State of Delaware as the same exists or may hereafter be amended. Any repeal or modification of the foregoing paragraph shall not adversely affect any right or protection of a director of the Corporation existing hereunder with respect to any act or omission occurring prior to such repeal or modification.

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**IN WITNESS WHEREOF**, the Corporation has caused this Amended and Restated Certificate of Incorporation to be executed by the undersigned, a duly authorized officer of the Corporation, as of the date first set forth above.

By: \_\_\_\_\_

Name: [-]

Title: [-]

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#### **Exhibit B** **Surviving Corporation Bylaws**

**EXHIBIT B**

#### **AMENDED AND RESTATED BY-LAWS OF CARMIKE CINEMAS, INC.**

##### ARTICLE 1

##### OFFICES

The registered office of Carmike Cinemas, Inc. (the "Corporation") shall be in the City of Wilmington, County of New Castle, State of Delaware. The Corporation may also have offices at such other places both within and without the State of Delaware.

##### ARTICLE 2

##### STOCKHOLDERS

Section 2.1 **Time and Place of Meetings.** All meetings of the stockholders for the election of directors or for any other purpose shall be held at such time and places, either within or without the State of Delaware, as shall be designated by the board of directors of the Corporation (the "Board of Directors"). In the absence of any such designation by the Board of Directors, each such meeting shall be held at the principal office of the Corporation.

Section 2.2 **Annual Meetings.** An annual meeting of stockholders shall be held for the purpose of electing members of the Board of Directors of the Corporation (the "Directors") and transacting such other business as may properly be brought before the meeting. The date of the annual meeting shall be determined by the Board of Directors.

Section 2.3 **Special Meetings.** Special meetings of the stockholders, for any purpose or purposes, unless otherwise prescribed by law, may be called by the President and shall be called by the Secretary at the direction of a majority of the Board of Directors, or at the request in writing of stockholders owning a majority in amount of the entire capital stock of the Corporation issued and outstanding and entitled to vote.

Section 2.4 **Notice of Meetings.** Written notice of each meeting of the stockholders stating the place, date and time of the meeting shall be given not less than ten nor more than sixty days before the date of the meeting, to each stockholder entitled to vote at such meeting. The notice of any special meeting of stockholders shall state the purpose or purposes for which the meeting is called.

Section 2.5 **Quorum.** The holders of a majority of the stock issued and outstanding and entitled to vote at a meeting, present in person or represented by proxy, shall constitute a quorum at any meetings of the stockholders for the transaction of business, except as otherwise provided by law. If a quorum is not present or represented, the holders of the stock present in person or represented by proxy at the meeting and entitled to vote thereat shall have power, by the affirmative vote of the holders of a majority of such stock, to adjourn the meeting to another time or place, without notice other than announcement at the meeting, until a quorum shall be present or represented. At such adjourned meeting, at which a quorum shall be present or represented,

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any business may be transacted which might have been transacted at the original meeting. If the adjournment is for more than thirty days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting.

Section 2.6 **Voting.** At all meetings of the stockholders, each stockholder shall be entitled to vote, in person or by proxy, the shares of voting stock owned by such stockholder of record on the record date for the meeting. When a quorum is present or represented at any meeting, the vote of the holders of a majority of the stock having

voting power present in person or represented by proxy shall decide any question brought before such meeting, unless the question is one upon which, by express provision of law or of the certificate of incorporation, a different vote is required, in which case such express provision shall govern and control the decision of such question.

Section 2.7 Informal Action By Stockholders. Any action required to be taken at a meeting of the stockholders, or any other action which may be taken at a meeting of the stockholders, may be taken without a meeting, without prior notice and without a vote, if a consent in writing, setting forth the action so taken, shall be signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted. Prompt notice of the taking of the corporate action without a meeting by less than unanimous written consent shall be given to those stockholders who have not consented in writing.

### ARTICLE 3

#### DIRECTORS

Section 3.1 General Powers. The business and affairs of the Corporation shall be managed and controlled by or under the direction of a Board of Directors, which may exercise all such powers of the Corporation and do all such lawful acts and things as are not by law or by the Certificate of Incorporation or by these By-Laws directed or required to be exercised or done by the stockholders.

Section 3.2 Number, Qualification and Tenure. The Board of Directors shall consist of not less than one (1) and not more than nine (9) members. Within the limits above specified, the number of Directors shall be determined from time to time by resolution of the Board of Directors. The Directors shall be elected at the annual meeting of the stockholders, except as provided in Section 3.3 of these By-Laws, and each Director elected shall hold office until his successor is elected and qualified or until his earlier death, resignation or removal. Directors need not be stockholders.

Section 3.3 Vacancies. Vacancies and newly created directorships resulting from any increase in the number of directors may be filled by a majority of the Directors then in office though less than a quorum, and each Director so chosen shall hold office until his successor is elected and qualified or until his earlier death, resignation or removal. If there are no Directors in office, then an election of Directors may be held in the manner provided by law.

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Section 3.4 Place of Meetings. The Board of Directors may hold meetings, both regular and special, either within or without the State of Delaware.

Section 3.5 Regular Meetings. The Board of Directors shall hold a regular meeting, to be known as the annual meeting, immediately following each annual meeting of the stockholders. Other regular meetings of the Board of Directors shall be held at such time and at such place as shall from time to time be determined by the Board of Directors. No notice of regular meetings need be given.

Section 3.6 Special Meetings. Special meetings of the Board of Directors may be called by the President. Special meetings shall be called by the Secretary on the written request of any Director.

Section 3.7 Quorum. At all meetings of the Board of Directors a majority of the total number of Directors shall constitute a quorum for the transaction of business and the act of a majority of the Directors present at any meeting at which there is a quorum shall be the act of the Board of Directors, except as may be otherwise specifically provided by law. If a quorum shall not be present at any meeting of the Board of Directors, the Directors present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present.

Section 3.8 Organization. The Chairman of the Board, if elected, shall act as chairman at all meetings of the Board of Directors. If a Chairman of the Board is not elected or, if elected, is not present, the President (if a member of the Board of Directors) or, in the absence of the President or, if the President is not a member of the Board of Directors, a Vice-Chairman (who is also a member of the Board of Directors and, if more than one, in the order designated by the Board of Directors or, in the absence of such designation, in the order of their election), if any, or if no such Vice-Chairman is present, a Director chosen by a majority of the Directors present, shall act as chairman at meetings of the Board of Directors.

Section 3.9 Executive Committee. (a) The Board of Directors, by resolution adopted by a majority of the whole Board of Directors, may designate one or more Directors to constitute an Executive Committee, to serve as such, unless the resolution designating the Executive Committee is sooner amended or rescinded by the Board of Directors, until the next annual meeting of the Board of Directors or until their respective successors are designated. The Board of Directors, by resolution adopted by a majority of the whole Board of Directors, may also designate additional Directors as alternate members of the Executive Committee to serve as members of the Executive Committee in the place and stead of any regular member or members thereof who may be unable to attend a meeting or otherwise unavailable to act as a member of the Executive Committee. In the absence or disqualification of a member and all alternate members who may serve in the place and stead of such member, the member or members thereof present at any meeting and not disqualified from voting, whether or not such member or members constitute a quorum, may unanimously appoint another Director to act at the meeting in the place of any such absent or disqualified member.

(b) Except as expressly limited by the General Corporation Law of the State of Delaware or the Certificate of Incorporation, the Executive Committee shall have and may

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exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the Corporation between the meetings of the Board of Directors. The Executive Committee shall keep a record of its acts and proceedings, which shall form a part of the records of the Corporation in the custody of the Secretary, and all actions of the Executive Committee shall be reported to the Board of Directors at the next meeting of the Board of Directors.

(c) Meetings of the Executive Committee may be called at any time by the Chairman of the Board, the President or any two of its members. No notice of meetings need be given. A majority of the members of the Executive Committee shall constitute a quorum for the transaction of business and, except as expressly limited by this section, the act of a majority of the members present at any meeting at which there is a quorum shall be the act of the Executive Committee. Except as expressly provided in this Section 3.9(c), the Executive Committee shall fix its own rules of procedure.

Section 3.10 Other Committees. The Board of Directors, by resolution adopted by a majority of the whole Board of Directors, may designate one or more other committees, each such committee to consist of one or more Directors. Except as expressly limited by the General Corporation Law of the State of Delaware or the Certificate of Incorporation, any such committee shall have and may exercise such powers as the Board of Directors may determine and specify in the resolution designating such committee. The Board of Directors, by resolution adopted by a majority of the whole Board of Directors, also may designate one or more additional Directors as alternate members of any such committee to replace any absent or disqualified member at any meeting of the committee, and at any time may change the membership of any committee or amend or rescind the resolution designating the committee. In the absence or disqualification of a member or alternate member of a committee, the member or members thereof present at

any meeting and not disqualified from voting, whether or not such member or members constitute a quorum, may unanimously appoint another Director to act at the meeting in the place of any such absent or disqualified member, provided that the Director so appointed meets any qualifications stated in the resolution designating the committee. Each committee shall keep a record of proceedings and report the same to the Board of Directors to such extent and in such form as the Board of Directors may require. Unless otherwise provided in the resolution designating a committee, a majority of all of the members of any such committee may select its Chairman, fix its rules of procedure, fix the time and place of its meetings and specify what notice of meetings, if any, shall be given.

Section 3.11 Action without Meeting. Unless otherwise restricted by the Certificate of Incorporation or these By-Laws, any action required or permitted to be taken at any meeting of the Board of Directors or of any committee thereof may be taken without a meeting, if all members of the Board of Directors or committee, as the case may be, consent thereto in writing, and the writing or writings are filed with the minutes of proceedings of the Board of Directors or committee.

Section 3.12 Attendance by Telephone. Members of the Board of Directors, or of any committee designated by the Board of Directors, may participate in a meeting of the Board of Directors, or any committee, by means of conference telephone or similar communications

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equipment by means of which all persons participating in the meeting can hear each other, and such participation in a meeting shall constitute presence in person at the meeting.

Section 3.13 Compensation. The Board of Directors shall have the authority to fix the compensation of Directors, which may include their expenses, if any, for attendance at each meeting of the Board of Directors. No member of a committee of the Board of Directors shall receive any separate compensation for serving on, or attendance at, such committee or meetings thereof.

## ARTICLE 4

### OFFICERS

Section 4.1 Enumeration. The officers of the Corporation shall be chosen by the Board of Directors and shall include a President, a Treasurer and a Secretary. The Board of Directors may also elect one or more Vice Presidents, one or more Assistant Secretaries and Assistant Treasurers and such other officers and agents as it shall deem appropriate. Any number of offices may be held by the same person.

Section 4.2 Term of Office. The officers of the Corporation shall be elected at the annual meeting of the Board of Directors and shall hold office until their successors are elected and qualified. Any officer elected or appointed by the Board of Directors may be removed at any time by the Board of Directors. Any vacancy occurring in any office of the Corporation required by this Article 4 shall be filled by the Board of Directors, and any vacancy in any other office may be filled by the Board of Directors.

Section 4.3 President. The President shall be the Chief Executive Officer and Chief Operating Officer of the Corporation and shall have such functions, authority and duties as may be prescribed by the Board of Directors.

Section 4.4 Vice President. The Vice President shall act under the direction of the President and in the absence or disability of the President shall perform the duties and exercise the powers of the President. The Vice President shall perform such other duties and have such other powers as the President or the Board of Directors may from time to time prescribe. The Board of Directors may designate one or more Vice Presidents or may otherwise specify the order of seniority of the Vice Presidents, and, in that event, the duties and power of the President shall descend to the Vice Presidents in the specified order of seniority.

Section 4.5 Secretary. The Secretary shall keep a record of all proceedings of the stockholders of the Corporation and of the Board of Directors, and shall perform like duties for the standing committees when required. The Secretary shall give, or cause to be given, notice, if any, of all meetings of the stockholders and shall perform such other duties as may be prescribed by the Board of Directors or the President. In the event that the Board of Directors adopts a corporate seal, the Secretary shall have custody of the corporate seal of the Corporation and the Secretary, or in the absence of the Secretary any Assistant Secretary, shall have authority to affix the same to any instrument requiring it, and when so affixed it may be attested by the signature

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of the Secretary or an Assistant Secretary. The Board of Directors may give general authority to any other officer to affix the seal of the Corporation and to attest such affixing of the seal.

Section 4.6 Assistant Secretary. The Assistant Secretary, or if there be more than one, the Assistant Secretaries in the order determined by the Board of Directors (or if there be no such determination, then in the order of their election), shall, in the absence of the Secretary or in the event of the Secretary's inability or refusal to act, perform the duties and exercise the powers of the Secretary and shall perform such other duties as may from time to time be prescribed by the Board of Directors, the President or the Secretary.

Section 4.7 Treasurer. The Treasurer shall have the custody of the corporate funds and securities of the Corporation and shall keep full and accurate accounts of receipts and disbursements in books belonging to the Corporation and shall deposit all moneys and other valuable effects in the name and to the credit of the Corporation in such depositories as may be designated by the Board of Directors. The Treasurer shall disburse the funds of the Corporation as may be ordered by the Board of Directors, taking proper vouchers for such disbursements, and shall render to the President and the Board of Directors, at its regular meetings or when the Board of Directors so requires, an account of all transactions as Treasurer and of the financial condition of the Corporation. The Treasurer shall perform such other duties as may from time to time be prescribed by the Board of Directors, the President or the Vice President.

Section 4.8 Assistant Treasurer. The Assistant Treasurer, or if there shall be more than one, the Assistant Treasurers in the order determined by the Board of Directors (or if there be no such determination, then in the order of their election), shall, in the absence of the Treasurer or in the event of the Treasurer's inability or refusal to act, perform the duties and exercise the powers of the Treasurer and shall perform such other duties and have such other powers as may from time to time be prescribed by the Board of Directors, the President or the Treasurer.

Section 4.9 Other Officers. Any officer who is elected or appointed from time to time by the Board of Directors and whose duties are not specified in these By-Laws shall perform such duties and have such powers as may be prescribed from time to time by the Board of Directors or the President.

## ARTICLE 5

### CERTIFICATES OF STOCK

Section 5.1 Form. The shares of the Corporation shall be represented by certificates; provided, however, that the Board of Directors may provide by resolution or resolutions that some or all of any or all classes or series of the Corporation's stock shall be uncertificated shares. Certificates of stock in the Corporation, if any, shall be signed by or in the name of the Corporation by the President or a Vice President and by the Treasurer or an Assistant Treasurer or the Secretary or an Assistant Secretary of the Corporation. Where a certificate is countersigned by a transfer agent, other than the Corporation or an employee of the Corporation, or by a registrar, the signatures of the President or a Vice President and the Treasurer or an Assistant Treasurer or the Secretary or an Assistant Secretary may be facsimiles. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed

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upon a certificate shall have ceased to be such officer, transfer agent or registrar before such certificate is issued, the certificate may be issued by the Corporation with the same effect as if such officer, transfer agent or registrar were such officer, transfer agent or registrar at the date of its issue.

Section 5.2 Transfer. Upon surrender to the Corporation or the transfer agent of the Corporation of a certificate for shares duly endorsed or accompanied by proper evidence of succession, assignment or authority to transfer, it shall be the duty of the Corporation to issue a new certificate of stock or uncertificated shares in place of any certificate therefor issued by the Corporation to the person entitled thereto, cancel the old certificate and record the transaction on its books.

