**IN THE UNITED STATES BANKRUPTCY COURT**
**FOR THE DISTRICT OF DELAWARE**

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| *In re* | Chapter 11 |
| DELTA PETROLEUM CORPORATION, et al.,[1] | Case No. 11-14006 (KJC) |
| Debtors. | Jointly Administered |

# DISCLOSURE STATEMENT FOR THE PROPOSED JOINT CHAPTER 11 PLAN OF REORGANIZATION OF DELTA PETROLEUM CORPORATION AND ITS DEBTOR AFFILIATES


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Dated: June 4, 2012

**THE VOTING DEADLINE TO ACCEPT OR REJECT THE PLAN IS __:00 _.M., PREVAILING EASTERN TIME, ON _____ __, 2012, UNLESS EXTENDED BY THE DEBTORS IN A NOTICE PROVIDED TO ELIGIBLE VOTERS**

1. The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number are: Delta Petroleum Corporation (0803), DPCA LLC (0803), Delta Exploration Company, Inc. (9462), Delta Pipeline, LLC (0803), DLC, Inc. (3989), CEC, Inc. (3154), Castle Texas Production Limited Partnership (6054), Amber Resources Company of Colorado (0506), and Castle Exploration Company, Inc. (9007). The Debtors' headquarters are located at: 370 17th Street, Suite 4300, Denver, Colorado 80202.

## DISCLAIMER

FOR A COMPLETE UNDERSTANDING OF THE PLAN, YOU SHOULD READ THIS DISCLOSURE STATEMENT, THE PLAN AND THE EXHIBITS HERETO AND THERETO IN THEIR ENTIRETY. IF ANY INCONSISTENCY EXISTS BETWEEN THE PLAN AND THIS DISCLOSURE STATEMENT, THE TERMS OF THE PLAN ARE CONTROLLING.

HOLDERS OF CLAIMS SHOULD NOT CONSTRUE THE CONTENTS OF THIS DISCLOSURE STATEMENT AS PROVIDING ANY LEGAL, BUSINESS, FINANCIAL OR TAX ADVICE, AND SHOULD CONSULT WITH THEIR OWN ADVISORS BEFORE CASTING A VOTE WITH RESPECT TO THE PLAN.

THE NEW COMMON STOCK HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933 (THE "**SECURITIES ACT**"), OR SIMILAR STATE SECURITIES OR "BLUE SKY" LAWS. THE ISSUANCE OF SUCH SECURITIES UNDER THE PLAN WILL BE EFFECTED PURSUANT TO THE EXEMPTION UNDER SECTION 1145 OF THE BANKRUPTCY CODE.

NEITHER THE SECURITIES AND EXCHANGE COMMISSION NOR ANY STATE SECURITIES COMMISSION HAS APPROVED OR DISAPPROVED THE TRANSACTIONS CONTEMPLATED HEREIN OR DETERMINED IF THIS DISCLOSURE STATEMENT IS TRUTHFUL OR COMPLETE. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE. PERSONS OR ENTITIES TRADING IN OR OTHERWISE PURCHASING, SELLING OR TRANSFERRING SECURITIES OR CLAIMS OF THE DEBTORS SHOULD EVALUATE THIS DISCLOSURE STATEMENT AND THE PLAN IN LIGHT OF THE PURPOSE FOR WHICH THEY WERE PREPARED.

CERTAIN STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT, INCLUDING PROJECTED FINANCIAL INFORMATION AND OTHER FORWARD-LOOKING STATEMENTS, ARE BASED ON ESTIMATES AND ASSUMPTIONS. THERE CAN BE NO ASSURANCE THAT SUCH STATEMENTS WILL BE REFLECTIVE OF ACTUAL OUTCOMES. FORWARD-LOOKING STATEMENTS PROVIDED IN THIS DISCLOSURE STATEMENT SHOULD BE EVALUATED IN THE CONTEXT OF THE ESTIMATES, ASSUMPTIONS, UNCERTAINTIES AND RISKS DESCRIBED HEREIN.

FURTHER, READERS ARE CAUTIONED THAT ANY FORWARD-LOOKING STATEMENTS HEREIN ARE BASED ON ASSUMPTIONS THAT ARE BELIEVED TO BE REASONABLE BUT ARE SUBJECT TO A WIDE RANGE OF RISKS INCLUDING, BUT NOT LIMITED TO, THOSE RISKS DESCRIBED IN ARTICLE VII OF THIS DISCLOSURE STATEMENT AND EACH OF THE OTHER RISKS IDENTIFIED IN THIS DISCLOSURE STATEMENT. DUE TO THESE UNCERTAINTIES, READERS CANNOT BE ASSURED THAT ANY FORWARD-LOOKING STATEMENTS WILL PROVE TO BE CORRECT. THE DEBTORS ARE UNDER NO OBLIGATION TO (AND EXPRESSLY DISCLAIM ANY OBLIGATION TO) UPDATE OR ALTER ANY FORWARD-LOOKING STATEMENTS WHETHER AS A RESULT OF NEW INFORMATION, FUTURE EVENTS, OR OTHERWISE, UNLESS INSTRUCTED TO DO SO BY THE BANKRUPTCY COURT.

ALTHOUGH THE DEBTORS HAVE ATTEMPTED TO ENSURE THE ACCURACY OF THE FINANCIAL INFORMATION PROVIDED IN THIS DISCLOSURE STATEMENT, EXCEPT WHERE SPECIFICALLY NOTED, NO INDEPENDENT AUDITOR OR ACCOUNTANT HAS REVIEWED OR APPROVED THE FINANCIAL PROJECTIONS OR THE LIQUIDATION ANALYSIS HEREIN.

THE DEBTORS' MANAGEMENT WITH THE ASSISTANCE OF THEIR FINANCIAL ADVISORS PREPARED THE FINANCIAL PROJECTIONS PROVIDED IN THIS DISCLOSURE STATEMENT. THESE FINANCIAL PROJECTIONS, WHILE PRESENTED WITH NUMERICAL SPECIFICITY, ARE NECESSARILY BASED ON A VARIETY OF ESTIMATES AND ASSUMPTIONS THAT, ALTHOUGH CONSIDERED REASONABLE BY MANAGEMENT, MAY NOT BE REALIZED AND ARE INHERENTLY SUBJECT TO SIGNIFICANT BUSINESS, ECONOMIC, COMPETITIVE, INDUSTRY, REGULATORY, MARKET AND FINANCIAL UNCERTAINTIES AND CONTINGENCIES, MANY OF WHICH ARE BEYOND THE DEBTORS' CONTROL. THE DEBTORS CAUTION THAT NO REPRESENTATION CAN BE MADE AS TO THE ACCURACY OF THESE FINANCIAL PROJECTIONS OR THE ABILITY TO ACHIEVE THE PROJECTED RESULTS. SOME ASSUMPTIONS INEVITABLY WILL NOT MATERIALIZE. FURTHER, EVENTS AND CIRCUMSTANCES OCCURRING SUBSEQUENT TO THE DATE ON WHICH THESE FINANCIAL PROJECTIONS WERE PREPARED MAY BE DIFFERENT FROM THOSE ASSUMED AND/OR MAY HAVE BEEN UNANTICIPATED, AND THUS THE OCCURRENCE OF THESE EVENTS MAY AFFECT FINANCIAL RESULTS IN A MATERIALLY ADVERSE OR MATERIALLY BENEFICIAL MANNER. THE FINANCIAL PROJECTIONS, THEREFORE, MAY NOT BE RELIED UPON AS A GUARANTEE OR OTHER ASSURANCE OF THE ACTUAL RESULTS THAT WILL OCCUR.

THE STATEMENTS AND FINANCIAL INFORMATION CONTAINED HEREIN HAVE BEEN MADE AS OF THE DATE HEREOF UNLESS OTHERWISE SPECIFIED. HOLDERS OF CLAIMS AND EQUITY INTERESTS REVIEWING THIS DISCLOSURE STATEMENT SHOULD NOT INFER AT THE TIME OF SUCH REVIEW THAT THERE HAVE BEEN NO CHANGES IN THE FACTS SET FORTH HEREIN SINCE THE DATE HEREOF. MOREOVER, THERE MAY BE ERRORS IN THE STATEMENTS AND/OR FINANCIAL INFORMATION CONTAINED HEREIN AND/OR ASSUMPTIONS UNDERLYING SUCH STATEMENTS AND/OR FINANCIAL INFORMATION. THE DEBTORS AND THEIR ADVISORS EXPRESSLY DISCLAIM ANY OBLIGATION TO UPDATE OR CORRECT ANY SUCH FINANCIAL INFORMATION OR ASSUMPTIONS.

NO PARTY IS AUTHORIZED TO GIVE ANY INFORMATION WITH RESPECT TO THE PLAN OTHER THAN THAT WHICH IS CONTAINED IN THIS DISCLOSURE STATEMENT. NO REPRESENTATIONS CONCERNING THE DEBTORS OR THE VALUE OF THEIR PROPERTY HAVE BEEN AUTHORIZED BY THE DEBTORS OTHER THAN AS SET FORTH IN THIS DISCLOSURE STATEMENT. ANY INFORMATION, REPRESENTATIONS OR INDUCEMENTS MADE TO OBTAIN AN ACCEPTANCE OF THE PLAN OTHER THAN, OR INCONSISTENT WITH, THE INFORMATION CONTAINED HEREIN AND IN THE PLAN, SHOULD NOT BE RELIED UPON BY ANY HOLDER OF A CLAIM OR AN INTEREST.

THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT ARE MADE AS OF THE DATE HEREOF UNLESS OTHERWISE SPECIFIED.

THE INFORMATION IN THIS DISCLOSURE STATEMENT IS BEING PROVIDED SOLELY FOR PURPOSES OF VOTING TO ACCEPT OR REJECT THE PLAN OR OBJECTING TO CONFIRMATION OF THE PLAN. NOTHING IN THIS DISCLOSURE STATEMENT MAY BE USED BY ANY PARTY FOR ANY OTHER PURPOSE.

ALL EXHIBITS TO THIS DISCLOSURE STATEMENT ARE INCORPORATED INTO AND ARE A PART OF THIS DISCLOSURE STATEMENT AS IF SET FORTH IN FULL HEREIN.

THIS DISCLOSURE STATEMENT CONTAINS SUMMARIES OF CERTAIN PROVISIONS OF THE PLAN, CERTAIN STATUTORY PROVISIONS, CERTAIN DOCUMENTS RELATING TO THE PLAN AND CERTAIN FINANCIAL INFORMATION. ALTHOUGH THE DEBTORS BELIEVE THAT ALL SUCH SUMMARIES ARE FAIR AND ACCURATE AS OF THE DATE HEREOF, SUCH SUMMARIES ARE QUALIFIED TO THE EXTENT THAT THEY DO NOT SET FORTH THE ENTIRE TEXT OF UNDERLYING DOCUMENTS AND TO THE EXTENT THAT THEY MAY CHANGE AS PERMITTED BY THE PLAN AND APPLICABLE LAW. THE DEBTORS' MANAGEMENT HAS PROVIDED FACTUAL INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT, EXCEPT WHERE OTHERWISE SPECIFICALLY NOTED. THE DEBTORS DO NOT WARRANT OR REPRESENT THAT THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT INCLUDING THE FINANCIAL INFORMATION, IS WITHOUT ANY MATERIAL INACCURACY OR OMISSION.

INTERNAL REVENUE SERVICE CIRCULAR 230 NOTICE: TO ENSURE COMPLIANCE WITH INTERNAL REVENUE SERVICE CIRCULAR 230, HOLDERS OF CLAIMS AND PRECONFIRMATION EQUITY INTERESTS ARE HEREBY NOTIFIED THAT: (A) ANY DISCUSSION OF FEDERAL TAX ISSUES CONTAINED OR REFERRED TO IN THIS DISCLOSURE STATEMENT IS NOT INTENDED OR WRITTEN TO BE USED, AND CANNOT BE USED, BY HOLDERS OF CLAIMS OR PRECONFIRMATION EQUITY INTERESTS FOR THE PURPOSE OF AVOIDING PENALTIES THAT MAY BE IMPOSED ON THEM UNDER THE INTERNAL REVENUE CODE; (B) SUCH DISCUSSION IS WRITTEN IN CONNECTION WITH THE PROMOTION OR MARKETING BY THE DEBTORS OF THE TRANSACTIONS OR MATTERS ADDRESSED HEREIN; AND (C) HOLDERS OF CLAIMS AND PRECONFIRMATION EQUITY INTERESTS SHOULD SEEK ADVICE BASED ON THEIR PARTICULAR CIRCUMSTANCES FROM AN INDEPENDENT TAX ADVISOR.

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**EXHIBITS**

# I. INTRODUCTION

## A. Overview

Delta Petroleum Corporation ("**Delta**") and its debtor affiliates, as debtors and debtors in possession (collectively, the "**Debtors**"),[2] submit this disclosure statement (the "**Disclosure Statement**") pursuant to section 1125 of title 11 of the United States Code, as now in effect or as hereafter amended (the "**Bankruptcy Code**"), and rule 3017 of the Federal Rules of Bankruptcy Procedure, as now in effect or as hereafter amended (the "**Bankruptcy Rules**"), and ballots for use in the solicitation of votes in accordance with section 1126(b) of the Bankruptcy Code (the "**Solicitation**") on the *Proposed Joint Chapter 11 Plan of Reorganization of Delta Petroleum Corporation and its Debtor Affiliates*, dated as of May 31, 2012 (including all Plan Exhibits and the Plan Supplements, the "**Plan**").[3] The Plan is being proposed by the Debtors and is annexed as Exhibit 1 to this Disclosure Statement.

The purpose of this Disclosure Statement is to assist each holder of Claims entitled to vote on the Plan in making an informed judgment regarding whether to vote to accept or reject the Plan. This Disclosure Statement sets forth certain information regarding (i) the Debtors' prepetition operating and financial history; (ii) the Debtors' need for restructuring of their financial obligations and operations; (iii) significant events that have occurred during the Debtors' chapter 11 cases (the "**Chapter 11 Cases**"); (iv) the terms of the Plan; (v) certain effects of confirmation of the Plan; (vi) certain risk factors associated with the Plan; (vii) the manner in which distributions will be made under the Plan; (viii) the confirmation process and the voting procedures that holders of Claims entitled to vote under the Plan must follow for their votes to be counted; and (ix) the anticipated organization, operations, liquidity and financial projections of Delta and the other Debtors upon emergence from chapter 11 of the Bankruptcy Code ("**Reorganized Delta**" and the "**Reorganized Debtors**", respectively).

On _____, __ 2012, the Bankruptcy Court approved this Disclosure Statement as containing sufficient information to enable a hypothetical reasonable investor to make an informed judgment about the Plan. A copy of the order approving the Disclosure Statement [D.I. ___] is attached hereto as Exhibit 2 (the "**Disclosure Statement Order**"). Under section 1125 of the Bankruptcy Code, this approval enabled the Debtors to send the Disclosure Statement and solicit acceptances of the Plan. The Bankruptcy Court has not considered approval of the Plan itself or conducted a detailed investigation into the contents of the Disclosure Statement.

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2 The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number are: Delta Petroleum Corporation (0803), DPCA LLC (0803), Delta Exploration Company, Inc. (9462), Delta Pipeline, LLC (0803), DLC, Inc. (3989), CEC, Inc. (3154), Castle Texas Production Limited Partnership (6054), Amber Resources Company of Colorado (0506), and Castle Exploration Company, Inc. (9007). The Debtors' headquarters are located at: 370 17th Street, Suite 4300, Denver, Colorado 80202.

3 Capitalized terms not otherwise defined in this Disclosure Statement have the meanings ascribed to them in the Plan. The summary of the Plan provided herein is qualified in its entirety by reference to the Plan. In the case of any inconsistency between the summary herein and the Plan, the Plan will govern.

### B. Summary of the Chapter 11 Cases

Due to unprecedented economic conditions affecting the natural gas industry and certain other unforeseen events, the Debtors' current level of debt became unsustainable. After a variety of unsuccessful out-of-court attempts to address the Debtors' financial obligations, the Debtors concluded that the only feasible way to restructure their debt was through the Chapter 11 process. The Debtors' single largest obligation is owed to the Noteholders. As of the date of this Disclosure Statement, the Noteholders were owed an aggregate amount of approximately $267.7 million in outstanding obligations on account of the Notes. The Debtors also owe an aggregate amount of up to approximately $67.2 million in outstanding amounts and obligations to the DIP Lenders pursuant to the DIP Credit Facility.

The Plan reflects the terms negotiated by and between the Debtors and Laramie Energy II, LLC ("**Laramie,**" and, the "**Plan Sponsor**") following the conclusion of a competitive bidding process. On June 4, 2012, certain Noteholders, with approximately 79.7% of the total amount of the Noteholder Claims (collectively, the "**Supporting Noteholders**"), the DIP Agent, the Debtors and the Plan Sponsor entered into a Plan Support Agreement (the "**Plan Support Agreement**"), pursuant to which the Supporting Noteholders have agreed to vote in favor of confirmation of the Plan on the terms and conditions outlined in the Plan Support Agreement and related ancillary documents attached thereto.

The Plan allows the Debtors to deleverage their balance sheets through their agreement with the Plan Sponsor to form a new limited liability company (the "**Joint Venture Company**") with assets contributed by Laramie and the Debtors, including each party's oil and gas, surface real estate, and related assets located in Garfield and Mesa Counties, Colorado. Reorganized Delta will retain (i) a 33.34% interest in the Joint Venture Company, and (ii) $75 million in Cash, subject to certain adjustments set forth in the Contribution Agreement, drawn from a senior secured term loan credit facility obtained by the Plan Sponsor on behalf of the Joint Venture Company (the "**JV Company Credit Facility**"). The proceeds of the JV Company Credit Facility will be applied to pay the administrative expenses of the Debtors' estates, including, without limitation, the debtor-in-possession financing facility. The Plan further provides that the Holders of General Unsecured Claims and Noteholder Claims will receive their Pro Rata shares of an aggregate of 100% of Reorganized Delta's New Common Stock in full satisfaction of their Claims, although Holders of General Unsecured Claims may elect instead to receive Cash equal to 15% of the Allowed amount of such Claim on the Effective Date.

Under the Plan, the Debtors' other creditors and equity holders will receive the following treatments:

- Each Priority Non-tax Claim and each Other Secured Claim will be unimpaired in accordance with section 1124(1) of the Bankruptcy Code.

- Each General Unsecured Claim will receive, at the option of the Holder of such Claim, either (i) 15% of the Allowed amount of its Claim in cash, or (ii) its Pro Rata Share of 100% of the New Common Stock of Reorganized Delta. For purposes of distribution of the stock of Reorganized Delta under the Plan, Pro Rata shall be determined by taking into account (i) the total amount of Noteholder

Claims plus (ii) the total amount of General Unsecured Claims whose Holders have not elected to receive 15% of the amount of their Claims in cash.

- Each Noteholder Claim will receive such Claim's Pro Rata share of 100% of the New Common Stock of Reorganized Delta. As set forth above, Pro Rata shall be determined by taking into account (i) the total amount of Noteholder Claims plus (ii) the total amount of General Unsecured Claims whose Holders have not elected to receive 15% of the amount of their Claims in cash.

- Intercompany Claims against the Debtors will not receive any recovery under the Plan.

- All Existing Delta Equity Interests will be canceled and the holders thereof will receive no value under the Plan.

- All Intercompany Equity Interests will be reinstated on the Effective Date.

In view of the deemed rejection by Class 6 (Intercompany Claims), Class 7 (Existing Delta Equity Interests) and Class 8 (Securities Litigation Claims), the Debtors will seek confirmation of the Plan pursuant to the "cram down" provisions of section 1129 of the Bankruptcy Code as to these classes. Further, if either of Class 4 (General Unsecured Claims) or Class 5 (Noteholder Claims) does not vote to confirm the Plan, the Debtors intend to "cram down" the Plan over the objections of either such Class as well. Such treatment complies with section 1129 of the Bankruptcy Code. It would be "fair and equitable" pursuant to 1129(b) because no Class of Claims or Equity Interests junior to Classes 4 or 5 would receive or retain any property under the Plan on account of such junior Claims or Equity Interests, and it would meet the "best interests" test pursuant to 1129(a)(7) because Claims in Classes 4 and 5 are treated as favorably as they would be in a chapter 7 liquidation, in which the recovery to the holders of General Unsecured Claims and Noteholder Claims would be severely limited. Thus, if the Plan otherwise satisfies the confirmation requirements of section 1129 of the Bankruptcy Code, then it could provide no recovery to holders of Claims in Classes 6, 7 and 8.

The Debtors believe that implementation of the Plan will maximize value for the benefit of their stakeholders. The Debtors further believe that the value of their businesses would be damaged significantly if they are unable to implement the transactions with the Plan Sponsor contemplated by the Plan. Therefore, if the requisite acceptances of the Plan have been obtained, the Debtors will seek approval of this Disclosure Statement and consummation of the Plan as quickly as possible. If the Plan is not confirmed and consummated, the alternatives to the Plan include liquidation of the Debtors under chapter 7 of the Bankruptcy Code or formulation of a different plan of reorganization.

A brief summary of the Classes established under the Plan, including the treatment and the voting rights of each Class, is set forth in the table below. A complete description of the treatment of each Class is set forth in Article IV of the Plan and Section V.B of this Disclosure Statement. Parties should refer to those sections for a complete description of the proposed treatment for each Class.

| Class | Claims & Interest | Status | Treatment | Voting Rights | Estimated Recovery Under Plan | Estimated Liquidation Recovery |
|---|---|---|---|---|---|---|
| Class 1 | DIP Facility Claims | Unimpaired | Paid in Full | Not Entitled to Vote (Deemed to Accept) | 100.0% | 100.0% |
| Class 2 | Priority Non-Tax Claims | Unimpaired | Paid in Full | Not Entitled to Vote (Deemed to Accept) | 100.0% or Unaffected by Plan | ___% |
| Class 3 | Other Secured Claims | Unimpaired | Paid in Full | Not Entitled to Vote (Deemed to Accept) | 100.0% or Unaffected by Plan | ___% |
| Class 4 | General Unsecured Claims | Impaired | Cash equal to 15% of claim amount or Pro Rata Share of the New Common Stock of Reorganized Delta | Entitled to Vote | TBD | ___% |
| Class 5 | Noteholder Claims | Impaired | Pro Rata Share of the New Common Stock of Reorganized Delta | Entitled to vote | TBD | ___% |
| Class 6 | Intercompany Claims | Impaired | No Recovery | Not Entitled to Vote (Deemed to Reject) | 0.0% | 0.0% |
| Class 7 | Existing Delta Equity Interests | Impaired | No Recovery | Not Entitled to Vote (Deemed to Reject) | 0.0% | 0.0% |
| Class 8 | Securities Litigation Claims | Impaired | No Recovery | Not Entitled to Vote (Deemed to Reject) | 0.0% | 0.0% |
| Class 9 | Intercompany Equity Interests | Unimpaired | Reinstated | Not Entitled to Vote (Deemed to Accept) | 100% | 0.0% |

### C. Who Is Entitled to Vote

This Disclosure Statement is being transmitted to certain holders of Claims for the purpose of soliciting votes on the Plan and to others for informational purposes. For those holders of Claims entitled to vote, the purpose of this Disclosure Statement is to provide adequate information to enable those holders to make a reasonably informed decision with respect to the Plan prior to exercising their right to vote to accept or reject the Plan.

