

03-04-2002

ET

Docket No.:

014951/0261



Tab settings

To the Honorable Commissioner of Patents and Trademarks, Department of Commerce, Washington, DC 20514-0050, to receive the attached original documents or copy thereof.

1. Name of conveying party(ies):

OPTEL, INC.

2-14-02

- Individual(s)
- General Partnership
- Corporation-State **DELAWARE**
- Other

Additional names(s) of conveying party(ies) Yes No

3. Nature of conveyance:

- Assignment
- Security Agreement
- Other
- Association
- Limited Partnership
- Merger
- Change of Name

Execution Date: **EFFECTIVE JANUARY 22, 2002**

2. Name and address of receiving party(ies):

Name: **TVMAX HOLDINGS, INC.**

Internal Address:

Street Address: **1111 W. MOCKINGBIRD**

City: **DALLAS** State: **TX** ZIP: **75247**

- Individual(s) citizenship
- Association
- General Partnership
- Limited Partnership
- Corporation-State **DELAWARE**
- Other

If assignee is not domiciled in the United States, a domestic designation is Yes N
(Designations must be a separate document from Additional name(s) & address(es) Yes N

4. Application number(s) or registration numbers(s):

A. Trademark Application No.(s)

SEE
ATTACHED
SCHEDULE

B. Trademark Registration No.(s)

SEE
ATTACHED
SCHEDULE

Additional numbers

Yes No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: **PAUL A. JUERGENSEN**

Internal Address: **SCHULTE ROTH & ZABEL LLP**

Street Address: **919 THIRD AVENUE**

City: **NEW YORK** State: **NY** ZIP: **10022**

6. Total number of applications and registrations involved:.....

5

7. Total fee (37 CFR 3.41):.....\$ **\$140.00**

- Enclosed
- Authorized to be charged to deposit account

8. Deposit account number:

SCHULTE ROTH & ZABEL LLP - 500675

DO NOT USE THIS SPACE

03/01/2002 6TOM11 00000230 500675 2046896

01 FC:481 40.00 CH
02 FC:482 100.00 CH

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

PAUL A. JUERGENSEN

Name of Person Signing

Signature

FEBRUARY 14, 2002

Date

Total number of pages including cover sheet, attachments, and

38

TRADEMARK

REEL: 002452 FRAME: 0375

TVMAX HOLDINGS, INC.

(TRADEMARKS AND TRADEMARK APPLICATIONS)

Mark	Application/Registration No.
TVMAX	2,046,896
TVMAX	1,930,535
OPTEL	2,327,579
OPTEL	74/543,343
CUSTOMSAVER	2,441,563

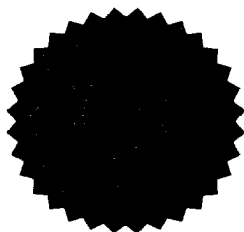
Delaware

PAGE 1

The First State

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE COURT ORDERED RESTATED CERTIFICATE OF "OPTEL, INC.", CHANGING ITS NAME FROM "OPTEL, INC." TO "TVMAX HOLDINGS, INC.", FILED IN THIS OFFICE ON THE TWENTY-SECOND DAY OF JANUARY, A.D. 2002, AT 9 O'CLOCK A.M.

A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE KENT COUNTY RECORDER OF DEEDS.



Harriet Smith Windsor
Harriet Smith Windsor, Secretary of State

2404577 8100

AUTHENTICATION: 1573747

020044319

DATE: 01-23-02

TRADEMARK
REEL: 002452 FRAME: 0377

AMENDED AND RESTATED
CERTIFICATE OF INCORPORATION
OF
OPTEL, INC.

(Under Sections 242, 245 and 303 of the Delaware General Corporation Law)

Pursuant to the provisions of Sections 242, 245 and 303 of the General Corporation Law of the State of Delaware, OPTEL, INC., a Delaware corporation (the "Corporation" or "this corporation"), does hereby certify:

FIRST: The Corporation was originally incorporated in the State of Delaware and filed its original Certificate of Incorporation with the Office of the Secretary of State of the State of Delaware on July 1, 1994.

SECOND: The Restated Certificate of Incorporation of the Corporation attached hereto as Appendix A is made, signed, executed, acknowledged and filed pursuant to an order of the United States Bankruptcy Court, District of Delaware, dated December 4, 2001 in In Re OpTel Inc., et al., Index No. 99-3951 (SLR) under title 11 of the United States Code, a copy of which is attached hereto as Attachment A.

THIRD: Among the changes from the previous Restated Certificate of Incorporation are the following: (1) a change in the name of the Corporation from "OpTel, Inc." to "TVMAX Holdings, Inc."; (2) an amendment to Article FOUR to (i) change the total authorized capital of the Corporation to fifteen million (15,000,000) shares, consisting of (a) fourteen million (14,000,000) shares of Common Stock and (b) one million (1,000,000) shares of Preferred Stock, and (ii) change the par value of the Common Stock and the Preferred Stock to \$0.001 per share; (3) a revision to paragraph B of Article FOUR to give the holders of the shares of Preferred Stock at least one vote per share; (4) a revision to paragraph A of Article FIVE to prevent the Board of Directors of the Corporation from exercising powers that are directed or required by statute or this Restated Certificate of Incorporation to be exercised or done by the stockholders; (5) additional provisions to paragraph A of Article EIGHT to (i) include within the indemnification protection of the Corporation services rendered by directors or officers of the Corporation, on behalf of the Corporation, related to employee benefit plans, (ii) limit the impact of amendments of law applicable to indemnification so that the Corporation will only be required to indemnify persons to the extent that such amendments permit the Corporation to provide broader

indemnification rights than were permitted by the law applicable prior to such amendments, (iii) require the indemnification of a director or officer to continue with respect to a person who has ceased to be a director or officer and to require indemnification of a director or officer to continue for the benefit of the heirs, executors and administrators of such director or officer, and (iv) subject to paragraph B of Article EIGHT of this Restated Certificate of Incorporation, limit indemnification by the Corporation with respect to proceedings initiated by a director or officer to those proceedings authorized by the Board of Directors; (6) additional words to paragraph D of Article EIGHT to (i) permit the Corporation to purchase insurance on behalf of itself, and (ii) clarify that the Corporation may purchase insurance on behalf of directors, officers, employees or agents; and (7) an additional sentence to paragraph E of Article EIGHT to include in the indemnification protection of the Corporation persons serving as employees or agents of another corporation on behalf of the Corporation.

IN WITNESS WHEREOF, OpTel, Inc. has executed this Amended and Restated Certificate of Incorporation as of the 22nd day of January, 2002.

OPTEL, INC.

By: 
Name: David Curtin
Title: Executive Vice President

APPENDIX A

CERTIFICATE OF INCORPORATION

OF

TVMAX HOLDINGS, INC.

ONE: The name of the Corporation is TVMAX Holdings, Inc.

TWO: The address of the Corporation's registered office in the State of Delaware is 15 East North Street in the City of Dover, County of Kent. The name of its registered agent at such address is United Corporate Services, Inc.

THREE: The nature of the business or purposes to be conducted or promoted is to engage in any lawful act or activity for which corporations may be organized under the Delaware General Corporation Law (the "DGCL").

FOUR: A. The total number of shares of all classes of stock which the Corporation shall have authority to issue is fifteen million (15,000,000), divided into the following classes:

(i) fourteen million (14,000,000) shares of Common Stock, par value \$0.001 per share (hereinafter referred to as "Common Stock"); and

(ii) one million (1,000,000) shares of Preferred Stock, par value \$0.001 per share (hereinafter referred to as "Preferred Stock").