Section 5.3 Replacement. In case of the loss, destruction or theft of a certificate for any stock of the Corporation, a new certificate of stock or uncertificated shares in place of any certificate issued by the Corporation may be issued upon satisfactory proof of such loss, destruction or theft and upon such terms as the Board of Directors may prescribe. The Board of Directors may in its discretion require the owner of the lost, destroyed or stolen certificate, or his legal representative, to give the Corporation a bond, in such sum and in such form and with such surety or sureties as it may direct, to indemnify the Corporation against any claim that may be made against it with respect to a certificate alleged to have been lost, destroyed or stolen.

## ARTICLE 6

### INDEMNIFICATION OF DIRECTORS AND OFFICERS

Section 6.1 The Corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Corporation) by reason of the fact that he is or was a director, officer, employee or agent of the Corporation, or is or was a director or officer of the Corporation serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust, employee benefit plan or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceedings, had reasonable cause to believe that his conduct was unlawful.

Section 6.2 The Corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Corporation to procure a judgment in its favor by reason of the fact that he is or was a director, officer, employee or agent of the Corporation, or is or was a director or officer of the Corporation serving at the request of the Corporation as a director, officer, employee or agent of

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another corporation, partnership, joint venture, trust, employee benefit plan or other enterprise against expenses (including attorneys' fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Corporation; except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the Corporation unless and only to the extent that the Court of Chancery or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the Court of Chancery or such other court shall deem proper.

Section 6.3 Any indemnification under this Article 6 (unless ordered by a court) shall be made by the Corporation only as authorized in the specific case upon a determination that indemnification of the director, officer, employee or agent is proper in the circumstances because he has met the applicable standard of conduct set forth in Section 6.1 or Section 6.2 of this Article 6, as the case may be. Such determination shall be made (i) by the Board of Directors by a majority vote of a quorum consisting of directors who were not parties to such action, suit or proceeding, or (ii) if such a quorum is not obtainable, or, even if obtainable a quorum of disinterested directors so directs, by independent legal counsel in a written opinion, or (iii) by the stockholders. To the extent, however, that a director, officer, employee or agent of the Corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding described above, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith, without the necessity of authorization in the specific case.

Section 6.4 For purposes of any determination under this Article 6, a person shall be deemed to have acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Corporation, or, with respect to any criminal action or proceeding, to have had no reasonable cause to believe his conduct was unlawful, if his action is based on the records or books of account of the Corporation or another enterprise, or on information supplied to him by the officers of the Corporation or another enterprise in the course of their duties, or on the advice of legal counsel for the Corporation or another enterprise or on information or records given or reports made to the Corporation or another enterprise by an independent certified public accountant or by an appraiser or other expert selected with reasonable care by the Corporation or another enterprise. The term "another enterprise" as used in this Section 6.4 shall mean any other corporation or any partnership, joint venture, trust, employee benefit plan or other enterprise of which such person is or was serving at the request of the Corporation as a director, officer, employee or agent. The provisions of this Section 6.4 shall not be deemed to be exclusive or to limit in any way the circumstances in which a person may be deemed to have met the applicable standard of conduct set forth in Sections 6.1 or 6.2 of this Article 6, as the case may be.

Section 6.5 Notwithstanding any contrary determination in the specific case under Section 6.3 of this Article 6, and notwithstanding the absence of any determination thereunder, any director, officer, employee or agent may apply to any court of competent jurisdiction in the State of Delaware for indemnification to the extent otherwise permissible under Sections 6.1 and 6.2 of this Article 6. The basis of such indemnification by a court shall be a determination by

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such court that indemnification of the director, officer, employee or agent is proper in the circumstances because he has met the applicable standards of conduct set forth in Section 6.1 or 6.2 of this Article 6, as the case may be. Neither a contrary determination in the specific case under Section 6.3 of this Article 6 nor the absence of any determination thereunder shall be a defense to such application or create a presumption that the director, officer, employee or agent seeking indemnification has not met any

applicable standard of conduct. Notice of any application for indemnification pursuant to this Section 6.5 shall be given to the Corporation promptly upon the filing of such application. If successful, in whole or in part, the director, officer, employee or agent seeking indemnification shall also be entitled to be paid the expense of prosecuting such application.

Section 6.6 Expenses incurred by a director or officer in defending or investigating a threatened or pending action, suit or proceeding shall be paid by the Corporation in advance of the final disposition of such action, suit or proceeding, including in advance of the conduct determination described in Section 6.3 hereof, upon receipt of an undertaking by or on behalf of such director, officer, employee or agent to repay such amount if it shall ultimately be determined that he is not entitled to be indemnified by the Corporation as authorized in this Article 6.

Section 6.7 The indemnification and advancement of expenses provided by or granted pursuant to this Article 6 shall not be deemed exclusive of any other rights to which a person seeking indemnification or advancement of expenses may be entitled under any By-Law, agreement, contract, vote of stockholders or disinterested directors or pursuant to the direction (howsoever embodied) of any court of competent jurisdiction or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office, it being the policy of the Corporation that indemnification of the persons specified in Section 6.1 and 6.2 of this Article 6 shall be made to the fullest extent permitted by law. The provisions of this Article 6 shall not be deemed to preclude the indemnification of any person who is not specified in Section 6.1 or 6.2 of this Article 6 but whom the Corporation has the power or obligation to indemnify under the provisions of the General Corporation Law of the State of Delaware, or otherwise.

Section 6.8 The Corporation may purchase and maintain insurance on behalf of any person who is or was a director or officer of the Corporation, or is or was a director, officer, employee or agent of the Corporation serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust, employee benefit plan or other enterprise against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Corporation would have the power or the obligation to indemnify him against such liability under the provisions of this Article 6.

Section 6.9 For purposes of this Article 6, references to "the Corporation" shall include, in addition to the resulting corporation, any constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to indemnify its directors, officers, employees or agents, so that any person who is or was a director or officer of such constituent corporation, or is or was a director, officer, employee or agent of such constituent corporation serving at the request of such constituent corporation as a director, officer, employee or agent of

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another corporation, partnership, joint venture, trust, employee benefit plan or other enterprise, shall stand in the same position under the provisions of this Article 6 with respect to the resulting or surviving corporation as he would have with respect to such constituent corporation if its separate existence had continued. For purposes of this Article 6, references to "fines" shall include any excise taxes assessed on a person with respect to an employee benefit plan; and references to "serving at the request of the Corporation" shall include any service as a director, officer, employee or agent of the Corporation which imposes duties on, or involves services by, such director, officer, employee or agent with respect to an employee benefit plan, its participants or beneficiaries; and a person who acted in good faith and in a manner he reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner "not opposed to the best interests of the Corporation" as referred to in this Article 6.

Section 6.10 The indemnification and advancement of expenses provided by, or granted pursuant to, this Article 6 shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

Section 6.11 Notwithstanding anything contained in this Article 6 to the contrary, except for proceedings to enforce rights to indemnification (which shall be governed by Section 6.5 hereof), the Corporation shall not be obligated to indemnify any director, officer, employee or agent in connection with a proceeding (or part thereof) initiated by such person unless such proceeding (or part thereof) was authorized or consented to by the Board of Directors of the Corporation.

Section 6.12 The Corporation may, to the extent authorized from time to time by the Board of Directors, provide rights to indemnification and to the advancement of expenses to employees and agents of the Corporation similar to those conferred in this Article 6 to directors and officers of the Corporation.

Section 6.13 No amendment to or repeal of this Article 6 shall apply to or have any effect on the rights of any person for or with respect to acts or omissions of such person occurring prior to such amendment or repeal.

## ARTICLE 7

### GENERAL PROVISIONS

Section 7.1 Fiscal Year. The fiscal year of the Corporation shall be fixed by resolution of the Board of Directors.

Section 7.2 Corporate Seal. In the event that the Board of Directors elects to adopt a corporate seal, the corporate seal shall be in such form as may be approved from time to time by the Board of Directors. The seal may be used by causing it or a facsimile thereof to be impressed or affixed or in any other manner reproduced.

Section 7.3 Waiver of Notice. Whenever any notice is required to be given under law or the provisions of the Certificate of Incorporation or these By-Laws, a waiver thereof in

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writing, signed by the person or persons entitled to said notice, whether before or after the time stated therein, shall be deemed equivalent to notice.

## ARTICLE 8

### AMENDMENTS

These By-Laws may be altered, amended or repealed or new By-Laws may be adopted by the Board of Directors. The fact that the power to alter, amend, repeal or adopt the By-Laws has been conferred upon the Board of Directors shall not divest the stockholders of the same powers.

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**CITIGROUP GLOBAL MARKETS INC.**  
390 Greenwich Street  
New York, New York 10013

**BANK OF AMERICA, N.A.**  
**MERRILL LYNCH, PIERCE, FENNER &  
SMITH INCORPORATED**  
One Bryant Park  
New York, New York 10036

**BARCLAYS**  
745 Seventh Avenue  
New York, New York 10019

**CREDIT SUISSE AG**  
**CREDIT SUISSE**  
**SECURITIES (USA) LLC**  
Eleven Madison Avenue  
New York, New York 10010

**HSBC BANK USA, N.A.**  
**HSBC SECURITIES (USA)**  
**INC.**  
452 Fifth Avenue  
New York, New York 10018

July 24, 2016

AMC Entertainment Holdings, Inc.  
One AMC Way  
11500 Ash Street  
Leawood, Kansas 66211  
Attention: Craig Ramsey, Chief Financial Officer

Project Carl  
Second Amended and Restated Commitment Letter

Ladies and Gentlemen:

AMC Entertainment Holdings, Inc. (the "Borrower" or "you") has advised Citi (as defined below, "Citi"), Bank of America, N.A. ("Bank of America"), Merrill Lynch, Pierce, Fenner & Smith Incorporated ("MLPFS"), Barclays Bank PLC ("Barclays"), Credit Suisse AG (acting through such of its affiliates or branches as it deems appropriate, "CS"), Credit Suisse Securities (USA) LLC ("CS Securities" and, together with CS and their respective affiliates, "Credit Suisse"), HSBC Bank USA, N.A. ("HSBC Bank") and HSBC Securities (USA) Inc. ("HSBC Securities" and, together with Citi, Bank of America, MLPFS, Barclays, Credit Suisse and HSBC Bank, collectively the "Commitment Parties", the "Agents", "we" or "us") that it intends to consummate the Transactions (such term and each other capitalized term used but not defined herein having the meaning assigned to such term in the Transaction Description attached hereto as Exhibit A (the "Transaction Description"), in the Summary of Principal Terms and Conditions attached hereto as Exhibit B (the "Incremental Term Loan B Term Sheet") or in the Summary of Principal Terms and Conditions attached hereto as Exhibit C (the "Senior Subordinated Bridge Facility Term Sheet" and, together with the Incremental Term Loan B Term Sheet and the Summary of Conditions Precedent attached as Exhibit D hereto, the "Term Sheets"; and together with this commitment letter, collectively, this "Commitment Letter").

For purposes of this Commitment Letter, "Citi" shall mean Citigroup Global Markets Inc., Citibank, N.A., Citicorp USA, Inc., Citicorp North America, Inc. and/or any of their affiliates as Citi shall determine to be appropriate to provide the services contemplated herein.

This Commitment Letter amends and restates in its entirety the Amended and Restated Commitment Letter dated March 15, 2016, between the Commitment Parties and you (the "First A&R Commitment Letter"). The First A&R Commitment Letter is automatically superseded as of the date hereof without the need for any further notice (it being understood and agreed that the indemnification provisions contained in Section 7 of the commitment letter dated March 3, 2016, between the Commitment Parties and you (the "Original Commitment Letter"), will remain in full force and effect for the benefit of the Commitment Parties for all matters covered by such indemnification provisions).

1. Commitments.

In connection with the foregoing, each of Citi, Bank of America, Barclays, CS and HSBC Bank (together, the "Initial Lenders") is pleased to advise you of its commitment (on a several and not joint basis) to provide the relevant percentage as set forth in the table below of (a) the Incremental Term Loan B Facility (as defined in the Transaction Description) in an aggregate principal amount of up to \$225.0 million, upon the terms set forth herein and subject only to the conditions set forth or referred to in Exhibit D, and (b) the Senior Subordinated Bridge Facility (as defined in the Transaction Description) in an aggregate principal amount of up to \$300.0 million, upon the terms set forth herein and subject only to the conditions set forth or referred to in Exhibit D (excluding, solely with respect to the Senior Subordinated Bridge Facility, any conditions expressly relating to collateral or security interests in respect of the Incremental Term Loan B Facility).

<u>Initial Lender</u>	<u>Incremental Term Loan B Facility Percentage</u>	<u>Senior Subordinated Bridge Facility Percentage</u>
Citi	44%	44%
Bank of America	35%	35%
Barclays	7%	7%
CS	7%	7%
HSBC Bank	7%	7%

2. Titles and Roles.

You hereby appoint (i) each of Citi, MLPFS, Barclays, CS Securities and HSBC Securities to act, and each such person hereby agrees to act, as a lead bookrunner and a lead arranger for the Incremental Term Loan B Facility, (ii) each of Citi, MLPFS, Barclays, CS

and Citi hereby agrees to act, as sole administrative agent for the Senior Subordinated Bridge Facility, in each case upon the terms and subject to the conditions set forth or referred to in this Commitment Letter. It is agreed that (i) Citi shall have “left” placement in any and all marketing materials or other documentation used in connection with the Facilities and shall hold the leading role and responsibility conventionally associated with such “left” placement and Citi will perform the duties and exercise the authority customarily performed and exercised by it in the foregoing roles, (ii) MLPFS will appear immediately to the “right” of Citi with respect to any and all marketing materials or other documentation used in connection with the Facilities and to the “left” of all other financial institutions (other than Citi), and (iii) Barclays, Credit Suisse and HSBC Securities will appear, in alphabetical order, immediately to the “right” of MLPFS with respect to any and all marketing materials or other documentation used in connection with the Facilities. You further agree that no other titles will be awarded and no compensation (other than that expressly contemplated by this Commitment Letter and the Fee Letter referred to below) will be paid in order to obtain commitments to participate in the Facilities unless you and the Commitment Parties shall so agree.

### 3. Syndication.

We reserve the right, prior to and/or after the execution of the applicable definitive documentation for the respective Facilities (the “Credit Documentation”), to syndicate all or a portion of our commitments with respect to the Facilities to a group of banks, financial institutions and other lenders identified by us in consultation with you and subject to your consent (such consent not to be unreasonably withheld, delayed or conditioned) (together with the Initial Lenders, the “Lenders”) pursuant to a syndication to be managed exclusively by the Lead Arrangers; provided that we will not syndicate the Facilities to (i) those persons identified by you in writing to us prior to the date of the Original Commitment Letter, (ii) any person identified by name by you in writing to us from time to time that is or becomes a competitor of the Borrower, the Target or any of their respective subsidiaries, (iii) any affiliates (other than any Debt Fund Affiliate (as defined below)) of any person described in clause (i) or (ii) above that are clearly identifiable as affiliates solely on the basis of their name (provided that the Lead Arrangers shall have no obligation to carry out due diligence in order to identify such affiliates) and (iv) any other affiliate (other than any Debt Fund Affiliate) of any person described in clause (i) or (ii) above that is identified by name by you in writing to us from time to time (such persons, collectively, the “Disqualified Institutions”). Subject to the foregoing rights, the Lead Arrangers will manage all aspects of the syndication of the Facilities in consultation with you, including, without limitation, timing, potential syndicate members to be approached, titles and allocations and division of fees. For purposes of the foregoing, “Debt Fund Affiliate” means, with respect to any person, a bona fide debt fund that is an affiliate of such person and that is primarily engaged in, or advises fund or other investment vehicles that are engaged in, making, purchasing, holding or otherwise investing in commercial loans, notes, bonds and similar extensions of credit or securities in the ordinary course of its business, whose managers have fiduciary duties to the investors independent of their duties to such person or other affiliates, and

3

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with respect to which such person and its other affiliates do not, directly or indirectly, possess the power to direct or cause the direction of the investment policies of such entity.