Under section 1126 of the Bankruptcy Code, only classes of claims or equity interests that are (i) "impaired" by a plan of reorganization and (ii) entitled to receive a distribution under such plan are entitled to vote on a plan. PURSUANT TO THE PLAN, ONLY CLAIMS IN CLASSES 4 AND 5, ARE IMPAIRED BY AND ENTITLED TO RECEIVE A DISTRIBUTION UNDER THE PLAN, AND ONLY THE HOLDERS OF CLAIMS IN CLASSES 4 AND 5 ARE ENTITLED TO VOTE TO ACCEPT OR REJECT THE PLAN. You should review this Disclosure Statement to determine whether you hold a Claim in Class 4 or Class 5. Claims in Classes 1, 2, 3 and 9 are unimpaired by the Plan, and such holders are conclusively presumed to have accepted the Plan. Holders of Intercompany Claims in Class 6, Existing Delta Equity Interests in Class 7 and Securities Litigation Claims in Class 8, are deemed

to have rejected the Plan, and the holders of Claims or Equity Interests in such Classes are not entitled to vote.

### D. How to Vote and Voting Deadline

After carefully reviewing the Plan, this Disclosure Statement and the detailed instructions accompanying your ballot, you are asked to indicate your acceptance or rejection of the Plan by voting in favor of or against the Plan on the accompanying ballot. You should complete and sign your original ballot and return it according to the instructions enclosed with the ballot. Copies of ballots will not be accepted, nor will any other form of vote.

Each ballot reflects the Class of Claims it represents. Accordingly, in voting to accept or reject the Plan, you must use only the ballot(s) sent to you with this Disclosure Statement.

PLEASE READ AND CAREFULLY FOLLOW THE VOTING INSTRUCTIONS BEFORE COMPLETING YOUR BALLOT. IN ORDER FOR YOUR VOTE TO BE COUNTED, YOUR BENEFICIAL OWNER BALLOT OR MASTER BALLOT MUST BE PROPERLY SIGNED AND COMPLETED IN ACCORDANCE WITH THE VOTING INSTRUCTIONS ON THE BALLOT. UNLESS YOU HAVE RECEIVED A PRE-VALIDATED BENEFICIAL OWNER BALLOT (AS DESCRIBED HEREIN) FOR DIRECT RETURN TO THE VOTING AGENT, YOU MUST RETURN YOUR BENEFICIAL OWNER BALLOT TO YOUR NOMINEE IN ENOUGH TIME FOR YOUR VOTE TO BE PROCESSED ON A MASTER BALLOT AND SUBMITTED TO THE VOTING AGENT. MASTER BALLOTS AND BENEFICIAL OWNER BALLOTS MUST BE ACTUALLY RECEIVED BY _____ __, 2012 AT _:00 _.M. PREVAILING EASTERN TIME BY DPC PROCESSING CENTER AS FOLLOWS:

***By hand delivery, mail or overnight courier:***

DPC Ballot Processing Center
c/o Epiq Bankruptcy Solutions, LLC
757 Third Avenue, 3rd Floor
New York, NY 10017

BALLOTS THAT ARE RECEIVED BUT NOT SIGNED WILL NOT BE COUNTED. DO NOT RETURN ANY STOCK CERTIFICATES, DEBT INSTRUMENTS OR OTHER EVIDENCE OF YOUR CLAIM WITH YOUR BALLOT.[4]

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4 Section 10.8 of the Plan provides that each person that votes to accept the Plan shall be deemed to forever release, waive and discharge the Released Parties, to the fullest extent permitted by section 1141 of the Bankruptcy Code, of and from any and all Claims, demands, causes of action and the like, existing as of the Effective Date or thereafter arising from any act, omission, event, or other occurrence that occurred on or prior to the Effective Date, whether direct or derivative, liquidated or unliquidated, fixed or contingent, matured or unmatured, disputed or undisputed, known or unknown, foreseen or unforeseen, in law, equity or otherwise at law, in equity or otherwise that is based on, relating to, or in any manner arising from, in whole or in part, the Debtors, the Debtors' restructuring, the Chapter 11 Cases, the purchase, sale or rescission of the purchase or

(Footnote continued on next page)

The record date for determining which holders of Claims are entitled to vote on the Plan is the date of entry by the Bankruptcy Court of the order approving the Disclosure Statement (the "**Record Date**"). The Indenture Trustee will not vote on behalf of the holders. Each holder of an existing Noteholder Claim must submit its own ballot.

### E. Confirmation Hearing

The Bankruptcy Court has set _____ _, 2012 at _:_0 _.m. (prevailing Eastern time) for a hearing (the "**Confirmation Hearing**") to determine whether the Plan has been accepted by the requisite number of Creditors and whether the other requirements for confirmation of the Plan have been satisfied. The Confirmation Hearing will be held before the Honorable Kevin J. Carey, at the United States Bankruptcy Court for the District of Delaware, located at 824 Market Street, 5th Floor, Courtroom No. 5, Wilmington, Delaware 19801. The Confirmation Hearing may be continued from time to time and day to day without further notice. If the Bankruptcy Court confirms the Plan, it will enter the Confirmation Order.

Objections to Confirmation must be filed and served on the Debtors, and certain other parties in interest, by no later than _____ __, 2012 at _:00 _.m. (prevailing Eastern Time) in accordance with the notice of the Confirmation Hearing that accompanies this Disclosure Statement. Unless objections to Confirmation are timely served and filed in compliance with the Disclosure Statement Order, which is attached to this Disclosure Statement as Exhibit 2, they may not be considered by the Bankruptcy Court.

### F. Additional Information

If you have any questions about (a) the procedure for voting on your Class 4 or Class 5 Claim, (b) the package of materials that you have received or (c) the amount of your Claim, or if you wish to obtain an additional copy of the Plan, this Disclosure Statement, or any exhibits to such documents, please contact the Voting Agent (as defined in Section VIII.A) at:

Epiq Bankruptcy Solutions, LLC
Phone: (646) 282-2400
E-mail: tabulation@epiqsystems.com

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(Footnote continued from prior page)
sale of any security of the Debtors, the subject matter of, or the transactions or events giving rise to, any Claim that is treated in the Plan, the business or contractual arrangements between the Debtors and any Released Party relating to the restructuring of Claims prior to or in the Chapter 11 Cases or the negotiation, formulation or preparation of the Plan, or any related agreements, instruments or other documents. Except as otherwise provided herein, upon the Effective Date, all such holders of Claims and their affiliates shall be forever precluded and enjoined from prosecuting or asserting any such discharged Claim against the Debtors or any Affiliates or Subsidiaries. Notwithstanding the foregoing, in the event that the Plan is not confirmed, no party shall be deemed to have released or shall release any claims or be released hereby. Furthermore, notwithstanding the foregoing, such release, waiver and discharge shall not operate as a release, waiver or discharge of any Released Party in respect of any express contractual obligation of any such Released Party incurred in connection with the Plan or of any express contractual obligation of any non-Debtor party due to any other non-Debtor party.

For further information and general instructions on voting to accept or to reject the Plan, see Article VIII of this Disclosure Statement and the instructions accompanying your ballot.

## II. GENERAL INFORMATION REGARDING THE DEBTORS

### A. Background

The Debtors collectively are an independent oil and gas company engaged primarily in the exploration for, and the acquisition, development, production, and sale of, natural gas and crude oil. Natural gas comprises over 90% of the Debtors' production services. The core area of the Debtors' operations is the Rocky Mountain Region of the United States, where the majority of their proved reserves, production and long-term growth prospects are located.

### B. The Debtors' Business Operations

The Debtors' primary business is exploring for mineral production opportunities to produce natural gas and crude oil, identifying those opportunities and entering into leases with land owners to exploit the mineral rights on the land, and then producing the natural gas and crude oil. The Debtors do not have an affiliate that conducts drilling activities, and thus require outside contractors to drill wells.[5] In the case of natural gas, once the gas has been extracted, the product typically travels through pipelines owned by third parties, who transport the product to a processing plant for a fee. The processing plant owner processes the gas and delivers the residue gas to Delta's market, with Delta's chosen processing facility receiving the liquid products, selling them, and remitting proceeds to Delta. In the case of oil production, the Debtors sell their product to a small number of "first purchasers", which consist of larger natural gas and oil companies who enter into contracts to purchase natural gas and crude oil from the Debtors to sell into the broader marketplace. The crude oil is separated from the gas at the well site instead of going to a pipeline, and taken directly by truck from the well site to go to processing plants.

#### 1. Sources of Revenue

The Debtors' core asset and primary area of activity is in the Vega Area of the Piceance Basin in western Colorado (the "**Vega Unit**"). The Williams Fork member of the Mesa Verde formation is the primary producing interval and has been successfully developed throughout the Piceance Basin. The geology of the Piceance Basin is characterized as highly consistent and predictable over large areas, which generally equates to reliable timing and cost expectations during drilling and completion activities, as well as minimal well-to-well variance in production and reserves when completed with the same methodology.

Since 2005, the Debtors have dedicated significant financial capital and human resources to the development of the Vega Unit and surrounding leasehold in Mesa County, Colorado

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5 Previously, Delta owned a 49.8% interest in a drilling company known as DHS Drilling Company ("**DHS**"). DHS was the borrower under a secured credit facility with Lehman Commercial Paper, Inc. ("**LCPI**"), and as of September 30, 2011, owed LCPI approximately $71.9 million on account of such credit facility. The credit facility was non-recourse to Delta. After several efforts to sell DHS, including engaging transaction advisors, Delta opted on October 30, 2011 to sell its stock in DHS to LCPI for $500,000.

(together with the Vega Unit, the "**Vega Area**"). The Vega Area is comprised of the Vega Unit, a unit in Buzzard Creek, and leaseholds in North Vega and North Buzzard Creek. The Debtors' working interest in the Vega Area varies between 95 and 100%.

In 2008, Delta acquired an additional 17,300 net acres in the Vega Area, which increased its position to approximately 22,375 net acres, which has over 1,900 net drilling locations based on 10-acre spacing. During fiscal year 2008, Delta increased proved reserves in the Vega Area over 295% to 719.9 Bcfe (billions of cubic feet equivalent) and increased production from approximately 25.0 Mmcf/d (million cubic feet per day) at the beginning of the year to approximately 48.0 Mmcf/d at the end of 2008. However, during 2009, as a result of the combined effect of lower natural gas prices through the year and the new SEC reserve pricing rules and Delta's limited capital development plan, proved reserves decreased to 84.7 Bcfe. As of December 31, 2010, proved reserves in the Vega Area totaled 112.6 Bcfe. Net production in the Vega Area currently exceeds 22 Mmcfe/d.

Delta ended 2010 with 190 wells producing natural gas and crude oil. Delta decreased its drilling program from four rigs to one rig at year end 2008, and further to zero rigs in 2009 and 2010, primarily due to the decrease in natural gas prices and liquidity concerns. Since 2005, Delta has experienced significant reductions in drill time, and drilling and completion costs. Delta reinitiated completion activities in the latter half of 2010 on previously drilled wells. These recently completed wells utilized a larger fracture stimulation design, called "generation four" or "Gen IV", which has proven to increase the initial production and recoverable reserves per well over Delta's prior completion designs. Additionally, Delta drilled a well in the Vega Area to test the sections that are located deeper than the Williams Fork section. Delta also began drilling another well, which will target the section immediately beneath the Williams Fork section. Delta is not currently undertaking any drilling activities, and has focused its operations on production services.

As the Debtors scaled back their operations as further described below, the Debtors streamlined their businesses to focus on the Vega Area. As of December 31, 2010, the Vega Area comprised approximately 84% of the Debtors' proved reserves and with its undeveloped leasehold potential comprises virtually all of their long-term growth prospects. The Debtors have sold many of their non-core assets and interests in the three years prior to the Petition Date, including their interests in producing fields in Texas and other non-core areas as further described below. These sales allowed the Debtors to reduce debt, overhead and operating expenses, while raising capital to deploy in the Vega Area. Although the Debtors retain working interests in certain fields outside their core area, such fields are now operated by third parties, and the Debtors expect limited capital expenditures in those areas in the future.

### 2. Financial Results

Financial information concerning the Debtors' financial condition as of the Petition Date can be found in the Debtors' Schedules and Statement of Financial Affairs filed with the Bankruptcy Court [D.I. 140-160, 285, 286, 416, 417] and addressed more fully herein. Additionally, current information concerning the Debtors may be found in the Monthly Operating Reports filed with the Bankruptcy Court [D.I. 197, 331, 415, 440, 475].

### C. The Debtors' Prepetition Organizational Structure

Delta, the ultimate parent company of each of the other Debtors, was incorporated originally in Colorado in 1984. Delta is a public company, as is Amber Resources Company of Colorado (OTCBB:AMBE, "**Amber**"). Delta' common stock was listed on the NASDAQ (NASDAQ: DPTR) until January 17, 2012, when the listing was removed due to the NASDAQ's determination that Delta no longer met qualification requirements. Delta subsequently registered its common stock on the OTCQB (OTCQB: DPTRQ). Neither Delta nor Amber have filed regular quarterly reports since the Petition Date, but intend to remedy any past instances of noncompliance prior to the Effective Date.

The other Debtors are privately held corporations, limited liability companies or limited partnerships that are either wholly-owned or majority-owned by Delta. Delta's subsidiaries are non-operational and own few, if any, assets. What assets are owned by the subsidiaries tend to be undeveloped plots of real property.

Amber, a 91.68% owned subsidiary of Delta, was incorporated in Delaware in 1978. Amber was previously known simply as "Amber Resources Company," but when Delaware temporarily voided its charter, another company took Amber's original name. Amber sold all of its onshore producing properties to Delta on July 1, 2001. In April of 2009, Amber conveyed all of its ownership interest in all of its remaining properties to the United States in connection with the settlement of a final judgment against the United States in favor of Amber in the amount of $1,496,235.[6] In that lawsuit, Amber alleged that the government had materially breached the terms of certain undeveloped federal leases, some of which involved a portion of Amber's offshore California properties. Amber has not owned any interests in any gas or oil properties since it conveyed its remaining properties to the United States.

As a result of the divestiture of Amber's properties, Amber ceased all activities in the gas and oil business in 2009. However, Amber has not liquidated because it remains a party to ongoing litigation against the United States, whereby the government contends that, despite the government's defeat in the breach of lease action, the former working interest owners (including Amber) are still obligated to permanently plug and abandon an exploratory well that was drilled on the subject property and to clear the well site. The United States District Court for the District of Columbia ruled in favor of the government,[7] but the decision was vacated on appeal by the United States Court of Appeals for the District of Columbia Circuit[8] and the matter was remanded to the District Court for further proceedings consistent with the ruling. If the prior operator of the well is ultimately held responsible for doing so, Amber may be required to pay its proportional share of any remediation expenses.

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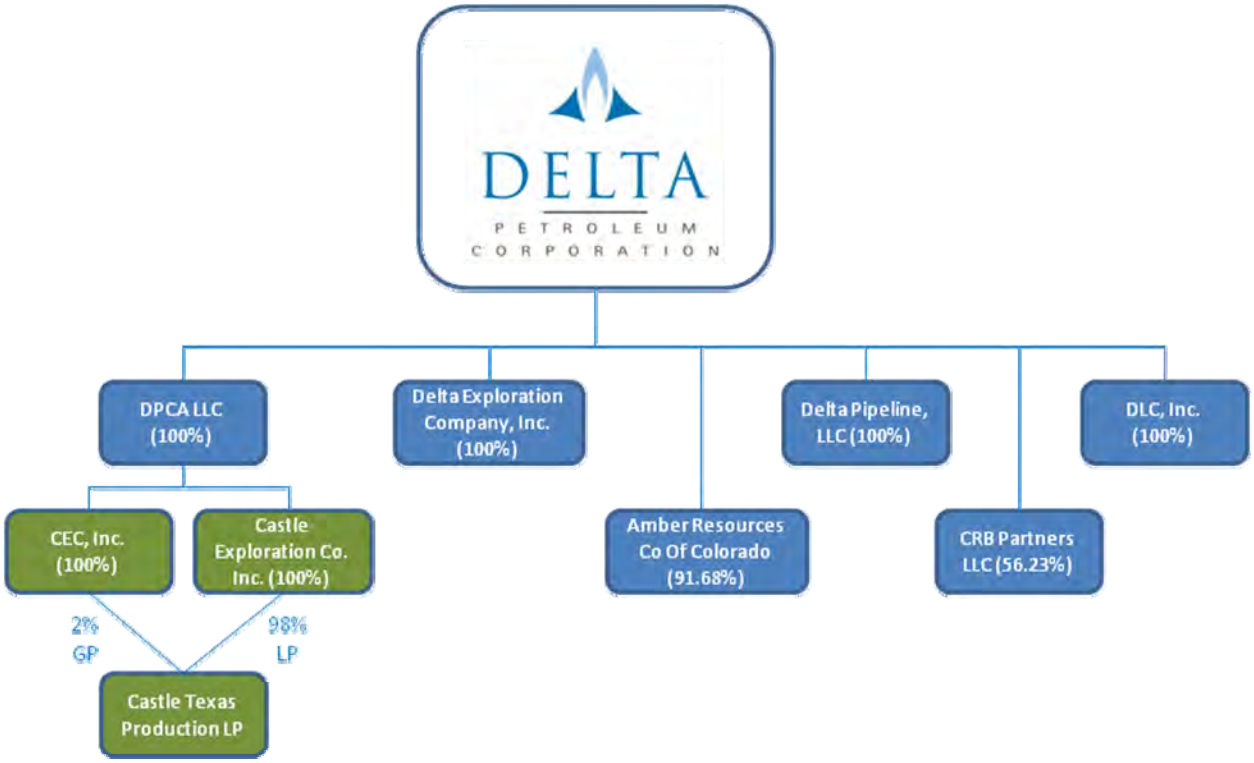
6 *Amber Res. Co. v. United States*, Case No. 02-30C, 2006 WL 3143618 (Fed. Cl. Oct. 31, 2006) *aff'd*, 538 F.3d 1358 (Fed. Cir. 2008).

7 *Noble Energy Corp. v. Salazar*, Case No. 1:09-cv-02013-EGS (D.D.C. Apr. 22, 2011).

8 *Noble Energy Corp. v. Salazar*, Case No. 11-5114 (D.C. Cir. March 2, 2012)

Below is an organizational chart depicting the relationships among the Debtors and between Delta and each of the Debtors:




1. **Tracinda Corporation's Investment**

On December 31, 2007, Delta entered into a Company Stock Purchase Agreement with Tracinda Corporation ("**Tracinda**"), a private investment corporation wholly-owned by Kirk Kerkorian. Pursuant to that agreement, Tracinda invested $684 million to acquire common stock from Delta at $19.00 per share, which represented a 23-percent premium to the price at the market close as of December 28, 2007 and a 26-percent premium to Delta's 30-day trading average. Following an extended period of due diligence and the approval of Delta's shareholders, Delta and Tracinda consummated the transaction on February 22, 2008. Consequently, Tracinda nominated three individuals affiliated with Tracinda to serve on Delta's board of directors. Prior to Tracinda's equity investment, the Debtors had been running low on capital to finance their operations, and had drawn down nearly all availability under their existing credit facilities. However, the bulk of Tracinda's equity investment was used not to pay down debt or delever, but rather to expand exploration and production facilities, acquire new land and drill additional wells.

Despite Tracinda's equity investment, the Debtors required additional capital to support their operations. In the first quarter of 2009, Delta planned another rights offering to sell more equity in the company. Tracinda agreed to backstop the rights offering and on March 26, 2009, entered into a Contingent Payment Rights Purchase Agreement with Delta (the "**CPR Agreement** "). At the time, Tracinda held approximately 40% of Delta's outstanding common stock. Subject to the terms and conditions of the CPR Agreement, on March 26, 2009, Tracinda purchased a contingent payment right (the "**CPR**") for $14.9 million. Tracinda subsequently

purchased an additional CPR for $10.1 million on April 1, 2009, following Delta's receipt of an opinion of an independent investment banking firm relating to the transaction, as required under the indenture with respect to the 7% Notes (as defined below) for transactions with affiliates. The CPRs provided Tracinda with the right to receive up to $27,884,712.56 of the net proceeds that Delta anticipates receiving in connection with its claims and the claims of Amber against the United States (as described above). The 2009 rights offering raised approximately $232,000,000 in additional capital, which was primarily used at the time to pay outstanding receivables owed to vendors on account of enhanced drilling and exploration activities.

2. **Board of Directors and Management**

As of the Petition Date, the members of the board of directors and executive officers of Delta were as follows:

**Carl E. Lakey (Chief Executive Officer and Director - July 2010 to Present)** became Chief Executive Officer of Delta effective as of July 6, 2010 and became a Director of Delta on August 4, 2010. Mr. Lakey most recently served as Senior Vice President of Operations for Delta and has been with Delta since 2007. Prior to joining Delta, Mr. Lakey served from 2001 to 2007 in various capacities with El Paso Production Company, most recently as the Manager of Operations and Engineering for its Western Onshore Division. Prior to that, he served in various capacities with Mobil and ExxonMobil from 1985 to 2001. Mr. Lakey also serves as the President, CEO and a Director of Amber. He received a bachelor's degree in Petroleum Engineering from Colorado School of Mines in 1985.

**Kevin K. Nanke (Treasurer and Chief Financial Officer - December 1999 to Present)** joined Delta in April 1995 as Controller and has served as the Treasurer and Chief Financial Officer of Delta and Amber since 1999. Since 1989, he has been involved in public and private accounting with the oil and gas industry. Mr. Nanke received a Bachelor of Arts degree in Accounting from the University of Northern Iowa in 1989. Prior to working with Delta, he was employed by KPMG LLP. He is a member of the Colorado Society of CPA's and the Council of Petroleum Accounting Society.

**John T. Young, Jr. (Chief Restructuring Officer - November 2011 to Present)** became Chief Restructuring Officer of Delta effective as of November 2, 2011. Mr. Young is a Senior Managing Director at Conway MacKenzie, Inc., which Delta retained to assist with its strategic alternatives process. Mr. Young has substantial knowledge and experience providing restructuring advisory services, including interim management and debtor advisory, bankruptcy preparation and management, litigation support, post-merger integration and debt restructuring and refinancing. Mr. Young's experience also includes serving in a multitude of advisory capacities within the energy and oilfield services industries.