B. **Preferred Stock.** The Board of Directors is authorized, subject to any limitations prescribed by law, to provide for the issuance of the shares of Preferred Stock in one or more series, and by filing a certificate pursuant to the applicable law of the State of Delaware, to establish from time to time the number of shares to be included in each such series, and to fix the designation, powers, preferences and rights of the shares of each such series and any qualifications, limitations or restrictions thereof; provided that each share of Preferred Stock shall be entitled to at least one vote. The number of authorized shares of Preferred Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by the approval of a majority of the votes entitled to be cast by the holders of the Common Stock, without a vote of the holders of the Preferred Stock, or of any series thereof, unless a vote of any such holders is required pursuant to the certificate or certificates establishing the series of Preferred Stock.

FIVE: The following provisions are inserted for the management of the business and the conduct of the affairs of this corporation, and for further definition, limitation and regulation of the powers of this corporation and of its directors and stockholders:

A. The business and affairs of this corporation shall be managed by or under the direction of the Board of Directors. In addition to the powers and authority expressly conferred upon them by the DGCL, or by this Restated Certificate of Incorporation or the Bylaws of this corporation, the directors are hereby empowered to exercise all such powers and do all such acts and things as may be exercised or done by this corporation and are not by statute or this Restated Certificate of Incorporation directed or required to be exercised or done by the stockholders.

B. The Board of Directors may adopt, amend or repeal the Bylaws of this corporation.

C. Election of directors need not be by written ballot.

SIX: The officers of this corporation shall be chosen in such a manner, shall hold their offices for such terms and shall carry out such duties as are determined solely by the Board of Directors, subject to the right of the Board of Directors to remove any officer or officers at any time with or without cause.

SEVEN: No director of this corporation shall be personally liable to this corporation or its stockholders for monetary damages for any breach of fiduciary duty by such a director as a director. Notwithstanding the foregoing sentence, a director shall be liable to the extent provided by applicable law (i) for any breach of the director's duty of loyalty to this corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) pursuant to Section 174 of the DGCL or (iv) for any transactions from which such director derived an improper personal benefit. No amendment to or repeal of this Article SEVEN shall apply to or have any effect on the liability or alleged liability of any director of this corporation for or with respect to any acts or omissions of such director occurring prior to such amendment or repeal. If the DGCL is amended hereafter to further eliminate or limit the personal liability of directors, the liability of a director of this corporation shall be limited or eliminated to the fullest extent permitted by the DGCL, as amended.

EIGHT: A. Right to Indemnification. Each person who was or is made a party to or is threatened to be made a party to or is involuntarily involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (a "Proceeding"), by reason of the fact that he or she is or was a director or officer of this corporation, or is or was serving (during his or her tenure as director and/or officer) at the request of this corporation as a director, officer, employee or agent of another corporation or of a partnership, joint venture, trust or other enterprise, including service with respect to employee benefit plans, whether the basis of such

proceeding is an alleged action or inaction in an official capacity as a director or officer or in any other capacity while serving as a director or officer, shall be indemnified and held harmless by this corporation to the fullest extent authorized by the DGCL (or other applicable law), as the same exists or may hereafter be amended (but, in the case of any such amendment to the fullest extent permitted by law; only to the extent that such amendment permits this corporation to provide broader indemnification rights than such law permitted this corporation to provide prior to such amendment), against all expense, liability and loss (including attorneys' fees, judgments, fines, ERISA excise taxes or penalties and amounts paid or to be paid in settlement) reasonably incurred or suffered by such person in connection with such Proceeding and such indemnification shall continue as to a person who has ceased to be a director or officer and shall inure to the benefit of his or her heirs, executors or administrators; provided, however, that, except as provided in paragraph B of this Article EIGHT, this corporation shall indemnify any such person seeking indemnification in connection with a Proceeding (or part thereof) initiated by such person only if such Proceeding (or part thereof) was authorized by the Board of Directors. Such director or officer shall have the right to be paid by this corporation for expenses incurred in defending or prosecuting any such Proceeding in advance of its final disposition; provided, however, that, if the DGCL (or other applicable law) requires, the payment of such expenses in advance of the final disposition of any such Proceeding shall be made only upon receipt by this corporation of an undertaking by or on behalf of such director or officer to repay all amounts so advanced if it should be determined ultimately that he or she is not entitled to be indemnified under this Article EIGHT or otherwise.

B. Right of Claimant to Bring Suit. If a claim under paragraph A of this Article EIGHT is not paid in full by this corporation within ninety (90) days after a written claim has been received by this corporation, the claimant may at any time thereafter bring suit against this corporation to recover the unpaid amount of the claim, together with interest thereon, and, if successful in whole or in part, the claimant shall also be entitled to be paid the expense of prosecuting such claim, including reasonable attorneys' fees incurred in connection therewith. It shall be a defense to any such action (other than an action brought to enforce a claim for expenses incurred in defending any Proceeding in advance of its final disposition where the required undertaking, if any is required, has been tendered to this corporation) that the claimant has not met the standards of conduct which make it permissible under the DGCL (or other applicable law) for this corporation to indemnify the claimant for the amount claimed, but the burden of proving such defense shall be on this corporation. Neither the failure of this corporation (or of its full Board of Directors, its directors who are not parties to the Proceeding with respect to which indemnification is claimed, its stockholders, or independent legal counsel) to have made a determination prior to the commencement of such action that indemnification of the claimant is proper in the circumstances because he or she has met the applicable standard of conduct set forth in the DGCL (or other applicable law), nor an actual determination by any such person or persons that such claimant has not met such applicable standard of conduct, shall be a defense to such action or create a presumption that the claimant has not met the applicable standard of conduct.

C. Non-Exclusivity of Rights. The rights conferred by this Article EIGHT shall not be exclusive of any other right which any director, officer, representative, employee or other agent may have or hereafter acquire under the DGCL or any other statute, or any provision contained in this corporation's Restated Certificate of Incorporation or Bylaws, or any agreement, or pursuant to a vote of stockholders or disinterested directors, or otherwise.

D. Insurance and Trust Fund. In furtherance and not in limitation of the powers conferred by statute:

(1) this corporation may purchase and maintain insurance on behalf of itself or any person who is or was a director, officer, employee or agent of this corporation, or is serving at the request of this corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against any liability asserted against such person and incurred by such person in any such capacity, or arising out of his or her status as such, whether or not this corporation would have the power to indemnify him or her against such liability under the provisions of law; and

(2) this corporation may create a trust fund, grant a security interest and/or use other means (including, without limitation, letters of credit, surety bonds and/or other similar arrangements), as well as enter into contracts providing indemnification to the fullest extent permitted by law and including as part thereof provisions with respect to any or all of the foregoing, to ensure the payment of such amount as may become necessary to effect indemnification as provided therein, or elsewhere.

E. Indemnification of Employees and Agents of this Corporation. This corporation may, to the extent authorized from time to time by the Board of Directors, grant rights to indemnification, including the right to be paid by this corporation the expenses incurred in defending any Proceeding in advance of its final disposition, to any employee or agent of this corporation and persons serving at the request of this corporation as an employee or agent of another corporation or of a partnership, joint venture, trust or other enterprise, including service with respect to employee benefit plans, in each case, to the fullest extent of the provisions of this Article EIGHT or otherwise with respect to the indemnification and advance of expenses of directors and officers of this corporation.

F. Amendment. Any repeal or modification of this Article EIGHT shall not change the rights of any officer or director to indemnification with respect to any action or omission occurring prior to such repeal or modification.