We intend to commence our syndication efforts with respect to the Facilities promptly upon your execution and delivery to us of this Commitment Letter, and, until the earlier to occur of (i) a Successful Syndication (as defined in the Fee Letter) and (ii) 60 days after the Closing Date (such period, the “Syndication Period”), you agree to actively assist us in completing a syndication that is reasonably satisfactory to us. Such assistance shall include (i) your using commercially reasonable efforts to ensure that any syndication and marketing efforts benefit from your (and, to the extent practical and appropriate, the Target’s) existing lending and investment banking relationships, (ii) direct contact between appropriate members of senior management, certain representatives and certain non-legal advisors of you (and your using commercially reasonable efforts to cause direct contact between appropriate members of senior management, certain representatives and certain non-legal advisors of the Target), on the one hand, and the proposed Lenders and rating agencies identified by the Lead Arrangers, on the other hand, at times and places mutually agreed, (iii) assistance by you (and your using commercially reasonable efforts to cause the assistance by the Target) in the prompt preparation of a customary confidential information memorandum (a “Confidential Information Memorandum”) for each of the Facilities and other customary marketing materials and information reasonably deemed necessary by the Lead Arrangers to complete a successful syndication for delivery to potential syndicate members and participants, including, without limitation, estimates, forecasts, projections and other forward-looking financial information regarding the future performance of the Borrower, the Target and their respective subsidiaries subject to limitations on your rights to request information concerning the Target and its subsidiaries set forth in the Acquisition Agreement (such estimates, forecasts, projections and other forward-looking information, collectively, the “Projections”), (iv) the hosting, with the Lead Arrangers, of one or more meetings with prospective Lenders at reasonable times and locations to be mutually agreed, and (v) your using commercially reasonable efforts to obtain (or maintain, to the extent already in effect as of the date hereof), prior to the launch of the syndication of the Facilities and the marketing of the Senior Subordinated Notes (as defined below), public ratings (but no specific ratings) for the Incremental Term Loan B Facility and the Senior Subordinated Notes from each of Standard & Poor’s Ratings Services (“S&P”) and Moody’s Investors Service, Inc. (“Moody’s”) and a public corporate credit rating (but no specific rating) of the Borrower from S&P and a public corporate family rating (but no specific rating) of the Borrower from Moody’s.

You hereby acknowledge that (i) the Lead Arrangers and the Agents will make available Information (as defined below) and Projections, and the documentation relating to the Facilities referred to in the paragraph below, to the proposed syndicate of Lenders by transmitting such Information, Projections and documentation through Intralinks, SyndTrak Online, the internet, email or similar electronic transmission systems and (ii) certain of the Lenders may be “public side” Lenders (i.e., Lenders that do not wish to receive material non-public information with respect to the Borrower, the Target and their respective subsidiaries or securities) (“Public Lenders”). You agree, at the request of the Lead Arrangers, to assist in the prompt preparation of a version of the Confidential Information Memorandum and other marketing materials and presentations to be used in connection with the syndication of the Facilities, consisting exclusively of information and documentation that is either (a) publicly

4

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available or (b) not material with respect to the Borrower, the Target or their respective subsidiaries or any of their respective securities for purposes of foreign, United States Federal or state securities laws (all such information and documentation being “Public Lender Information” and with any information and documentation that is not Public Lender Information being referred to herein as “Private Lender Information”).

It is understood that in connection with your assistance described above, customary authorization letters will be included in any such Confidential Information Memorandum that authorize the distribution thereof to prospective Lenders, represent that the additional version of the Confidential Information Memorandum does not include any Private Lender Information and exculpate us with respect to any liability related to the use of the contents of such Confidential Information Memorandum or any related offering and marketing materials by the recipients thereof and exculpate you and the Acquired Business with respect to any liability related to the misuse of the contents of such Confidential Information Memorandum or any related offering and marketing materials by the recipients thereof. You agree that such Confidential Information Memorandum or related offering and marketing materials to be disseminated by the Lead Arrangers to any prospective Lender in connection with the Facilities will be identified by you as either (A) containing Private Lender Information or (B) containing solely Public Lender Information.

You acknowledge that the following documents may be distributed to Public Lenders, unless you notify the Lead Arrangers in writing (including by email) within a reasonable period of time prior to the intended distribution that any such document contains Private Lender Information (provided that such materials have been provided to you for review a reasonable period of time prior thereto): (x) drafts and final versions of the Credit Documentation; (y) administrative materials prepared by the Lead Arrangers for prospective Lenders (such as a lender meeting invitation, allocation, if any, customary marketing term sheets and funding and closing memoranda); and (z) notification of changes in the terms and conditions of the Facilities.



You hereby agree that, prior to the later of (x) the Closing Date and (y) the completion of the Syndication Period, there shall be no competing issues, offerings or placements of debt securities or commercial bank or other credit facilities by or on behalf of the Borrower or its subsidiaries (and you will use commercially reasonable efforts to ensure that there are no competing issues, offerings or placements of debt securities or commercial bank or other credit facilities by or on behalf of the Target or its subsidiaries) being offered, placed or arranged (other than the transactions contemplated by the Project Nola Commitment Letter (the "Project Nola Commitment Letter"), dated as of July 12, 2016, as amended, in connection with the Share Purchase Agreement, dated as of July 12, 2016, as amended, between the Borrower, Acquisition Sub (as defined in the Project Nola Commitment Letter), Monterey Capital III Sarl, Odeon and UCI Cinemas Holdings Limited, Odeon and UCI Cinemas Group Limited and the Management Shareholders (as defined in the Acquisition Agreement referred to in the Project Nola Commitment Letter) (the acquisition contemplated thereby, the "Nola Acquisition"), the Facilities, the Senior Subordinated Notes, ordinary course working capital facilities, ordinary course capital leases, purchase money indebtedness and equipment financings or any indebtedness of the Target and its subsidiaries permitted to be incurred or outstanding pursuant to the Acquisition Agreement), without the consent of the Lead Arrangers, if such issuance,

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offering, placement or arrangement would reasonably be expected to materially impair the primary syndication of the Facilities or the offering of the Senior Subordinated Notes.

Notwithstanding anything to the contrary in this Commitment Letter or the Fee Letter or the Credit Documentation or any agreement or undertaking concerning the financing of the Acquisition to the contrary, it is understood and agreed that (i) neither the obtaining of the ratings referenced above nor the compliance with any of the foregoing provisions set forth in this Section 3 shall constitute a condition to the Initial Lenders' commitments hereunder or the funding of the Facilities on the Closing Date; (ii) none of the commencement nor the completion of the syndication of the Facilities shall constitute a condition to the commitments hereunder or the funding of the Facilities on the Closing Date, nor syndication of, or receipt of commitments or participations in respect of, all or any portion of an Initial Lender's commitments hereunder prior to the Closing Date shall be a condition to such Initial Lender's commitments; (iii) no Initial Lender shall be relieved, released or novated from its obligations hereunder (including its obligation to fund the Facilities on the Closing Date) in connection with any syndication, assignment or participation of the Facilities, including its commitments in respect thereof, until after the initial funding of the Facilities has occurred; (iv) no assignment or novation shall become effective with respect to all or any portion of any Initial Lender's commitments in respect of any Facility until after the initial funding of the Facilities; and (v) unless you otherwise agree in writing, each Initial Lender shall retain exclusive control over all rights and obligations with respect to its commitments in respect of the Facilities, including all rights with respect to consents, modifications, supplements, waivers and amendments, until the Closing Date has occurred.

#### 4. Information.

You represent (with respect to Information and Projections and any forward-looking information relating to the Acquired Business, to your knowledge) that (a) all written information that has been or is hereafter furnished by you or on your behalf in connection with the transactions contemplated hereby (other than the Projections, other forward-looking information and information of a general economic or industry specific nature) (such information being referred to herein collectively as the "Information"), when taken as a whole, as of the time it was (or, in the case of Information furnished after the date hereof, thereafter is) furnished, does not (or will not) contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, taken as a whole, not materially misleading, in light of the circumstances under which they were (or hereafter are) made, and (b) the Projections and other forward-looking information that have been or will be made available to the Lead Arrangers and the Agents by you or any of your representatives have been or will be prepared in good faith based upon assumptions that you believe to be reasonable at the time made and at the time such Projections or other forward-looking information are made available to the Lead Arrangers and the Agents, it being recognized by the Lead Arrangers and the Agents that such Projections and other forward-looking information are as to future events and are not to be viewed as facts, such Projections and other forward-looking information are subject to significant uncertainties and contingencies and that actual results during the period or periods covered by any such Projections or other forward-looking information may differ significantly from the projected results, and that no assurance can be given that the projected results will be realized. You agree that if at any time prior to the later of (x) the Closing Date and (y) the

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completion of the Syndication Period, you become aware that any of the representations in the preceding sentence would be incorrect in any material respect if the Information and Projections were being furnished, and such representations were being made, at such time, then you will promptly advise the Lead Arrangers and the Agents and supplement (or, prior to the Acquisition, use commercially reasonable efforts to supplement, in the case of Information and Projections and any forward-looking information relating to the Acquired Business) the Information and the Projections so that such representations will be (prior to the Acquisition, to your knowledge as to Information and Projections and any forward-looking information relating to the Acquired Business) correct in all material respects under those circumstances. You understand that, in arranging and syndicating the Facilities, we will be entitled to use and rely on the Information and the Projections without responsibility for independent verification thereof and do not assume responsibility for the accuracy or completeness of the Information or the Projections. Notwithstanding anything to the contrary, the only financial statements that shall be required to be provided to us in connection with the syndication of the Facilities will be those required to be delivered pursuant to paragraph 4 and paragraph 5 of Exhibit D.

#### 5. Conditions Precedent.

Notwithstanding anything set forth in this Commitment Letter, the Term Sheets, the Fee Letter or the Credit Documentation, or any other agreement or other undertaking concerning the financing of the Acquisition to the contrary (other than the Funding Conditions (as defined below)), each Initial Lender's commitment hereunder to fund the Facilities on the Closing Date, and the agreement of each Agent to perform the services described herein, are subject solely to the satisfaction or waiver by each of the Initial Lenders of the applicable conditions expressly set forth in Exhibit D attached hereto (excluding, solely with respect to the Senior Subordinated Bridge Facility, any conditions expressly relating to collateral or security interests in respect of the Incremental Term Loan B Facility) (the "Funding Conditions"); it being understood and agreed that there are no conditions (implied or otherwise) to the commitments hereunder including compliance with the terms of this Commitment Letter, the Fee Letter, the Credit Documentation, the Existing Credit Agreement, the indenture dated as of June 17, 2015 (the "Target Indenture") among the Target, the guarantors party thereto and Wells Fargo Bank, as trustee, or any other agreement or undertaking concerning the financing of the Acquisition, other than the Funding Conditions (and upon satisfaction or waiver of the Funding Conditions, the initial funding under the Facilities shall occur).

Notwithstanding anything set forth in this Commitment Letter, the Term Sheets, the Fee Letter or the Credit Documentation, or any other agreement or other undertaking concerning the financing of the Acquisition to the contrary, (i) the only representations and warranties the accuracy of which shall be a condition to availability of the Facilities on the Closing Date shall be (x) such of the representations made by or on behalf of the Acquired Business in the Acquisition Agreement as are material to the interests of the Lenders (in their capacities as such), but only to the extent that the Borrower (or an affiliate thereof) has the right to terminate its obligations (or to refuse to consummate the Acquisition) under the Acquisition Agreement as a result of a breach of such representations (the "Acquisition Agreement Target Representations") and (y) the Specified Representations (as defined below) made by the Borrower in the Credit Documentation and (ii) the terms of the Credit Documentation shall be in a form such that they do not impair the availability of the Facilities on the Closing Date if the

conditions set forth in Exhibit D attached hereto are satisfied or waived (it being understood and agreed that, to the extent any Collateral (as defined in and referred to in the Incremental Term Loan B Facility Term Sheet) (other than Collateral that may be perfected by (A) the filing of a UCC financing statement or (B) taking delivery and possession of stock certificates (other than with respect to any immaterial subsidiary or any subsidiary not organized or incorporated in the United States or any state thereof)) is not or cannot be delivered or a security interest therein is not or cannot be provided or perfected on the Closing Date after your use of commercially reasonable efforts to do so and without undue burden and expense, then the provision and/or perfection of the security interest in such Collateral shall not constitute a condition precedent to the availability of the Incremental Term Loan B Facility on the Closing Date but, instead, may be accomplished within 90 days after the Closing Date (subject to extensions to be agreed upon by the Administrative Agent in its sole discretion)). For purposes hereof, “Specified Representations” means the representations and warranties of the Borrower with respect to itself set forth (or referred to) in the Term Sheets relating to its legal existence; corporate power and authority relating to the entering into and performance of the Credit Documentation by the Borrower; the due authorization, execution, delivery and validity of the Credit Documentation by the Borrower, in each case related to (x) the borrowing under and the performance of the obligations under the Credit Documentation and (y) the granting and perfection of the Administrative Agent’s security interests in the Collateral (subject to the parenthetical beginning “it being understood and agreed” appearing in the preceding sentence) pursuant to, the Credit Documentation against the Borrower; the enforceability of the Credit Documentation against the Borrower; the incurrence of the loans to be made under the Facilities and the provision of the Guarantees (as defined in Term Sheets), in each case under the Facilities, the granting of the security interests in the Collateral to secure the Incremental Term Loan B Facility, the issuance of the Senior Subordinated Notes and the payment of consideration in respect of the Merger and the Acquisition not conflicting with or violating (i) the Borrower’s organizational documents, (ii) Sections 2.19, 8.1(i), 8.1(s), 8.2(p) and/or 8.3(i), as applicable, of the Existing Credit Agreement (without giving effect to any Default condition contained in any such section) or (iii) Sections 4.05, 4.07 or 4.10 of either of (x) the Indenture between the Borrower and U.S. Bank National Association, as Trustee, dated as of February 7, 2014, as supplemented from time to time and (y) the Indenture between the Borrower and U.S. Bank National Association, as Trustee, dated as of June 5, 2015, as supplemented from time to time; Federal Reserve margin regulations; the Investment Company Act of 1940, as amended; solvency of the Borrower and its Subsidiaries (as defined in the Existing Credit Agreement) on a consolidated basis as of the Closing Date (after giving effect to the Transactions) (solvency to be determined in a manner consistent with the manner in which solvency is determined in the solvency certificate to be delivered pursuant to paragraph 1 of Exhibit D); the USA PATRIOT Act, the use of proceeds on the Closing Date not violating OFAC or FCPA; subject to the parenthetical beginning “it being understood and agreed” appearing in the preceding sentence and subject to permitted liens, the creation, validity and perfection of the security interests, if any, granted in the proposed Collateral of the Acquired Business. The provisions of this Section 5 are referred to as the “Funds Certain Provisions”.