**Stanley F. ("Ted") Freedman (Executive Vice President, General Counsel and Secretary - January 2006 to Present)** has served as Executive Vice President, General Counsel and Secretary of Delta since January 1, 2006. He also serves as Executive Vice President and Secretary of Amber and formerly as a director of Direct Petroleum Exploration, Inc., a privately-held oil and gas company with projects in Morocco, Bulgaria, Russia and southeastern Colorado. He graduated from the University of Wyoming with a Bachelor of Arts degree in 1970 and a Juris Doctor degree in 1975. From 1975 to 1978, Mr. Freedman was a staff attorney with the

United States Securities and Exchange Commission. From 1978 to December 31, 2005, he was engaged in the private practice of law, and was a shareholder and director of the law firm of Krys Boyle, P.C. in Denver, Colorado.

**Daniel J. Taylor (Chairman of the Board - February 2008 to Present)** has been an executive of Tracinda since February 2007 and has served as a Director of MGM Resorts International since March 2007. Mr. Taylor does not have a specific title at Tracinda but his primary responsibilities include assisting with the management of Tracinda's investments. He was initially employed by Tracinda from May 1991 until July 1997, and has been employed in his current position at Tracinda since February 2007. During the interim period he was employed by Metro-Goldwyn-Mayer Inc., a then public corporation ("**MGM**"), first as Executive Vice President-Finance, and then as Chief Financial Officer from August 1997 to April 2005, at which time MGM was sold. He then served as President of MGM until January 2006. Mr. Taylor received a Bachelor of Science degree in Business Administration with an emphasis in Accounting from Central Michigan University in 1978. He served as a director of Inforte Corp. until July 2007.

**Kevin R. Collins (Director - March 2005 to Present)** currently serves as Executive Vice President and Chief Financial Officer of Bear Tracker Energy, a position he has held since July 1, 2010. Prior to his current position, Mr. Collins served as President and Chief Executive Officer of Evergreen Energy, Inc. from September 2006 until his retirement on June 1, 2009. He also served on Evergreen's Board of Directors until he resigned effective July 1, 2009. Prior to that, he served as Evergreen's Executive Vice President —Finance and Strategy from September 2005 to September 2006, and acting Chief Financial Officer from November 2005 until March 31, 2006. From 1995 until 2004, Mr. Collins was an executive officer of Evergreen Resources, Inc., serving as Executive Vice President and Chief Financial Officer until Evergreen Resources merged with Pioneer Natural Resources Co. in September 2004. He became a Certified Public Accountant in 1983 after receiving his Bachelor of Science degree in Business Administration and Accounting from the University of Arizona. Mr. Collins has over 13 years of public accounting experience and has also served as Vice President and a board member of the Colorado Oil and Gas Association, President of the Denver Chapter of the Institute of Management Accountants, and a board member and Chairman of the Finance Committee of the Independent Petroleum Association of Mountain States.

**Jerrie F. Eckelberger (Director - September 1996 to Present)** is an investor, real estate developer and attorney who has practiced law in the State of Colorado since 1971. He graduated from Northwestern University with a Bachelor of Arts degree in 1966 and received his Juris Doctor degree in 1971 from the University of Colorado School of Law. From 1972 to 1975, Mr. Eckelberger was a staff attorney with the Eighteenth Judicial District Attorney's Office in Colorado. From 1975 to the present, Mr. Eckelberger has been engaged in the private practice of law in the Denver area. Mr. Eckelberger previously served as an officer, director and corporate counsel for Roxborough Development Corporation. Since March, 1996, Mr. Eckelberger has engaged in the investment and development of Colorado real estate through several private companies in which he is a principal.

**Jean-Michel Fonck (Director - May 27, 2009 to February 12, 2012)** is President of Geopartners SAS, a service company for petroleum studies located in France, and is consulting with the firm of JMF-Conseil SARL to various oil companies since 2001. Mr. Fonck was

previously employed by TOTAL SA ("**TOTAL**"), serving in various capacities there from 1968 until 2000. During his tenure at TOTAL, he worked in Paris in mathematical applications to geology and exploration venture appraisals, in Indonesia as chief geologist, in Argentina and Egypt as exploration manager and in Paris again as division manager for Exploration New Ventures and International Exploration Coordination. In 1991, Mr. Fonck became President and CEO of the TOTAL exploration and production branch in Houston, and then returned to Paris in 1994 to serve as Vice President of Exploration and Reservoir Evaluation for the TOTAL group. Mr. Fonck graduated from Ecole des Mines (Nancy) in 1963. On February 12, 2012, Mr. Fonck submitted a letter to Delta resigning as a director. Mr. Fonck did not indicate any disagreement with Delta or the Board of Directors in connection with his resignation.

**Anthony Mandekic (Director - May 27, 2009 to February 2, 2012)** currently serves as the Secretary and Treasurer of Tracinda and has held such positions since Tracinda's inception in 1976. Mr. Mandekic also currently serves as Chairman of the Lincy Foundation, a charitable organization founded by Mr. Kerkorian, and has served as its Chief Financial Officer and a Director since 1989. Since May of 2006 he has served as a member of the Board of Directors of MGM Resorts International and as a member of its Executive Committee, Diversity Committee and Compensation Committee. In May of 2007 Mr. Mandekic became Chairman of the MGM Mirage Compensation Committee, and also became a member of the MGM Mirage Corporate Governance and Nominating Committee in 2009. Mr. Mandekic is a graduate of the University of Southern California with a bachelor's degree in Science-Accounting and is a Certified Public Accountant. On February 2, 2012, Mr. Mandekic submitted a letter to Delta resigning as a director. Mr. Mandekic did not indicate any disagreement with Delta or the Board of Directors in connection with his resignation.

**Jordan R. Smith (Director - October 2004 to Present)** is President of Ramshorn Investments, Inc., a wholly owned subsidiary of Nabors Drilling USA LP that is located in Houston, Texas, where he is responsible for drilling and development projects in a number of producing basins in the United States. He has served in such capacity for more than the past five years. Mr. Smith has served on the Board of the University of Wyoming Foundation and the Board of the Domestic Petroleum Council, and is also Founder and Chairman of the American Junior Golf Association. Mr. Smith received Bachelor and Master degrees in Geology from the University of Wyoming in 1956 and 1957, respectively.

All directors hold office until the next annual meeting of stockholders. All executive officers hold office until the next annual meeting of the Board of Directors or their earlier resignation or removal by the Board of Directors.

In conjunction with the February 2008 equity issuance to Tracinda, and in accordance with the related Company Stock Purchase Agreement, Tracinda designated Messrs. Mandekic and Taylor to serve on Delta's Board of Directors. There are no other arrangements or understandings pursuant to which any other person was selected to serve on Delta's Board of Directors.

### D. Capital Structure

As of the Petition Date, the Debtors owed approximately $306.2 million on account of debt financing. The Debtors' obligations include (i) amounts owing under the MBL Credit

Facility (as defined below), (ii) amounts owing with respect to the 7% Notes (as defined below); and (iii) amounts owing with respect to the Senior Convertible Notes (as defined below). The following is a brief summary of the Debtors' obligations.

1. **The Senior Credit Facility**

On November 5, 2004, Delta executed a Credit Agreement establishing a $200 million revolving and term loan facility (the "**Secured Credit Facility**"), for which JPMorgan Chase Bank, N.A. (as successor-in-interest to Bank One, N.A., "**JPMorgan**") served as the agent bank. The Secured Credit Facility replaced Delta's previous $100 million credit facility with Bank of Oklahoma, N.A., U.S. Bank National Association and Hibernia National Bank, each of which also participated in the Secured Credit Facility. In order to obtain this facility, Delta granted first and prior liens to the lending banks on most of its natural gas and crude oil properties and the related equipment, inventory, accounts and proceeds.

Through subsequent amendments and increases to Delta's borrowing base, the maximum available size of the Secured Credit Facility increased, peaking at $590.0 million on November 3, 2008 when Delta entered into a Second Amended and Restated Credit Agreement with JPMorgan and certain other financial institutions.

Over time, the Debtors' borrowing base materially decreased and their availability to borrow additional monies under the Secured Credit Facility became severely constricted as a result. Delta defaulted on certain covenants and obligations under the Secured Credit Facility and entered workout with the lenders in March 2010. Consequently, as senior lenders became fatigued with Delta's efforts, JPMorgan and the lenders under the Secured Credit Facility opted to assign all of their rights and obligations under the Secured Credit Facility to Macquarie Bank Limited ("**MBL**") on December 29, 2010 (the "**JPMorgan Assignment**"). In connection with the JPMorgan Assignment, Delta, as borrower, and certain of its affiliated Debtors, as guarantors (the "**Guarantors**"),[9] entered into the Third Amended and Restated Credit Agreement with MBL, as administrative agent and issuing bank, and the lenders party thereto from time to time (together with all amendments, related agreements and documents, the "**MBL Credit Facility**"),[10] which amended and restated the terms of the Secured Credit Facility.

Through several asset sales, the Debtors were diligent in reducing the amounts owed to secured lenders by hundreds of millions of dollars prior to the Petition Date. However, such asset sales also reduced the Debtors' availability under the MBL Credit Facility as the borrowing base was recalculated. Consequently, the MBL Credit Facility, after giving effect to a series of amendments in March 14, 2011 and June 28, 2011, provided for only a revolving loan with a maximum borrowing base of up to $18 million and a term loan commitment in the amount of $15 million, each with a maturity date of January 31, 2012. Needing additional capital and not having any availability under the MBL Credit Facility, the Debtors and MBL agreed on

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9 The existing Debtor guarantors under the Pre-Petition Credit Agreement include Delta Exploration Company, Inc., DPCA LLC, Delta Pipeline, LLC, DLC, Inc. and CEC, Inc.

10 As of the Petition Date, MBL was the only lender under the Pre-Petition Credit Agreement.

December 12, 2011 to amend the MBL Credit Facility to provide for an additional $7 million commitment under the term loan, of which $5.5 million was advanced to the Debtors prior to the Petition Date. The revolving loan accrues interest at an annual rate equal to the prime rate plus 6.0% for prime rate advances and LIBOR plus 7.0% per annum for LIBOR advances, while the term loan currently bears interest at the prime rate plus 11.0% per annum for prime rate advances and LIBOR plus 12.0% for LIBOR advances. As of the Petition Date, approximately $38,500,000 in principal was outstanding under the MBL Credit Facility.

2. **The 7% Senior Unsecured Notes**

On March 15, 2005, Delta issued $150 million of 7% senior unsecured notes (the "**7% Notes**") with US Bank National Association ("**US Bank**") as indenture trustee. The 7% Notes accrue interest semi-annually on April 1 and October 1 of each year and mature in 2015. The 7% Notes are guaranteed by Delta Exploration Company, Inc. As of the Petition Date, the Debtors owed approximately $152,187,500 in outstanding obligations on account of the 7% Notes.

3. **The 3 ¾% Senior Convertible Notes**

On April 25, 2007, Delta issued 3 ¾% Senior Convertible Notes due 2037 in the aggregate principal amount of $115 million (the "**Senior Convertible Notes**" and together with the 7% Notes, the "**Notes**") for net proceeds of $111.6 million after underwriters' discounts and commissions of approximately $3.4 million. The Senior Convertible Notes bear interest at a rate of 3 ¾% per annum, payable semi-monthly in arrears, on May 1 and November 1 of each year. The Senior Convertible Notes will mature on May 1, 2037 unless earlier converted, redeemed or repurchased, but each holder of the Senior Convertible Notes has the option to require Delta to purchase any outstanding note on each of May 1, 2012, May 1, 2017, May 1, 2022, May 1, 2027 and May 1, 2032 at a price equal to 100% of the principal amount of the Senior Convertible Notes to be purchased, payable in cash. The Senior Convertible Notes are guaranteed by Delta Exploration Company, Inc., DPCA, LLC, and DLC, Inc. Prior to the Petition Date, the Debtors anticipated that some, if not all, of the holders of Senior Convertible Notes would elect to require Delta to repurchase such notes on May 1, 2012. As of the Petition Date, the Debtors owed approximately $115,527,083.30 in outstanding obligations on account of the Senior Convertible Notes.

4. **Impending Maturity**

As of the Petition Date, Delta was current with all of its payables and debt obligations, including its semiannual interest payments on the Notes. However, Delta had no availability under the MBL Credit Facility Date, and the MBL Credit Facility was set to mature on January 31, 2012. Additionally, the holders of the Senior Convertible Notes could (and likely would) have required the Company to repurchase the notes at par on or after May 1, 2012. Even if the Debtors were able to find a lender willing to refinance the MBL Credit Facility and work out a restructuring of the Senior Convertible Notes, the 7% Notes are set to mature just three years later, and there is no clear path on how to repay the 7% Notes, which even in the most optimistic of circumstances would require a perfect business plan with flawless execution over the next three years, and with meaningful increases in the price of natural gas or in the Debtors' exploration activities.

## III. EVENTS LEADING TO RESTRUCTURING

A series of unforeseen events placed significant strain on the Debtors' ability to comply with certain of the financial covenants contained in the agreements governing the MBL Credit Facility and the Notes. Those events included: (i) the Debtors' efforts to refinance and expand their operations during an unprecedented downturn in the United States natural gas industry and the onset of the global financial crisis; (ii) past mismanagement; and (iii) the expense and lost opportunity of numerous unsuccessful exploration ventures.

### A. Natural Gas Industry Downturn and the Global Financial Crisis

Since June 2008, the United States natural gas industry has experienced an unprecedented decline. Natural gas prices plummeted nearly 75% between June 2008 and August 2009. With almost 70% of domestic drilling rigs aimed at natural gas reserves, the impact was substantial in the United States. Indeed, total average domestic rig count decreased over 55% during the period from nearly 1,950 in September 2008 to less than 850 in June 2009.

Despite the reduced rig count, technological advances in natural gas drilling practices caused domestic natural gas supplies to increase, further reducing natural gas prices and compounding the problem. Because approximately 91% of the Debtors' reserves at December 31, 2010 were natural gas reserves, the Debtors have been more affected than most companies by movements in natural gas prices.

The Debtors' revenues, operating results, profitability and future rate of growth depend primarily upon the prices they receive for natural gas. Prices also affect the amount of cash flow available for capital expenditures and the Debtors' ability to borrow money or raise additional capital. The amount of funds available under the MBL Credit Facility were subject to periodic redetermination based on such prices.

The substantial deterioration in the natural gas markets was followed by the rapid softening of the economy and tightening of the U.S. financial markets in the second half of 2008, which resulted in the effective collapse of the U.S. credit markets. As has been widely reported, the U.S. financial markets have been slow to recover and are still not nearly as robust as in years past.

### B. Management Turnover

Under past management, the Debtors pursued several business strategies that in hindsight have contributed to their decline. The Debtors ramped up drilling and exploration activities at a time when prices were falling and incurred substantial indebtedness to do so. With the decline in business outlook came changes in management. On May 27, 2009, Roger Parker, Delta's Chief Executive Officer and Chairman of the Board, resigned from the company. John Wallace continued in his role as President and functioned as the senior executive officer of Delta during the interregnum. The overall condition of Delta continued to decline under Wallace's leadership. Additional efforts by the Debtors to market themselves for joint ventures and equity infusions were also attempted during Wallace's tenure, but failed.

On July 7, 2010, Delta announced that Carl Lakey had been named Chief Executive Officer, effective as of July 6, 2010. Mr. Lakey had previously served as Senior Vice President of Operations for Delta and has been with Delta since 2007. Under Lakey, the Debtors stabilized operations and focused on improving their core businesses and maximizing the value of their assets for the benefits of stakeholders. New drilling techniques were implemented on certain assets to enhance natural gas and crude oil production with some success, though such methods took more time to implement than the Debtors had available given their lack of liquidity and impending maturity dates.

### C. The Debtors' Unsuccessful Exploration Efforts

In the course of Delta's exploratory efforts, some of its drilling activities failed to bear fruit. In 2008, Delta drilled 18 wells that turned out to be "dry holes" (i.e., after incurring significant exploratory and drilling costs, the well did not yield commercial quantities of natural gas or crude oil). For 2008 alone, dry hole costs totaled $111.9 million. In 2009, dry hole costs totaled $33.6 million. As a result of these increasing dry hole costs whereby the Debtors incurred significant expenses without generating revenue, Delta scaled back its drilling activities, and in 2010, incurred only $86,000 in dry hole costs.

The Debtors incurred dry hole and impairment costs of $420.9 million for the nine months ended September 30, 2011, compared to $29.8 million for the comparable period a year earlier. During the three months ended September 30, 2011, proved and unproved property impairments to the Vega Area of $420.1 million were recognized. During the nine months ended September 30, 2010, dry hole and impairment costs primarily related to unproved property impairments of $25.7 million for the Columbia River Basin, Hingeline, Howard Ranch, Bull Canyon, Garden Gulch, Delores River and Haynesville shale prospects and a $4.8 million impairment of the Paradox pipeline.

### D. The Debtors' Prepetition Restructuring Initiatives

As early as late 2008, Delta tried to monetize its assets through a variety of strategic alternatives to reduce its debt and improve liquidity. The Debtors' hired an investment banker to consider joint venture opportunities, as well as equity and asset sales. Conversations evolved with certain potential buyers, but ultimately the financial markets in late 2008 and early 2009 were not receptive to entering into transactions with Delta due to the global financial crisis. Additionally, certain potential partners had concerns as to whether Delta would be able to fulfill its financial commitments in a joint venture due to Delta's weak balance sheet.

On December 1, 2009, Delta announced that it would consider strategic alternatives to enhance shareholder value, including, but not limited to, exploring the sale of some or all of its assets, partnerships and joint venture opportunities, and the sale of the entire company, including the Debtors or their assets. The Debtors retained a new set of investment bankers and undertook a second marketing process, but ultimately could not close a transaction with any potential buyer.

As a result of Delta's failure to close a transaction in late 2009 or early 2010, Delta's liquidity concerns became more acute, and the Debtors defaulted on certain covenants in March 2010 under the Secured Credit Facility and entered workout with the senior lenders. The default accelerated Delta's need for cash, which could be done most quickly through a divesture of

certain assets. Due in part to the strategic alternatives process, Delta was aware of several potential transactions, though most were toward the lower end of the anticipated value of the assets. However, due to the need to repay indebtedness, on July 30, 2010, the Debtors completed the $130.0 million sale of certain non-core properties to Wapiti Oil & Gas, L.L.C. ("**Wapiti**"). In conjunction with the completion of this transaction, the Debtors repaid $108.5 million of amounts borrowed under the MBL Credit Facility, and Delta's borrowing base under the credit facility was reduced to $35.0 million.

On March 14, 2011, Delta and certain of its affiliates entered into an amendment to the agreement governing the MBL Credit Facility that increased the availability under the term loan at the time from $6.2 million to $25.0 million and did not require repayment of the term loan until the January 2012 maturity date. Specifically, among other changes, the amendment provided for an increase in the term loan commitment from $20.0 million to $25.0 million and removed the requirement that advances under the term loan be subject to approval of a development plan. In addition, so long as Delta was not in default under the MBL Credit Facility, Delta was not required to comply with certain cash management provisions, including the previous requirement to repay any term loan advances outstanding on a monthly basis with 100% of net operating cash flows.

Proceeds from the Wapiti transaction and the MBL Credit Facility were used to substantially reduce amounts outstanding under Delta's prior credit facility, as well as to extend the maturity date thereunder from January 15, 2011 to January 31, 2012 and to fund capital expenditures.

The Debtors continued to review various alternatives to maximize the value of the Debtors' businesses. The alternatives included, but were not limited to, reorganization, sale of separate operating units, sale of each of the Debtors as a whole, and liquidation. The Debtors began informally discussing with other oil and gas industry participants a new equity investment in spring 2011, but found that no one was interested in making such an investment given that the Debtors had substantial debt maturities looming less than a year away that would likely, in the opinion of such participants, cause such equity investments to be diluted, and that natural gas prices had continued to decline, decreasing the value of the Debtors' assets.

With the need for cash still paramount, the Debtors entered into a second asset sale with Wapiti. On June 28, 2011, the Debtors closed on a transaction with Wapiti to sell Delta's remaining interests in various non-core assets primarily located in Texas and Wyoming for gross cash proceeds of approximately $43.2 million. Proceeds from this transaction were used to further reduce amounts outstanding under the MBL Credit Agreement, as well as to fund capital expenditures. After the 2011 sale with Wapiti, the Debtors had divested themselves of all of their material non-core assets.

The Debtors ultimately determined that an asset sale, either as one aggregate sale or as multiple sales, would yield the greatest return, in part because there did not appear to be an entity either willing to make an equity investment of a substantial enough size to allow the Debtors to fund ongoing drilling operations for the next few years, nor a realistic option to incur debt that would allow for existing indebtedness to be refinanced and provide enough liquidity to allow the Debtors to continue to operate.

In July 2011, the board of directors of Delta announced that it had engaged Macquarie Capital (USA) Inc. ("**Macquarie**") and Evercore Group, L.L.C. ("**Evercore**") to act as advisors to Delta in conducting a strategic alternatives process in order to maximize shareholder value and address the 2012 debt maturities. In the strategic alternatives process, Delta's board of directors considered a wide variety of possible transactions, including the sale of the company, issuances of equity or debt securities, sales of assets, joint ventures and volumetric production payment financing, as well as other potential corporate transactions. Additionally, in November 2011, the board of directors of Delta appointed John T. Young Jr. to serve as Chief Restructuring Officer of Delta.

Specifically, as of the Petition Date, the Debtors' advisors sent initial marketing materials to approximately seventy-six (76) financial and strategic parties known to be interested in the oil and gas exploration and production sector in the Rockies, or who recently completed transactions involving oil and gas companies in the area. Twenty (20) of those entities signed confidentiality agreements and received offering memoranda, leading to due diligence and in-person data room presentations with eight (8) potential buyers. The Debtors, with the assistance of its attorneys and other representatives, assembled data and documents to facilitate the diligence process and prepared business presentations to provide for an organized and efficient transmission of a large amount of data related to the Debtors' assets and businesses. Not a single prospective bidder expressed interest in consummating an out-of-court transaction with the Debtors that would allow the Debtors to receive enough debt to equity to fund ongoing drilling and exploration activities, and several noted the existence of unfavorable contracts with certain first purchasers that were economically unfavorable to Delta, that could best be dealt with through a bankruptcy filing.

Notwithstanding an extensive and thorough marketing process lasting several months, which culminated in several prospective offers, the Debtors ultimately concluded that they would achieve more value for their stakeholders by seeking chapter 11 protection and taking advantage of the powers available to debtors under the Bankruptcy Code. Specifically, the Debtors believed that they would be able to achieve more value for substantially all of their assets through chapter 11.

## IV. EVENTS DURING THE CHAPTER 11 CASES

### A. Commencement of the Chapter 11 Cases

On December 16, 2011 (the "**Initial Petition Date**"), the Debtors, except for Castle Exploration Company, Inc. ("**CECI**"), commenced their bankruptcy cases by filing voluntary petitions for relief under chapter 11 of the Bankruptcy Code. On January 6, 2012 (the "**CECI Petition Date**," and with the Initial Petition Date, the "**Petition Date**"), CECI commenced its bankruptcy case by filing a voluntary petition for relief under chapter 11 of the Bankruptcy Code.