NINE: This corporation reserves the right to alter, amend, rescind or repeal any provision contained in this Restated Certificate of Incorporation, in the manner now or hereafter prescribed by statute, and all rights conferred on stockholders herein are granted subject to this reservation.

ATTACHMENT A

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:)
)
OPTEL, INC.,¹ et al.,) Case No. 99-3951 (SLR)
) (Jointly Administered)
Debtors.)

**ORDER CONFIRMING JOINT REORGANIZATION PLAN
OF OPTEL, INC. AND THE OFFICIAL COMMITTEE
OF UNSECURED CREDITORS**

The above-captioned debtors (collectively the "Debtors") having (i) filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") on October 28, 1999 (the "Petition Date"); (ii) filed their Joint Reorganization Plan of OpTel, Inc. and the Official Committee of Unsecured Creditors (the "Plan") and the Amended Disclosure Statement (the "Disclosure Statement") on November 6, 2001 and the Debtors' Plan Supplement on November 27, 2001; (iii) distributed the Plan and the Disclosure Statement to all holders of Claims² against and Interests in the Debtors entitled to vote on the Plan, together with a solicitation of votes to accept or reject the Plan, on November 7, 2001; and upon the Affidavits of Laura Campbell of Bankruptcy Services, Inc. certifying the tabulation of the ballots received on the Plan having been filed with this Court on December 4, 2001 (the "Certification Affidavit"); and this Court, upon motion of the Debtors, having entered an order (the "Order") setting December 4, 2001 at 8:30 a.m., prevailing Eastern Time, as the date and time of a hearing pursuant to Rules 3017 and 3018 of the Federal Rules of Bankruptcy

¹ Bay Area Cable Television, Inc., Phonoscope Village Cable, Inc., IRPC - Arizona, Inc., Richey Pacific Cablevision, Inc., IRPC Texas - Ventura, Inc., Sunshine Television Entertainment, Inc., IRPC Texas, Inc., TA V GP Holdings Corp., OpTel (Arizona) Telecom, Inc., Tara Communications Systems, Inc., OpTel (California) Telecom, Inc., TVMAX Communications (Texas), Inc., OpTel (Colorado) Telecom, Inc., TVMAX Telecommunications, Inc., OpTel (Florida) Telecom, Inc., Transmission Holdings, Inc., OpTel (Illinois) Telecom, Inc., OpTel (Illinois), L.P., OpTel (Indiana) Telecom, Inc., Richey Pacific Cable Partners V., L.P., OpTel (Texas) Telecom, Inc., OpTel (DFW) Holdings, Inc., Phonoscope Entertainment, Inc.

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

Procedure (the "Bankruptcy Rules") and sections 1126, 1128, and 1129 of the Bankruptcy Code to consider Confirmation of the Plan (the "Confirmation Hearing"); and the respective Affidavits of Mailing and Affidavit of Publication having been filed or to be filed with respect to the mailing of notice of the Confirmation Hearing, to parties in interest in accordance with the Order of this Court dated October 25, 2001 (the "Scheduling Order"); and this Court having (i) reviewed the Plan, the Disclosure Statement, the various objections filed to Confirmation of the Plan, the Debtors' Response to Unresolved Objections and Memorandum of Law in Support of Confirmation of Joint Reorganization Plan of OpTel, Inc. and the Official Committee of Unsecured Creditors (the "Confirmation Memorandum"); (ii) heard the statements of counsel in support of and in opposition to Confirmation at the Confirmation Hearing; (iii) considered all testimony presented and evidence admitted by affidavits or otherwise, and the record of the hearing this date; and (iv) taken judicial notice of the papers and pleadings on file in the above-captioned Chapter 11 Cases; and it appearing to this Court that (a) notice of the Confirmation Hearing and the opportunity of any party in interest to object to Confirmation were adequate and appropriate as to all parties to be affected by the Plan and the transactions contemplated thereby, and (b) the legal and factual bases set forth in the Confirmation Memorandum and presented at the Confirmation Hearing establish just cause for the relief granted herein, this Court hereby makes and issues the following findings of fact, conclusions of law, and rulings³:

³ This Confirmation Order constitutes this Court's findings of fact and conclusions of law under Fed. R. Civ. P. 52, as made applicable by Bankruptcy Rules 7052 and 9014. Any and all findings of fact shall constitute findings of fact even if they are stated as conclusions of law, and any and all conclusions of law shall constitute conclusions of law even if they are stated as findings of fact.

I
FINDINGS OF FACT

A. **Jurisdiction and Venue.**

On the Petition Date, the Debtors commenced the Chapter 11 Cases by filing voluntary petitions for relief under chapter 11 of the Bankruptcy Code. The Debtors were and are qualified to be debtors under section 109 of the Bankruptcy Code. Venue in the District of Delaware was proper as of the Petition Date and continues to be proper.

B. **Compliance with the Requirements of Section 1129 of the Bankruptcy Code.**

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

The Plan complies with all applicable provisions of the Bankruptcy Code as required by section 1129(a)(1) of the Bankruptcy Code, including, without limitation, sections 1122 and 1123. As required under sections 1122(a) and 1123(a)(1) of the Bankruptcy Code, Article II of the Plan designates Classes of Claims and Interests, other than Administrative Claims and Priority Tax Claims.⁴ As required by section 1122(a) of the Bankruptcy Code, each Class of Claims and Interests contains only Claims or Interests that are substantially similar to the other Claims or Interests within that Class.

Pursuant to sections 1123(a)(2) and (3) of the Bankruptcy Code, Article I of the Plan specifies all classes of Claims and Interests that are not impaired under the Plan and specifies the treatment of all Claims and Interests that are impaired. As required by section 1123(a)(4) of the Bankruptcy Code, the Plan also provides the same treatment for each Claim or Equity Interest within a particular Class.

⁴ The Administrative Claims and the Priority Tax Claims are not required to be designated pursuant to section 1123(a)(1) of the Bankruptcy Code. 11 U.S.C. § 1123(a)(1).

The Plan also provides adequate means for the Plan's implementation as required by section 1123(a)(5) of the Bankruptcy Code. The Debtors will have, immediately upon the effectiveness of the Plan, sufficient Cash available to make all payments required to be made on the Effective Date pursuant to the terms of the Plan. Moreover, Article V and various other provisions of the Plan specifically provide adequate means for the Plan's implementation, by providing, among other things, for: (a) the revesting of the Debtors' property in the Reorganized Entities (including without limitation, the property of the Merged Entities and the Dissolved Entities which will vest in a Reorganized Entity or New Subsidiary on the Effective Date) subject to the Liens and rights of the DIP Credit Facility with the CIT Group Business Credit, Inc. ("CIT"); (b) an adequate amount of Cash on hand or available on the Effective Date; and (c) the issuance of the New Common Stock.

The Restated Certificate of Incorporation of TVMAX Holdings, Inc., attached as Appendix A to Plan Exhibit A specifically does not provide for the issuance of non voting equity securities and the Restated Certificate of Incorporation and the Amended and Restated ByLaws of Reorganized TVMAX Holdings, Inc. specifically provide for the selection of the initial directors and management of Reorganized OpTel in a manner consistent both with the interests of creditors and equity holders and with public policy as required by section 1123(a)(7) of the Bankruptcy Code.