6. Fees.

As consideration for each Initial Lender’s commitment hereunder, and the agreement of each Agent to perform the services described herein, you agree to pay (or cause to be paid) to each Agent the fees to which such Agent is entitled, as set forth in this Commitment

Letter and in the second amended and restated fee letter dated the date hereof and delivered herewith with respect to the Facilities or any agency fee letters related to the Facilities (collectively, the “Fee Letter”).

7. Expenses; Indemnification.

To induce the Lead Arrangers and the Agents to issue this Commitment Letter and to proceed with the Credit Documentation, you hereby agree that all reasonable and documented out-of-pocket fees and expenses (but limited, in the case of legal fees and expenses to the reasonable fees and expenses of (x) Latham & Watkins LLP as primary counsel for all Lead Arrangers and Agents, taken as a whole in an aggregate amount not to exceed the amount set forth in the proviso below and (y) one local counsel for each relevant jurisdiction as may be reasonably necessary or advisable in the reasonable judgment of the Lead Arrangers for all Lead Arrangers and Agents, taken as a whole) of the Agents and their affiliates arising in connection with the Facilities and the preparation, negotiation, execution, delivery and enforcement of this Commitment Letter, the Fee Letter and the Credit Documentation (including in connection with our due diligence and syndication efforts) shall be for your account and that, if the Closing Date occurs, you shall from time to time from and after the Closing Date upon request from such Agent, reimburse it and its affiliates for all such reasonable and documented out-of-pocket fees and expenses paid or incurred by them; provided that, whether or not the Transactions are consummated or the Facilities are made available or the Credit Documentation is executed you agree to reimburse the reasonable fees and expenses of Latham & Watkins LLP paid or incurred by the Lead Arrangers and Agents in an aggregate amount not to exceed \$275,000. For the avoidance of doubt and notwithstanding any other provision of this Commitment Letter, the First A&R Commitment Letter or the Original Commitment Letter, such amount set out above shall supersede such amounts as are set out in clause 7 of the First A&R Commitment Letter and the Original Commitment Letter. It is understood and agreed by the parties hereto that the foregoing limitation applies only to fees and expenses incurred in connection with this Commitment Letter, the First A&R Commitment Letter and the Original Commitment Letter in the event that the Closing Date does not occur (and the provisions of Section 11.3 of the Existing Credit Agreement shall continue to apply, without limitation, to any other fees and expenses, including fees and expenses incurred in connection with the amendment to the Existing Credit Agreement to implement the Incremental Term Loan B Facility).

You further agree to indemnify and hold harmless each Lead Arranger, each Agent and each other agent or co-agent (if any) designated by the Lead Arrangers in consultation with you with respect to the Facilities (each, a “Co-Agent”) and the Initial Lenders and all of their respective affiliates and each director, officer, employee, advisor, representative and agent thereof (each, an “Indemnified Person”) from and against any and all actions, suits, proceedings (including any investigations or inquiries), claims, losses, damages, liabilities or expenses of any kind or nature whatsoever that may be incurred by or asserted against or involve any Lead Arranger, any Agent, any Co-Agent, any Initial Lender, or any other such Indemnified Person as a result of or arising out of or in any way related to or resulting from the Transactions, this Commitment Letter or the Fee Letter and, upon demand, to pay and reimburse each Lead Arranger, each Agent, each Co-Agent, the Initial Lenders, and each other Indemnified Person for any reasonable legal expenses of one firm of counsel for all such Indemnified Persons, taken as a whole (and, in the case of an actual or perceived conflict of interest, where the Indemnified

Person affected by such conflict informs you of such conflict and thereafter retains its own counsel, of another firm of counsel for such affected Indemnified Person), and, if necessary, of a single local counsel in each appropriate jurisdiction (which may include a single special counsel acting in multiple jurisdictions) for all such Indemnified Persons, taken as a whole, or other reasonable and documented out-of-pocket expenses paid or incurred in connection with investigating, defending or preparing to defend any such action, suit, proceeding (including any inquiry or investigation) or claim (whether or not any Lead Arranger, any Agent, any Co-Agent, the Initial Lenders, or any other such Indemnified Person is a party to any action or proceeding out of which any such expenses arise or such matter is initiated by a third party or by you or any of your affiliates); provided, however, that you shall not have to indemnify any Indemnified Person against any loss, claim, damage, expense or liability to the extent same resulted from (x) the gross negligence or willful misconduct of such Indemnified Person (as determined by a court of competent jurisdiction in a final and non-appealable judgment), (y) a material breach by the relevant Indemnified Person (as determined by a court of competent jurisdiction in a final and non-appealable judgment) of the express contractual

obligations of such Indemnified Person under this Commitment Letter or (z) any disputes among the Indemnified Parties (other than disputes involving claims against any Lead Arranger, Agent or other agent in their capacities as such) and not arising from any act or omission by the Borrower or any of its affiliates.

No Lead Arranger, Agent or any other Indemnified Person shall be responsible or liable to you or any other person or entity for any damages arising from the use by others of information or other materials obtained through electronic, telecommunications or other information transmission systems (including IntraLinks, Syndtrak Online or email) other than as a result of such person's gross negligence or willful misconduct as determined by a court of competent jurisdiction in a final and non-appealable decision. No party hereto shall be responsible or liable for any indirect, special, exemplary, incidental, punitive or consequential damages (including, without limitation, any loss of profits, business or anticipated savings) that may be alleged as a result of this Commitment Letter, the Fee Letter or the Transactions even if advised of the possibility thereof (except in respect of any such damages incurred or paid by an Indemnified Party to a third party), other than as a result of such party's gross negligence or willful misconduct as determined by a court of competent jurisdiction in a final and non-appealable decision; provided that the foregoing shall not in any way limit your indemnification obligations hereunder.

You agree that, without each Lead Arranger's and each Agent's prior written consent (such consent not to be unreasonably withheld or delayed), neither you nor any of your subsidiaries will settle, compromise or consent to the entry of any judgment in any pending or threatened claim, action or proceeding in respect of which indemnification could be sought under the indemnification provision of this Commitment Letter (whether or not any Agent or any other Indemnified Person is an actual or potential party to such claim, action or proceeding), unless such settlement, compromise or consent includes an unconditional release of each Indemnified Person from all liability arising out of such claim, action or proceeding and does not include a statement as to or an admission of fault, culpability or failure to act by or on behalf of any Indemnified Person.

8. Sharing Information; Absence of Fiduciary Relationship; Affiliate Activities.

10

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Each Commitment Party reserves the right to employ the services of its affiliates and branches in providing services contemplated by this Commitment Letter and to allocate, in whole or in part, to its affiliates certain fees payable to such Commitment Party in such manner as such Commitment Party and its affiliates may agree in their sole discretion. You acknowledge that (i) each Commitment Party may share with any of its affiliates and its and their respective directors, officers, employees, representatives, agents and advisors that are providing services contemplated by this Commitment Letter (including, without limitation, attorneys, accountants, consultants, bankers and financial advisors) (collectively, "Related Persons"), any information related to the Transactions, the Borrower, and the Target (and its and their respective subsidiaries and affiliates) or any of the matters contemplated hereby subject to the confidentiality provisions hereof and (ii) each Commitment Party and its affiliates may be providing debt financing, equity capital or other services (including financial advisory services) to other companies in respect of which you, the Target or your or its affiliates may have conflicting interests regarding the transactions described herein or otherwise. We will not, however, furnish confidential information obtained from you by virtue of the transactions contemplated by this Commitment Letter or our other relationships with you to other persons (other than your affiliates). You also acknowledge that each Commitment Party has no obligation to use in connection with the Transactions, this Commitment Letter, the Fee Letter or to furnish to you, confidential information obtained by us from other companies.

You further acknowledge and agree that (i) no fiduciary, advisory or agency relationship between you and us is intended to be or has been created in respect of the Transactions, this Commitment Letter or the Fee Letter, irrespective of whether we or our affiliates have advised or are advising you on other matters, (ii) we, on the one hand, and you, on the other hand, have an arms-length business relationship that does not directly or indirectly give rise to, nor do you rely on, any fiduciary duty on our part in respect of the transactions contemplated by this Commitment Letter, (iii) you are capable of evaluating and understanding, and you understand and accept, the terms, risks and conditions of the transactions contemplated by this Commitment Letter and the Fee Letter, (iv) you have been advised that we and our affiliates are engaged in a broad range of transactions that may involve interests that differ from your interests and that we and our affiliates have no obligation to disclose such interests and transactions to you by virtue of any fiduciary, advisory or agency relationship, and (v) you waive, to the fullest extent permitted by law, any claims you may have against us or our affiliates for breach of fiduciary duty or alleged breach of fiduciary duty in respect of the financing transactions contemplated by this Commitment Letter and agree that we and our affiliates shall have no liability (whether direct or indirect) to you in respect of such a fiduciary duty claim or to any person asserting such a fiduciary duty claim on behalf of or in right of you, including your equityholders, employees or creditors. Additionally, you acknowledge and agree that neither we nor any of our affiliates has, except as expressly contemplated in the preceding paragraph, advised or is advising you as to any legal, tax, investment, accounting or regulatory matters in any jurisdiction in connection with the Transactions, this Commitment Letter and the Fee Letter. You shall consult with your own advisors concerning such matters and shall be responsible for making your own independent investigation and appraisal of the transactions contemplated by this Commitment Letter, and neither we nor any of our affiliates shall have any responsibility or liability to you with respect thereto. Accordingly, it is specifically understood that you will base your decisions regarding whether and how to pursue the Transactions or any portion thereof based on the advice of your legal, tax and other business advisors and such other factors that you

11

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consider appropriate. We are serving as an independent contractor hereunder, and in connection with the Transactions, in respect of its services hereunder and in such connection and not as a fiduciary or trustee of any party. The Borrower further acknowledges and agrees that any review by the Lead Arrangers of it, the Acquired Business, the Facilities, any offering of Securities (as defined in the Fee Letter), the terms of any Securities and other matters relating thereto in connection with the financing transactions contemplated by this Commitment Letter will be performed solely for the benefit of the Lead Arrangers and shall not be on behalf of the Borrower or any other person.

You further acknowledge that each Commitment Party is a full service securities firm engaged in securities trading and brokerage activities as well as providing investment banking and other financial services. In the ordinary course of business, any Commitment Party or its affiliates may provide investment banking and other financial services to, and/or acquire, hold or sell, for its own accounts and the accounts of customers, equity, debt and other securities and financial instruments (including bank loans and other obligations) of, you, the Acquired Business and your and their respective subsidiaries and other companies with which you, the Target or your or its subsidiaries may have commercial or other relationships. With respect to any securities and/or financial instruments so held by any Commitment Party or any of its affiliates or any of their respective customers, all rights in respect of such securities and financial instruments, including any voting rights, will be exercised by the holder of the rights, in its sole discretion.

Each Agent or its affiliates may also co-invest with, make direct investments in, and invest or co-invest client monies in or with funds or other investment vehicles managed by other parties, and such funds or other investment vehicles may trade or make investments in securities of you, the Acquired Business or other companies that may be the subject of the arrangements contemplated by this Commitment Letter or engage in commodities trading with any thereof.

9. Confidentiality.

This Commitment Letter is delivered to you on the understanding that none of this Commitment Letter, the Original Commitment Letter, the First A&R Commitment Letter (together with the Commitment Letter and the Original Commitment Letter, the "Commitment Letters"), the Fee Letter, the amended and restated fee letter dated March 15, 2016 (the "First A&R Fee Letter") or the fee letter dated March 3, 2016 (the "Original Fee Letter"), and together with the Fee letter and the First A&R Fee

Letter, the “Fee Letters”) between the Commitment Parties and you, nor any of their terms or substance shall be disclosed, directly or indirectly, by you to any other person or entity except (a) to your subsidiaries and your and their officers, directors, affiliates, employees, equityholders, attorneys, accountants, agents and advisors who are directly involved in the consideration of this matter and on a confidential basis, (b) in connection with any pending legal or administrative proceeding or otherwise as required by applicable law or compulsory legal process (in which case you agree, to the extent permitted by applicable law, to inform us promptly thereof) or regulatory review or (c) if the Agents consent in writing to such proposed disclosure (such consent not to be unreasonably withheld); provided that (i) you may disclose the Commitment Letters and the Fee Letters and in each case the contents thereof (subject to usual and customary redactions reasonably satisfactory to the

Agents) to the Acquired Business and the officers, directors, employees, equityholders, attorneys, accountants and advisors, controlling persons and equity holders thereof, in each case who are directly involved in the consideration of this matter and on a confidential basis, (ii) you may disclose the Commitment Letters and in each case the contents thereof (but you may not disclose the Fee Letters or in each case the contents thereof) in any prospectus or other offering memorandum relating to the Senior Subordinated Notes or in any filing with the SEC in connection with the Transactions, (iii) you may disclose the Term Sheets and the other exhibits and annexes to the Commitment Letters, and in each case the contents thereof, to any rating agencies in connection with obtaining ratings for the Borrower and the Facilities, (iv) you may disclose the aggregate fee amounts contained in the Fee Letters as part of a generic disclosure of aggregate sources and uses related to fee amounts applicable to the Transactions to the extent customary or required in offering and marketing materials for the Facilities and/or the Senior Subordinated Notes or in any public release or filing relating to the Transactions and (v) in connection with the enforcement of your rights hereunder. Your obligations under this paragraph (other than in respect of the Fee Letters) shall expire on the date occurring 12 months after the date of the Original Commitment Letter.

The Agents and their respective affiliates will use all confidential information provided to them or such affiliates by or on behalf of you hereunder solely for the purpose of providing the services that are the subject of this Commitment Letter and shall treat confidentially all such information; provided that nothing herein shall prevent the Agents from disclosing any such information (a) pursuant to the order of any court or administrative agency or in any pending legal or administrative proceeding, or otherwise as required by applicable law or compulsory legal process (in which case the Agents, to the extent permitted by law, agree to inform you promptly thereof), (b) upon the request or demand of any regulatory authority or self-regulatory body having jurisdiction or oversight over the Agents or any of their respective affiliates, their business or operations, (c) to the extent that such information becomes publicly available other than by reason of improper disclosure by the Agents or any of their affiliates, (d) to the extent that such information is received by the Agents from a third party that is not to their knowledge subject to confidentiality obligations to you or the Acquired Business, (e) to the extent that such information is independently developed by the Agents, (f) to the Agents’ respective affiliates and their and their affiliates’ respective officers, directors, employees, legal counsel, independent auditors and other experts or agents who need to know such information in connection with the Transactions and are informed of the confidential nature of such information and are directed to maintain the confidentiality of same as provided herein, (g) to potential Lenders, participants or assignees (other than Disqualified Institutions) or any potential counterparty (or its advisors) to any swap or derivative transaction relating to the Borrower, the Acquired Business or any of their respective affiliates or any of their respective obligations, in each case who agree that they shall be bound by the terms of this paragraph (or language substantially similar to this paragraph), including in any confidential information memorandum or other marketing materials, in accordance with our standard syndication processes or customary market standards for dissemination of such type of information, (h) for purposes of establishing a “due diligence” defense, (i) to enforce their respective rights under the Commitment Letters or the Fee Letters or (j) to rating agencies on a confidential basis in connection with their evaluation of any debt securities issued or sold in connection with the Transactions or in any offering documentation to prospective investors of such securities. The Agents’ obligations under this paragraph shall automatically terminate and be superseded by the

confidentiality provisions in the Credit Documentation upon the execution and delivery of the Credit Documentation and initial funding thereunder or shall expire on the date occurring 12 months after the date of the Original Commitment Letter, whichever occurs earlier.