### B. Significant Developments Since the Petition Date

On the Petition Date, the Debtors sought approval from the Bankruptcy Court of certain motions and applications (collectively, the "**First Day Motions**"), which the Debtors filed simultaneously with, or around the same time as, their voluntary petitions. The Debtors sought

this relief to minimize disruption of the Debtors' business operations as a result of the filing of the Chapter 11 Cases, to establish procedures in the Chapter 11 Cases regarding the administration of the Chapter 11 Cases and to facilitate the Debtors' reorganization efforts. Specifically, the First Day Motions and other critical motions during the Chapter 11 Cases addressed the following issues, among others:

1. **First Day Motions**

**a. Joint Administration**

The Debtors are affiliated entities and, therefore, on the Petition Date, filed the *Motion for Entry of an Order Pursuant to 11 U.S.C. § 105(A), Fed. R. Bankr. P. 1015(B), and Local Rule 1015-1 Directing Joint Administration of the Debtors' Related Chapter 11 Cases* [D.I. 2] (the "**Joint Administration Motion**"). The Joint Administration Motion sought authority from the Court for the joint administration of the Chapter 11 Cases, for procedural purposes only, under a single docket to create a centralized location for all documents filed and served in these cases and for all notices and orders entered by the Court. On December 19, 2011, the Bankruptcy Court entered an order directing joint administration of the Chapter 11 Cases [D.I. 60]. Further, on January 22, 2012, the Bankruptcy Court entered orders directing the consolidation of the Debtors' cases with the chapter 11 case of CECI [D.I. 181] and applying all previously-entered orders as supplemented and currently pending orders to CECI prospectively [D.I. 182].

**b. Cash Management**

On the Petition Date, the Debtors filed the *Motion for Entry of an Order Pursuant to 11 U.S.C. §§ 105(A), 345(B) And 363(C) (I) Authorizing the Debtors to (A) Continue Their Existing Cash Management System and (B) Maintain Existing Bank Accounts and Business Forms, and (II) Granting an Extension of Time to Comply With Section 345(B) of the Bankruptcy Code* (the "**Cash Management Motion**") [D.I. 5]. The cash management system utilized by the Debtors is a centralized system to collect and transfer the funds generated by their operations and to disburse funds to satisfy their financial obligations. The Debtors rely on the system to manage their businesses efficiently and seamlessly. The Bankruptcy Court entered an order granting the relief requested in the Cash Management Motion on December 19, 2012 [D.I. 62].

**c. Utilities**

On the Petition Date, the Debtors filed the *Motion for Entry of Interim and Final Orders Pursuant to 11 U.S.C. §§ 105(A) And 366 (I) Prohibiting Utilities from Altering, Refusing, or Discontinuing Services on Account of Pre-Petition Invoices, (II) Deeming Utilities Adequately Assured of Future Performance, and (III) Establishing Procedures for Determining Adequate Assurance of Payment* (the "**Utilities Motion**") [D.I. 6]. In the ordinary course of business, the Debtors regularly incur utility expenses for telephone, electric, gas, sewer, waste management, internet access, and other services provided by approximately fifteen (15) utility providers. On December 19, 2012, the Bankruptcy Court entered the interim order approving the procedures requested and setting the Utility Motion for a final hearing [D.I. 63]. There being no objections to the Utilities Motion, the Bankruptcy Court, on January 9, 2012, entered the final order [D.I.

168] implementing the procedures proposed by the Debtors in the Utilities Motion to ensure adequate assurance of future payment to utility service providers.

**d. Prepetition Taxes and Fees**

On the Petition Date, the Debtors filed the *Motion for Entry of an Order (I) Authorizing the Debtors to Pay Certain Pre-Petition Taxes and Regulatory Fees in the Ordinary Course of Business and (II) Authorizing Banks and Financial Institutions to Honor And Process Checks and Transfers Related Thereto* (the "**Taxes Motion**") [D.I. 7]. The Bankruptcy Court entered an order granting the relief requested in the Taxes Motion on December 19, 2012 [D.I. 64].

**e. Critical Vendors**

On the Petition Date, the Debtors filed the *Motion for Entry of an Order Pursuant to 11 U.S.C. §§ 105(A), 363, 364, 503(B), 1107(A) and 1108, Fed. R. Bankr. P. 6003 and 6004 and Del. Bankr. L. R. 9013-1(M) Authorizing the Debtors to (I) Honor Pre- Petition Obligations to and (II) Continue Pre-Petition Practices with Certain Critical Vendors* (the "**Critical Vendors Motion**") [D.I. 8]. The Critical Vendors Motion sought authority for the Debtors to pay, in their sole discretion, up to $2,000,000 to vendors of goods or services necessary to the Debtors' ordinary course production services for sale of natural gas from wells in which the Debtors own an interest. In the event the vendors cease providing goods or services, the Debtors' efforts to maintain their operations would be irreparably harmed. The Bankruptcy Court entered an order granting the relief requested in the Critical Vendors Motion on December 19, 2012 [D.I. 65]. The Bankruptcy Court subsequently entered a clarifying order on February 14, 2012 as to Enterprise Gas Processing, LLC, to permit the Debtors' to exceed the cap in the Critical Vendors Motion as to that particular vendor [D.I. 304].

**f. Royalties**

On the Petition Date, the Debtors filed the *Motion for Entry of an Order Pursuant to 11 U.S.C. 11 U.S.C. §§ 105(A) And 363(B) Authorizing the Debtors to Pay or Honor Pre-Petition and Post-Petition Obligations to Holders of Royalty Interests* (the "**Royalties Motion**") [D.I. 9]. The Debtors, as operators of certain oil and gas properties, are responsible for the payment of royalties related to their leasehold interests in such properties. The Royalties Motion sought authority to deliver royalty owners the pre-petition amounts due to them and to honor post-petition royalty obligations and pay such obligations as they become due. On December 19, 2012, the Bankruptcy Court entered an order granting the relief requested in the Royalties Motion, but setting a "Royalty Cap" of $1.1 million [D.I. 66]. Since the Debtors pay royalties two months in arrears, the Royalty Cap did not account for royalties owed for the month of November 2011 and the portion of December 2011 that lapsed prior to the Petition Date. Therefore, the Court entered an amended order on February 13, 2012 removing the Royalty Cap and enabling the Debtors to pay all royalties as they become due [D.I. 296].

**g. Employee Wages and Benefits**

On the Petition Date, the Debtors filed the *Motion For Entry of an Order Pursuant to 11 U.S.C. §§ 105(A), 363(B) and 507(A), Fed. R. Bankr. P. 6003 and 6004 (I) Authorizing the Debtors to pay Certain Pre-Petition (A) Wages, Salaries and Other Compensation; (B)*

*Reimbursable Employee Expenses; and (C) Employee Benefits; (II) Authorizing and Directing Banks and Other Financial Institutions to Honor all Related Checks and Electronic Payment Requests; and (III) Granting Related Relief* (the "**Employee Wages and Benefits Motion**") [D.I. 9] and the *Declaration Of Carl E. Lakey in Support of Debtors' Employee Wages and Benefits Motion* [D.I. 11]. Delta, the only Debtor with employees, had approximately 32 full-time employees as of the Petition Date in addition to certain independent contractors and temporary employees. The Bankruptcy Court entered an order granting the relief requested in the Employee Wages and Benefits Motion on December 19, 2012 [D.I. 67], and issued a supplemental order authorizing, but not directing, the Debtors to pay pre-petition director compensation and director compensation for services performed in 2012 in the ordinary course of business on January 11, 2012 [D.I. 179].

In conjunction with the Employee Wages and Benefits Motion, the Debtors filed the *Motion for Entry of an Order Pursuant to 11 U.S.C. §§ 105(a) and 363(b) Authorizing Debtor Delta Petroleum Corporation to Pay 2011 Bonus Amounts to Certain Employees in the Ordinary Course of Business* [D.I. 317] (the "**Bonus Motion**") on February 15, 2012. The Bonus Motion requested the entry of an order authorizing, but not requiring, Delta, in its discretion, to pay bonuses to certain employees in accordance with Delta's long-standing employee bonus plan. On March 5, 2012, the United States Trustee filed an objection to the Bonus Motion [D.I. 358] and on March 6, 2012, the Debtors and the U.S. Trustee reached an agreement regarding the Bonus Motion, which was presented to the Bankruptcy Court at a hearing on March 6, 2012. The Bankruptcy Court then entered an order granting the relief requested in the Bonus Motion on March 7, 2012 with certain modifications to address the issues raised in the U.S. Trustee's objection [D.I. 382].

**h. Notification and Hearing Procedures for Trading in Equity and Debt Securities**

On the Petition Date, the Debtors filed the *Motion For Entry of an Order Pursuant to 11 U.S.C. §§ 105(A) and 362 Establishing Notification and Hearing Procedures for Trading in Equity Securities* (the "**Equity Trading Motion**") [D.I. 12]. As of the Petition Date, the Debtors had substantial net operating loss carryforwards ("**NOLs**"). In order to protect the value of the NOLs, the Equity Trading Motion sought to establish court-ordered procedures that must be satisfied before certain transfers of common stock of Delta and Amber or any beneficial interest therein is deemed effective. On December 19, 2012, the Bankruptcy Court entered the interim order approving the procedures requested and setting the Equity Trading Motion for a final hearing [D.I. 68]. There being no objections to the Equity Trading Motion, the Bankruptcy Court, on January 11, 2012, entered the final order [D.I. 187] implementing the procedures proposed by the Debtors. The Bankruptcy Court subsequently entered an order on March 7, 2012 Order (A) Establishing Notice and Sell-Down Procedures for Trading in Claims Against the Debtors Estates and (B) Granting Related Relief *Nunc Pro Tunc* to the Petition Date [D.I. 383] establishing restrictions on trading in the Debtors' debt securities.

**i. Insurance**

On the Petition Date, the Debtors filed the *Motion Pursuant to 11 U.S.C. §§ 105(A), 362(D), 363(B) and 503(B) and Fed. R. Bankr. P. 6003 (I) Authorizing the Debtors to (A) Continue Their Workers' Compensation Programs and their Liability, Property and other*

*Insurance Programs and (B) Pay Certain Obligations in Respect Thereof and (II) Authorizing and Directing the Debtors' Financial Institutions to Honor and Process Checks and Transfers Related to Such Obligations* (the "**Insurance Motion**") [D.I. 13]. In connection with the operation of their businesses, the Debtors maintain insurance programs for liabilities relating to, among other things, general liability, workers' compensation, directors' and officers' liability (including excess liability), fiduciary liability, employment practices liability, commercial property liability, control of well, gas and oil lease property liability, auto liability, crime and various other property-related and general liabilities. The continuation of the insurance programs is essential to the operation of the Debtors' businesses and is necessary to protect the Debtors from catastrophic liability. The Bankruptcy Court entered an order granting the relief requested in the Insurance Motion on December 19, 2012 [D.I. 69].

**j. Cash Collateral**

On the Petition Date, the Debtors filed the *Motion to Approve Use of Cash Collateral Debtors Motion For Entry Of Interim And Final Orders Authorizing Debtors To Use Cash Collateral And Grant Adequate Protection Filed By Delta Petroleum Corporation* (the "**Cash Collateral Motion**") [D.I. 27]. However, since MBL assigned the Secured Credit Facility to the DIP Lenders pursuant to the DIP Credit Agreement, the Cash Collateral Motion was no longer necessary. Accordingly, the Debtors filed a notice of withdrawal of the Cash Collateral Motion on February 6, 2012 [D.I. 268].

**k. DIP Financing**

On the Petition Date, the Debtors filed the *Motion For Entry of Interim and Final Orders Pursuant to 11 U.S.C. §§ 105, 362, 364, 503(b) and 507(a), Fed. R. Bankr. P. 2002, 4001 and 9014 and Del. Bankr. L.R. 4001-2 (A) to Obtain Post-Petition Secured DIP Financing and (B) to Refinance Certain Pre-Petition Indebtedness; (II) Granting Liens and Providing for Superiority Administrative Expense Status; (III) Modifying The Automatic Stay; and (IV) Granting Related Relief* (the "**DIP Motion**") [D.I. 28]. The DIP motion sought authority to enter into a $57,500,000 million first lien new money superpriority priming revolving credit facility (the "**DIP Facility**" as governed by the "**DIP Credit Agreement**") to provide working capital for, and for other general corporate purposes of, the Debtors, including the payment of certain costs and expenses associated with the Chapter 11 Cases. In connection with their entry into the DIP Facility, the Debtors granted to the DIP Agent, for the benefit of itself and the other DIP Lenders, senior liens on substantially all of the Debtors' assets and superpriority administrative claims to the DIP Lenders. Zell Credit Opportunities Master Fund, L.P. filed an objection to the DIP Motion on the Petition Date [D.I. 42], which was resolved consensually, and the Bankruptcy Court entered an interim order authorizing the borrowing of up to $44,022,749 on December 21, 2011 [D.I. 85]. The Bankruptcy Court entered a final order approving the DIP Motion on January 11, 2012 [D.I. 186]. The Bankruptcy Court subsequently entered an order on March 28, 2012 [D.I. 458] approving the Debtors' motion to amend the DIP Credit Agreement, which increased the maximum availability thereunder to $58,900,000 and provided for the payment of PIK fees to the DIP Agent.

2. **Filing of Schedules and Statements of Financial Affairs**

On January 6, 2012, each of the Debtors filed their statements of financial affairs and schedules of assets and liabilities (collectively, the "**Schedules and Statements**"). The Schedules and Statements represent a diligent effort by the Debtors and their professionals to comprehensively and accurately disclose all manner of information including all known creditors and claims against the Debtors (both secured and unsecured), the nature and value of the Debtors' assets, the identities of board members and other insiders and distributions made thereto, all executory contracts to which the Debtors are a party, any known pending litigation, the identities of individuals with access to the Debtors' financial information and existing bank accounts and related balances. Delta filed amended Schedules and Statements on February 9, 2012 [D.I. 285], March 26, 2012 [D.I. 416, 417] and April 18, 2012 [D.I. 491, 492].

3. **Applications to Retain Professionals**

To assist the Debtors in carrying out their duties as debtors in possession and to represent the Debtors' interests in the Chapter 11 Cases, the Debtors retained the following professionals: Hughes Hubbard and Reed LLP ("**Hughes Hubbard**") as their bankruptcy counsel [D.I. 169]; Morris, Nichols, Arsht & Tunnell LLP ("**Morris Nichols**") as their Delaware bankruptcy co-counsel [D.I. 170]; Evercore Group L.L.C. ("**Evercore**") as their financial advisor and investment banker [D.I. 185]; Conway MacKenzie, Inc. ("**Conway**") as their restructuring advisor [D.I. 180]; Davis Graham & Stubbs LLP ("**Davis Graham**") as their special corporate counsel [D.I. 190]; Epiq Bankruptcy Solutions, LLC ("**Epiq**") as their claims, noticing and balloting agent [D.I. 70]; and KPMG LLC ("**KPMG**") as their service provider for audit, tax compliance and tax consulting matters [D.I. 308].

On January 11, 2012, the Bankruptcy Court entered a final order approving procedures for the payment of compensation for professional services rendered and reimbursement of expenses incurred by attorneys and other professionals who are required to file retention applications pursuant to sections 330 and 331 of the Bankruptcy Code [D.I. 188]. In addition, on January 11, 2012, the Bankruptcy Court entered a final order approving procedures to retain and compensate certain professionals and professional service providers of the Debtors utilized in the ordinary course of business [D.I. 189].

4. **Claims Process**

**a. Bar Date for Filing Proofs of Claim and Administrative Expense Requests**

On January 24, 2012, the Debtors filed a motion requesting that the Bankruptcy Court set a deadline by which parties, including governmental units, must file proofs of claim (the "**Bar Date Motion**") [D.I. 227]. The Bankruptcy Court, on February 14, 2012, entered an order [D.I. 303] establishing March 23, 2012, as the deadline for filing against the Debtors claims that arose prior to the Petition Date (the "**General Bar Date**"), and June 13, 2012, as the bar date for governmental units (except for claims against CECI, which is July 5, 2012). A schedule of filed proofs of claim is maintained by Epiq.

**b. Claims Reconciliation**

As of the filing of the Disclosure Statement, approximately 347 proofs of claims had been filed. The Debtors are in the process of reviewing and objecting to certain proofs of claim. The Debtors expect that the claims pool will be reduced based on their review and reconciliation.

5. **Contract and Lease Rejections**

The Debtors filed two motions seeking to reject specified contracts and leases. The first such motion, filed on December 23, 2011, sought approval of the Debtors' rejection of a gas gathering agreement between Delta and Encana Oil and Gas (USA) Inc. ("**Encana**") [D.I. 94]. The gas gathering agreement contained burdensome terms that prospective purchasers of the Debtors' assets had expressed unwillingness to assume as part of any sale. On January 11, 2012, the Bankruptcy Court entered an order authorizing the Debtors to reject the gas gathering agreement, and, on March 2, 2012, the Debtors filed a notice of intent to reject the gas gathering agreement effective March 15, 2012 [D.I. 355]. The second such motion, filed on January 24, 2012, sought approval of the Debtors' rejection of the unexpired lease of the Debtors' headquarters in Denver [D.I. 222]. Due to reductions in the number of the Debtors' employees, half of the leased property was vacant as of the Petition Date. Although the Debtors sought to renegotiate the lease with the lessor, they were unable to reduce the lease rate, which was above the current market rate, or reduce the amount of leased space. The Bankruptcy Court entered an order authorizing the Debtors' rejection of the unexpired lease on March 7, 2012 [D.I. 376], and the Debtors subsequently entered into a modified lease with the landlord to lower the Debtors' headquarters lease costs.

Further, on March 5, 2012, the Debtors filed the *Debtors' Motion for Entry of an Order Pursuant to 11 U.S.C. 365(d)(4) of the Bankruptcy Code to Extend the Deadline by Which the Debtors Must Assume or Reject Unexpired Leases of Nonresidential Real Property* (the "**Lease Extension Motion**") [D.I. 360]. As of the Petition Date, the Debtors were party to approximately 670 unexpired leases of non-residential real property (the "**Leases**"). The Debtors have not yet made any assumption or rejection decisions, as those decisions depend on, among other things, whether the Plan Sponsor wishes for such leases to be assumed and assigned to the Joint Venture Company. On March 26, 2012, the Bankruptcy Court entered an order extending the assumption/rejection deadline to July 12, 2012 [D.I. 450].

6. **Exclusivity Extensions**

On March 2, 2012, the Debtors filed requests for extensions of the Debtors' exclusive periods in which to file a plan of reorganization and solicit acceptances thereof to June 12, 2012 and August 12, 2012, respectively [D.I. 354]. The Bankruptcy Court entered an order granting the extensions on March 26, 2012 [D.I. 449]. The Debtors have filed the Plan within their exclusive period to propose a plan.

7. **Adversary Proceedings**

On March 5, 2012, Delta filed complaints against Knight Oil Tools, LLC, d/b/a Knight Fishing Services (Adversary Case No. 12-50407) and Baker Hughes Oilfield Operations, Inc., d/b/a Baker Oil Tools (Adversary Case No. 12-50408) (together, the "**Adversary Proceeding**

**Defendants**") for violations of the automatic stay provisions of the Bankruptcy Code. The Adversary Proceeding Defendants had filed numerous post-petition liens to secure the payment of amounts they had been paid by Delta within the 90-day period prior to the petition date (the "**Contingent Preference Liens**"). Delta sought to declare the Contingent Preference Liens null and void and filed motions against each of the Adversary Proceeding Defendants seeking temporary restraining orders and preliminary injunctions enjoining the Adversary Proceeding Defendants from filing additional Contingent Preference Liens, directing the Adversary Proceeding Defendants to remove and terminate the Contingent Preference Liens and declaring that the Contingent Preference Liens violated the automatic stay and were therefore void. The Bankruptcy Court granted the temporary restraining orders on March 9, 2012 and entered an injunction stating the Adversary Proceeding Defendants' actions violated the automatic stay on March 23, 2012.

Further, a number of transactions occurred prior to the Petition Date that may give rise to Claims, including preference actions, fraudulent transfer and conveyance actions, rights of setoff and other claims, or causes of action under sections 510, 544, 547, 548, 549, 550, and/or 553 of the Bankruptcy Code, and other applicable bankruptcy or non-bankruptcy law (collectively, the "**Avoidance Actions**"). Pursuant to section 546(a) of the Bankruptcy Code, the statute of limitations with respect to the commencement of avoidance or recovery actions under sections 544, 545, 547, 548, and 553 of the Bankruptcy Code will expire on the second anniversary of the Petition Date.

The Plan preserves all Causes of Action and Wapiti Causes of Action, unless expressly otherwise released, and provides for them to be transferred to, respectively, the General Trust and the Wapiti Trust on the Effective Date. The Causes of Action include the Avoidance Actions and other claims and potential claims that the Debtors hold against third parties. The Wapiti Causes of Action include Avoidance Actions and other claims and potential claims that the Debtors hold against Wapiti and the ZCOF Parties. For the avoidance of doubt, other than those actions expressly preserved against Wapiti and the ZCOF Parties under Section 10.7 of the Plan, no estate cause of action shall be preserved against ZCOF and its affiliates, directors, and employees. In accordance with section 1123(b)(3) of the Bankruptcy Code, the Plan further provides that the Recovery Trustee will have standing, on and after the Effective Date, to pursue the Causes of Action and the Wapiti Causes of Action and will be deemed appointed the representative of the Estates for the purpose of enforcing, prosecuting and settling them.

### 8. Bid Procedures and Sale Process

Immediately after filing the Chapter 11 Cases and after consulting their advisors and parties in interest, the Debtors, in their business judgment, decided that a sale of substantially all of their assets would be the best way to maximize the value of their estates. The Debtors concluded that a sale process was the proper path forward for several reasons, including that several of the Debtors' constituencies voiced their support for a sale process, many different parties were interested in acquiring some or all of the Debtors' assets even though no acceptable stalking horse bid had been finalized, and a full and open process, widely marketed with sufficient opportunity for all parties to conduct diligence would achieve the fairest result and allow for the highest and best bids for the assets to emerge.

Accordingly, on December 27, 2011, the Debtors filed the *Motion for Orders (I) (A) Approving (i) Bid Procedures; (ii) Bid Protections; (iii) Auction Procedures; and (iv) Assumption and Assignment Procedures; (B) Approving Notice Procedures for (i) the Solicitation of Bids and (ii) an Auction; (C) Scheduling Hearings on Approval of a Sale or Sales of Substantially all of the Debtors Assets; and (D) Granting Related Relief; and (II) (A) Approving the Sale or Sales of Substantially all of the Debtors' Assets; and (B) Approving the Assumption and Assignment of Contracts and Leases* (the "**Bid Procedures and Sale Motion**") [D.I. 107] requesting the entry of two orders: (a) an order approving, *inter alia*, the Bid Procedures (as defined herein) and setting certain deadlines and dates and (b) an order approving, *inter alia*, the sale or sales of some or all of the Debtors' assets free and clear of all liens, claims, interests, and encumbrances to any successful bidder(s) at an auction.