2. Section 1129(a)(2) - Compliance of the Debtors with Applicable Provisions of the Bankruptcy Code.

The Debtors and the Committee, as proponents of the Plan (the "Proponents"), have complied with all applicable provisions of the Bankruptcy Code as required by section 1129(a)(2) of the Bankruptcy Code, including, without limitation, section 1125(b) of the Bankruptcy Code and Bankruptcy Rules 3017, 3018, and 3019. As required by section 1125(b),

the Proponents' solicitation of acceptances of the Plan occurred only after distribution of copies of the Plan and the Disclosure Statement to holders of claims or interests. The Proponents, their directors, officers, employees, agents, affiliates, the Committee and their respective professionals have acted in "good faith" within the meaning of section 1125(e) of the Bankruptcy Code and are entitled to the benefits provided to good-faith actors under such provision.

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

The Proponents proposed the Plan in good faith and not by any means forbidden by law. Consistent with the overriding purpose of chapter 11 of the Bankruptcy Code, the Plan is designed to allow the Debtors to reorganize by providing them with a capital structure that will allow them to satisfy their obligations with sufficient liquidity and capital resources to conduct their business. The Plan itself, and the process leading to its formulation, provide additional independent evidence of the Proponents' good faith.

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

Pursuant to section 1129(a)(4) of the Bankruptcy Code, any payment made or promised by the Debtors or by any person issuing securities or acquiring property under the Plan, for services or for costs and expenses in, or in connection with, the Chapter 11 Cases, or in connection with the Plan and incident to the Chapter 11 Cases, has been, or will be before payment, disclosed to this Court. Any such payment made before Confirmation is reasonable.

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

Pursuant to section 1129(a)(5) of the Bankruptcy Code, the Debtors in the Plan Supplement disclosed the identity and affiliations of the proposed directors and the identity and compensation of officers of the Reorganized Entities. The appointment or continuance of the

proposed directors and officers is consistent with the interests of the holders of Claims and Interests and public policy.

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

The Debtors' current businesses do not involve the establishment of rates over which any regulatory commission has or will have jurisdiction after Confirmation.

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

With respect to each Class of Claims or Interests of the Debtors which is impaired under the Plan, each holder of a Claim or Interest in such Class has accepted the Plan or will receive or retain under the Plan on account of such Claim or Interest property of a value, as of the Effective Date, that is not less than the amount such holder would receive or retain if the Debtors were liquidated on the Effective Date under chapter 7 of the Bankruptcy Code.

8. Section 1129(a)(8) - Acceptance of the Plan by Each Impaired Class.

Classes 1, 2, 3, and 4 are unimpaired under the Plan and are not required to accept the Plan in order for the Plan to be confirmed.

With respect to voting by impaired classes, the voting totals are as follows:

Voting Class	Accept	Reject	Acceptance Percentage
Class 5 General Unsecured Claims			
By Number	111	13	89.52%
By Amount	\$220,735,731.26	\$7,176,113.61	96.85%
Class 6 Convenience Claims			
By Number	173	3	98.30%
By Amount	\$328,928.46	\$5,354.75	98.40%

As reflected in the foregoing, every impaired class has voted by overwhelming margins in favor of the Plan.

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

The Plan provides for treatment of Administrative Claims, Priority Tax Claims, and other Priority Claims in the manner required by section 1129(a)(9) of the Bankruptcy Code.

10. Section 1129(a)(10) — Acceptance by at Least One Impaired Class.

As required by section 1129(a)(10) of the Bankruptcy Code, the Plan satisfies the requirement that at least one Class of Claims or Interests that is impaired under the Plan has accepted the Plan, excluding votes cast by insiders.

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

Confirmation of the Plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of Reorganized OpTel or the Reorganized Entities. Consummation of the Plan will significantly improve the Debtors' economic viability and permit the Debtors to meet their obligations under the Plan.

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

In accordance with section 1129(a)(12) of the Bankruptcy Code, Article II of the Plan provides for the payment of all fees payable under 28 U.S.C. § 1930 on or before the Effective Date. As a dispute has arisen between the Debtors and the Office of the United States Trustee (the "Trustee") relevant to the calculation of quarterly fees due the Trustee, the parties have agreed that on or before the Effective Date, the Debtors shall deposit the sum of \$389,250.00 for payment of pre-Confirmation Trustee fees, pursuant to 28 U.S.C. 1930(a)(6) and in accordance with 11 U.S.C. 1129 (a)(12) in a segregated interest bearing account at Bank of

America (the "Account"). No withdrawals or transfers of funds of the account shall be made until the amount of fees due the Trustee has been determined by a final non-appealable Order and upon further Order of this Court.

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

In accordance with section 1129(a)(13) of the Bankruptcy Code, Article IX of the Plan provides for the continuation after the Effective Date of all retiree and/or Employee Benefit Plans, as that term is defined in the Plan, entered into before or after the Petition Date and not since terminated. These plans shall be deemed to be, and shall be treated as if they were, Executory Contracts that are assumed and shall survive Confirmation.

14. Exit Financing Facility.

The terms of the Exit Financing Facility are being proposed by the parties in good faith after arms-length negotiations and represent the most favorable financing terms available under the circumstances. Consummation of the transactions contemplated as part of the Exit Financing Facility is critical to the success and feasibility of the Plan.

15. Substantive Consolidation.

The proposed substantive consolidation of the Debtors' estates for the limited purposes of Confirmation of the Plan, for voting, and for distributions to impaired classes of Claims is proper under the circumstances and supported by factors including the presence of consolidated financial statements, use of a consolidated cash management system, provision of working capital through funds downstreamed by OpTel to the Debtors' subsidiaries supported by intercompany guarantees, and unity of interests among the various Debtors. Substantive consolidation on the basis proposed in the Plan will facilitate a prompt reorganization, particularly given that substantially all of the Debtors have liability for the Debtors' obligations

to various lenders. The absence of substantive consolidation likely would result in a more costly and protracted reorganization process.

16. Executory Contracts and Unexpired Leases.

The Debtors' proposed assumption of certain Cable-Only ROEs, Executory Contracts and Unexpired Leases as provided in Articles IX of the Plan or any motions pending before the Court prior to the Effective Date is a reasonable and proper exercise of the Debtors' business judgment and is approved. The Debtors have the financial ability to cure any defaults on assumed Cable-Only ROEs, Executory Contracts and Unexpired Leases and to compensate any party other than a Debtor, for any actual, pecuniary loss to such party resulting from such default. Consummation of the Plan and the transactions contemplated in connection therewith provide adequate assurance of future performance under such Cable-Only ROEs, Executory Contracts and Unexpired Leases.

The Debtors' proposed rejection of certain Cable-Only ROEs, Executory Contracts and Unexpired Leases in accordance with Article IX of the Plan also is a proper exercise of the Debtors' business judgment and is approved.

17. Satisfaction of Conditions to Confirmation.

Except as otherwise provided herein, each of the conditions precedent to the entry of this Confirmation Order, as set forth in Article XI of the Plan, has been satisfied or waived in accordance with the Plan.

II
CONCLUSIONS OF LAW

A. Jurisdiction and Venue.

This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334(b). This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). The Debtors were and are qualified to be debtors under section 109 of the Bankruptcy Code. Venue in the District of Delaware was proper as of the Petition Date and continues to be proper under 28 U.S.C. § 1408.