10. Assignments; Etc.

This Commitment Letter and the Fee Letter (and your rights and obligations hereunder and thereunder) shall not be assignable by you without the prior written consent of each Lead Arranger and each Agent (and any attempted assignment without such consent shall be null and void), are intended to be solely for the benefit of the parties hereto and thereto (and Indemnified Persons), are not intended to confer any benefits upon, or create any rights in favor of, any person other than the parties hereto and thereto (and Indemnified Persons) and may not be relied upon by any person or entity other than you. Each Initial Lender may assign its commitment hereunder to one or more prospective Lenders (other than to a Disqualified Institution); provided that (a) no Initial Lender shall be relieved or novated from its obligations hereunder (including its obligation to fund the Facilities on the Closing Date) in connection with any syndication, assignment or participation of the Facilities (including its commitments in respect thereof) until after the initial funding of the Facilities on the Closing Date, (b) no assignment or novation shall become effective with respect to all or any portion of any Initial Lender’s commitment in respect of the Facilities until the initial funding of the Facilities on the Closing Date, and (c) unless you agree in writing, the Initial Lenders shall retain exclusive control over all rights and obligations with respect to their respective commitments in respect of the applicable Facilities, including all rights with respect to consents, modifications, supplements and amendments, until the initial funding of the Facilities on the Closing Date has occurred. Any and all obligations of, and services to be provided by an Agent hereunder (including, without limitation, the commitment of such Agent) may be performed and any and all rights of the Agents hereunder may be exercised by or through any of their respective affiliates or branches; provided that with respect to the commitments, any assignments thereof to an affiliate will not relieve the Agents from any of their obligations hereunder unless and until such affiliate shall have funded the portion of the commitment so assigned. The parties hereby agree that MLPFS may, without notice to the Borrower or any other person, assign its rights and obligations under this Commitment Letter and the Fee Letter to any other registered broker-dealer wholly-owned by Bank of America Corporation to which all or substantially all of Bank of America Corporation’s or any of its subsidiaries’ investment banking, commercial lending services or related businesses may be transferred following the date of this Commitment Letter.

11. Amendments; Governing Law; Etc.

This Commitment Letter and the Fee Letter may not be amended or modified, or any provision hereof or thereof waived, except by an instrument in writing signed by you and each Agent. Each of this Commitment Letter and the Fee Letter may be executed in any number of counterparts, each of which shall be an original and all of which, when taken together, shall constitute one agreement. Delivery of an executed signature page of this Commitment Letter or the Fee Letter by facsimile (or other electronic, i.e. a “pdf” or “tif”) transmission shall be effective as delivery of a manually executed counterpart hereof or thereof, as the case may be. Section headings used herein and in the Fee Letter are for convenience of reference only, are not part of this Commitment Letter or the Fee Letter, as the case may be, and are not to affect the

construction of, or to be taken into consideration in interpreting, this Commitment Letter or the Fee Letter, as the case may be. Notwithstanding anything to the contrary set forth herein, each Agent may, in consultation with you, place customary advertisements in financial and other newspapers and periodicals or on a home page or similar place

for dissemination of customary information on the Internet or worldwide web as it may choose, and circulate similar promotional materials, after the Closing Date in the form of a “tombstone” or otherwise describing the names of the Borrower, the Acquired Business and their respective affiliates (or any of them), and the amount, type and closing date of the transactions contemplated hereby, all at the expense of such Agent. This Commitment Letter and the Fee Letter set forth the entire agreement between the parties hereto as to the matters set forth herein and therein and supersede all prior understandings, whether written or oral, between us with respect to the matters herein and therein. Each of the parties hereto agrees that (i) this Commitment Letter is a binding and enforceable agreement with respect to the subject matter contained herein, including an agreement to negotiate in good faith the Credit Documentation by the parties hereto in a manner consistent with this Commitment Letter, it being acknowledged and agreed that the funding of the Incremental Term Loan B Facility is subject only to the Funding Conditions as provided herein and (ii) the Fee Letter is a binding and enforceable agreement with respect to the subject matter contained therein. **THIS COMMITMENT LETTER AND THE FEE LETTER SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK (WITHOUT REGARD TO THE CONFLICTS OF LAW PROVISIONS THEREOF);** provided, however, that (a) the interpretation of the definition of Target Material Adverse Effect (as defined in Exhibit D) and whether there shall have occurred a Target Material Adverse Effect, (b) whether the Acquisition has been consummated as contemplated by the Acquisition Agreement, and (c) the determination of whether the representations made by the Acquired Business or any of its affiliates are accurate and whether as a result of any inaccuracy of any such representations the Borrower or any of its affiliates have the right to terminate its (or their) obligations, or has the right not to consummate the Acquisition, under the Acquisition Agreement, in each case, shall be governed by, and construed in accordance with, the domestic laws of the State of Delaware without regard to the principles of conflicts of law.

12. Jurisdiction.

Each of the parties hereto hereby irrevocably and unconditionally (a) submits, for itself and its property, to the exclusive jurisdiction of any New York State court or Federal court of the United States of America sitting in the County of New York, Borough of Manhattan, and any appellate court from any thereof, in any action or proceeding arising out of or relating to this Commitment Letter, the Fee Letter or the transactions contemplated hereby or thereby, or for recognition or enforcement of any judgment, and agrees that all claims in respect of any such action or proceeding shall be heard and determined only in such courts located within New York County, (b) waives, to the fullest extent it may legally and effectively do so, any objection that it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Commitment Letter, the Fee Letter or the transactions contemplated hereby or thereby in any such New York State or Federal court, as the case may be, (c) waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court and (d) agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the

15

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judgment or in any other manner provided by law. Service of any process, summons, notice or document by registered mail or overnight courier addressed to you at the address above shall be effective service of process against you for any suit, action or proceeding brought in any such court. Nothing in this paragraph shall affect the right of any Commitment Party, any of its affiliates or any Indemnified Party to serve process in any manner permitted by law.

13. Waiver of Jury Trial.

EACH OF THE PARTIES HERETO IRREVOCABLY WAIVES ANY RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING, SUIT, CLAIM OR COUNTERCLAIM BROUGHT BY OR ON BEHALF OF ANY PARTY RELATED TO OR ARISING OUT OF THIS COMMITMENT LETTER, THE FEE LETTER OR THE PERFORMANCE OF SERVICES HEREUNDER OR THEREUNDER.

14. Surviving Provisions.

The provisions of Sections 3, 6, 7, 8, 9, 11, 12, 13 and 14 of this Commitment Letter and the provisions of the Fee Letter shall remain in full force and effect regardless of whether definitive Credit Documentation shall be executed and delivered (other than those provisions relating to syndication which shall terminate upon the expiration or termination of this Commitment Letter if no definitive Credit Documentation shall have been executed and delivered) and notwithstanding the termination of this Commitment Letter or the commitments of the Agents hereunder and our agreements to perform the services described herein; provided that your obligations under this Commitment Letter and the Fee Letter (other than those provisions relating to confidentiality, the syndication of the Facilities and the payment of agency fees to any Agent) shall automatically terminate and be superseded by (to the extent covered by comparable provisions in) the definitive Credit Documentation relating to the Facilities upon the initial funding thereunder and the payment of all amounts owing at such time hereunder and under the Fee Letter. You may terminate the Initial Lenders’ commitments with respect to the Facilities hereunder at any time in their entirety (but not in part), subject to the provisions of the preceding sentence, by written notice to the Initial Lenders.

15. PATRIOT Act Notification.

Each Agent hereby notifies you that each Agent and each Lender subject to the USA PATRIOT ACT (Title III of Pub. Law 107-56 (signed into law October 26, 2001)) (as amended from time to time, the “PATRIOT Act”) is required to obtain, verify and record information that identifies the Borrower and each other obligor under the Facilities and any related Credit Documentation and other information that will allow such Lender to identify the Borrower and each other obligor in accordance with the PATRIOT Act. This notice is given in accordance with the requirements of the PATRIOT Act and is effective as to each Agent and each Lender. You hereby acknowledge and agree that the Agents shall be permitted to share any or all such information with the Lenders.

16. Termination and Acceptance.

Each Initial Lender’s commitments with respect to the Facilities as set forth above, and each Agent’s agreements to perform the services described herein, will automatically

16

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terminate (without further action or notice and without further obligation to you) on the first to occur of (i) 11:59 p.m. New York City time on December 5<sup>th</sup>, 2016 (the “End Date”); provided, that if the “End Date” as defined and referenced to in the Acquisition Agreement as in effect on the date hereof is extended pursuant to Section 10.01(b) (i) thereof, then the Borrower shall have the right to extend the End Date accordingly up to an additional ninety (90) days by notifying us in writing of such election prior to the end of the End Date (prior to giving effect to any such extension), (ii) the date of the termination of the Acquisition Agreement in accordance with its terms (other than with respect to terms that survive such termination), (iii) with respect to any portion of the Incremental Term Loan B Facility, if and to the extent the consummation of the Acquisition occurs without the use of such portion of the Incremental Term Loan B Facility or (iv) the earliest date on which you release a written public statement of your intention not to consummate the Transactions. In addition, our commitment hereunder to provide and arrange the Senior Subordinated Bridge Facility will terminate upon, and to the extent of, the issuance of the Senior Subordinated Notes or the Securities (as defined in the Fee Letter) in lieu thereof.

If the foregoing correctly sets forth our agreement with you, please indicate your acceptance of the terms of this Commitment Letter and of the Fee Letter by returning to us executed counterparts hereof and of the Fee Letter not later than 11:59 p.m., New York City time, on July 31, 2016. The commitments of the Initial Lenders

hereunder, and the Agents' agreements to perform the services described herein, will expire automatically (and without further action or notice and without further obligation to you) at such time in the event that we have not received such executed counterparts in accordance with the immediately preceding sentence.

[Remainder of this page intentionally left blank]

17

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We are pleased to have been given the opportunity to assist you in connection with this important financing.

Very truly yours,

CITIGROUP GLOBAL MARKETS INC.

By: /s/ Matthew S. Burke  
Name: Matthew S. Burke  
Title: Managing Director

[Second Amended and Restated Commitment Letter]

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BANK OF AMERICA, N.A.

By: /s/ Matt Lynn  
Name: Matt Lynn  
Title: Managing Director

MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED

By: /s/ Matt Lynn  
Name: Matt Lynn  
Title: Managing Director

[Second Amended and Restated Commitment Letter]

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BARCLAYS BANK PLC

By: /s/ Timothy Broadbent  
Name: Timothy Broadbent  
Title: Managing Director

[Second Amended and Restated Commitment Letter]

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CREDIT SUISSE AG, CAYMAN ISLANDS BRANCH

By: /s/ Bill O'Daly  
Name: Bill O'Daly  
Title: Authorized Signatory

By: /s/ Karim Rahimtoola  
Name: Karim Rahimtoola  
Title: Authorized Signatory

CREDIT SUISSE SECURITIES (USA) LLC

By: /s/ Jeb Slowik  
Name: Jeb Slowik  
Title: Managing Director

[Second Amended and Restated Commitment Letter]

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HSBC BANK USA, N.A.

By: /s/ Jad Atallah  
Name: Jad Atallah  
Title: Director

HSBC SECURITIES (USA) INC.

By: /s/ Jad Atallah  
Name: Jad Atallah  
Title: Director

[Second Amended and Restated Commitment Letter]

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Accepted and agreed to as of the date first above written:

AMC ENTERTAINMENT HOLDINGS, INC.

By: /s/ Terry W. Crawford  
Name: Terry W. Crawford  
Title: Sr. Vice President and Treasurer

[Second Amended and Restated Commitment Letter]

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EXHIBIT A

Project Carl  
Transaction Description

Capitalized terms used but not defined in this Exhibit A shall have the meanings set forth in the commitment letter to which this Exhibit A is attached (the "Commitment Letter") and in the other Exhibits to the Commitment Letter.

The Borrower intends to (i) acquire all of the outstanding equity of a company identified to us and code-named "Carl" (the "Target" and, together with its subsidiaries (if any), the "Acquired Business") on the Closing Date (as defined below), by way of (a) a purchase transaction and merger of a newly-formed direct or indirect wholly-owned subsidiary (such subsidiary, "Merger Sub") of the Borrower with and into the Target (the "Merger") in accordance with the Acquisition Agreement, either as a forward or reverse merger with the Merger Sub or the Target as the surviving entity of the Merger (such entity, the "Surviving Company") (the "Acquisition"); and (ii) refinance in full all outstanding indebtedness (other than contingent obligations not then due and that by their terms expressly survive the termination of the foregoing) outstanding and terminate all commitments under that certain Credit Agreement dated as of June 17, 2015 by and among the Target and the lenders and agents party thereto, as amended, of the Target (such refinancings, the "Refinancing").

You have further advised us that in connection with the Acquisition:

(A) on the date of the consummation of the Merger, the Borrower shall borrow incremental term loans (the "Incremental Term Loan B Facility") under the Borrower's existing credit agreement dated April 30, 2013 (as amended by that certain First Amendment to Credit Agreement dated December 11, 2015, the "Existing Credit Agreement") in an aggregate amount of up to \$225.0 million, which may, at the Borrower's option, be decreased by the proceeds of Senior Subordinated Notes (as defined below) in accordance with clause (B) below; and

(B) the Borrower will, at its option, either (i) issue in one or more Offerings (as defined below) an aggregate principal amount of its senior subordinated notes (the "Senior Subordinated Notes") that, taken together, generate gross proceeds on or prior to the date of the consummation of the Merger, the Acquisition and funding of the Incremental Term Loan B Facility and the Senior Subordinated Bridge Facility (if applicable) (the "Closing Date") of not less than \$300.0 million with the proceeds deposited into an escrow account pending release on the Closing Date; or (ii) to the extent the Borrower receives gross proceeds from the Offerings on or prior to the Closing Date in an amount less than \$300.0 million, then the Borrower will borrow on the Closing Date senior subordinated bridge loans (the "Senior Subordinated Bridge Loans") under a senior subordinated increasing rate bridge facility (the "Senior Subordinated Bridge Facility" and, together with the Incremental Term Loan B Facility, the "Facilities") in an aggregate principal amount of up to \$300.0 million; provided, for the avoidance of doubt, that at the Borrower's option, a portion of the Incremental Term Loan B Facility may be allocated to the issuance of the Senior Subordinated Notes.

A-1

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"Offerings" means, collectively, any Rule 144A or other private placement of Senior Subordinated Notes and any offering or placement of Securities (as defined in the Fee Letter), in each case that is consummated after the date hereof and on or prior to the Closing Date (it being understood that the terms "Offerings" and "Senior Subordinated Notes" as used herein exclude any offering or placement of securities contemplated by, or that reduces any commitment or is required to repay or refinance any indebtedness contemplated by, the Project Nola Commitment Letter and/or related fee letter).

"Transactions" means, collectively, the Merger, the Acquisition, the Refinancing and the other transactions described above in clauses (A) and (B).