On January 11, 2012, the Bankruptcy Court entered an order approving the process set forth in the Bid Procedures Order (the "**Bid Procedures Order**") [D.I. 184] and the *Bid Procedures and Related Bankruptcy Provisions* (the "**Bid Procedures**") attached as Exhibit "1" to the Bid Procedures Order. The Bid Procedures Order set the Bid Deadline for March 21, 2012 at 5:00 p.m. (ET), the Auction for March 26, 2012 at 9:00 a.m. (ET) and the Sale Hearing for March 28, 2012 at 1:30 p.m. (ET).

As the sale process for the Debtors' assets progressed, it became apparent that the Debtors' NOLs and certain other tax attributes (together with the NOLs, the "**Tax Attributes**") may have value. To facilitate the Debtors' ability to maximize the value of their estates and the recoveries for creditors by accounting for the latent value of the Tax Attributes, the Debtors determined that it would be in the best interests of all constituencies to amend the bid procedures to provide potential interested parties an opportunity to submit plan funding proposals as well as bids for a sale of assets.

Consequently, on March 15, 2012, the Debtors filed the *Emergency Motion to Approve an Order (A) Amending (i) Order (A) Approving (I) Bid Procedures; (II) Bid Protections; (III) Auction Procedures; and (IV) Assumption and Assignment Procedures; (B) Approving Notice Procedures for (I) the Solicitation of Bids, (II) an Auction; (C) Scheduling Hearings on Approval of a Sale or Sales of Substantially all of the Debtors' Assets [D.I. 184]; and (ii) the Bid Procedures and Related Bankruptcy Provisions; and (B) Granting Related Relief* (the "**Amended Bid Procedures Motion**") [D.I. 413] seeking certain corresponding amendments to the Bid Procedures (the "**Amended Bid Procedures**").

The Amended Bid Procedures Motion additionally requested that certain of the Sale Process Deadlines, including the Bid Deadline and the procedures for and date of the Auction, be amended to allow potential bidders additional time. The Court entered an order approving the Amended Bid Procedures on March 22, 2012 (the "**Amended Bid Procedures Order**") [D.I. 435]. The Amended Bid Procedures Order set the Bid Deadline for April 18, 2012 at 4:00 p.m. (ET), the deadline to notify potential bidders whether an Auction would occur for April 20, 2012, the Auction for April 24, 2012 at 9:00 a.m. (ET) and the Sale Hearing for May 1, 2012 at 11:00 a.m. (ET).

On April 20, 2012, the Debtors filed a notice [D.I. 497] stating that the Debtors planned to conduct a competitive process to consider bids for plan sponsorship as well as bids for the Debtors' assets. On April 24 and 25, the Debtors and their advisors, along with counsel for the

DIP Agent and counsel for ZCOF, met with prospective bidders at the offices of Hughes Hubbard. Over the course of two days, a competitive process was conducted, and ultimately the Debtors, in consultation with their creditors, chose the Plan Sponsor. Subsequently, after a hearing on May 8, 2012, the Bankruptcy Court entered an order approving the Debtors' selection of the Plan Sponsor [D.I. 541].

### 9. Relevant Milestones in DIP Credit Agreement

Schedule M to the DIP Credit Agreement set forth two milestones in the Chapter 11 Cases (the "**Milestones**"). The failure to achieve the Milestones by the dates specified therein is an event of default under the DIP Credit Agreement. The Milestones are:

- **By April 30, 2012**: A letter of intent or similar agreement with respect to the sale of (i) substantially all of the assets of the Debtors or (ii) sponsorship of a plan of reorganization for the Debtors, in each case, to be delivered to the DIP Agent and, in each case, in form and substance satisfactory to the DIP Agent and the Debtors.
- **By May 31, 2012**: An Asset Purchase Agreement to be executed and delivered to the DIP Agent or a disclosure statement with respect to a Plan to be filed with the Court, in each case, in a form and substance reasonably satisfactory to the DIP Agent.

### 10. Overview of the Debtors' Marketing Efforts in Connection with the Plan Sponsor

The Plan is the product of a marketing process that started well before the Petition Date. As explained above, the Debtors commenced their marketing process in July 2011. By the Petition Date, the Debtors' advisors sent initial marketing materials to approximately seventy-six (76) financial and strategic parties known to be interested in the oil and gas exploration and production sector in the Rockies, or who recently completed transactions involving oil and gas companies in the area. Twenty (20) of those entities signed confidentiality agreements and received offering memoranda, leading to due diligence and in-person data room presentations with eight (8) potential buyers.

The Debtors, with the assistance of their advisors, assembled data and documents to facilitate the diligence process and prepared business presentations to provide for an organized and efficient transmission of a large amount of data related to the Debtors' assets and businesses. However, not a single prospective bidder expressed interest in consummating an out-of-court transaction with the Debtors that would allow the Debtors to receive enough debt to equity to fund ongoing drilling and exploration activities, and several noted the existence of unfavorable contracts with certain first purchasers that were economically unfavorable to Delta, that could best be dealt with through a bankruptcy filing.

Consequently, the Debtors concluded that they would achieve more value for their stakeholders by seeking chapter 11 protection and taking advantage of the powers available to debtors under the Bankruptcy Code.

After the Petition Date, the Debtors' advisors continued their efforts to market the Debtors' businesses. To that end, following the filing of the Chapter 11 Cases, the Debtors' advisors distributed teaser information to 317 prospective bidders. The teaser document was also filed by Delta as an 8-K. 130 prospective bidders expressed preliminary interest in the Debtors' assets after receiving the aforementioned information. 62 of those 130 entities requested form confidentiality agreements to pursue further discussions and review additional information, and 46 of those entities actually entered into confidentiality agreements with the Debtors. Pursuant to the Initial Bid Procedures, interested parties were required to submit non-binding expressions of interest to purchase the Debtors' assets and confidentiality agreements on or prior to Feb. 13, 2012 at 5:00 p.m. (ET) (the "**Initial Bid Deadline**"). Of the potential bidders that the Debtors' advisors contacted, 28 submitted expressions of interest meeting the participation requirements by the Initial Bid Deadline. These parties received confidential information packages that included company overview materials, the Debtors' financial projections, and access to an electronic data room containing extensive information about the Debtors' operations and finances. Potential bidders were provided equal opportunities to conduct due diligence.

Over the course of negotiations with interested parties, a number of potential purchasers expressed a desire to have an opportunity to submit plan funding proposals as well as bids for the Debtors' assets. Accordingly, the Amended Bid Procedures Order extended the Bid Deadline to April 18, 2012 at 4:00 p.m. (ET) to accommodate plan sponsor proposals (the "**Amended Bid Deadline**"). Of the 28 potential buyers that submitted expressions of interest meeting the participation requirements by the Initial Bid Deadline, nine submitted plan sponsor proposals or bids for the Debtors' assets by the Amended Bid Deadline.

The Debtors carefully considered each of the nine proposals to determine whether they were "qualified" under the Amended Bid Procedures Order, and if so, whether they were acceptable to the Debtors. The Debtors thereafter decided that the best way to maximize value would be to conduct an informal competitive process rather, to hold a pure 363 auction. As a result, on April 20, 2012, the Debtors filed the *Notice Regarding Auction Status* [D.I. 497] explaining that a 363 sale auction would not be held, but that the Debtors would instead conduct an informal competitive process to consider bids for plan sponsorship as well as bids for the Debtors' assets, commencing on April 24, 2012.

Six prospective bidders, along with the Debtors and the Noteholders, participated in a competitive negotiation process on April 24, 2012 and April 25, 2012. This informal competitive process resulted in a robust negotiation process among the Debtors, the bidders and the Noteholders.

As a result of this process, the Debtors received both 363 sale bids and plan sponsorship bids of varying values and structures. The Debtors, together with their advisors, considered each of the bids received by the Debtors to determine which bid presented the best overall value to stakeholders. In addition, the Noteholders and their representatives were consulted in this process and provided input on the bids and the process.

Ultimately, based on the value of the bid and the negotiated terms and conditions, the Debtors, with the assistance of their advisors, and after consultation with the Noteholders, determined that in their business judgment, Laramie's plan sponsorship proposal, which is outlined in the *Summary of Company Formation Documents* (the "**Laramie Term Sheet**")

attached as **Exhibit "1"** to the *Notice of Debtors' Selection of Proposed Plan Sponsor* filed on May 7, 2012 [D.I. 530], was the offer that would achieve the best recovery for the Debtors' creditors.

Specifically, Laramie has offered the highest overall economic value as compared to the other bids received to date because of the combined value offered as a result of (i) the significant value of the assets that Laramie has agreed to contribute to a joint venture with Delta in which Delta will be provided a 33.34% interest and (ii) the cash component of the offer. The other bids received by the Debtors presented a substantially lower overall economic value than Laramie's offer.

Based upon the foregoing, the Debtors' selection of Laramie as Plan Sponsor and consummation of the transactions contemplated by the Laramie Term Sheet are in the best interests of the Debtors, their creditors, their estates and other parties in interest. Considering all of the circumstances of the Chapter 11 Cases, previous pre-petition sale and restructuring efforts and the value provided by Laramie's offer, accepting the Laramie offer constitutes a reasonable and sound exercise of the Debtors' business judgment. Accordingly, Laramie's offer has been incorporated in the Plan filed with the Bankruptcy Court.

11. **Information Regarding The Plan Sponsor**

Laramie Energy II, LLC ("**Laramie**") is a Denver-based company primarily focused on finding and developing natural gas reserves from unconventional gas reservoirs within the U.S. Rockies. Its predecessor company, Laramie Energy, LLC (now referred to as "**Laramie I**"), sold all of its oil and gas assets in May 2007 to Plains Exploration & Production Company, Inc.

Laramie was formed in June 2007 by Laramie I executives and former employees and by affiliates of the same private equity investors that helped Laramie I succeed. Laramie is backed by over $300 million of equity capital commitments funded by the Company's management team, EnCap Investments, Avista Capital, and DLJ Merchant Banking Partners (an affiliate of Credit Suisse Securities). In addition, Laramie Energy is debt financed by JPMorgan Chase Bank and Wells Fargo Bank.

With its seasoned executive leadership, an operations team with a reputation for excellence, and its solid financial foundation, Laramie continues as a leading operator in the Rockies. Laramie is currently conducting an active acquisition and development program within the Piceance Basin of Western Colorado.

12. **Plan Support Agreement**

As of the date hereof, Delta owes the approximate aggregate principal amount of $267.7 million in Noteholder Claims. The Supporting Noteholders own, beneficially own, or are the nominees of, approximately 79.7% of such Noteholder Claims. The Supporting Noteholders, the DIP Agent, the Debtors and the Plan Sponsor entered into the Plan Support Agreement on June 4, 2012. Pursuant to the Plan Support Agreement, the Supporting Noteholders and DIP Agent have agreed, subject to certain conditions, to vote in favor of confirmation of the Plan on the terms and conditions substantially consistent with those set forth in the Plan.

### C. Currently Pending Litigation; Causes of Action of the Estates

#### 1. Pre-Petition Litigation Being Pursued by the Debtors

**a. Delta Petroleum Corporation vs. Richard B. Evans, Case No. CIV25819, District Court of Polk County, Texas, 411 Judicial District**. On May 28, 2010, Delta commenced an action against Richard B. Evans to recover $158,000 in revenues from the Best Kenesson-Willsource 2H Well that was overpaid by Delta as operator to Mr. Evans as a working interest owner. Mr. Evans filed a general denial answer and on December 16, 2010. Settlement negotiations are being conducted between the parties. This is the Debtors' opinion concerning this matter and Mr. Evans disagrees.

**b. Delta Petroleum Corporation vs. Caprock Pipe & Supply, Inc. and Enquest Energy Services Corp., Case Number 2010CV8475, District Court, Denver County, Colorado**. On October 25, 2010, Delta commenced an action against Caprock Pipe & Supply, Inc. and Enquest Energy Services Corp. to recover $130,000 for an unpaid invoice related to a purchase from Delta of tubing and casing. Delta obtained a Summary Judgment Order on August 15, 2011, but has yet to collect on the judgment.

#### 2. Causes of Action Belonging to the Debtors' Estates

While the Debtors have not completed an investigation of possible Causes of Action or Wapiti Causes of Action, the Debtors may have Causes of Action or Wapiti Causes of Action under state or federal law against Persons that are and/or were, without limitation, the Debtors' creditors, contract counterparties, former officers, directors and employees, recipients of transfers and other third parties, each of which will be expressly preserved by the Debtors and transferred and assigned to the General Trust, or solely in the cases of the Wapiti Causes of Action, to the Wapiti Trust, in either case unless otherwise released by the Plan including Section 10.7 thereof. In particular, the Bankruptcy Code creates certain causes of action that allow the Debtors to recover certain transfers (i.e., those determined to be "preferences" or "fraudulent conveyances") they made prior to the Petition Date, as described below.

**a. Preferences**

A debtor may recover a transfer of property it made prior to its bankruptcy filing if that transfer: (i) was in payment of a pre-existing debt; (ii) allowed the transferee to receive more than it would have received had the transfer not been made and the debtor had been liquidated under chapter 7 of the Bankruptcy Code; and (iii) was made during the ninety (90) days immediately prior to its bankruptcy filing (or, if the transferee was an insider, during the one (1) year immediately prior to the bankruptcy filing).

There are certain statutory defenses to preference actions. A transfer made in the ordinary course of the debtor's and transferee's business and according to ordinary business terms may not be recoverable. Furthermore, if the transferee gave, subsequent to the transfer,

new value to the debtor, the new value may constitute an offset against the amount of any recovery. If a transfer is recovered by the debtor, the transferee has a general unsecured claim against the debtor to the extent of the recovery.

**b. Fraudulent Transfers**

Under the Bankruptcy Code and under various state laws, a debtor may recover a transfer of property it made or an obligation it incurred while insolvent or that rendered it insolvent, or at a time when it either was unable to meet its debts as they matured or was left with unreasonably small capital, if and to the extent the debtor received less than reasonably equivalent value for such property. Transfers made up to six (6) years prior to the bankruptcy filing may be recovered under some state statutes.

**c. Transfers by the Debtors**

The Debtors' statement of financial affairs, which are incorporated by reference herein, includes listings of payments the Debtors made in the ninety (90) days immediately preceding the Petition Date as well as listings of payments the Debtors made to insiders made in the year immediately preceding the Petition Date (each with respect to preferences) and payments the Debtors made in the two years immediately preceding the Petition Date (with respect to fraudulent transfer claims arising solely under the Bankruptcy Code (as opposed to claims under applicable non-bankruptcy law that may be asserted under the Bankruptcy Code). The Debtors' statements of financial affairs therefore identify recipients of transfers that may sought to be avoided by the Debtors and/or the Recovery Trustee as preferences and/or fraudulent transfers. The Debtors are in the process of conducting an analysis of potential preferences paid to their vendors, insiders and other creditors and of potential fraudulent transfers paid to transfer recipients. Other than these analyses, no analysis of the merits of Causes of Action or Wapiti Causes of Action has been made at this time. While the Debtors' attempted to list all recipients of the foregoing transfers in their statements of financial affairs, it is possible that through further investigation the Debtors or the Recovery Trustee may identify additional recipients of potential preferences and/or fraudulent transfers. Accordingly, the Debtors cannot estimate potential recoveries, if any, from possible litigation surrounding such transfers or obligations.

## V. SUMMARY OF THE PLAN

THIS SECTION PROVIDES A SUMMARY OF THE STRUCTURE AND IMPLEMENTATION OF THE PLAN AND THE CLASSIFICATION AND TREATMENT OF CLAIMS AND EQUITY INTERESTS UNDER THE PLAN. THIS SECTION IS QUALIFIED IN ITS ENTIRETY BY REFERENCE TO THE PLAN, WHICH IS EXHIBIT 1 TO THE DISCLOSURE STATEMENT.

THE PLAN AND THE DOCUMENTS REFERRED TO THEREIN WILL CONTROL THE TREATMENT OF CLAIMS AGAINST, AND EQUITY INTERESTS IN, THE DEBTORS. UPON THE EFFECTIVE DATE, THE PLAN WILL BE BINDING UPON HOLDERS OF CLAIMS AGAINST, AND EQUITY INTERESTS IN, THE DEBTORS, THE REORGANIZED DEBTORS AND OTHER PARTIES IN INTEREST. IN THE EVENT OF ANY CONFLICT BETWEEN THIS DISCLOSURE STATEMENT AND THE PLAN OR ANY OTHER

OPERATIVE DOCUMENT, THE TERMS OF THE PLAN AND/OR SUCH OTHER OPERATIVE DOCUMENT WILL CONTROL.

The Plan accomplishes a significant deleveraging of the Debtors' balance sheets through Reorganized Delta's membership in the Joint Venture Company, which was formed earlier by the Plan Sponsor, and through the cash payment drawn from the JV Company Credit Facility. As a result of these transactions, the Debtors will have a significantly reduced amount of debt following consummation of the Plan, and Reorganized Delta will become the owner of 33.34% of the membership interests in the Joint Venture Company.

The holders of Noteholder Claims and the holders of General Unsecured Claims (other than those who elect to be "cashed out" at fifteen cents on the dollar) will receive their Pro Rata share of 100% of the New Common Stock of Reorganized Delta or such other treatment as may be agreed upon by the Reorganized Debtors and the Holder of such Allowed General Unsecured Claim and approved by the Bankruptcy Court.

All Existing Delta Equity Interests will be canceled and the holders thereof will receive no value under the Plan. All of the Debtors' other creditors will retain their rights unimpaired by the consummation of the Plan.

The Debtors maintain that commencement of the Plan maximizes value for the benefit of their stakeholders. The Debtors believe that through the Plan, holders of Allowed Claims will obtain a substantially greater recovery from the Estates of the Debtors than the recovery they would receive if the Debtors filed petitions under chapter 7 of the Bankruptcy Code.

So long as either Class 4 or 5 (Noteholder Claims or General Unsecured Claims) votes in favor of the Plan, the Debtors intend to seek consummation of the Plan as quickly as possible. If one of Class 4 or Class 5 does not accept the Plan, the Debtors intend to seek confirmation under the "cram down" provisions of section 1129 of the Bankruptcy Code.

### A. Overview of Chapter 11 and the Plan Process

Chapter 11 is the principal business reorganization chapter of the Bankruptcy Code. Under chapter 11, a debtor is authorized to reorganize its business for the benefit of its creditors and shareholders. Upon the filing of a petition for relief under chapter 11, section 362 of the Bankruptcy Code provides for an automatic stay of substantially all acts and proceedings against the debtor and its property, including all attempts to collect claims or enforce liens that arose prior to the commencement of the reorganization case. The commencement of a reorganization case creates an estate that comprises all of the legal and equitable interests of a debtor as of the filing date. The Bankruptcy Code provides that a debtor may continue to operate its business as a "debtor in possession."

The consummation of a plan of reorganization is the principal objective of a reorganization case. A plan of reorganization sets forth the means for satisfying claims against and interests in a debtor. Confirmation of a plan of reorganization by a bankruptcy court makes the plan binding upon the debtor, any issuer of securities under the plan, any person acquiring property under the plan, and any creditor of, or equity security holder in, the debtor, whether or not such creditor or equity security holder (i) is impaired under or has accepted the plan or

(ii) receives or retains any property under the plan. Subject to certain limited exceptions, and other than as provided in the plan itself or the confirmation order, the confirmation order discharges the debtor from any debt that arose prior to the date of confirmation of the plan and substitutes for such debt the obligations specified under the confirmed plan, and terminates all rights and interests of equity security holders.

### B. Classification and Treatment of Claims and Equity Interests; Cram Down

Section 1123 of the Bankruptcy Code provides that a plan of reorganization must classify the claims and interests of a debtor's creditors and equity interest holders. In accordance with section 1123 of the Bankruptcy Code, a plan divides claims and equity interests into classes and sets forth the treatment for each class (other than administrative expense claims and priority tax claims (each as defined in the Bankruptcy Code) which, under section 1123(a)(1) of the Bankruptcy Code, need to be classified). A debtor is required, under section 1122 of the Bankruptcy Code, to classify claims against and equity interests in the debtor into classes, each of which contains claims and equity interests that are substantially similar to the other claims and equity interests in such class.

Although the Debtors believe that the Plan has classified all Claims and Equity Interests in compliance with the provisions of section 1122 of the Bankruptcy Code and applicable case law, it is possible that a holder of a Claim or Equity Interest may challenge the Debtors' classification of Claims and Equity Interests and that the Bankruptcy Court may find that a different classification is required for the Plan to be confirmed. In that event, the Debtors would, to the extent permitted by the Bankruptcy Code, the Plan and the Bankruptcy Court, make such reasonable modifications of the classifications in the Plan to permit confirmation and to use the acceptances of the Plan that are marked on the ballots received in this Solicitation for the purpose of obtaining the approval of the reconstituted Class or Classes of which each accepting holder ultimately would be deemed to be a member. Any such reclassification could adversely affect the Class of which such holder initially was a member, or any other Class in the Plan, by changing the composition of such Class and the vote required of that Class for approval of the Plan. Furthermore, a reclassification of a Claim or Equity Interest after approval of the Plan could necessitate a resolicitation of acceptances of the Plan.

The amount of any impaired Claim that ultimately is allowed by the Bankruptcy Court may vary from any estimated Allowed amount of such Claim and, accordingly, the total Claims ultimately allowed by the Bankruptcy Court with respect to each impaired Class of Claims may also vary from any estimates contained herein with respect to the aggregate Claims in any impaired Class. Thus, the value of the property that ultimately will be received by a particular holder of an Allowed Claim under the Plan may be adversely (or favorably) affected by the aggregate amount of Claims ultimately allowed in the applicable Class.

The classification of Claims and Equity Interests and the nature of distributions to members of each Class are summarized below. The Debtors believe that the consideration, if any, provided under the Plan to holders of Claims reflects an appropriate resolution of their Claims, taking into account the differing nature and priority (including applicable contractual and statutory subordination) of such Claims and the fair value of the Debtors' assets. In view of the deemed rejection by Classes 6 and 7, however, as set forth below, the Debtors will seek

confirmation of the Plan pursuant to the "cram down" provisions of the Bankruptcy Code. Specifically, section 1129(b) of the Bankruptcy Code permits confirmation of a chapter 11 plan in certain circumstances even if all impaired classes of claims and equity interests have not accepted the plan. In order to confirm a plan under section 1129(b) of the Bankruptcy Code, the Bankruptcy Court is required to find that a number of statutory tests are met. Although the Debtors believe that the Plan can be confirmed under section 1129(b) of the Bankruptcy Code, there can be no assurance that the Bankruptcy Court will find that the requirements to do so have been satisfied.