B. Exemptions from Taxation.

Pursuant to section 1145(c) of the Bankruptcy Code, under the Plan, (1) the issuance, distribution, transfer, or exchange of any debt, equity, security or other interest in the Debtors or the Reorganized Entities or the New Subsidiaries; (2) the creation, modification, consolidation or recording of any mortgage, deed or trust, or other security interest, or the securing of additional indebtedness by such or other means (whether (a) in connection with the issuance and distribution of any debt, equity, security, or other interest in the Debtors or the Reorganized Entities or the New Subsidiaries or (b) otherwise in furtherance of, or in connection with, the Plan); (3) the making, assignment, or recording of any lease or sublease; or (4) the making, delivery, or recording of any deed or other instrument of transfer under, in furtherance of, or in connection with, the Plan, including any deeds, bills of sale, assignments or other instrument of transfer executed in connection with any transaction arising out of, contemplated by, or in any way related to the Plan, shall not be subject to any document recording tax, mortgage recording tax, stamp tax, or similar tax or government assessment, and the appropriate state or local government official or agent is directed to forego the collection of any such tax or

government assessment and to accept for filing and recording any of the foregoing instruments or other documents without the payment of any such tax or government assessment.

Pursuant to Section 1146(e) of the Bankruptcy Code, any transfers either pre or post Confirmation from the Debtors or the Reorganized Entities to any Person or entity or to the Reorganized Entities or the New Subsidiaries, including but not limited to transfers to reallocate assets between and among the Reorganized Entities and the New Subsidiaries pursuant to the Plan, including without limitation, the transfer, conveyance or assignment of easements, licenses or leases or other rights associated with any of the assumed ROEs, Executory Contracts and Unexpired Leases, and the filing and recording of instruments pertaining thereto, shall not be subject to any document recording fee or tax, stamp tax, conveyance fee, intangibles or similar tax, mortgage tax, stamp act, real estate transfer tax, mortgage recording tax, and the appropriate state or local government official or agent is directed or other similar tax or governmental officials to forego the collection of any such fee, tax or governmental assessment and to accept for filing and recordation any of the foregoing instruments or other documents without the payment of any such fee, tax or governmental assessment.

C. Applicability of Sections 1125 and 1145 Of The Bankruptcy Code.

The protection afforded by Section 1125(e) of the Bankruptcy Code with regard to the solicitation of acceptances or rejections of the Plan and with regard to the offer, issuance, sale or purchase of the New Common Stock, shall apply to the full extent provided by law, and the entry of the Confirmation Order shall constitute the determination by the Bankruptcy Court that the Debtors, Reorganized Entities, New Subsidiaries and the Committee and each of their respective officers, directors, partners, employees, members, agents, attorneys, accountants, or other professionals, shall have acted in good faith and in compliance with the applicable

provisions of the Bankruptcy Code pursuant to Section 1125(e) of the Bankruptcy Code. In addition, the exemption from the requirements of Section 5 of the Securities Act of 1933, 15 U.S.C. §77e, and any state or local law requiring registration for the offer or sale of a security provided for in Section 1145 of the Bankruptcy Code shall apply to the New Common Stock.

D. Compliance with Section 1129 of the Bankruptcy Code.

As set forth in Section I(B)(1) of this Confirmation Order, the Plan complies in all respects with the applicable requirements of section 1129 of the Bankruptcy Code.

E. Executory Contracts and Unexpired Leases

Based upon the Court's findings of fact, the proposed assumption and assignment or rejection of Cable-Only ROEs, Executory Contracts and Unexpired Leases as provided in Articles IX of the Plan or pursuant to a motion approved by this Court is proper under the standards set forth in and applicable to sections 365(a) and (b) of the Bankruptcy Code.

F. Releases.

Pursuant to section 1123(b)(3) of the Bankruptcy Code and Bankruptcy Rule 9019(a) (1), the settlements, compromises, releases, discharges, exculpations, and injunctions set forth in the Plan and implemented by this Confirmation Order shall be, and hereby are, approved as fair, equitable, reasonable, and in the best interests of the Debtors, Reorganized OpTel, the Reorganized Entities and their Estates, and holders of Claims and Interests; (2) the classification and manner of satisfying all Claims and Interests and the respective distributions and treatments under the Plan take into account and/or conform to the relative priority and rights of the Claims and Interests in each Class in connection with any contractual, legal and equitable subordination rights relating thereto, whether arising under general principles of equitable subordination under section 510(b) of the Bankruptcy Code or otherwise, and the settlement, compromise and release

of any and all such rights pursuant to the Plan is in the best interests of the Debtors, their Estates, and holders of Claims and Interests, and shall be, and hereby is, approved as fair, equitable and reasonable. See *Protective Comm. for Independent Stockholders of TMT Trailer Ferry Inc. v. Anderson*, 390 U.S. 414, 424 (1968).

G. Exit Financing Facility.

The terms of the Exit Financing Facility between the Debtors and Ableco Finance LLC are being proposed and entered into in good faith and provide the most favorable financing terms available under the circumstances, and the Exit Financing Facility and related documents, once they are entered into, shall be fully binding obligations of the Debtors, Reorganized OpTel and the Reorganized Entities pursuant to the terms thereof, irrespective of whether executed by a Debtor, Reorganized OpTel, Reorganized Entity or a New Subsidiary. All liens and rights granted pursuant to the final order approving the Modified DIP Facility with CIT shall continue to be effective, without any need or necessity for filing any other documents or taking any other action (the "Final DIP Order"). All of the liens, claims, encumbrances and other rights of CIT under the Modified DIP Facility, and the Final DIP Order shall be construed to limit or abridge such rights.

and hereby are
expressly preserved
and nothing in this order
shall be

JAB

H. Agreements and Other Documents.

The Debtors have disclosed all material facts regarding: (i) the directors and officers of the Reorganized Entities and New Subsidiaries; (ii) the Exit Financing Facility; (iii) the issuance and distribution of the New Common Stock; (iv) the adoption, execution and implementation and/or continuation of employment, retirement and indemnification agreements, incentive compensation programs, retirement income plans, welfare benefit plans and other employee plans and related agreements; (v) the adoption, execution and implementation of the

other matters provided for under the Plan involving corporate acts normally requiring that action to be taken by or required of the Debtors or the Reorganized Entities; and (vi) the adoption, execution and delivery of all contracts, leases, instruments, releases, indentures and other agreements related to any of the foregoing. No action of the directors or shareholders of the Debtors, Reorganized OpTel, the Reorganized Entities or New Subsidiaries will be required to authorize them to engage in any of the activities contemplated by the Plan or any action in furtherance of those activities and all such activities shall be, and hereby are authorized and approved in all respects.

I. Modified DIP Facility

It is in the best interest of the Debtors' estate that they be authorized, until no later than the Effective Date, to continue to borrow, and are directed to continue to perform their obligations, under the Modified DIP Facility and the Final DIP Order. Notwithstanding anything to the contrary contained in this Confirmation Order (1) the Final DIP Order and all of the rights, remedies, liens, priorities and other protections provided to CIT and/or Assigns therein shall continue in full force and effect until the Modified DIP Facility has been paid in full; (2) the terms and conditions of the Modified DIP Facility shall continue in full force and effect, including but not limited to terms relating to the conditions of borrowing, interest rate, payment, collateral, priority, events of default and expiration date. The Debtors shall satisfy the Modified DIP facility in full pursuant to the terms of the Modified DIP Facility.

III
ORDER

A. Confirmation of the Plan.

The Plan and each of its provisions shall be, and hereby are, confirmed in each and every respect pursuant to section 1129 of the Bankruptcy Code; *provided, however*, that if there is any direct conflict between the terms of the Plan and the terms of this Confirmation Order, the terms of this Confirmation Order shall control. All objections to the Plan and reservations of rights, to the extent not already withdrawn, shall be, and hereby are, overruled.