Project Carl  
\$225.0 million Incremental Term Loan B Facility  
Summary of Principal Terms and Conditions(1)

<u>Borrower:</u>	AMC Entertainment Holdings, Inc., a Delaware corporation (the “ <u>Borrower</u> ”).
<u>Administrative Agent:</u>	Same as the Existing Credit Agreement.
<u>Joint Lead Arrangers and Joint Bookrunners:</u>	Each of Citi, MLPFS, Barclays, CS Securities and HSBC Securities will act as a lead arranger and a bookrunner for the Incremental Term Loan B Facility (as defined below), and will perform the duties customarily associated with such roles (in such capacities, the “ <u>Lead Arrangers</u> ”).
<u>Incremental Term Loan B Facility:</u>	<ol style="list-style-type: none"> <li>1. <u>Amount</u>: “B” incremental term loan facility in an aggregate principal amount of up to \$225.0 million, which amount shall be automatically reduced by the net cash proceeds of Senior Subordinated Notes in excess of \$300.0 million (the “<u>Incremental Term Loan B Facility</u>”).</li> <li>2. <u>Currency</u>: U.S. dollars.</li> <li>3. <u>Use of Proceeds</u>: The loans made pursuant to the Incremental Term Loan B Facility (the “<u>Incremental Term Loans</u>”) may only be incurred on the Closing Date and the proceeds thereof shall be utilized, together with the proceeds of the Senior Subordinated Notes, the Securities or the Senior Subordinated Bridge Facility, as applicable, solely (i) to finance, in part, the Acquisition and the Refinancing and to pay the fees, premiums, expenses and other transaction costs in connection with the Transactions, including OID and upfront fees and (ii) to the extent any portion of the Incremental Term Loan B Facility remains available following application of proceeds pursuant to preceding clause (i), for general corporate purposes.</li> <li>4. <u>Maturity</u>: The final maturity date of the Incremental Term Loan B Facility shall be December 15, 2022 (the “<u>Incremental Term Loan Maturity Date</u>”).</li> <li>5. <u>Amortization</u>: (i) Annual amortization (payable in four equal quarterly installments) of the Incremental Term Loans shall be required in an amount equal to 1.00% of the initial aggregate principal amount of the Incremental Term Loans.</li> </ol>

(1) All capitalized terms used but not defined herein have the meanings given to them in the Commitment Letter to which this term sheet is attached, including the other Exhibits thereto.

## B-1

(ii) The remaining aggregate principal amount of Incremental Term Loans originally incurred shall be due and payable in full on the Incremental Term Loan Maturity Date.

6. Availability: Incremental Term Loans may only be incurred on the Closing Date. Once repaid, no amount of Incremental Term Loans may be reborrowed.

<u>Guarantees and Security:</u>	Same as the Existing Credit Agreement subject in each case to the Funds Certain Provisions. “ <u>Guaranties</u> ”, “ <u>Guarantors</u> ” and “ <u>Collateral</u> ” shall be as defined in the Existing Credit Agreement; <u>provided</u> , that, so long as the Target Indenture remains outstanding, the Target and its subsidiaries, as applicable, shall not be required to become Guarantors or pledgors to the extent prohibited or restricted under the Target Indenture.
<u>Documentation:</u>	The definitive documentation governing the Incremental Term Loan B Facility (the “ <u>Incremental Credit Documentation</u> ”) will be the Existing Credit Agreement as amended by the Incremental Amendment (as defined in the Existing Credit Agreement) (the “ <u>Documentation Principles</u> ”); and the funding under the Incremental Credit Documentation on the Closing Date will be subject only to the Funding Conditions. The Incremental Credit Documentation shall contain language to address the European Union bail-in rules (including in a representation and in “Defaulting Lenders” provisions) in a form reasonably satisfactory to the Borrower and the Administrative Agent.
<u>Voluntary Prepayments:</u>	101% soft call protection shall be applicable to the Incremental Term Loan B Facility from the Closing Date until the six-month anniversary thereof; <u>provided</u> that, in the event the Incremental Term Loan B Facility is, at the option of the Lead Arrangers, structured as a “tack on” to the existing Term Loans under and as defined in the Existing Credit Agreement, soft call protection shall be applicable to the Incremental Term Loan B Facility as set forth in the Existing Credit Agreement with respect to the existing Term Loans.
<u>Mandatory Repayments and Commitment Reductions:</u>	Same as the Existing Credit Agreement.
<u>Interest Rates:</u>	At the Borrower’s option, Incremental Term Loans may be maintained from time to time as (x) Base Rate Loans, which shall bear interest at the Base Rate (or, if greater at any time, the Base Rate Floor (as defined below)) in effect from time to time <u>plus</u> the Applicable Margin (as defined below) or (y) LIBOR Loans, which shall bear interest at LIBOR (adjusted for statutory reserve requirements) as determined by the Administrative Agent for the respective interest period (or, if greater at any time, the LIBOR Floor (as defined below)), <u>plus</u> the Applicable



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Margin.

“Applicable Margin” shall mean a percentage per annum equal to (i) in the case of (A) Base Rate Loans, 2.25%, and (B) LIBOR Loans, 3.25%.

“Base Rate” shall mean the highest of (x) the rate that the Administrative Agent announces from time to time as its prime lending rate, as in effect from time to time, (y) 1/2 of 1% in excess of the overnight federal funds rate, and (z) LIBOR for an interest period of one month plus 1.00%.

“Base Rate Floor” shall mean 1.75% per annum.

“LIBOR Floor” shall mean 0.75% per annum.

Interest periods of 1, 2, 3 and 6 months or, to the extent agreed to by all Lenders with commitments and/or Incremental Term Loans under a given tranche of the Incremental Term Loan B Facility, 12 months or periods shorter than 1 month shall be available in the case of LIBOR Loans.

Interest in respect of Base Rate Loans shall be payable quarterly in arrears on the last business day of each calendar quarter. Interest in respect of LIBOR Loans shall be payable in arrears at the end of the applicable interest period and every three months in the case of interest periods in excess of three months. Interest will also be payable at the time of repayment of any Loans and at maturity. All interest on Base Rate Loans, LIBOR Loans and commitment fees and any other fees shall be based on a 360-day year and actual days elapsed (or, in the case of Base Rate Loans determined by reference to the prime lending rate, a 365/366-day year and actual days elapsed).

<u>Default Interest:</u>	Same as the Existing Credit Agreement.
<u>Yield Protection:</u>	Same as the Existing Credit Agreement.
<u>Agent/Lender Fees:</u>	The Administrative Agent, the Lead Arrangers and the Lenders shall receive such fees as have been separately agreed upon.
<u>Conditions Precedent:</u>	Only those conditions precedent on <u>Exhibit D</u> to the Commitment Letter, subject in each case to the Funds Certain Provisions.
<u>Representations and Warranties:</u>	Same as the Existing Credit Agreement.
<u>Affirmative, Negative and Financial Covenants:</u>	Same as the Existing Credit Agreement.

B-3

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<u>Unrestricted Subsidiaries:</u>	Same as the Existing Credit Agreement.
<u>Events of Default:</u>	Same as the Existing Credit Agreement.
<u>Assignments and Participations:</u>	Same as the Existing Credit Agreement (other than Disqualified Institutions).
<u>Waivers and Amendments:</u>	Same as the Existing Credit Agreement.
<u>Defaulting Lenders:</u>	Same as the Existing Credit Agreement.
<u>Indemnification; Expenses:</u>	Same as the Existing Credit Agreement.
<u>Governing Law and Forum; Submission to Exclusive Jurisdiction:</u>	Same as the Existing Credit Agreement (New York).
<u>Counsel to the Administrative Agent and the Lead Arrangers:</u>	Latham & Watkins LLP.

B-4

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EXHIBIT C

Project Carl  
\$300.0 million Senior Subordinated Bridge Facility  
Summary of Principal Terms and Conditions

<u>Borrower:</u>	AMC Entertainment Holdings, Inc., a Delaware corporation (the “ <u>Borrower</u> ”).
<u>Agent:</u>	Citi, acting through one or more of its branches or affiliates, will act as sole administrative agent (in such capacity, the “ <u>Bridge Facility Administrative Agent</u> ”) and Citi will act as syndication agent for a syndicate of banks, financial institutions and other lenders, excluding any Disqualified Institutions (the “ <u>Bridge Lenders</u> ”), and will perform the duties customarily associated with such roles.

Joint Lead Arrangers and Joint Bookrunners:

Each of Citi, MLPFS, Barclays, CS Securities and HSBC Securities will act as a lead arranger and a bookrunner for the Senior Subordinated Bridge Facility, and will perform the duties customarily associated with such roles (in such capacities, the “Lead Bridge Arrangers”).

Senior Subordinated Bridge Facility:

Senior subordinated unsecured bridge loans in an aggregate principal amount of up to \$300.0 million, *less* the aggregate gross cash proceeds from any Senior Subordinated Notes and Securities (as defined in the Fee Letter) issued (i) on the Closing Date or (ii) prior to the Closing Date, with the proceeds thereof deposited into an escrow account pending release on the Closing Date (the “Senior Subordinated Bridge Loans”) provided that the escrow agreement shall be in form and substance acceptable to the Borrower and the Lead Bridge Arrangers and the escrow arrangement and release condition of such proceeds from the escrow account shall be subject to the Funds Certain Provisions and not be more restrictive to the Borrower than the Funding Conditions.

Purpose:

The proceeds of the Senior Subordinated Bridge Loans will be used by the Borrower on the Closing Date, together with the proceeds from the Incremental Term Loan B Facility, and the issuance of Senior Subordinated Notes and/or Securities (if any), to finance the Merger and to pay related transaction costs.

Availability:

The Bridge Lenders will make the Senior Subordinated Bridge Loans on the Closing Date in a single drawing. Amounts

C-1

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borrowed under the Senior Subordinated Bridge Facility that are repaid or prepaid may not be reborrowed.

Guarantees:

Same as the Borrower’s existing 5.75% Senior Subordinated Notes due 2025 (the “Existing Subordinated Notes”); provided, that so long as the Target Indenture remains outstanding, the Target and its subsidiaries, as applicable, shall not be required to become guarantors to the extent prohibited or restricted under the Target Indenture.

Security:

None.

Interest Rates:

The Senior Subordinated Bridge Loans shall bear interest, reset quarterly, at the rate of the Adjusted LIBOR plus 6.00% per annum (the “Interest Rate”) and such spread over Adjusted LIBOR shall automatically increase by 0.50% for each period of three months (or portion thereof) after the Closing Date that Senior Subordinated Bridge Loans are outstanding; provided, however, that the interest rate determined in accordance with the foregoing shall not exceed the Total Bridge Loan Cap (as defined in the Fee Letter) (excluding interest at the default rate as described below).

“Adjusted LIBOR” on any date, means the greater of (i) 1.00% and (ii) the rate (adjusted for statutory reserve requirements for eurocurrency liabilities) for eurodollar deposits for a three-month period appearing on the LIBOR 01 page published by Reuters two business days prior to such date.

Upon the occurrence of a Demand Failure Event (as defined in the Fee Letter), the outstanding Senior Subordinated Bridge Loans shall automatically begin to accrue interest at the Total Bridge Loan Cap.

Interest Payments:

Interest on the Senior Subordinated Bridge Loans will be payable in cash, quarterly in arrears.

Default Rate:

Overdue principal, interest and other amounts shall bear interest, after as well as before judgment, at a rate per annum equal to 2.00% plus the Interest Rate.

Conversion and Maturity:

Any outstanding amount under the Senior Subordinated Bridge Loans will be required to be repaid on the earlier of (a) the closing date(s) of any permanent financing(s), but only to the extent of the net cash proceeds realized therefrom, and (b) the one-year anniversary of the initial funding date of the Senior Subordinated Bridge Loans (the “Bridge Loan Maturity Date”); provided, however, that if the Borrower has failed to raise

C-2

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permanent financing before the date set forth in clause (b) above, the Senior Subordinated Bridge Loans shall be converted, subject to the conditions outlined under “Conditions to Conversion” on Annex C-I hereto, to a senior subordinated unsecured term loan facility (the “Senior Subordinated Extended Term Loans”) with a maturity of seven years after the Conversion Date (as defined in Annex C-I hereto). At any time or from time to time on or after the Conversion Date, upon reasonable prior written notice from the Bridge Lenders and in a minimum principal amount of at least \$100.0 million (or such lesser principal amount as represents all outstanding Senior Subordinated Extended Term Loans), the Senior Subordinated Extended Term Loans may be exchanged in whole or in part for senior subordinated unsecured exchange notes (the “Senior Subordinated Exchange Notes”) having an equal principal amount and having the terms set forth in Annex C-II hereto.

The Senior Subordinated Extended Term Loans will be governed by the provisions of the Senior Subordinated Bridge Documentation (as defined below) and will have the same terms as the Senior Subordinated Bridge Loans except as expressly set forth in Annex C-I hereto. The Senior Subordinated Exchange Notes will be issued pursuant to an indenture that will have the terms set forth on Annex C-II hereto.

Mandatory Prepayments:

The Borrower will prepay the Senior Subordinated Bridge Loans at par, together with accrued interest to the prepayment date, with any of the following: (i) the net proceeds from the issuance of the Securities (as defined in the Fee Letter); provided that in the event any Bridge Lender or affiliate of a Bridge Lender purchases debt securities from the Borrower pursuant to a “Securities Demand” under the Fee Letter at an issue price above the level at which such Bridge Lender or affiliate has reasonably determined such Securities can be resold by such Bridge Lender or affiliate to a bona fide third party at the time of such purchase (and notifies the Borrower thereof), the net proceeds received by the Borrower in respect of such Securities may, at the option of such Bridge Lender or affiliate, be applied first to repay the Senior

Subordinated Bridge Loans held by such Bridge Lender or affiliate (provided that if there is more than one such Bridge Lender or affiliate then such net proceeds will be applied pro rata to repay the Senior Subordinated Bridge Loans of all such Bridge Lenders or affiliates in proportion to such Bridge Lenders' or affiliates' principal amount of Securities purchased from the Borrower) prior to being applied to prepay the Senior Subordinated Bridge Loans held by other Bridge Lenders; (ii) subject to prepayment requirements under the Existing Credit

C-3

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Agreement, the net proceeds from any other indebtedness (including subordinated indebtedness) for borrowed money incurred by the Borrower and its restricted subsidiaries (other than purchase money and other similar indebtedness permitted under the Existing Credit Agreement); (iii) net cash proceeds from the issuance of equity interests by, or equity contributions to, Borrower (other than equity contributed pursuant to employee stock plans and excluding any issuance of equity interests to fund the Transactions); and (iv) subject to certain customary and other exceptions, reinvestment rights to be agreed upon and prepayment requirements under the Existing Credit Agreement, the net proceeds from non-ordinary course asset sales by, and casualty events related to the property of, Borrower or any of its restricted subsidiaries (including sales of equity interests of any restricted subsidiary of the Borrower).

Voluntary Prepayments:

The Senior Subordinated Bridge Loans may be prepaid at par prior to the Bridge Loan Maturity Date, in whole or in part, upon written notice, at the option of the Borrower, at any time, together with accrued interest to the prepayment date and break funding payments, if applicable.

Change of Control:

In the event of a Change of Control (to be defined in a manner consistent with the Existing Subordinated Notes, each Bridge Lender will have the right to require the Borrower, and the Borrower must offer, to prepay at par the outstanding principal amount of the Senior Subordinated Bridge Loans plus accrued and unpaid interest thereon to the date of prepayment.