1. **Treatment of Unclassified Claims Under the Plan**

**a. Administrative Expense Claims Generally**

Each holder of an Allowed Administrative Expense Claim will receive payment in full in Cash of the unpaid portion of such Allowed Administrative Expense Claim (a) in the case of professional fees and expenses for professionals and advisors retained by the Debtors, as soon as practicable after Bankruptcy Court approval thereof, or, in the case of professionals retained by the Debtors in the ordinary course of their business, if any, on such terms as are customary between the Debtors and such professionals; (b) with respect to all other holders of Allowed Administrative Expense Claims, on the later of (i) the Effective Date and (ii) the date on which such payment would be made in the ordinary course of the Debtors' businesses, consistent with past practice and in accordance with the terms and subject to the conditions of any agreements or regulations governing, instruments evidencing or other documents relating to such transactions, or (c) with respect to any Claim described in clauses (a) through (b) of Section 2.1 of the Plan, as otherwise agreed by the holder of such Claim and the Debtors. Disputed but not yet Allowed Administrative Expense Claims will receive payment on the later of (i) the date such disputed Allowed Administrative Expense Claim becomes Allowed and (ii) the date on which such payment would be made in the ordinary course of the Debtors' businesses, consistent with past practice and in accordance with the terms and subject to the conditions of any agreements or regulations governing, instruments evidencing or other documents relating to such transactions; provided, however, that Allowed Administrative Expense Claims with respect to liabilities incurred by the Debtors in the ordinary course of business during the Chapter 11 Cases shall be paid in the ordinary course of business in accordance with the terms and conditions of any agreements relating thereto. Administrative Claims that are estimated in connection with confirmation of the Plan will be deemed Allowed in the amount so estimated. All Administrative Claims against the Debtors (except for professional fees and expenses for professionals and advisors retained by the Debtors as provided in Section 2.2 below) must be filed with the Bankruptcy Court and served upon the Debtors and their counsel on or before the date that is sixty (60) days after the Effective Date.

**b. Professional Compensation and Reimbursement Claims; Other Administrative Claims**

Except as provided in Section 2.1 of the Plan, all Persons seeking awards by the Bankruptcy Court of compensation for services rendered or reimbursement of expenses incurred through and including the Confirmation Date under sections 330, 331, 503(b)(2), 503(b)(3), 503(b)(4) or 503(b)(5) of the Bankruptcy Code and any other Persons seeking administrative priority status for their Claims shall (a) file, on or before the date that is sixty (60) days after the

Effective Date, their respective applications for final allowances of compensation for services rendered and reimbursement of expenses incurred and (b) be paid in full, in Cash, in such amounts as are Allowed by the Bankruptcy Court in accordance with the order relating to or Allowing any such Administrative Expense Claim. The Reorganized Debtors are authorized to pay compensation for professional services rendered and reimbursement of expenses incurred after the Confirmation Date in the ordinary course and without the need for Bankruptcy Court approval.

**c. Priority Tax Claims**

Except to the extent that a holder of an Allowed Priority Tax Claim against the Debtors agrees with the Debtors to a different treatment or has been paid by the Debtors prior to the Effective Date, each holder of an Allowed Priority Tax Claim shall, at the Debtors' election where applicable, in full satisfaction, release, and discharge of such Allowed Priority Tax Claim: (a) be paid in full, in Cash, on, or as soon as reasonably practicable after, the later of the Effective Date and the date on which such Claim becomes an Allowed Claim, in accordance with the terms of any agreement between the Debtors and such holder, as may be due and owing under applicable non-bankruptcy law, or in the ordinary course of business; (b) be paid in Cash in regular installment payments in accordance with section 1129(a)(9)(C) of the Bankruptcy Code; or (c) be paid such other amounts and in such other manner as may be determined by the Bankruptcy Court to provide the holder of such Allowed Priority Tax Claim deferred cash payments having a value, as of the Effective Date, equal to such Allowed Priority Tax Claim.

2. **Treatment of Classified Claims and Equity Interests**

**a. DIP Facility Claims (Class 1)**

On the Effective Date, each Holder of an Allowed DIP Facility Claim shall receive, in full satisfaction, settlement, release, and discharge of and in exchange for such Allowed DIP Facility Claim, Cash equal to the full amount of such Allowed DIP Facility Claim.

**b. Priority Non-Tax Claims (Class 2)**

Each Holder of an Allowed Priority Non-Tax Claim shall receive, in full satisfaction, settlement, release, and discharge of and in exchange for such Allowed Priority Non-Tax Claim, Cash equal to the unpaid portion of such Allowed Priority Non-Tax Claim (i) at the Reorganized Debtors' election, either (A) in accordance with the reinstated terms of such indebtedness; (B) in accordance with section 1129(a)(9) of the Bankruptcy Code; or (C) on the latest to occur of (1) the Effective Date, (2) the date such Claim becomes an Allowed Priority Non-Tax Claim, and (3) such other date as may be agreed upon by the Reorganized Debtors and the Holder of such Allowed Priority Non-Tax Claim; or (ii) on such other date as the Bankruptcy Court may order.

**c. Other Secured Claims (Class 3)**

Each Holder of an Allowed Other Secured Claim shall receive, in full satisfaction, settlement, release, and discharge of and in exchange for such Allowed Other Secured Claim, Cash equal to the unpaid portion of such Allowed Other Secured Claim (i) at the Reorganized Debtors' election, either (A) in accordance with the reinstated terms of such indebtedness; (B) in

accordance with section 1129(a)(9) of the Bankruptcy Code; or (C) on the latest to occur of (1) the Effective Date, (2) the date such Claim becomes an Allowed Other Secured Claim, and (3) such other date as may be agreed upon by the Reorganized Debtors and the Holder of such Allowed Other Secured Claim; or (ii) on such other date as the Bankruptcy Court may order.

To the extent an Other Secured Claim is an Allowed Priority Tax Claim, except to the extent that the Holder of such Allowed Priority Tax Claim against the Debtors agrees to a different treatment or has been paid by the Debtors prior to the Effective Date, each Holder of an Allowed Priority Tax Claim shall, in full satisfaction, release, and discharge of such Allowed Priority Tax Claim: (i) to the extent such Claim is due and owing on the Effective Date, be paid in full, in Cash, on the Effective Date, (ii) to the extent such Claim is not due and owing on the Effective Date, be paid in full, in Cash, in accordance with the terms of any agreement between the Debtors and such Holder, or as may be due and owing under applicable non-bankruptcy law, or in the ordinary course of business, or (iii) be treated on such other terms and conditions as are acceptable to the Debtors and the Holder of such Claim.

The Debtors' failure to object to any Other Secured Claim shall be without prejudice to the Debtors' or the Reorganized Debtors' right to contest or otherwise defend against such Claim in the appropriate forum when and if such Claim is sought to be enforced by the Other Secured Claim Holder. Notwithstanding section 1141(c) or any other provision of the Bankruptcy Code, all prepetition Liens on property of the Debtors held with respect to an Allowed Other Secured Claim shall survive the Effective Date and continue in accordance with the contractual terms of the underlying agreement governing such only Claim until such Allowed Claim is paid in full unless otherwise satisfied, as agreed by the Holder of such Allowed Claim. Nothing in the Plan shall preclude the Debtors or the Reorganized Debtors from challenging the validity of any alleged Lien on any asset of the Debtors or the value of the property that secures any alleged Lien.

**d. General Unsecured Claims (Class 4)**

On the Effective Date, or as soon as reasonably practicable thereafter, each Holder of an Allowed General Unsecured Claim shall receive, in full satisfaction, settlement, release, and discharge of and in exchange for such General Unsecured Claim, at such Holder's election, either (i) cash equal to fifteen percent (15%) of the amount of such Holder's Allowed General Unsecured Claim or (ii) such Holder's Pro Rata share of the New Common Stock of Reorganized Delta.

**e. Noteholder Claims (Class 5)**

On the Effective Date, or as soon as reasonably practicable thereafter, each Holder of an Allowed Noteholder Claim shall receive, in full satisfaction, settlement, release, and discharge of and in exchange for such Noteholder Claim, such Holder's Pro Rata share of the New Common Stock of Reorganized Delta. The Noteholder Claims shall be Allowed in the full principal amount thereof ($265,000,000) plus interest as of the Petition Date ($2,685,416.66).

**f. Intercompany Claims (Class 6)**

On the Effective Date the legal, equitable and contractual rights of each Holder of an Intercompany Claim against the Debtors shall be extinguished and such Holders of Intercompany Claims shall not receive any distribution or consideration in connection with such Intercompany Claims.

**g. Existing Delta Equity Interests (Class 7)**

On the Effective Date the legal, equitable and contractual rights of each Holder of an Existing Delta Equity Interest against the Debtors shall be extinguished, canceled and discharged and such Holders of Existing Delta Equity Interests shall not receive any distribution or consideration in connection with such Existing Delta Equity Interests.

**h. Securities Litigation Claims (Class 8)**

On the Effective Date the legal, equitable and contractual rights of each Holder of a Securities Litigation Claim against the Debtors shall be extinguished and such Holders of Securities Litigation Claims shall not receive any distribution or consideration in connection with such Securities Litigation Claims.

**i. Intercompany Equity Interests (Class 9)**

All Intercompany Equity Interests shall be reinstated on the Effective Date.

**C. Summary of the Capital Structure of Reorganized Delta**

Pursuant to the Plan, Reorganized Delta expects to have the capital structure described below upon its emergence from chapter 11. The summary of Reorganized Delta's capital structure is qualified in its entirety by reference to the Plan and the documents contained in the Plan Supplements.

1. **Description of New Common Stock**

On the Effective Date, Reorganized Delta will issue the New Common Stock. Each share of the New Common Stock shall entitle its Holder to one vote. On the Effective Date, or as soon as reasonably practicable thereafter, Reorganized Delta shall take all steps necessary to facilitate the public trading of the New Common Stock, provided, however, that Reorganized Delta's Tax Attributes shall be protected through provisions in Reorganized Delta's Restated Certificate of Incorporation and/or the Stockholders' Agreement limiting transactions that might result in adverse consequences to Reorganized Delta's Tax Attributes.

**a. Stockholders' Agreement**

As is described in more detail in Article X of this Disclosure Statement, the Debtors will rely on section 1145 of the Bankruptcy Code to exempt the issuance of the New Common Stock issued pursuant to the Plan from the registration requirements of the Securities Act and any state securities laws. Transfers of securities issued under the Plan will be subject to the terms and conditions of the Stockholders' Agreement.

**b. Restrictions on Resale of Securities to Protect Net Operating Losses**

The Restated Certificates of Incorporation, at the Supporting Noteholders' discretion and with the Supporting Noteholders' unanimous consent, shall contain restrictions on the transfer of the New Common Stock to minimize the likelihood of any potential adverse federal income tax consequences resulting from an ownership change (as defined in section 382 of the Internal Revenue Code) in Reorganized Delta, consistent with those described in Section VII.C.4 of this Disclosure Statement.

2. **JV Company Credit Facility**

On the Effective Date, the Plan Sponsor shall obtain on behalf of the Joint Venture Company a $400 million secured revolving credit facility secured by a lien on the Joint Venture Company's' oil and gas properties and related assets and the LLC membership interests in the Joint Venture Company owned by the JV Company Credit Facility Guarantors (the "**JV Company Credit Facility**"). Availability will be limited to the lesser of (a) $400 million, or (b) the borrowing base in effect from time to time. The initial borrowing base shall be not less than $140 million. To the extent required by the JV Company Credit Facility Lenders (defined below), the Plan Sponsor and Reorganized Delta (the "**JV Company Credit Facility Guarantors**") shall pledge their respective LLC membership interests in the Joint Venture Company and grant the JV Credit Facility Lenders a non-recourse lien against such interests. The JV Company Credit Facility Lenders shall be J.P. Morgan Securities and Wells Fargo Bank, N.A. and/or such other lenders, if any, approved by the Joint Venture Company (the "**JV Company Credit Facility Lenders**"). The JV Company Credit Facility will mature on the fourth anniversary of the Effective Date (the "**JV Maturity Date**").

On the Effective Date, the Joint Venture Company shall draw on the JV Company Credit Facility and wire to Reorganized Delta cash consideration equal to $75 million, subject to certain adjustments, which shall be used for distributions to Allowed Claims and Equity Interests pursuant to the terms of the Plan.

An executed copy of the JV Company Credit Facility Term Sheet is attached to the Plan as Plan Exhibit 6.

3. **Exit Loan**

The Debtors shall obtain an exit term loan to Reorganized Delta on reasonable terms in an amount sufficient to refinance all unpaid Allowed DIP Facility Claims (the "**Exit Loan**"). The Exit Loan shall be secured by all of the assets of the Reorganized Debtors, including a pledge of Reorganized Delta's LLC membership interest in the Joint Venture Company, subordinated to the security interest granted in favor of the JV Company Credit Facility Lenders.

A term sheet setting forth the material terms of the Exit Loan shall be filed as a Plan Supplement.

## D. Means for Implementation and Execution of the Plan

### 1. Corporate Action

Upon the occurrence of the Effective Date, all actions contemplated by the Plan shall be deemed authorized and approved in all respects, including (i) selection of the directors and officers for the Reorganized Debtors, (ii) the issuance and distribution of the New Common Stock, (iii) entry into the Joint Venture Company LLC Agreement, (iv) entry into the Contribution Agreement, (v) entry into the Management Services Agreement, (vi) entry into the JV Company Credit Facility, (vii) entry into the Exit Loan, (viii) the adoption of the Restated Certificates of Incorporation and Restated Bylaws, (ix) entry into the Stockholders' Agreement, if any, (x) entry into the Recovery Trust Agreements and (xi) all other actions contemplated by the Plan (whether to occur before or on the Effective Date). All matters provided for in the Plan involving the corporate structure of the Debtors or the Reorganized Debtors, and any corporate action required by the Debtors or the Reorganized Debtors in connection with the Plan, shall be deemed to have occurred and shall be in effect, without any requirement of further action by the equity security holders, directors or officers of the Debtors or the Reorganized Debtors. On or (as applicable) prior to the Effective Date, the appropriate officers of the Debtors or the Reorganized Debtors, as applicable, shall be authorized and directed to issue, execute and deliver the agreements, documents, securities, and instruments contemplated by the Plan (or necessary or desirable to effect the transactions contemplated by the Plan) in the name of and on behalf of the Reorganized Debtors, including the JV Company Credit Facility Documents and any and all other agreements, documents, securities and instruments relating to the foregoing.

### 2. Restated Certificate of Incorporation and Restated Bylaws

The Restated Bylaws and the Restated Certificates of Incorporation shall be consistent with the provisions of this Plan and the Bankruptcy Code, and satisfactory to the Supporting Noteholders. On or immediately before the Effective Date, the Reorganized Debtors will file their respective Restated Certificates of Incorporation with the applicable Secretaries of State and/or other applicable authorities in their respective states, provinces or countries of incorporation in accordance with the corporate laws of the respective states, provinces or countries of incorporation. Pursuant to section 1123(a)(6) of the Bankruptcy Code, the Restated Certificates of Incorporation will prohibit the issuance of non-voting equity securities. After the Effective Date, the Reorganized Debtors may amend and restate their respective Restated Certificates of Incorporation and Restated Bylaws and other constituent documents as permitted by the laws of their respective states, provinces or countries of incorporation and their respective Restated Certificates of Incorporation and Restated Bylaws. The Restated Certificate of Incorporation of Reorganized Delta will, among other things authorize the New Common Stock and, at the Supporting Noteholders' discretion and with the Supporting Noteholders' unanimous consent, contain restrictions on the transfer of the New Common Stock to minimize the likelihood of any potential adverse federal income tax consequences resulting from an ownership change (as defined in section 382 of the Internal Revenue Code) in Reorganized Delta, consistent with those described in Section VII.C.4 of this Disclosure Statement. Any modification to the originally filed Restated Certificate of Incorporation or Restated Bylaws of Reorganized Delta after the Confirmation Date but prior to the Effective Date may become effective; provided, however that, any such modification must be approved by the Supporting Noteholders.

Drafts of the Restated Certificates of Incorporation and the Restated Bylaws shall be filed as Plan Supplements.

### 3. Plan Exhibits

The Plan Exhibits include drafts and execution versions or executed copies, where applicable, of the following documents:

1. Contribution Agreement
2. Joint Venture Company LLC Agreement
3. Management Services Agreement
4. Recovery Trust Agreements
5. New Stockholders' Agreement for Reorganized Delta
6. Restated Certificates of Incorporation of Reorganized Delta
7. Restated Bylaws of Reorganized Delta
8. JV Company Credit Facility Term Sheet and JV Company Credit Facility Documents

The Plan Exhibits include term sheets for the Exit Loan Documents.

### 4. Plan Supplements

The Plan Supplements, which will include a listing of directors and officers for the Reorganized Debtors, certain Plan Exhibits and any amendments to the Plan Exhibits, will be filed with the clerk of the Bankruptcy Court at least seven (7) Business Days prior to the date of the commencement of the Confirmation Hearing. Upon such filing, all documents included in the Plan Supplements may be inspected in the office of the clerk of the Bankruptcy Court during normal business hours or may be accessed online at www.deb.uscourts.gov (cm/ecf) or http://chapter11.epiqsystems.com/DPC

### 5. Directors and Officers of the Reorganized Debtors and Reorganized Delta

As of the Effective Date, the term of the current members of the board of directors of the Debtors shall expire, and the New Boards, including the New Delta Board and the New Subsidiary Boards, as well as the officers of each of the Reorganized Debtors shall be appointed in accordance with the Restated Certificates of Incorporation and Restated Bylaws of each Reorganized Debtor. On the Effective Date, the New Delta Board shall consist of five directors. The initial New Delta Board shall be selected as follows: two Directors shall be selected by Whitebox Advisors, LLC ("**Whitebox**"), two Directors shall be selected by Zell Credit Opportunities Master Fund, L.P. ("**ZCOF**"), and one Director shall be an independent Director jointly selected by unanimous consent of Whitebox, ZCOF and Waterstone Capital Management, L.P., provided that if non-noteholder shareholders own 20% or more of the New Common Stock of Reorganized Delta, then a sixth Director shall be selected by the non-noteholder shareholders. Reorganized Delta's formation documents shall contain provisions for tie-breaking in the event there are an even number of board members. Pursuant to section 1129(a)(5) of the Bankruptcy

Code, the Debtors will disclose in advance of the Confirmation Hearing the identity and affiliations of any Person proposed to serve on the initial New Delta Board and the New Subsidiary Boards, as well as those Persons that serve as an officer of any of the Reorganized Debtors. To the extent any such director or officer is an "insider" under the Bankruptcy Code, the nature of any compensation to be paid to such director or officer will also be disclosed. Each such director and officer shall serve from and after the Effective Date pursuant to the terms of the Restated Certificates of Incorporation, Restated Bylaws and other constituent documents of the Reorganized Debtors.

### 6. The Joint Venture Company

On the Effective Date, Reorganized Delta and the Plan Sponsor shall amend the limited liability company organizational documents of Piceance Energy, LLC (the "**Joint Venture Company**"), in accordance with the terms of the Limited Liability Company Agreement of the Joint Venture Company (the "**Joint Venture Company LLC Agreement**"), the Contribution Agreement between the Plan Sponsor, the Debtors and the Joint Venture Company (the "**Contribution Agreement**"), and the Management Services Agreement between the Plan Sponsor and the Joint Venture Company (the "**Management Services Agreement**").

Drafts of the term sheets for the Limited Liability Company Agreement, Contribution Agreement, and the Management Services Agreement were filed with the Bankruptcy Court as the *Summary of Company Formation Documents* attached as **Exhibit "1"** to the *Notice of Debtors' Selection of Proposed Plan Sponsor* on May 7, 2012 [D.I. 530]. The final executed Contribution Agreement, and final execution forms of the Limited Liability Company Agreement and the Management Services Agreement are also attached to the Plan as Plan Exhibits 1, 2, and 3, respectively.[11]

#### a. The Joint Venture Company LLC Agreement

Pursuant to the Joint Venture Company LLC Agreement, the Joint Venture Company will serve as an operating company owning the oil and gas, surface real estate and related assets (the "**JV Company Assets**") formerly owned by each of Delta and the Plan Sponsor in Garfield and Mesa Counties, Colorado. Upon the execution of the Joint Venture Company LLC Agreement, there shall be 1 million authorized membership units and 500,000 issued units. The Plan Sponsor shall own 333,333 (66.66%) and Reorganized Delta shall own 166,667 (33.34%) of the issued units. Each member shall have one vote for each unit that it holds in all matters subject to a vote, and the affirmative act of the members shall require the vote of at least 51% of the outstanding units.

The Joint Venture Company LLC Agreement provides for corporate governance of the Joint Venture Company through a manager (the "**Manager**") and board of members (the "**Board**

11 The Contribution Agreement is attached as an Exhibit to the Plan without certain schedules and exhibits thereto that contain confidential information about leases, property holdings and agreements. A party-in-interest may view copies of those schedules and exhibits upon entry into a confidentiality agreement with the Debtors, in form and substance satisfactory to the Debtors and the Plan Sponsor in their sole discretion.

**of Managers**"). The initial Manager shall be the Plan Sponsor. The Manager's duties are set forth in the Management Services Agreement.

The Manager shall serve at the pleasure of the Board of Managers, composed of six representatives: four appointed by the Plan Sponsor and two appointed by the board of Reorganized Delta (one of which shall be selected members of the Reorganized Delta board appointed by Whitebox and one of which shall be selected members of the Reorganized Delta board appointed by ZCOF). For all actions taken by members, such members must act through the Board of Managers. Board of Manager decisions shall be binding on the Manager and the Joint Venture Company. The Board of Managers shall have a duty of good faith to the Joint Venture Company.

Lastly, the Joint Venture Company LLC Agreement contains a number of minority protections that require the unanimous approval of the Board of Managers, including, without limitation the following:[12] (a) incurring any borrowings or the issuance or restructuring of any debt of the Joint Venture Company other than the Joint Venture Company Credit Facility, purchase money indebtedness up to $5,000,000 and unsecured trade indebtedness in an aggregate not to exceed $15,000,000; (b) assuming or guaranteeing the performance of any obligation outside the ordinary course of business greater than $1,000,000; (c) adding a new class of securities or increasing or decreasing the outstanding ownership of the Joint Venture Company, except certain permitted capital contributions of up to $60,000,000 in the aggregate, or otherwise requiring additional capital contributions in excess of $60,000,000 in the aggregate; (d) admitting additional members to the Joint Venture Company except pursuant to a permitted capital contribution; (e) acquiring new assets with a value in excess of $25,000,000; and (f) forming or joining a joint venture (except pursuant to customary oil and gas industry exploration and development agreements) or subsidiary, or merging or consolidating with another entity.