B. Effective Date.

The Effective Date of the Plan shall be a first Business Day, designated by Reorganized OpTel, as soon as reasonably practicable after all the conditions specified in Article XII of the Plan have been satisfied or waived; *provided, however*, that the Effective Date shall be not occur earlier than the thirtieth (30th) day following entry of this Confirmation Order.

C. Effects of Confirmation.

1. Cable-Only ROEs, Executory Contracts and Unexpired Leases.

a. *Assumption, assignment and Rejection of Cable-Only ROEs, Executory Contracts and Unexpired Leases.*

The Cable-Only ROE, Executory Contract and Unexpired Lease provisions of Article IX of the Plan shall be, and hereby are, approved. Immediately prior to the Effective Date, all Executory Contracts and Unexpired Leases listed on the schedules of the Debtors not previously assumed will be deemed rejected in accordance with the provisions and requirements of sections 365 and 1123 of the Bankruptcy Code, except those Executory Contracts and Unexpired Leases that (a) have been rejected by order of this Court, (b) are the subject of a

motion to reject pending on the Effective Date, or (c) are identified on various motions pending before the Court prior to the Effective Date. The rejected Executory Contracts and Unexpired Leases shall be deemed to have been rejected immediately prior to the Effective Date.

The terms of any such Cable-Only ROE, Executory Contract Or Unexpired Lease assumed or assumed and assigned pursuant to the Plan or any motions pending before the Court prior to the Effective Date shall be modified to include any amendments or modifications thereto, if any, that were agreed to by the relevant and appropriate parties on or before the Confirmation Date.

This provision shall not affect Executory Contracts Or Unexpired Leases assumed prior to the Confirmation Date, including, without limitation, contracts and leases assumed and assigned with the prior sale of any of the Debtors' cable systems.

b. *Rejection Damages Claims.*

Any Claims arising out of the rejection of a Cable-Only ROE, Executory Contract Or Unexpired Lease must be filed no later than the earlier of (a) thirty (30) days after the entry of the Confirmation Order, or (b) thirty (30) days after the date of any Final Order approving a Debtor's rejection of such contract or lease. Any Claim not so filed shall be forever barred and may not be asserted against any of the Debtors, Reorganized OpTel, the Reorganized Entities or New Subsidiaries, or their properties or their Estates. Each Claim resulting from such rejection shall constitute a Class 5 Unsecured Claim or Class 6 Convenience Claim, as the case may be.

c. *Assumption Claims.*

All cure and compensation payments which may be required by section 365(b)(1) and (2) of the Bankruptcy Code under any Cable-Only ROE Executory Contract or Unexpired Lease which are to be assumed and/or assigned shall constitute Administrative Claims and

treated under Article III of the Plan; *provided, however*, in the event of a dispute regarding the amount of any such payments, the cure of any other defaults, the ability of the Debtors or the Reorganized Entities to provide adequate assurance of future performance or any other matter pertaining to assumption and assignment, the Debtors or the Reorganized Entities shall make such payments and cure such other defaults and provide adequate assurance of future performance within 30 days following the entry of a Final Order resolving such disputes. The Debtors have provided prior notice in writing to parties to Cable-Only ROEs, Executory Contracts and Unexpired Leases to be assumed and assigned hereunder setting forth the amount of any cure or compensation payments it intends to pay, any adequate assurance of future performance it intends to provide and to those Reorganized Entities or New Subsidiaries where such Cable-Only ROE, Executory Contract or Unexpired Lease is to be assigned. If a party to such Cable-Only Executory Contract or Unexpired Lease has not filed an appropriate pleading with the Bankruptcy Court disputing the terms for assumption or assignment set forth in the Debtors' notice and requesting a hearing thereon, then such party shall be deemed to have accepted such terms for assumption and assignment and waived its right to dispute such matters.

2. Discharge and Release.

Except as specifically provided in the Plan or in this Order effective on the Effective Date, consummation of the Plan shall discharge and release the Debtors and the Reorganized Entities from any and all claims and demands including any Claim of a kind specified in section 502(g), 502(h) or 502(i) of the Bankruptcy Code, whether or not (i) a Proof of Claim based on such Claim was filed or deemed filed under section 501 of the Bankruptcy Code, or such Claim was listed on the Schedules of the Debtor, (ii) such Claim is or was Allowed under section 502 of the Bankruptcy Code, or (iii) the holder of such Claim has voted

on or accepted the Plan. The Debtors shall be fully and finally discharged of any liability or obligation on a Disallowed Claim or a Disallowed Interest, and any order creating a Disallowed Claim or a Disallowed Interest that is not a Final Order as of the Effective Date solely because of an Entity's right to move for reconsideration of such order pursuant to section 502 of the Bankruptcy Code or Bankruptcy Rule 3008 shall nevertheless become and be deemed to be a Final Order on the Effective Date. The Confirmation Order, except as otherwise provided herein, or unless the Bankruptcy Court orders otherwise, shall constitute an order: (a) disallowing all Claims and Interests to the extent such Claims and Interests are not allowable under any provision of section 502 of the Bankruptcy Code, including, but not limited to, time-barred Claims and Interests, and Claims for unmatured interest, and (b) disallowing or subordinating, as the case may be, any Claims, or portions of Claims, for penalties or non-compensatory damages.

3. Injunctions and Stays Remain in Effect Until Effective Date.

All injunctions and stays pursuant to sections 105 and 362 of the Bankruptcy Code or otherwise shall remain in full force and effect until the Effective Date of the Plan, except that nothing herein shall bar the filing of financing documents or the taking of such other actions as are necessary to effectuate the transactions specifically contemplated by the Plan or by this Confirmation Order.

4. Substantive Consolidation.

The Debtors' Estates shall be substantively consolidated for purposes of the Plan and actions with respect to voting, Confirmation, and distribution to holders of Allowed Claims and Interests in Classes 1, 2, 3, 4, 5 and 6 of the Plan, and all obligations of the Debtors or the Reorganized Entities under the Plan to holders of Claims or Interests in those Classes shall be

joint and several obligations of the Debtors and/or the Reorganized Entities. Except as provided in the Confirmation Order, the Debtors and the Reorganized Entities shall be separate corporate entities for all purposes.

5. Revesting of Assets.

Except as otherwise expressly provided in the Plan or in this Confirmation Order, all property of the Debtors' Estates shall revert in and become property of the Reorganized Debtors and the Reorganized Entities or the New Subsidiaries, as contemplated by the Plan, subject to the Liens of CIT and/or its assigns with the validity, priority, extent, perfection, enforceability and rights set forth therein. The Debtors, Reorganized OpTel, the Reorganized Entities, and the New Subsidiaries are authorized and directed to execute and file any documents as may be requested or may be deemed necessary to further effectuate the claims, rights, security interests, and liens and mortgages provided for in the Modified DIP Facility or the Exit Financing Facility and related documents.

D. Matters Relating to Implementation of the Plan.

1. Immediate Effectiveness: Successors and Assigns.

Immediately upon the entry of this Confirmation Order, the terms of the Plan shall be, and hereby are, deemed binding upon the Debtors, Reorganized OpTel and the Reorganized Entities, any and all holders of Claims or Interests (irrespective of whether such Claims or Interests are impaired under the Plan or whether the holders of such Claims or Interests accepted or are deemed to have accepted the Plan), any and all non-Debtor parties to Cable-Only ROEs Executory Contracts and Unexpired Leases with the Debtors and the respective heirs, executors, administrators, successors or assigns, if any, of any of the foregoing.