Assignments and Participations:

The Bridge Lenders shall have the right to assign their interest in the Senior Subordinated Bridge Loans in whole or in part without the consent of the Borrower (other than to Disqualified Institutions); provided, however, that (i) prior to the date that is one year after the Closing Date and unless a Demand Failure Event in respect of the Senior Subordinated Bridge Loans has occurred or a payment or bankruptcy event of default shall have occurred and be continuing, the consent of the Borrower shall be required with respect to any assignment (such consent not to be unreasonably withheld, delayed or conditioned) if, subsequent thereto, the Commitment Parties (together with their respective affiliates) would hold, in the aggregate, less than 50.1% of the outstanding Senior Subordinated Bridge Loans and (ii) the Borrower shall be notified of such assignment. For any assignments for which the Borrower's consent is required, such consent shall be deemed to have been given if the Borrower has not responded within five business days of a written request for

C-4

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such consent.

The Bridge Lenders shall have the right to participate their interest in the Senior Subordinated Bridge Loans without restriction, other than customary voting limitations and, to the extent the list of Disqualified Institutions is made available to all Bridge Lenders to Disqualified Institutions. Participants will have the same benefits as the selling Bridge Lenders would have (and will be limited to the amount of such benefits) with regard to cost and yield protection, subject to customary limitations and restrictions.

Documentation:

The definitive credit documentation for the Senior Subordinated Bridge Facility (the "Senior Subordinated Bridge Documentation") will be consistent with the indenture governing the Existing Subordinated Notes, as modified to (i) reflect the terms and conditions set forth herein and in the Commitment Letter, (ii) take account of differences related to the operational requirements of the Borrower, the Acquired Business and their respective subsidiaries in light of their size, industries, businesses, business practices (after giving effect to the Transactions and, if consummated, the Nola Acquisition); provided that "baskets" may be greater than those contained in the Existing Subordinated Notes after giving due consideration to the pro forma metrics of the Borrower and (iii) operational and administrative changes reasonably required by the Bridge Facility Administrative Agent, the definitive terms of which will be negotiated in good faith (the "Bridge Documentation Principles"); and the Senior Subordinated Bridge Documentation will be subject only to the Funding Conditions. Notwithstanding the foregoing and subject to the following sentence, the Senior Subordinated Bridge Documentation will contain only those mandatory repayments, representations, warranties, covenants and events of default expressly set forth (or referred to) in this Term Sheet, and only the conditions to borrowing set forth or referred to in Exhibit D to the Commitment Letter (subject to the Funds Certain Provisions). The Senior Subordinated Bridge Documentation shall contain language to address the European Union bail-in rules (including in a representation and in "Defaulting Lenders" provisions) in a form reasonably satisfactory to the Borrower and the Bridge Facility Administrative Agent.

Conditions Precedent to Borrowing:

Only the conditions precedent on Exhibit D to the Commitment Letter, subject in each case to the Funds Certain Provisions.

Representations and

The Senior Subordinated Bridge Documentation will contain

C-5

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Warranties:

representations and warranties relating to the Borrower and its subsidiaries substantially similar to those contained in the Existing Credit Agreement, with such changes as are appropriate to reflect the bridge loan nature of the Senior

Subordinated Bridge Loans (and in any event such representations and warranties shall be no more restrictive to the Borrower and its subsidiaries than those set forth in the Existing Credit Agreement).

Covenants: The Senior Subordinated Bridge Documentation will contain affirmative and incurrence-based negative covenants relating to the Borrower and its restricted subsidiaries consistent, to the extent applicable, with the Bridge Documentation Principles. The negative covenants governing restricted payments, liens and limitations on indebtedness shall be no more restrictive than those set forth in the Existing Credit Agreement prior to the Conversion Date. The Senior Subordinated Bridge Documentation shall not contain any financial maintenance covenants.

Events of Default: Customary for transactions of this type and consistent with the Bridge Documentation Principles, including, without limitation, payment defaults, covenant defaults, bankruptcy and insolvency, monetary judgments in an amount in excess of an amount to be agreed, cross acceleration of and failure to pay at final maturity other indebtedness aggregating an amount in excess of an amount to be agreed, subject to, in certain cases, customary thresholds and grace periods.

Voting: Amendments and waivers of the Senior Subordinated Bridge Documentation will require the approval of Bridge Lenders holding at least a majority of the outstanding Senior Subordinated Bridge Loans, except that the consent of each affected Bridge Lender will be required for, among other things, (i) reductions of principal, interest rates or fees, (ii) extensions of the Bridge Loan Maturity Date, (iii) additional restrictions on the right to exchange Senior Subordinated Extended Term Loans for Senior Subordinated Exchange Notes or any amendment of the rate of such exchange or (iv) any amendment to the Senior Subordinated Exchange Notes that requires (or would, if any Senior Subordinated Exchange Notes were outstanding, require) the approval of all holders of Senior Subordinated Exchange Notes.

Cost and Yield Protection: To conform to the Existing Credit Agreement.

C-6

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Expenses and Indemnification: To conform to the Existing Credit Agreement.

Governing Law and Forum; Submission to Exclusive Jurisdiction: All Senior Subordinated Bridge Documentation shall be governed by the internal laws of the State of New York. The Borrower and the Guarantors will submit to the exclusive jurisdiction and venue of any New York State court or Federal court sitting in the County of New York, Borough of Manhattan, and appellate courts thereof.

Counsel to the Bridge Facility Administrative Agent and the Lead Bridge Arrangers: Latham & Watkins LLP.

C-7

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ANNEX C-I

Senior Subordinated Extended Term Loans

Borrower: Same as Senior Subordinated Bridge Loans.

Guarantees: Same as Senior Subordinated Bridge Loans.

Security: None.

Facility: Subject to “Conditions to Conversion” below, the Senior Subordinated Bridge Loans will convert into senior subordinated unsecured extended loans (the “Senior Subordinated Extended Term Loans”) in an initial principal amount equal to 100% of the outstanding principal amount of the Senior Subordinated Bridge Loans on the one-year anniversary of the Closing Date (the “Conversion Date”). Subject only to the conditions precedent set forth below, the Senior Subordinated Extended Term Loans will be available to the Borrower to refinance the Senior Subordinated Bridge Loans on the Conversion Date. The Senior Subordinated Extended Term Loans will be governed by the Senior Subordinated Bridge Documentation and, except as set forth below, shall have the same terms as the Senior Subordinated Bridge Loans.

Maturity: Seven years from the Conversion Date (the “Final Maturity Date”).

Interest Rate: The Senior Subordinated Extended Term Loans shall bear interest, payable in cash semi-annually, in arrears at a fixed rate per annum equal to the Total Bridge Loan Cap.

Covenants, Events of Default and Prepayments: From and after the Conversion Date, the covenants, events of default and mandatory prepayment provisions applicable to the Senior Subordinated Extended Term Loans will conform to those applicable to the Senior Subordinated Exchange Notes (described on Annex C-II), except with respect to the right to exchange Senior Subordinated Extended Term Loans for Senior Subordinated Exchange Notes; provided that the optional prepayment provisions applicable to the Senior Subordinated Bridge Loans shall remain applicable to the Senior Subordinated Extended Term Loans.

Conditions to Conversion: One year after the Closing Date, unless (A) the Borrower is subject to a bankruptcy or other insolvency proceeding or (B) there exists a payment default (whether or not matured) with respect to the Senior Subordinated Bridge Loans or any fees

C-I-1

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payable thereunder, the Senior Subordinated Bridge Loans shall convert into the Senior Subordinated Extended Term Loans; provided, however, that if an event described in clause (B) is continuing at the scheduled Conversion Date but the applicable grace period, if any, set forth in the events of default provision of the Senior Subordinated Bridge Documentation has not expired, the Conversion Date shall be deferred until the earlier to occur of (i) the cure of such event or (ii) the expiration of any applicable grace period.

C-I-2

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ANNEX C-II

Senior Subordinated Exchange Notes

<u>Issuer:</u>	Same as Borrower under Senior Subordinated Extended Term Loans.
<u>Guarantees:</u>	Same as Senior Subordinated Extended Term Loans.
<u>Maturity:</u>	Seven years from the Conversion Date.
<u>Security:</u>	None.
<u>Interest Rate; Redemption:</u>	<p>Each Senior Subordinated Exchange Note will bear interest, payable in cash semi-annually in arrears, at a fixed rate per annum equal to the Total Bridge Loan Cap. Except as set forth below, the Senior Subordinated Exchange Notes will be non-callable until the third anniversary of the Closing Date and will be callable thereafter at par plus accrued interest plus a premium equal to three-fourths of the coupon of the Senior Subordinated Exchange Notes, declining ratably to par on the date that is two years prior to maturity of the Senior Subordinated Exchange Notes. The Senior Subordinated Exchange Notes will provide for mandatory repurchase offers consistent with the Existing Subordinated Notes.</p> <p>Prior to the third anniversary of the Closing Date, the Borrower may redeem up to 35% of such Senior Subordinated Exchange Notes with the proceeds from an equity offering at a redemption price equal to par plus accrued interest plus a premium equal to 100% of the coupon in effect on such Senior Subordinated Exchange Notes.</p> <p>Prior to the third anniversary of the Closing Date, the Borrower may redeem such Senior Subordinated Exchange Notes at a make-whole price based on U.S. Treasury notes with a maturity closest to the third anniversary of the Closing Date plus 50 basis points plus accrued interest.</p> <p>Prior to a Demand Failure Event, any Senior Subordinated Exchange Notes held by the Commitment Parties or their respective affiliates (other than (x) asset management affiliates purchasing Senior Subordinated Exchange Notes in the ordinary course of their business as part of a regular distribution of the Senior Subordinated Exchange Notes ("<u>Asset Management Affiliates</u>") and (y) Senior Subordinated Exchange Notes acquired pursuant to bona fide open market purchases from third</p>

C-II-1

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parties or market making activities), shall be prepayable and/or subject to redemption in whole or in part at par plus accrued interest on a non-ratable basis so long as such Senior Subordinated Exchange Notes are held by them.

<u>Offer to Repurchase Upon a Change of Control:</u>	The Issuer will be required to make an offer to repurchase the Senior Subordinated Exchange Notes following the occurrence of a "change of control" at a price in cash equal to 101% of the outstanding principal amount thereof, plus accrued and unpaid interest to the date of repurchase; <u>provided</u> that Senior Subordinated Exchange Notes held by the Commitment Parties or their respective affiliates (other than Asset Management Affiliates or Senior Subordinated Exchange Notes acquired pursuant to bona fide open market purchases from third parties or market making activities) shall be subject to prepayment at par, plus accrued and unpaid interest to the date of repurchase.
<u>Defeasance and Discharge Provisions:</u>	Consistent with the Existing Subordinated Notes.
<u>Modification:</u>	Consistent with the Existing Subordinated Notes.
<u>Registration Rights:</u>	Within 270 days after the issue date of the Senior Subordinated Exchange Notes, the Borrower shall file a shelf registration statement with the Securities and Exchange Commission and/or effect an exchange offer whereby the Borrower has offered registered notes having terms identical to the Senior Subordinated Exchange Notes (" <u>Substitute Notes</u> ") in exchange for all outstanding Senior Subordinated Exchange Notes (it being understood that a shelf registration statement is required to be made available in respect of Senior Subordinated Exchange Notes the holders of which could not receive Substitute Notes through the exchange offer that, in the opinion of counsel, would be freely saleable by such holders without registration or requirement for delivery of a current prospectus under the Securities Act of 1933, as amended). If a shelf registration statement is filed or required to be filed, the Borrower shall use its reasonable best efforts to cause such shelf registration statement to be declared effective within 90 days of such filing and keep such shelf registration statement effective, with respect to resales of the Senior Subordinated Exchange Notes, until the earlier of the date all Senior Subordinated Exchange Notes registered thereby have been resold and the date that is two years from the Conversion Date. Upon failure to comply with the requirements of the registration rights agreement (a " <u>Registration Default</u> "), the Borrower shall pay liquidated damages to each holder of Senior Subordinated Exchange Notes with respect to

C-II-2

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the first 90-day period immediately following the occurrence of the first Registration Default in an amount equal to one-quarter of one percent (0.25%) per annum on the principal amount of Senior Subordinated Exchange Notes held by such holder. The amount of the liquidated damages will increase by an additional one-quarter of one percent (0.25%) per annum on the principal amount of Senior Subordinated Exchange Notes with respect to each subsequent 90-day period until all Registration Defaults have been cured, up to a maximum amount of liquidated damages for all Registration Defaults of 1.00% per annum.

Right to Transfer Exchange Notes:

The holders of the Senior Subordinated Exchange Notes shall have the absolute and unconditional right to transfer such Senior Subordinated Exchange Notes in compliance with applicable law to any third parties.

Covenants:

The indenture governing the Senior Subordinated Exchange Notes will include provisions consistent with the Existing Subordinated Notes giving effect to the Bridge Documentation Principles.

Events of Default:

Consistent with the Existing Subordinated Notes.

C-II-3

EXHIBIT D

Project Carl  
Summary of Conditions Precedent

Capitalized terms used in this Exhibit D but not defined herein shall have the meanings set forth in the Commitment Letter to which this Exhibit D is attached and in the other Exhibits to the Commitment Letter.

The borrowings under the Facilities shall be subject to the following conditions precedent:

1. As a condition to the closing of the Facilities, subject to the Funds Certain Provisions and the Documentation Principles set forth in the Commitment Letter, (x) the execution and delivery by the Borrower and the Guarantors (as such terms are defined in Exhibit B) of the Incremental Credit Documentation and the Senior Subordinated Bridge Documentation, which shall be in accordance with the terms of the Commitment Letter and Exhibit B (as modified to reflect any exercise of any “flex” provisions of the Fee Letter) and Exhibit C, as applicable, and (y) delivery to the Administrative Agent and the Bridge Administrative Agent, as applicable, of (i) a customary borrowing notice, customary legal opinions, customary officer’s closing certificates, organizational documents, customary evidence of authorization and good standing certificates in jurisdictions of formation/organization, in each case with respect to the Borrower and the Guarantors (as such terms are defined in Exhibit B), to the extent applicable, and (ii) a solvency certificate, dated as of the Closing Date and after giving effect to the Transactions, substantially in the form attached as Exhibit E, from a senior financial officer of the Borrower. In respect of the Incremental Term Loan B Facility, and subject to the Funds Certain Provisions, all documents and instruments required to create and perfect the Administrative Agent’s security interest in the Collateral shall have been executed and delivered by the Borrower and the Guarantors (as such terms are defined in Exhibit B) and, if applicable, be in proper form for filing.

2. Substantially concurrently with the initial funding under the Facilities, each of the Merger and the Acquisition shall be consummated in accordance with the terms and conditions of the Amended and Restated Merger Agreement among the Borrower, Merger Sub and the Target dated as of July 24, 2016 (together with all exhibits, annexes, schedules and other disclosure letters thereto and after giving effect to any alteration, amendment, modification, supplement or waiver, the “Acquisition Agreement”) without giving effect to any alteration, amendment, modification, supplement or express waiver or consent granted by the Borrower (or its affiliate, if applicable), if such alteration, amendment, modification, supplement or express waiver or consent granted by the Borrower (or its affiliate, if applicable) is adverse to the interests of the Lenders or the Lead Arrangers (in their capacities as such) in any material respect, without the prior written consent of the Lead Arrangers and the Agents (such consent not to be unreasonably withheld, delayed or conditioned) (it being understood and agreed that (a) any alteration, amendment, modification, supplement or express waiver or consent granted by the Borrower under the Acquisition Agreement that results in a reduction in the amount described in Section 2.02(a) of the Acquisition Agreement (the “Purchase Price”) shall not be deemed to be materially adverse to the interests of the Lenders or the Lead Arrangers; provided

D-1

that any such reduction in the Purchase Price shall be applied to reduce the Incremental Term Loan B Facility and/or the Senior Subordinated Bridge Facility at the Borrower’s option, and (b) any alteration, amendment, modification, supplement or express waiver or consent granted by the Borrower (or its affiliate, if applicable) under the Acquisition Agreement that results in an increase in the Purchase Price shall be deemed not to be materially adverse to the interests of the Lenders or the Lead Arrangers as long as any such increase is funded solely by (i) the issuance by the Borrower of common equity, (ii) cash on hand of the Borrower and/or (iii) the proceeds of Revolving Loans under and as defined in the Existing Credit Agreement.