**b. The Contribution Agreement**

Pursuant to the Contribution Agreement, both the Plan Sponsor and Delta will contribute assets to the Joint Venture Company in exchange for their respective membership interests. A description of the assets is set forth in Section 1.1 to the Contribution Agreement. Such assets include, among other things, all of the Plan Sponsor's and Delta's oil and gas assets, fee lands, and surface rights in Garfield and Mesa Counties, Colorado, with certain exceptions.

Excluded assets are set forth in Section 1.3 of the Contribution Agreement and, among other things, comprise both the Plan Sponsor's or Delta's oil and gas assets located outside of Mesa and Garfield Counties, Colorado, records relating to their businesses generally or excluded assets and their respective office leases. Delta's excluded assets additionally include, among other things, Delta's Point Arguello interests, certain compressors owned by Delta that were located in the State of Wyoming as of September 30, 2011, all Cash on hand, and all of the Causes of Action and Wapiti Causes of Action (including the Avoidance Actions).

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12. Readers should refer to the Joint Venture Company LLC Agreement, attached to the Plan as Plan Exhibit 2 for a complete list of minority protections.

The Contribution Agreement further provides for the assumption and assignment of various contracts of both the Plan Sponsor and Delta to the Joint Venture Company. Such contracts and leases are listed on **Exhibits C1, C-6**, **D-1 and D-6** to the Contribution Agreement. Delta is responsible for paying all cure amounts necessary to assume and assign Delta's contracts and leases. The assumption of the contracts and leases shall be free and clear of all liens, claims and interests to the fullest extent permitted under § 365 and 1141(c) of the Bankruptcy Code, with the exception of certain existing mortgage liens on certain Laramie assets to be assigned to the JV Credit Facility Lenders. Notwithstanding the foregoing, the Contribution Agreement shall be subject to the provisions of any agreement subsequently assigning rights and/or interests to Reorganized Delta.

**c. The Management Services Agreement**

Pursuant to the Management Services Agreement, the Joint Venture Company will retain the Manager as an independent contractor to manage the Joint Venture Company's assets. In particular, the services to be rendered by the Manager shall include: (i) executive level services, (ii) administrative and operating level management responsibilities, and (iii) supervision of oil and gas field development services.

In compensation for such services, the Joint Venture Company will pay the Manager an amount equal to $650,000 per month (the "**Management Fee**"). The Management Fee shall reimburse the Manager for its general and administrative overhead expenses.

7. **JV Company Credit Agreement**

As of June 4, 2012, the JV Company Credit Agreement shall have been executed and delivered. On the Effective Date, the Reorganized Debtors and the JV Company Credit Facility Guarantors shall be authorized to execute and deliver the JV Company Credit Facility Documents, including Reorganized Delta's guaranty of the JV Company Credit Facility, without the need for any further corporate action and without further action by the Holders of Claims or Equity Interests.

8. **Issuance of New Common Stock**

On the Effective Date, the New Common Stock shall be issued and distributed on behalf of Reorganized Delta to the Holders of Allowed General Unsecured Claims and Noteholder Claims, as applicable.

9. **Recovery Trusts**

On the Effective Date, two trusts shall be formed pursuant to the Plan, the Recovery Trust Agreements shall be executed, and the Recovery Trusts shall be established and become effective and, except as otherwise set forth in the Plan or the Confirmation Order, the Debtors shall transfer and assign to the Recovery Trusts all of their legal and equitable interests in the Recovery Trust Assets as set forth below. The sole beneficiary of each Recovery Trust shall be Reorganized Delta.

The first trust shall be called the Wapiti Recovery Trust (the "**Wapiti Trust**"). On the Effective Date, all estate causes of action against Wapiti Oil & Gas Energy, LLC and affiliated persons and entities including, subject to the terms of the releases to be granted under the Plan, ZCOF and the ZCOF affiliate that directly invested in Wapiti (the "**ZCOF Parties**") shall be vested in the Wapiti Trust. Other than those actions preserved against Wapiti and the ZCOF Parties under section 10.7 of the Plan, no estate cause of action shall be preserved against ZCOF, and any ZCOF affiliate, director, officer, or employee, and each such person shall be released to the fullest extent permitted by law. The Wapiti Trust shall be overseen by a three person Wapiti Trust Oversight Board selected as follows: one Director shall be selected by Whitebox; one Director shall be selected by Waterstone Advisors, LLC; and one Director shall be the Recovery Trustee. The non-Trustee Directors on the Wapiti Trust Oversight Board shall determine the terms of compensation for the Recovery Trustee. Directors on the Wapiti Trust Oversight Board shall serve without compensation. The Wapiti Trust Agreement shall establish additional governance procedures for the Wapiti Trust and the Wapiti Trust Oversight Board.

The second trust shall be called the Delta Petroleum General Recovery Trust (the "**General Trust**"). On the Effective Date, all estate causes of action not otherwise vested in the Wapiti Trust, all estate responsibilities for Claim objections and resolutions, and all other responsibilities for winding-up the Chapter 11 Cases shall be vested in the General Trust. In addition, the $75 million (subject to adjustment) to be received from the Joint Venture Company shall be disbursed in accordance with a flow of funds memorandum to be agreed upon by the Debtors and the Supporting Noteholders. The General Trust shall be overseen by a three person General Trust Oversight Board selected as follows: one Director shall be selected by Whitebox; one Director shall be selected by ZCOF; and one Director shall be the Recovery Trustee. The non-Trustee Directors on the General Trust Oversight Board shall determine the terms of compensation for the Creditor Trustee. Directors on the General Trust Oversight Board shall serve without compensation. The General Trust Agreement shall establish additional governance procedures for the General Trust and the General Trust Oversight Board.

The Recovery Trusts shall be funded in the initial amounts as set forth in their respective Recovery Trust Agreements. Subject to the provisions of the Recovery Trust Agreements, and in the discretion of Reorganized Delta, all costs, expenses and obligations incurred by the Recovery Trustee in administering this Plan, the Recovery Trusts, or in any manner connected, incidental or related thereto, in effecting distributions from, as applicable, the General Trust or the Wapiti Trust thereunder (including the reimbursement of reasonable expenses) shall be a charge against the applicable Recovery Trust Assets remaining from time to time in the hands of the Recovery Trustee. Such expenses shall be paid as they are incurred without the need for Bankruptcy Court approval. To conduct its operations and fulfill its responsibilities under the Plan and the Recovery Trust Agreements, the Recovery Trustee may request additional funding from Reorganized Delta; provided, however, that all Directors nominated by ZCOF shall recuse themselves from all discussions and decision-making by the Reorganized Delta Board of Directors regarding funding requests for the benefit of the Wapiti Trust.

Subject to governance by the applicable Oversight Board, the initial trustee of both Recovery Trusts shall be John T. Young, Jr., the Chief Restructuring Officer of Delta. The Recovery Trustee shall retain and have all the rights, powers and duties necessary to carry out his or her responsibilities under the Plan and the Recovery Trust Agreements, and as otherwise provided in the Confirmation Order. The Recovery Trustee shall be the exclusive trustee of the

Recovery Trust Assets for the purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), as well as the representative of the Estates appointed pursuant to Bankruptcy Code § 1123(b)(3)(B). Matters relating to the appointment, compensation, removal and resignation of the Recovery Trustee and the appointment of any successor Recovery Trustee shall be set forth in the Recovery Trust Agreements. The compensation of the Recovery Trustee shall be disclosed in the Plan Supplements.

The Recovery Trustee shall have the right to retain the services of attorneys, accountants, and other professionals that, in the discretion of the Recovery Trustee, are necessary to assist the Recovery Trustee in the performance of his or her duties. The reasonable fees and expenses of such professionals shall be paid by the General Trust or the Wapiti Trust, as applicable, upon the monthly submission of statements to the Recovery Trustee. The payment of the reasonable fees and expenses of the Recovery Trustee's retained professionals shall be made in the ordinary course of business from the Recovery Trust Assets, and shall not be subject to the approval of the Bankruptcy Court.

Subject to the provisions of the Recovery Trust Agreements, and, as applicable, Oversight Board Approval, all costs, expenses and obligations incurred by the Recovery Trustee in administering this Plan, the Recovery Trusts, or in any manner connected, incidental or related thereto, in effecting distributions from the Recovery Trusts thereunder (including the reimbursement of reasonable expenses) shall be a charge against the Recovery Trust Assets remaining from time to time in the hands of the Recovery Trustee. Such expenses shall be paid as they are incurred without the need for Bankruptcy Court approval.

The Recovery Trustee shall not be liable for any act or omission taken or omitted to be taken in his or her capacity as the Recovery Trustee, other than acts or omissions resulting from the Recovery Trustee's willful misconduct, gross negligence or fraud. The General Trust and the Wapiti Trust, as applicable, shall, subject to the terms approved by the Oversight Board, indemnify and hold harmless the Recovery Trustee and his or her agents, representatives, professionals, and employees from and against and in respect to any and all liabilities, losses, damages, claims, costs and expenses, including, but not limited to attorneys' fees and costs arising out of or due to their actions or omissions, or consequences of such actions or omissions, with respect to such trust or the implementation or administration of this Plan; provided, however, that no such indemnification will be made to such Persons for such actions or omissions as a result of willful misconduct, gross negligence or fraud.

If a litigation recovery on behalf of a Cause of Action or a Wapiti Cause of Action arising from a defendant Person's bad faith, willful misconduct, or gross negligence is obtained by the Recovery Trustee against a Person, such Person shall not be entitled to a Plan Distribution from such litigation recovery.

The duties, responsibilities and powers of the Recovery Trustee shall terminate after all Recovery Trust Assets, including the Causes of Action and Wapiti Causes of Action, transferred and assigned to the Recovery Trust, or involving the Recovery Trustee on behalf of the Recovery Trust, are fully resolved, abandoned or liquidated and been distributed in accordance with this Plan and the Recovery Trust Agreements and the administration of the Recovery Trusts has otherwise been completed. The Recovery Trusts shall terminate no later than five (5) years after the Effective Date unless extended by order of the Bankruptcy Court. Upon the occurrence of

the termination of the Recovery Trusts, the Recovery Trustee shall file with the Bankruptcy Court a report thereof, seeking an order discharging the Recovery Trustee. In the event of any inconsistencies or conflict between the Recovery Trust Agreements and this Plan, the terms and provisions of this Plan shall control.

10. **Cancellation of Agreements**

On the Effective Date, the Indentures shall be canceled and shall be of no further force and effect except as to obligations between parties other than the Debtors and their Affiliates and Subsidiaries.

11. **Surrender of Existing Securities**

Each Holder of a Noteholder Claim shall surrender its note(s) to the Indenture Trustee or in the event such note(s) are held in the name of, or by a nominee of, The Depository Trust Company, the Reorganized Debtors shall seek the cooperation of The Depository Trust Company to provide appropriate instructions to the Indenture Trustee. Each Holder of Noteholder Claim shall send its note(s) to the Indenture Trustee or The Depository Trust Company shall provide appropriate instructions to the Indenture Trustee or the loss, theft or destruction of such note shall be established to the reasonable satisfaction of the Indenture Trustee as applicable, which satisfaction may require such Holder to submit (a) a lost instrument affidavit and (b) an indemnity bond holding the Debtors, the Reorganized Debtors, and the Indenture Trustee harmless in respect of such note and any distributions made on account thereof. Upon compliance with Section 6.8 of the Plan by a Holder of any Note, such Holder shall, for all purposes under this Plan, be deemed to have surrendered such note. All property in respect of such forfeited distributions, including interest thereon, shall be promptly returned to the Reorganized Debtors by the Indenture Trustee and any such security shall be canceled.

12. **Cancellation of the Notes and Equity Interests**

On the Effective Date, except to the extent otherwise provided in the Plan, all notes, instruments, certificates and other documents evidencing (a) the 3 3/4% Notes, (b) the 7% Notes and (c) the Equity Interests shall be canceled, and the obligations of the Debtors thereunder and in any way related thereto shall be fully satisfied, released and discharged; provided, however, that such cancellation shall not itself alter the obligations or rights of any third parties (apart from the Debtors, their Affiliates and Subsidiaries and the Holders of Noteholder Claims) under such notes, instruments, certificates or other documents, including, but not limited to, any applicable rights to indemnification or to seek contribution from any party other than the Debtors or their Affiliates and Subsidiaries with respect to such notes, instruments, certificates or other documents. With respect to the Notes, on the Effective Date, except to the extent otherwise provided in the Plan, the Indentures and any similar agreements, including, without limitation, any related note, guaranty or similar instrument of the Debtors shall be deemed to be canceled, as permitted by section 1123(a)(5)(F) of the Bankruptcy Code, and discharged (i) with respect to all obligations owed by the Debtors under any such agreement and (ii) except to the extent provided herein below, with respect to the respective rights and obligations of the Indenture Trustee under the Indentures against the Holders of Noteholder Claims. Solely for the purpose of clause (ii) in the immediately preceding sentence, only the following rights of the Indenture Trustee shall remain in effect after the Effective Date: (A) rights as trustee, paying agent and registrar,

including but not limited to any rights to payment of fees, expenses and indemnification obligations and liens securing such rights to payment including, but not limited to, from or on property distributed under the Plan to the Indenture Trustee (but excluding any other property of the Debtors, the Reorganized Debtors or their Estates), (B) rights relating to distributions to be made to the Holders of the 3 3/4% Notes or the 7% Notes by the Indenture Trustee from any source, including, but not limited to, distributions under this Plan including, without limitation, any Liens on distributions to the Holders that may be provided to the Indenture Trustee pursuant to the Indentures (but excluding any other property of the Debtors, the Reorganized Debtors or their Estates), (C) rights relating to representation of the interests of the Holders of the 3 3/4% Notes or the 7% Notes by the Indenture Trustee in the Chapter 11 Cases to the extent not discharged or released by the Plan or any order of the Bankruptcy Court and (D) rights relating to participation by the Indenture Trustee in proceedings and appeals related to the Plan. Notwithstanding the continued effectiveness of such rights after the Effective Date, such Indenture Trustee shall have no obligation to object to Claims against the Debtors and the Indenture Trustee shall have no obligation to locate certificated Holders of the 3 3/4% Notes or the 7% Notes who fail to surrender the 3 3/4% Notes and/or the 7% Notes in accordance with Section 6.8 of the Plan.

### E. Existing Liens

Except as otherwise provided in this Disclosure Statement or in the Plan, upon the occurrence of the Effective Date, any Lien securing any Allowed Secured Claim shall continue in effect notwithstanding the occurrence of the Effective Date until such Allowed Secured Claim has been paid in full.

For the avoidance of doubt, all property rights and interests to be transferred to the Joint Venture Company by the Debtors shall be free and clear of all Liens, Claims and liabilities to the fullest extent permitted by sections 365 and 1141(c) of the Bankruptcy Code.

### F. Compromise of Controversies

In consideration for the distributions and other benefits provided under the Plan, the provisions of the Plan constitute a good faith compromise and settlement of all Claims and controversies resolved under the Plan and the entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of such compromises and settlements under Bankruptcy Rule 9019.

### G. Effectuating Documents; Further Transactions

The chief executive officer, the president, the chief financial officer, the general counsel or any other appropriate officer of the Debtors of the Reorganized Debtors or the Recovery Trustee, as the case may be, shall be authorized to execute, deliver, file, or record such contracts, instruments, releases, indentures, and other agreements or documents, and take such actions as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan. The secretary or assistant secretary of the Debtors, the Reorganized Debtors, or the Recovery Trustee, as the case may be, shall be authorized to certify or attest to any of the foregoing actions.

# VI. PROVISIONS GOVERNING DISTRIBUTIONS

## A. Date of Distributions on Account of Allowed Claims

Unless otherwise provided herein or in the Plan, any distributions and deliveries to be made under the Plan shall be made on the Effective Date or as soon as practicable thereafter. In the event that any payment or act under the Plan is required to be made or performed on a date that is not a Business Day, then the making of such payment or the performance of such act may be completed on the next succeeding Business Day, but shall be deemed to have been completed as of the required date.

## B. Sources of Cash for Plan Distribution

Except as otherwise provided in the Plan or Confirmation Order, all Cash required for the payments to be made pursuant to the Plan shall be obtained from the Cash proceeds drawn from the JV Company Credit Facility, the Exit Facility Loan and the Debtors' and the Reorganized Debtors' operations and Cash on hand, all as set forth in the flow of funds memorandum agreed upon by the Debtors and Supporting Noteholders.

## C. Time Bar to Cash Payments

Checks issued in respect of Allowed Claims shall be null and void if not negotiated within one hundred eighty (180) days after the date of issuance thereof. Requests for reissuance of any voided check shall be made directly to the Disbursement Agent by the holder of the Allowed Claim to whom such check was originally issued. Any Claim in respect of such a voided check shall be made on or before the first anniversary of the date on which such distribution or payment was made. If no Claim is made as provided in the preceding sentence, all Claims in respect of void checks shall be discharged and forever barred and such unclaimed distributions shall revert to the Reorganized Debtors, notwithstanding any federal or state escheat laws to the contrary.

## D. Disbursement Agent

The Disbursement Agent, or such other Person designated by Reorganized Delta as a Disbursement Agent, shall make all distributions under the Plan on the Effective Date. A Disbursement Agent shall not be required to give any bond or surety or other security for the performance of its duties unless otherwise ordered by the Bankruptcy Court.

## E. Record Date for Distributions

Distributions shall only be made to the record holders of Allowed Claims as of the Confirmation Date. On the Confirmation Date, at the close of business for the relevant register, all registers maintained by the Debtors and the Reorganized Debtors, and each of their respective agents, successors and assigns, shall be deemed closed for purposes of determining whether a holder of such a Claim is a record holder entitled to distributions under the Plan. The Debtors and the Reorganized Debtors, and all of their respective agents, successors and assigns shall have no obligation to recognize, for purposes of distributions pursuant to or in any way arising from the Plan (or for any other purpose), any Claims that are transferred after the Confirmation Date.

Instead, they shall be entitled to recognize only those record holders set forth in the registers as of the Confirmation Date, irrespective of the number of distributions made under the Plan or the date of such distributions. Furthermore, if a Claim is transferred twenty (20) or fewer calendar days before the Confirmation Date, the Disbursement Agent shall make distributions to the transferee only if the transfer form or other writing contains an unconditional and explicit certification and waiver of any objection to the transfer by the transferor.

If any dispute arises as to the identity of a holder of an Allowed Claim that is entitled to receive a distribution pursuant to the Plan, the Disbursement Agent or the servicers, as applicable, may, in lieu of making such distribution to such Person, make the distribution into an escrow account until the disposition thereof is determined by Final Order or by written agreement among the interested parties to such dispute.

### F. Objections to and Estimation of Claims; Resolution of Disputed Claims

#### 1. Right to Object to Claims

On and after the Effective Date, the Recovery Trustee, the Reorganized Debtors and any creditor, may continue to attempt to consensually resolve any disputes regarding the amount of any Claim and shall have the right, but not the obligations, to object to the allowance of any Claim and may file with the Court any other appropriate motion or adversary proceeding with respect thereto. All such objections may be litigated to Final Order. The Recovery Trustee shall retain the rights and defenses the Debtors or their Estates had with respect to any Claim or Equity Interest immediately prior to the Effective Date, subject to the provisions of the Plan.

#### 2. Deadline for Objecting to Claims

All objections to Claims shall be filed with the Bankruptcy Court by the Claims Objection Deadline in accordance with its local rules, and a copy of the objection must be served on the Holder of the subject Claim before the expiration of the Claims Objection Deadline; otherwise such Claims shall be deemed allowed in accordance with section 502 of the Bankruptcy Code. The objection shall notify the Holder of the subject Claim of the deadline for responding to such objection. The Claims Objection Deadline can be extended up to an additional ninety (90) days by the Recovery Trustee filing a notice with the Court and thereafter as permitted by order of the Bankruptcy Court, upon notice and a hearing.

#### 3. Deadline for Responding to Claims Objections

Within thirty (30) days after service of an objection, the Holder whose Claim was objected to must, in accordance with the local rules of the Bankruptcy Court, serve and file a written response to the objection with the Bankruptcy Court and serve a copy on the Disbursement Agent, the Recovery Trustee, the Reorganized Debtors, any objecting creditor and the notice parties for the Debtors and the Supporting Noteholders identified in section 12.18 of the Plan. Failure to serve and file a written response within the thirty (30) day time period may result in the Bankruptcy Court granting the relief demanded in the Claim objection without further notice or hearing.

4. **Right to Request Estimation of Claims**

Before the Effective Date, the Debtors or any objecting creditors may (but are not required to) at any time request that the Bankruptcy Court estimate any Disputed Claim pursuant to § 502(c) of the Bankruptcy Code, that is contingent or unliquidated or any Disputed Claim arising from a right to an equitable remedy or breach of performance for any reason, regardless of whether any party previously has objected to such Claim or whether the Bankruptcy Court has ruled on any such objection. From and after the Effective Date, the Recovery Trustee, the Reorganized Debtors or any objecting creditor may (but are not required to) at any time request that the Bankruptcy Court estimate any Disputed Claim pursuant to § 502(c) of the Bankruptcy Code, that is contingent or unliquidated or any Disputed Claim arising from a right to an equitable remedy or breach of performance for any reason, regardless of whether any party previously has objected to such Claim or whether the Bankruptcy Court has ruled on any such objection. With respect to any request for estimation, the Bankruptcy Court shall retain jurisdiction to estimate any such Claim at any time, including during the litigation of any objection to any Claim or during the pendency of any appeal relating to such objection. Notwithstanding any provision otherwise in the Plan, a Claim that has been expunged from the Claims Register, but that either is subject to appeal or has not been the subject of a Final Order, shall be deemed to be estimated for distribution purposes at zero (0) dollars, unless otherwise ordered by the Bankruptcy Court. In the event that the Bankruptcy Court estimates any contingent or unliquidated Claim, that estimated amount shall constitute a maximum limitation on such Claim for all purposes under the Plan (including for purposes of distributions), and the relevant party may elect to pursue any supplemental proceedings to object to any distribution under the Plan on such Claim. All of the aforementioned objection, estimation and resolution procedures are intended to be cumulative and not exclusive of one another. Claims may be estimated and subsequently compromised, settled, withdrawn, recharacterized or resolved by any mechanism approved by the Bankruptcy Court.

5. **Setoff Against Claims**

The Debtors, the Disbursement Agent and the Recovery Trustee (in consultation with the applicable Oversight Board), as applicable, may set off against any Claim, and the payments made pursuant to this Plan in respect of such Claim, any claims of any nature whatsoever that any of the Debtors or the Recovery Trustee (as assignee of such claims) may have against the Holder of the Claim, but neither the failure to do so nor the allowance of such Claim shall constitute a waiver or release by the Debtors or the Recovery Trustee of any claims or rights against the Holder of the Claim. Any payment in respect of a disputed, unliquidated, or contingent Claim shall be returned promptly to the Disbursement Agent in the event and to the extent such Claims are determined by the Bankruptcy Court or any other court of competent jurisdiction not to be Allowed Claims.