2. Exit Financing Facility.

The Debtors, Reorganized OpTel, and the Reorganized Entities are hereby authorized to enter into an Exit Financing Facility pursuant to terms and conditions as more fully described in the Commitment Letter of December 3, 2001 between the Debtors and ABLECO Finance LLC. All of the liens, claims, encumbrances and other rights of CIT under the Modified DIP Facility and the Final DIP Order shall be and hereby are expressly preserved and nothing in this Order shall be construed to limit or abridge such rights.

3. Modified DIP Facility

The Debtors are hereby authorized, until no later than the Effective Date, to continue to borrow, and are directed to continue to perform their obligations, under the Modified DIP Facility and the Final DIP Order. Notwithstanding anything to the contrary contained in this Confirmation Order (1) the Final DIP Order and all of the rights, remedies, liens, priorities and other protections provided to CIT and/or its assigns therein shall continue in full force and effect until the Modified DIP Facility has been paid in full; (2) the terms and conditions of the Modified DIP Facility shall continue in full force and effect, including but not limited to terms relating to the conditions of borrowing, interest rate, payment, collateral, priority, events of default and expiration date.

4. Continued Corporate Existence; Vesting of Assets.

Each Debtor shall continue to exist as a Reorganized Entity after the Effective Date as a separate entity with all the powers of a corporation under the laws of the respective state of incorporation but without prejudice to any right to alter or terminate such existence (whether by merger or otherwise) under such applicable state law. Except as otherwise provided in the Plan and the Modified DIP Facility, all property in each Estate and any property acquired by each of the Debtors under the Plan shall vest in Reorganized OpTel, a Reorganized Entity or a New Subsidiary, as the case may be, free and clear of all liens, Claims, charges, or other encumbrances, subject, however, to the Liens of CIT and/or its assigns under the Modified DIP Facility.

On and after the Effective Date, each Debtor, Reorganized OpTel, each Reorganized Entity and each New Subsidiary may operate its business and may use, acquire or dispose of property and compromise or settle any Claims or Interests without supervision or approval by the Bankruptcy Court and free of any restrictions of the Bankruptcy Code or Bankruptcy Rules, other than those restrictions expressly imposed by the Plan and this Order.

5. Cancellation of Notes, Instruments, Debentures, Existing Common Stock, and Stock Options.

On the Effective Date, except as otherwise provided for in the Plan, (i) the Old Equity Securities, to the extent not already cancelled, shall be automatically cancelled without any further action by Reorganized OpTel or the Reorganized Entities, and (ii) the obligations of OpTel under the Old Equity Securities and under the Certificate of Incorporation, any agreements, indentures, or certificates of designations governing the Old Equity Securities or the rights of holders thereof shall be deemed discharged and extinguished without need for further action.

6. Issuance of New Securities and Execution of Documents.

On or as soon as reasonably practicable after the Effective Date, except as otherwise provided in the Plan, Reorganized OpTel shall issue the New Common Stock required to be distributed to holders of Class 5 Claims in accordance with and as provided in the Plan. Reorganized OpTel shall execute and deliver such other agreements, documents and instruments as are required to be executed in accordance with the terms of the Plan.

7. Corporate Governance, Corporate Action, and Directors and Officers.

a. Corporate Action.

On the Effective Date, the adoption of the Restated Certificate of Incorporation of TVMAX Holdings, Inc. (formerly OpTel, Inc.) substantially in the form as attached as Plan Exhibit A and the Amended and Restated Bylaws of TVMAX Holdings, Inc. attached as Plan Exhibit B, and all actions contemplated by the Plan shall be authorized and approved in all respects (subject to the provisions of the Plan). On the Effective Date, the appropriate officers and directors of Reorganized OpTel, the Reorganized Entities and the New Subsidiaries are each

authorized and directed to issue, execute and deliver the agreements, documents, securities, and instruments contemplated by the Plan.

8. Securities Exemption.

Any securities issued pursuant to the Plan shall be exempt from securities registration pursuant to, and to the extent provided in, section 1145 of the Bankruptcy Code.

9. Exemption from Taxation.

In accordance with section 1146(c) of the Bankruptcy Code, the making, delivery, filing or recording of any instruments or documents of transfer as specified in, contemplated by or otherwise made pursuant to the Plan and/or the exhibits thereto are hereby exempt from taxation under any law imposing a recording fee or tax, stamp tax, transfer tax, or any similar tax. The Debtors, Reorganized OpTel or the Reorganized Entities and the New Subsidiaries, are hereby authorized to serve upon filing and recording officers a notice, in connection with the filing and recording of any deeds, mortgages, deeds of trust, leasehold mortgages, leases, memoranda and/or other documents or instruments, to evidence and implement this paragraph. The appropriate state or local government filing and recording officers are hereby directed to accept for filing or recording all instruments or documents to be filed and recorded as specified, contemplated by or otherwise pursuant to the Plan and the exhibits thereto, without payment of any such fee or tax or government assessment, and without the presentation of any affidavits, instruments, or returns otherwise required for recording, other than this Confirmation Order. The Court retains jurisdiction to enforce the foregoing direction, by contempt proceedings or otherwise.

10. Procedures for Treatment of Disputed, Contingent, and Unliquidated Claims.

Article X of the Plan is hereby approved. After the Effective Date, the Debtors and the Reorganized Entities with the consent of the Committee shall have the exclusive authority to file, settle, compromise, withdraw or litigate to judgment any objections to Claims. Except as expressly provided in the Plan or in any order entered in the Chapter 11 Cases prior to the Effective Date, no Claim or Interest shall be deemed Allowed unless and until such Claim or Interest is deemed Allowed under the Bankruptcy Code or by the Debtors, Reorganized OpTel or the Reorganized Entities, or the Court enters a Final Order in the Chapter 11 Cases allowing such Claim or Interest. Reorganized OpTel or the Reorganized Entities after Confirmation shall have and retain any and all rights and defenses the Debtors had with respect to any Claim or Interest as of the date the appropriate Debtor filed its petition for relief under the Bankruptcy Code.

11. Plan Distributions.

The Disbursing Agent shall make all distributions required under the Plan. Distributions shall be made on the Distribution Date (unless otherwise provided herein or ordered by the Bankruptcy Court) with respect to all Claims. The Disbursing Agent, as applicable, shall withhold from any assets or property distributed under the Plan any assets or property which must be withheld for foreign, federal, state, and local taxes payable with respect thereto or payable by the Person entitled to such assets to the extent required by applicable law.

11. Compliance with Tax Requirements.

In connection with the Plan, the Debtors, Reorganized OpTel, the Reorganized Entities and Disbursing Agent shall comply with all applicable withholding and reporting requirements imposed by federal, state, local, and foreign taxing authorities.

12. Authority to Prosecute or Settle Avoidance Litigation

The Debtors, the Reorganized Entities, the Committee or any representative thereof shall be authorized to prosecute any avoidance or recovery actions under section 544, 545, 547, 549, or 550 of the Bankruptcy Code pending on the Confirmation Date. All such avoidance actions, shall be prosecuted, settled, or compromised as deemed appropriate by the board of directors of Reorganized OpTel or the Reorganized Entities in an exercise of its business judgment under applicable corporate law.

13. Authority to Pursue Other Litigation

Reorganized OpTel, the Reorganized Entities or the New Subsidiaries shall be vested with all causes of action belonging to any of the Debtors on the Effective Date and may pursue such action in its own name or the name of the Debtor entity originally having the right to assert such claim.

14. Release, Injunctive, and Related Provisions

Article XIV of the Plan is hereby approved as it relates to provisions including, without limitation, (i) releases, (ii) exculpation and other releases, (iii) indemnifications; and (iv) injunctions.