3. Substantially concurrently with the initial borrowing under the Facilities, the Refinancing shall have been consummated, and all commitments, security interests and guarantees in connection therewith shall have been terminated and released (or have been authorized to be released pursuant to customary payoff letters and other customary documentation).

4. The Lead Arrangers shall have received (a) audited consolidated balance sheets of each of the Borrower and its consolidated subsidiaries and of the Target and its consolidated subsidiaries, in each case as at the end of, and related statements of income and cash flows of each of the Borrower and its consolidated subsidiaries and the Target and its consolidated subsidiaries, in each case for, the fiscal years ended December 31, 2015, December 31, 2014 and December 31, 2013 and (b) unaudited consolidated balance sheets of each of the Borrower and its consolidated subsidiaries and of the Target and its consolidated subsidiaries, in each case as at the end of, and related statements of income and cash flows of each of the Borrower and its consolidated subsidiaries and the Target and its consolidated subsidiaries, in each case for, for each fiscal quarter ended after December 31, 2015 and ended at least 45 days prior to the Closing Date (other than the fourth fiscal quarter of any fiscal year); provided that the filing of the required financial statements on form 10-K and form 10-Q by the Borrower and/or the Target shall be deemed to satisfy the foregoing requirements. The Lead Arrangers hereby acknowledge receipt of the audited financial statements for (i) the fiscal years ended December 31, 2015, December 31, 2014 and December 31, 2013 referred to in clause (a) above for each of the Borrower and the Target and (ii) the fiscal quarter ended March 31, 2016, for the Borrower.

5. The Lead Arrangers shall have received (a) a pro forma consolidated balance sheet and related pro forma consolidated statement of income of the Borrower as of, and for the twelve-month period ended on December 31, 2015 and (b) without duplication with the foregoing clause (a), a pro forma consolidated balance sheet and related pro forma consolidated statement of income of the Borrower as of, and for the twelve-month period ending on, the last day of the most recently completed four-fiscal quarter period for which financial statements required to be delivered pursuant to paragraph 4 above have been delivered, prepared after giving effect to the Transactions as if the Transactions had occurred as of such date (in the case of such balance sheet) or at the beginning of such period (in the case of such statement of income), which need not be

6. As a condition to the closing of the Senior Subordinated Bridge Facility only, (a)

D-2

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the Investment Bank (as defined in the Fee Letter) shall have received a draft preliminary offering memorandum or preliminary private placement memorandum (collectively, the “Offering Documents”) suitable for use in a customary “high-yield road show” relating to the Senior Subordinated Notes, in each case, which contains all financial statements and other data to be included therein (including all audited financial statements, all unaudited financial statements (which shall have been reviewed by the independent accountants as provided in Statement on Auditing Standards No. 100) and all appropriate pro forma financial statements prepared in accordance with generally accepted accounting principles in the United States and prepared in accordance with Regulation S-X under the Securities Act of 1933, as amended, unless otherwise agreed, and, except as otherwise agreed by the Investment Bank, all other data (including selected financial data) that is customarily included in preliminary offering memoranda for non-registered “high yield” debt offerings (it being understood that none of such information need include (1) any financial statements or information required by Rule 3-09, Rule 3-10 or Rule 3-16 of Regulation S-X, (2) Compensation Discussion and Analysis or other information required by Item 402 of Regulation S-K, (3) the executive compensation and related person disclosure rules related to SEC Release Nos. 33-8732A, 34-54302A and IC-27444A or (4) a business description (other than in summary form) or Management Discussion and Analysis of Financial Condition and Results of Operations relating to the Target and its consolidated subsidiaries), or that would be necessary for the Investment Bank to receive customary (for high yield debt securities) “comfort” (including “negative assurance” comfort) from Borrower’s independent accountants and the independent accountants for the Target in connection with the offering of the Senior Subordinated Notes (and the Borrower shall have made commercially reasonable efforts to arrange for the delivery of such comfort or, if no Senior Subordinated Notes were issued, a draft thereof) (“Required Notes Information”); provided that this condition shall be deemed satisfied if such Offering Documents exclude the “Description of Notes” and other sections that would customarily be provided by the Investment Banks or their counsel, but is otherwise complete, and (b) the Investment Bank shall have been afforded a period (the “Bond Marketing Period”) of (x) prior to the date of delivery of the Required Notes Information with respect to the fiscal quarter ending September 30, 2016, at least 15 consecutive business days prior to the Closing Date following receipt by the Lead Arrangers of the Required Notes Information or (y) on or after such date, at least 8 consecutive business days prior to the Closing Date following receipt by the Lead Arrangers of the Required Notes Information; it being understood and agreed that the provision of any information described in clause (b) of paragraph 4 and clause (b) of paragraph 5 above shall result in the “restart” of the Bond Marketing Period; provided that (i) for purposes of calculating the Bond Marketing Period, November 24, 2016 and November 25, 2016 shall be disregarded as business days, (ii) to the extent the Bond Marketing Period has not been completed on or prior to August 23, 2016, the Bond Marketing Period shall not be deemed to have commenced prior to September 5, 2016 and (iii) to the extent the Bond Marketing Period has not been completed on or prior to December 20, 2016, the Bond Marketing Period shall not be deemed to have commenced prior to January 2, 2017. If at any time the Borrower in good faith reasonably believes that it has delivered the Offering Documents, it may deliver to the Lead Arrangers written notice to that effect (stating when it believes it completed the applicable delivery), in which case the Offering Documents shall be deemed to have been delivered on the date the applicable notice is received by the Lead Arrangers, unless the Lead Arrangers in good faith reasonably believe that the Borrower has not completed delivery of the Offering Documents, and, within 2 business days after receipt of such notice from the

D-3

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Borrower, the Lead Arrangers deliver a written notice to the Borrower to that effect (stating with specificity the Offering Documents that have not been delivered).

7. As a condition to the closing of the Incremental Term Loan B Facility only, the Lead Arrangers shall have been afforded a period (the “Bank Marketing Period”) of (x) prior to the date of delivery of the information required pursuant to paragraph 4 and paragraph 5 above (the “Required Bank Information”) with respect to the fiscal quarter ending September 30, 2016, at least 15 consecutive business days prior to the Closing Date following receipt by the Lead Arrangers of the Required Bank Information or (y) on or after such date, at least 8 consecutive business days prior to the Closing Date following receipt by the Lead Arrangers of the Required Bank Information; it being understood and agreed that the provision of any information described in clause (b) of paragraph 4 and clause (b) of paragraph 5 above shall result in the “restart” of the Bank Marketing Period; provided that (i) for purposes of calculating the Bank Marketing Period, November 24, 2016, and November 25, 2016 shall be disregarded as business days, (ii) to the extent the Bank Marketing Period has not been completed on or prior to August 23, 2016, the Bank Marketing Period shall not be deemed to have commenced prior to September 5, 2016 and (iii) to the extent the Bank Marketing Period has not been completed on or prior to December 20, 2016, the Bank Marketing Period shall not be deemed to have commenced prior to January 2, 2017. If at any time the Borrower in good faith reasonably believes that it has delivered the Required Bank Information, it may deliver to the Lead Arrangers written notice to that effect (stating when it believes it completed the applicable delivery), in which case the Required Bank Information shall be deemed to have been delivered on the date the applicable notice is received by the Lead Arrangers, unless the Lead Arrangers in good faith reasonably believe that the Borrower has not completed delivery of the Required Bank Information, and, within 2 business days after receipt of such notice from the Borrower, the Lead Arrangers deliver a written notice to the Borrower to that effect (stating with specificity the Required Bank Information that has not been delivered).

7. To the extent invoiced (in the case of costs and expenses) at least two business days prior to the Closing Date, all costs, fees, expenses (including, without limitation, legal fees and expenses) and other compensation contemplated by the Commitment Letter and the Fee Letter, payable to each Agent (and counsel thereto) and the Lenders shall have been paid to the extent due.

8. The Agents shall have received, at least three business days prior to the Closing Date, all documentation and other information about any Guarantors which are not Guarantors as of the date hereof that the Agents reasonably determine is required by United States regulatory authorities under applicable “know your customer” and anti-money laundering rules and regulations, including, without limitation, the USA PATRIOT Act, to the extent requested in writing by an Agent at least ten business days prior to the Closing Date.

9. The Specified Representations shall be true and correct in all material respects (or, if qualified by materiality, in all respects) and the Acquisition Agreement Target Representations shall be true and correct in all respects to the extent required by the Funds Certain Provisions (except in the case of any such Acquisition Agreement Target Representation that expressly relates to a given date or period, such Acquisition Agreement Target

D-4

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Representation shall be true and correct in all respects as of such date or period, as the case may be).

10. Since the date of the Original Commitment Letter, there shall not have been any Circumstance (as defined in the Acquisition Agreement as in effect on the date hereof) that have had, or would reasonably be expected to have, individually or in the aggregate, a Target Material Adverse Effect and that are continuing. For purposes hereof, “Target Material Adverse Effect” means a material adverse effect on (i) the financial condition, business, assets, liabilities or results of operations of the Target and its Subsidiaries (as defined in the Acquisition Agreement as in effect on the date hereof), taken as a whole, or (ii) the ability of the Target and its Subsidiaries to consummate the

transactions contemplated by the Acquisition Agreement, in each case, excluding any effect resulting from any Circumstance (as defined in the Acquisition Agreement as in effect on the date hereof) involving, resulting from, relating to or with respect to (A) changes in GAAP (as defined in the Acquisition Agreement as in effect on the date hereof) or any other accounting requirements applicable to the industry in which the Target or any of its Subsidiaries operates, (B) financial, securities, debt or financing markets or general economic or political conditions, (C) the industry in which the Target or any of its Subsidiaries operate, (D) changes in Applicable Law (as defined in the Acquisition Agreement as in effect on the date hereof) of general applicability to companies in the industry in which the Target or any of its Subsidiaries operate, or any official interpretation thereof by a Governmental Authority (as defined in the Acquisition Agreement as in effect on the date hereof), (E) acts or declarations of war or other armed hostilities, sabotage, terrorism (including cyber-terrorism or cyber-attacks) or natural disasters or weather-related events or conditions, (F) the execution and delivery of the Acquisition Agreement or the announcement or consummation of the transactions contemplated by the Acquisition Agreement or the identity of, or any facts or circumstances relating to, the Borrower, including the impact thereof on the relationships, contractual or otherwise, of the Target or any of its Subsidiaries with employees, customers, suppliers or other Third Parties (as defined in the Acquisition Agreement as in effect on the date hereof) by the Acquisition Agreement, (G) any failure by the Target or any of its Subsidiaries to meet any internal or published estimates, budgets, projections, forecasts or predictions of financial performance for any period, including as a result of any failure of the Target or any of its Subsidiaries to realize the anticipated benefits of any business-related launch, initiative or roll-out (it being agreed that the underlying cause of any such failure described in this clause (G), unless expressly excluded by another clause of this definition, may be considered in determining whether or not a Target Material Adverse Effect has occurred), (H) any action taken (or omitted to be taken) at the written request, or with the written consent, of the Lead Arrangers and the Borrower or Merger Subsidiary, (I) the price and/or trading volume of the Target's stock on NASDAQ or any other market in which such securities are quoted for purchase and sale, (J) any action taken by the Borrower, the Target, any of their respective Subsidiaries or Affiliates (as defined in the Acquisition Agreement as in effect on the date hereof), or any Wanda Group Party (as defined in the Acquisition Agreement as in effect on the date hereof) that is required, contemplated or permitted pursuant to the Acquisition Agreement (including pursuant to Section 8.01 of the Acquisition Agreement), including any actions required under the Acquisition Agreement to obtain any approval or authorization under antitrust, competition, trade regulation, or other Applicable Laws for the consummation of the Merger, or (K) any litigation, action, suit, proceeding or investigation made or brought by any of the stockholders of the Target (on their own behalf or on behalf of the Target) that assert allegations of a breach of fiduciary duty

D-5

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relating to the Acquisition Agreement, violations of securities laws in connection with the Company Proxy Statement/Prospectus (as defined in the Acquisition Agreement as in effect on the date hereof) or otherwise arising out of any of the transactions contemplated by the Acquisition Agreement; *provided*, in the case of clauses (A), (B), (C), (D) and (E), such Circumstances may be taken into account in determining whether or not there has been a Target Material Adverse Effect to the extent such Circumstance has a materially disproportionate adverse effect on the Target and its Subsidiaries, taken as a whole, as compared to other participants in the industry in which the Target and its Subsidiaries operate.

D-6

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EXHIBIT E

**AMC ENTERTAINMENT HOLDINGS INC.**

**SOLVENCY CERTIFICATE**

[DATE]

This Solvency Certificate (this "Certificate") is furnished to the Administrative Agent and the Lenders pursuant to Section [ ] of the Credit Agreement, dated as of [ ], among [ ] (the "Credit Agreement"). Unless otherwise defined herein, capitalized terms used in this Certificate shall have the meanings set forth in the Credit Agreement.

I, the [ ] of the Borrower (after giving effect to the Transactions), in that capacity only and not in my individual capacity (and without personal liability), DO HEREBY CERTIFY on behalf of the Borrower that, as of the date hereof, after giving effect to the consummation of the Transactions (including the execution and delivery of the Acquisition Agreement and the Credit Agreement, the making of the Loans and the use of proceeds of such Loans on the date hereof):

1. The fair value of the assets of the Borrower and its Subsidiaries on a consolidated basis will exceed their consolidated debts and liabilities, contingent or otherwise.
2. The present fair saleable value of the property of the Borrower and its Subsidiaries on a consolidated basis will be greater than the amount that will be required to pay the probable liability on their debts and other liabilities, contingent or otherwise, as such debts and other liabilities become absolute and matured.
3. The Borrower and its Subsidiaries on a consolidated basis will not have unreasonably small capital with which to conduct the business in which they are engaged as such business is now conducted and is proposed to be conducted following the Closing Date.
4. The Borrower and its Subsidiaries on a consolidated basis will not have incurred and do not intend to incur, or believe that they will incur, any debts and liabilities, contingent or otherwise, including current obligations, that they do not believe that they will be able to pay (based on their assets and cash flow) as such debts and liabilities become due (whether at maturity or otherwise).
5. In reaching the conclusions set forth in this Certificate, the undersigned has (i) reviewed the Credit Agreement, (ii) reviewed the financial statements (including the pro forma financial statements) referred to in Section [ ] of the Credit Agreement (the "Financial Statements") and (iii) made such other investigations and inquiries as the undersigned has deemed appropriate. The undersigned is familiar with the financial performance and business of the Borrower and its Subsidiaries.

E-1

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IN WITNESS WHEREOF, I have executed this Certificate this as of the date first written above.

AMC Entertainment Holdings, Inc.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