E. Retention of Jurisdiction

Notwithstanding the entry of this Confirmation Order or the occurrence of the Effective Date, this Court shall retain the fullest and most extensive jurisdiction over the Chapter 11 Cases after the Confirmation Date and after the Effective Date as legally permissible, including all jurisdiction necessary to ensure that the purposes and intent of the Plan are carried out, including, without limitation:

- (i) Allow, disallow, determine, liquidate, classify, estimate, or establish the priority or secured or unsecured status of any Claim or Equity Interest, including the resolution of any request for payment of any Administrative

Claim and the resolution of any objections to the allowance or priority of Claims or Equity Interests;

- (ii) Hear and determine all applications for compensation and reimbursement of expenses of Professionals under the Plan or under Sections 330, 331, 503(b), 1103, and 1129(a)(4) of the Bankruptcy Code; *provided, however*, that from and after the Effective Date, the payment of the fees and expenses of the retained Professionals of the Reorganized Entities shall be made in the ordinary course of business and shall not be subject to the approval of the Court;
- (iii) Hear and determine all matters with respect to the assumption or rejection of any Executory Contract or Unexpired Lease to which the Debtors are a party or with respect to which the Debtors may be liable, including, if necessary, the nature or amount of any required Cure or the liquidation or allowance of any Claims arising therefrom;
- (iv) Effectuate performance of and payments under the provisions of the Plan;
- (v) Hear and determine any and all adversary proceedings including those proceedings, if any, instituted pursuant to Chapter 5 of the Bankruptcy Code, motions, applications, and contested or litigated matters arising out of, under, or related to, the Chapter 11 Cases;
- (vi) Enter such orders as may be necessary or appropriate to execute, implement or consummate the provisions of the Plan and all contracts, instruments, releases, and other agreements or documents created in connection with the Plan, the Disclosure Statement, or the Confirmation Order;
- (vii) Hear and determine disputes arising in connection with the interpretation, implementation, consummation or enforcement of the Plan, including disputes arising under agreements, documents or instruments executed in connection with the Plan;
- (viii) Consider any modifications of the Plan, cure any defect or omission, or reconcile any inconsistency in any order of the Court, including, without limitation, the Confirmation Order;
- (ix) Issue injunctions, enter and implement other orders, or take such other actions as may be necessary or appropriate to restrain interference by any Person with implementation, consummation or enforcement of the Plan or the Confirmation Order;

- (x) Enter and implement such orders as may be necessary or appropriate if the Confirmation Order is for any reason reversed, stayed, revoked, modified or vacated, or if distributions pursuant to the Plan are enjoined or stayed;
- (xi) Hear and determine any matters arising in connection with or relating to the Plan, the Disclosure Statement, the Confirmation Order or any contract, instrument, release, or other agreement or document created in connection with the Plan, the Disclosure Statement or the Confirmation Order;
- (xii) Enforce all orders, judgments, injunctions, releases, exculpations, indemnifications and rulings entered in connection with the Chapter 11 Cases;
- (xiii) Recover all assets of the Debtors and property of the Debtors' Estates, wherever located;
- (xiv) Hear and determine matters concerning federal, state and local taxes in accordance with Sections 346, 505, and 1146 of the Bankruptcy Code;
- (xv) Hear and determine all disputes involving the existence, nature or scope of the Debtors' discharge;
- (xvi) Hear and determine such other matters as may be provided in the Confirmation Order or as may be authorized under, or not inconsistent with, provisions of the Bankruptcy Code; and
- (xvii) Enter a final decree closing the Chapter 11 cases.

F. Dissolution of Committees.

On the Effective Date, the Creditor Committee shall be dissolved pursuant to the terms of the Plan, and members thereof shall be released and discharged from all rights and duties arising from, or related to, the Reorganization Cases, except that notwithstanding any other provision of this Order or the Plan, the Committee shall survive for the purpose of prosecuting any avoidance or recovery actions under Section 544, 545, 549 or 550 of the Bankruptcy Code pending on the Confirmation Date.

G. Payment of Statutory Fees.

On or prior to the Effective Date, the Debtors shall pay all fees payable pursuant to 28 U.S.C. § 1930 with the exception of the disputed quarterly fees which sum shall be deposited by the Debtors in a segregated interest bearing account wherein no withdrawals will be allowed without a final order of the Court.

H. Post-Effective Professional Fees.

Payment of fees and expenses incurred after the Effective Date by professionals retained pursuant to sections 327, 328, and 1103 of the Bankruptcy Code shall not be subject to court approval and shall be paid by the Debtors or Reorganized Entities, as the case may be, as those obligations become due.

I. Post-Confirmation Notices And Reports.

1. Notice of Entry of Confirmation Order.

Pursuant to Bankruptcy Rules 2002(f)(7) and 3020(e), the Debtors shall be, and hereby are, directed to serve a notice of the entry of this Confirmation on all holders of Claims or Interests to whom the notice of the Confirmation Hearing was mailed, the United States Trustee, and the Indenture Trustee.

J. Federal Communications Commission Compliance.

Nothing in the Plan or the Confirmation Order shall be construed to absolve the Debtors, the Reorganized Entities, the New Subsidiaries or any other Person from compliance with the Communications Act or rules or regulations promulgated by the Federal Communications Commission, including, without limitation, 47 U.S.C. §214 and regulations promulgated thereunder, and regulations governing the transfer or assignment of licenses.

2. Administrative Claims Bar Date.

Requests for payment of a Claim entitled to priority under 11 U.S.C. § 503, with the exception of applications by Professionals for compensation or reimbursement of expenses pursuant to section 330 of the Bankruptcy Code, shall be filed with this Court within thirty (30) days after the Effective Date. All requests for compensation by Professionals for services rendered to the Debtors or the Committee prior to the Effective Date must be filed within forty five (45) days after the Effective Date.

K. Filing or Recording of Order.

This Confirmation Order shall be deemed to be in recordable form and shall be accepted by any federal, state, or local recording officer for filing and recording purposes when certified by the clerk of the Bankruptcy Court.

L. Modification of Plan.

Pursuant to 1127 of the Bankruptcy Code the Debtors, Reorganized OpTel and the Reorganized Entities may modify the Plan without further notice or hearing to the extent that such modifications do not cause the amended plan to fail to meet the requirements of sections 1122 and 1123 of the Bankruptcy Code.

IT IS SO ORDERED.

Wilmington, Delaware
Dated: December 4, 2001



SUE L. ROBINSON
CHIEF UNITED STATES DISTRICT JUDGE

SCHULTE ROTH & ZABEL LLP

919 Third Avenue
New York, NY 10022
(212) 756-2000
fax (212) 593-5955

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February 14, 2002

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02-14-2002

U.S. Patent & TMOfo/TM Mail Rcpt. Dt. #40

Re: Recordation of
Change of Name
Optel, Inc./TVMAX Holdings, Inc.
Our Reference No.: 014951/0261

Dear Sir or Madam:

Please record the above-referenced document against the U.S. trademark filings identified in the accompanying Document Cover Sheet.

We authorize the deduction from Schulte Roth & Zabel LLP's Deposit Account No. 500675 of \$140.00, plus any deficiencies therein, to cover recordation fees, and we enclose an extra copy of the Document Cover Sheet for this purpose.

We also enclose an additional copy of this letter, which we request that you date stamp and return to the person submitting the document so that we may have a record of your receipt of this filing.

Very truly yours,

Paul A. Juergensen
Legal Assistant

Enclosures

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RECORDED: 02/14/2002

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