6. **Special Rules for Distributions to Holders of Disputed Claims**

Notwithstanding any other provision of the Plan and except as otherwise agreed by the relevant parties, the Disbursement Agent shall not be required to (i) make any partial payments or partial distributions to a Person, estate or trust with respect to a Disputed Claim until all such disputes in connection with such Disputed Claim have been resolved by settlement or Final Order or (ii) make any distributions on account of an Allowed Claim of any Person, estate or

trust that holds both an Allowed Claim and a Disputed Claim, unless and until all objections to the Disputed Claim have been resolved by settlement or Final Order and both Claims have been Allowed. To the extent that there is any Holder of a Claim that is the subject of a Cause of Action, the Disbursement Agent shall have the authority to withhold any distribution to such Holder of a Claim until such Cause of Action is subject to final nonappealable order or otherwise is settled or adjudicated in the Bankruptcy Court.

7. **Limited Recourse for Disputed Claims**

The holder of a Disputed Claim is not entitled to recover unless a Disputed Claim becomes an Allowed Claim and in such event any Holder of a Disputed Claim may only be entitled to receive a distribution on its Allowed Claim from the Disputed Claim Reserve.

8. **Disputed Claim Reserve**

The Disbursement Agent shall establish and maintain the Disputed Claim Reserve as a separate reserve in order to satisfy Disputed Claims upon the resolution of such claims. Estate Property deposited into the Disputed Claim Reserve shall be distributed to the holders of Disputed Claims when such Disputed Claims become Allowed Claims. Any funds remaining in the Disputed Claim Reserve after all Disputed Claims are resolved shall be transferred to Reorganized Delta.

**G. Delivery of Distributions**

Subject to Bankruptcy Rule 9010, all distributions to holders of Allowed Claims shall be made at the address of such holder as set forth in the books and records of the Debtors. In the event that any distribution to any holder is returned as undeliverable, the Disbursement Agent shall use reasonable efforts to determine the current address of such holder, but no distribution to such holder shall be made unless and until the Disbursement Agent has determined the then current address of such holder, at which time such distribution shall be made to such holder without interest; provided, however, that such distributions shall be deemed unclaimed property under section 347(b) of the Bankruptcy Code at the expiration of one year from the Effective Date. After such date, all unclaimed property or interest in property shall revert to the Reorganized Debtors and the Claim of any other holder to such property or interest in property shall be discharged and forever barred notwithstanding any applicable federal or state escheat, abandoned or unclaimed property laws to the contrary.

**H. Noteholder Claims and DIP Facility Claims**

The Indenture Trustee shall be deemed to be the Holder of all Noteholder Claims, for purposes of distributions to be made pursuant to the Plan, and all distributions on account of such notes shall be made to or on behalf of the Indenture Trustee. The Indenture Trustee shall hold or direct such distributions for the benefit of the Holders of Allowed Noteholder Claims. As soon as practicable following compliance with the requirements set forth in Section 6.9 of the Plan, the Indenture Trustee shall arrange to deliver such distributions to or on behalf of such Noteholders. For purposes of distributions to be made under the Plan, all distributions on account of the DIP Facility Claims shall be made at the direction of the DIP Agent in accordance with the provisions of the DIP Credit Agreement and shall be distributed to the DIP Agent.

### I. Recovery Trust Distributions

The Recovery Trust Agreements shall govern distributions from the Recovery Trusts and shall include the terms of the other sections of Article VII of the Plan and other relevant provisions of the Plan.

### J. Manner of Cash Payments Under Plan

At the Reorganized Debtors' option, any Cash payment to be made under the Plan may be made by a check or wire transfer or as otherwise required or provided in applicable agreements, or as agreed by the Recovery Trustee and the claimant subject to the terms of the Recovery Trust Agreements.

### K. Fractional Shares

No fractional shares of New Common Stock shall be distributed and no Cash shall be distributed in lieu of such fractional shares. When any distribution pursuant to the Plan on account of an Allowed Claim would otherwise result in the issuance of a number of shares of New Common Stock that is not a whole number, the actual distribution of shares of New Common Stock shall be rounded as follows: (a) fractions of one-half (½) or greater shall be rounded to the next higher whole number and (b) fractions of less than one-half (½) shall be rounded to the next lower whole number with no further payment therefor. The total number of authorized shares of New Common Stock to be distributed to holders of Allowed Claims shall be adjusted as necessary to account for the foregoing rounding.

### L. Setoffs and Recoupment

Except as provided in the Plan, the Debtors may, but shall not be required to, set off against or recoup from any Claim or Claims of any nature whatsoever that the Debtors may have against the claimant, but neither the failure to do so nor the allowance of any Claim under the Plan shall constitute a waiver or release by the Debtors or the Reorganized Debtors of any such Claim they may have against such claimant.

### M. Exemption from Securities Law

The issuance of the New Common Stock and any other securities issued pursuant to the Plan and any subsequent sales, resales or transfers, or other distributions of any such securities shall be exempt from any federal or state securities laws registration requirements to the fullest extent permitted by section 1145 of the Bankruptcy Code.

### N. Allocation of Payments

In the case of distributions with respect to Claims pursuant to the Plan, the amount of any Cash and the fair market value of any other consideration received by the Holder of such Claim will be allocable first to the principal amount of such Claim (as determined for federal income tax purposes), and then, to the extent of any excess, the remainder of the Claim.

### O. No Postpetition Interest on Claims

Unless otherwise specifically provided for in the Plan or the Confirmation Order, or required by applicable bankruptcy law, postpetition interest shall not accrue or be paid on any Claims, and no holder of a Claim shall be entitled to interest accruing on or after the Petition Date on such Claim.

### P. Treatment of Executory Contracts and Unexpired Leases

On the Effective Date, all executory contracts and unexpired leases to which the Debtors are a party that have not been expressly assumed and/or assumed and assigned by the Debtors on or before the Effective Date shall be deemed rejected in accordance with sections 365 and 1123 of the Bankruptcy Code, unless such contract or lease (i) was previously assumed or rejected by the Debtors, (ii) previously expired or was terminated pursuant to its own terms, (iii) is the subject of a separate assumption or rejection motion filed by the Debtors on or before the Confirmation Date or is required under the Plan to be included in such a motion, (iv) is set forth in a schedule as an executory contract or unexpired lease to be assumed on or after the Effective Date, if any, filed by the Debtors as part of the Plan Supplement, which schedule shall separately set forth those executory contracts or unexpired leases which will be assigned to the Joint Venture Company or (v) if there is a dispute as to the amount of cure that cannot be resolved consensually among the parties, the Debtors or Reorganized Delta shall have the right to assume or reject the contract or lease, by written notice to the counterparty, for a period of five (5) Business Days after entry of a Final Order establishing a cure amount in excess of that provided by the Debtors. The Confirmation Order shall constitute an order of the Bankruptcy Court under sections 365 and 1123 of the Bankruptcy Code approving the contract and lease assumptions or rejections described above, subject to the occurrence of the Effective Date. Without limitation of the foregoing, upon the Effective Date, and in accordance with the Contribution Agreement, all rights of Delta in, to and under the Carry Agreement, and all right, title and interest of Delta in and to (i) the Delta Properties, the Existing Agreement Wells, the EnCana Wells, the Carry Wells (as all of the foregoing terms are defined in the Carry Agreement), (ii) all other contract rights and interests of Delta under any contracts provided for in the Carry Agreement and (iii) all other oil and gas rights and interests of every kind and nature owned by Delta, or which Delta may in the future have the right to own or receive, under or pursuant to the Carry Agreement, shall be assigned to, and shall be vested in, the Joint Venture Company, which shall acquire and own such rights, free and clear of any transfer or assignment restrictions in the Carry Agreement, and the Plan Confirmation Order shall provide as such. Cure amounts owed pursuant to section 365 of the Bankruptcy Code shall be paid in accordance with the Contribution Agreement; provided, however, that in the event that cure amounts exceed $2,000,000, such cure amounts shall be paid by the Plan Sponsor, in its sole discretion, or such executory contracts or unexpired leases shall be rejected by written notice to the counterparty unless otherwise agreed by the Debtors and the Supporting Noteholders prior to the Effective Date or by Reorganized Delta after the Effective Date.

To the extent applicable, all executory contracts of the Reorganized Debtors assumed pursuant to the Plan shall be deemed modified such that the transactions contemplated by the Plan shall not be a "change of control," however such term may be defined in the relevant executory contract, and any required consent under any such contract or lease shall be deemed satisfied by the confirmation of the Plan, and all executory contracts assumed pursuant to the

Plan shall be assumed notwithstanding any provisions therein that purport to modify Delta's rights, or the rights of any Affiliate or Subsidiary of the Debtors, thereunder as a result of the Debtors' commencement of the Chapter 11 Cases, which rights shall not be modified by such assumption.

Each executory contract assumed pursuant to the Plan (or pursuant to other Bankruptcy Court order) shall remain in full force and effect and be fully enforceable by the Reorganized Debtors in accordance with its terms, except as modified by the provisions of the Plan, or any order of the Bankruptcy Court authorizing and providing for its assumption or applicable law.

Any monetary amounts required as Cure payments on each executory contract and unexpired lease to be assumed pursuant to the Plan shall be satisfied, pursuant to section 365(b)(1) of the Bankruptcy Code, by payment of the Cure amount in Cash on the Effective Date or upon such other terms and dates as the parties to such executory contracts or unexpired leases otherwise may agree. If there is a dispute regarding (i) the nature or amount of any Cure, (ii) the ability of the Debtors or any assignee to provide "adequate assurance of future performance" (within the meaning of section 365 of the Bankruptcy Code) under the contract or lease to be assumed or (iii) any other matter pertaining to assumption or assignment, Cure shall occur following the entry of a Final Order of the Bankruptcy Court resolving the dispute.

**Through the Plan and this Disclosure Statement, the Debtors are giving notice that the Cure amounts for each such contract and lease shall be zero dollars unless otherwise noticed on a schedule filed by the Debtors thereafter.**

All Claims arising out of the rejection of executory contracts and unexpired leases must be served upon the Debtors and their counsel within thirty (30) days after the later of (i) the date of entry of an order of the Bankruptcy Court approving such rejection, or (ii) notice of rejection provided as set forth above. Any Claims not filed within such time shall be forever barred from assertion against the Debtors, their Estates, the Reorganized Debtors, the Joint Venture Company and their respective property.

### Q. Conditions Precedent to Effective Date

The occurrence of the Effective Date of the Plan is subject to satisfaction of the following conditions precedent and the filing by the Debtors of a notice of the occurrence of the Effective Date in the Chapter 11 Cases:

#### 1. Confirmation Order

The clerk of the Bankruptcy Court shall have entered the Confirmation Order in the Debtors' Chapter 11 Cases, which shall be in form and substance reasonably acceptable to Laramie (with respect only to those provisions that have a material effect on Laramie's or the Joint Venture Company's commercial, economic or management (with respect to the Joint Venture Company) rights or interests) and reasonably acceptable in all respects to the Supporting Noteholders, fourteen (14) calendar days shall have elapsed following the entry of the Confirmation Order on the docket, and there shall not be a stay or injunction (or similar prohibition) in effect with respect thereto.

2. **Exit Loan**

The Debtors shall have entered into agreements or binding term sheets for the Exit Loan in form and substance reasonably satisfactory to the Supporting Noteholders, and, to the extent applicable, the Plan Sponsor (with respect only to those provisions that have a material effect on the Plan Sponsor's or the Joint Venture Company's commercial, economic or management (with respect to the Joint Venture Company) rights or interests), and all conditions precedent to the consummation thereof shall have been waived or satisfied in accordance with the terms thereof, the proceeds of which shall be disbursed in accordance with a flow of funds memorandum agreed upon by the Debtors and the Supporting Noteholders.

3. **Contracts and Leases**

The Bankruptcy Court shall have entered one or more orders, which may include the Confirmation Order, authorizing the assumption and rejection of unexpired leases and executory contracts by the Debtors as contemplated by Article 8 of the Plan.

4. **Execution and Delivery of Other Documents**

All other actions and all agreements, instruments or other documents necessary to implement the terms and provisions of the Plan, including, without limitation, the Plan Documents, the Plan Exhibits, and the Plan Supplements shall be in form and substance reasonably satisfactory to the Supporting Noteholders, and, to the extent applicable, the Plan Sponsor (with respect only to those provisions that have a material effect on the Plan Sponsor's or the Joint Venture Company's commercial, economic or management (with respect to the Joint Venture Company) rights or interests). The Recovery Trust Agreements, the Joint Venture Company LLC Agreement, the Contribution Agreement, the Management Services Agreement, the JV Company Credit Facility Documents and the Exit Loan, shall be in form and substance reasonably acceptable to the Supporting Noteholders and the Plan Sponsor (with respect only to those provisions that have a material effect on the Plan Sponsor's or the Joint Venture Company's commercial, economic or management (with respect to the Joint Venture Company) rights or interests) and shall have been effected, duly and validly executed and delivered by the parties thereto and all conditions to their effectiveness shall have been satisfied or waived in accordance with their respective terms.

5. **Corporate Formalities**

The Restated Certificates of Incorporation shall be filed with the applicable Secretaries of State and/or other applicable authorities in the Debtors' respective states contemporaneously with the Effective Date.

6. **SEC Filings**

Delta shall be in compliance with all applicable SEC reporting obligations required of a public reporting company.

7. **Other Acts**

Any other actions the Debtors, in consultation with the Plan Sponsor, determines are necessary to implement the terms of this Plan shall have been taken.

8. **Debtors' Waiver of Conditions Precedent**

Each of the conditions precedent in Section 9.1 of the Plan (except for Section 9.1(a)) may be waived, in whole or in part, by the Debtors, with approval of the Plan Sponsor (with respect only to those provisions that have a material effect on Laramie's or the Joint Venture Company's commercial, economic or management (with respect to the Joint Venture Company) rights or interests) and the Supporting Noteholders, without notice or an order of the Bankruptcy Court.

9. **Substantial Consummation**

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

**R. Effect of Confirmation**

1. **Vesting of Assets**

Except as otherwise provided in the Plan, on the Effective Date all property comprising the Estates not otherwise vested in the Joint Venture Company or the Recovery Trusts shall revest in the Reorganized Debtors, free and clear of all Liens, Claims and Equity Interests (other than as expressly provided herein), including, without limitation: (i) the 33.34% membership interest in the Joint Venture Company; (ii) the Delta oil and gas assets not located in Mesa and Garfield Counties, Colorado; (iii) the certain compressors owned by the Debtors that were located in the State of Wyoming as of September 30, 2011; (iv) the Plan Documents; (v) Cash, any accounts receivables or other cash equivalent forms of value (vi) the oil and gas lease in Mesa County, CO, between Delta and Buzzard Creek Elk Ranch and its Amendment effective August 15, 2011 and all rights and obligations thereunder, (vii) all frac water tanks, (viii) the gathering agreement between Delta and Encana dated September 24, 2008, (ix) Delta's Denver and Grand Junction office leases, office fixtures, and personal property located in such offices not pertaining to the Delta Records (as defined in the Contribution Agreement), except for the HP T-1100 Map Plotter Scanner referenced in Section 1.1(d)(5) of the Contribution Agreement, and (x) all other assets not specifically described in Exhibits D-1, D-2, D-3, D-4, D-5 and D-6 to the Contribution Agreement. On and after the Effective Date, the Reorganized Debtors shall be authorized to operate its businesses, and to use, acquire or dispose of assets without supervision or approval by the Bankruptcy Court, and free from any restrictions of the Bankruptcy Code or the Bankruptcy Rules.

2. **Corporate Existence**

Except as otherwise provided in the Plan, each Debtor, as a Reorganized Debtor, shall continue to exist on and after the Effective Date as a separate corporation, limited liability company, partnership or other form of entity, as the case may be, with all the powers of a

corporation, limited liability company, partnership or other form of entity, as the case may be, pursuant to the applicable law in the jurisdiction in which each applicable Debtor is incorporated or formed and pursuant to the respective certificate of incorporation and by-laws (or other analogous formation documents) in effect before the Effective Date, except to the extent such certificate of incorporation and bylaws (or other analogous formation documents) are amended by the Plan or otherwise and without prejudice to any right to alter or terminate such existence (whether by merger or otherwise) in accordance with such applicable law.

3. **Binding Effect**

Except as otherwise provided in section 1141(d)(3) of the Bankruptcy Code and subject to the occurrence of the Effective Date, on and after the Confirmation Date, the provisions of this Plan shall bind any Holder of a Claim against, or Equity Interest in, the Debtors and such Holder's respective successors and assigns, whether or not the Claim or Equity Interest of such Holder is impaired under this Plan and whether or not such Holder has accepted this Plan. The provisions of the Plan shall bind the respective Estates of the Debtors and any chapter 7 Trustee that might be appointed upon a subsequent conversion of any of the Chapter 11 Cases to cases under chapter 7 of the Bankruptcy Code.

4. **Settlements, Releases and Discharges**

The settlements, releases and discharges of Claims and Causes of Action described in the Plan, including releases by the Debtors and by Holders of Claims, constitute good faith compromises and settlements of the matters covered thereby and are consensual. Such compromises and settlements recognize the substantial contributions by parties in these Chapter 11 Cases, are made in exchange for consideration, including the release of certain Claims, and are in the best interest of Holders of Claims, are fair, equitable and reasonable and are integral elements of the resolution of the Chapter 11 Cases in accordance with the Plan. Each of the discharge, release, indemnification and exculpation provisions set forth in the Plan (a) is within the jurisdiction of the Bankruptcy Court under sections 1334(a), 1334(b) and 1334(d) of title 28 of the United States Code, (b) is an essential means of implementing the Plan pursuant to section 1123(a)(5) of the Bankruptcy Code, (c) is an integral element of the transactions incorporated into the Plan, (d) confers material benefit on, and is in the best interests of, the Debtors, their Estates and their creditors, (e) is important to the overall objective of the Plan to finally resolve all Claims among or against the parties in interest in the Chapter 11 Cases with respect to the Debtors and (f) is consistent with sections 105, 1123, 1129 and other applicable provisions of the Bankruptcy Code.

5. **Discharge of the Debtors**

Except to the extent otherwise provided in the Plan or the Confirmation Order, the treatment of all Claims against or Equity Interests in the Debtors under the Plan shall be in exchange for and in complete satisfaction, discharge and release of, all Claims against or Equity Interests in the Debtors of any nature whatsoever, known or unknown, including any interest accrued or expenses incurred thereon from and after the Petition Date, or against their Estates or properties or interests in property. Except as otherwise provided in the Plan or the Confirmation Order, upon the Effective Date, all Claims against and Equity Interests in the Debtors shall be satisfied, discharged and released in full exchange for the consideration provided under the Plan.

Except as otherwise provided in the Plan or the Confirmation Order or under the terms of the documents evidencing the Exit Loan, all Persons shall be precluded from asserting, against the Debtors, the Reorganized Debtors, or their respective properties or interests in property, any other Claims based upon any act or omission, transaction or other activity of any kind or nature that occurred prior to the Effective Date. In accordance with the foregoing, except as provided in the Plan or the Confirmation Order, the Confirmation Order shall constitute a judicial determination, as of the Effective Date, of the discharge of all such Claims and other debts and liabilities of the Debtors, pursuant to sections 524 and 1141 of the Bankruptcy Code, and such discharge shall void and extinguish any judgment obtained against the Debtors or the Reorganized Debtors at any time, to the extent such judgment is related to a discharged Claim.

6. **Exculpation**

To the extent permitted by applicable law and approved by the Bankruptcy Court, the Released Parties shall not have any liability to any Holder of a Claim or Equity Interest for any act or omission in connection with, or arising out of, the negotiation and the pursuit of approval of the Disclosure Statement, the Plan or the solicitation of votes for, or confirmation of, the Plan, the funding of the Plan, the consummation of this Plan, or the administration of the Plan or the property to be distributed under the Plan (except for any liability that results from bad faith, willful misconduct or gross negligence as determined by a Final Order), and, in all respects, shall be entitled to rely upon the advice of counsel with respect to their duties and responsibilities under the Plan.

7. **Releases By the Debtors and their Estates**

Except for the right to enforce the Plan, the Debtors shall, on their own behalf and on behalf of their Estates, effective upon the occurrence of the Effective Date, be deemed to forever release, waive and discharge the Released Parties of and from any and all Claims, demands, causes of action and the like, existing as of the Effective Date or thereafter arising from any act, omission, event, or other occurrence that occurred on or prior to the Effective Date, whether direct or derivative, liquidated or unliquidated, fixed or contingent, matured or unmatured, disputed or undisputed, known or unknown, foreseen or unforeseen, at law, in equity or otherwise (except for any liability that results from bad faith, willful misconduct or gross negligence as determined by a Final Order); provided, however, that to the extent the Wapiti Trust prevails in a fraudulent conveyance action under section 548 or section 544 against Wapiti Oil & Gas, L.L.C. or any affiliated person or entity (excluding the Zell Credit Opportunities Master Fund, L.P., the affiliate thereof that has directly invested in Wapiti (collectively, the "**ZCOF Parties**") and each of its directors and employees) (collectively, other than the ZCOF Parties and each of their directors and employees, "**Wapiti**") pursuant to a final, non-appealable order (the "**Judgment**"), and Wapiti is unable to pay on the Judgment after the Wapiti Recovery Trust has used reasonable efforts to collect from Wapiti, then, subject to the ZCOF Parties' reservation of rights below, the Wapiti Trust may take action against the ZCOF Parties in connection with such fraudulent conveyance action pursuant to 11 U.S.C. § 550(a)(2), but only to the extent (a) of the deficiency between the amount of the Judgment and the amount paid, (b) of the value of the assets distributed, dividended or otherwise paid from Wapiti to ZCOF, if any and (c) the commencement of such litigation against the ZCOF Parties has been approved in advance by a majority of the Wapiti Trust Oversight Board, which majority shall include the vote of Whitebox, provided that to the extent Whitebox votes against the commencement of such

litigation against the ZCOF Parties and the Recovery Trustee disagrees with such determination, then the Recovery Trustee is hereby authorized to file a motion with the Bankruptcy Court seeking a finding that such determination not to pursue the litigation against the ZCOF Parties was not reasonable and upon such a finding, the Bankruptcy Court shall order the Wapiti Trust to pursue such litigation against the ZCOF Parties; provided further, however, that the ZCOF Parties reserve all rights and defenses, at law and in equity, to defend against any and all actions and no release of any party provided for herein or under the Plan shall prejudice the ZCOF Parties' rights or defenses.

Such release, waiver and discharge shall not operate as a release, waiver or discharge of any Released Party in respect of any express contractual obligation of any such party effective from and after the Effective Date, provided that no Person who votes to reject the Plan will receive the benefit of a release.

8. **Consensual Releases By Holders of Claims and Equity Interests**

Except for the right to enforce this Plan, each Person who votes to accept this Plan shall be deemed to forever release, waive and discharge the Released Parties, to the fullest extent permitted by section 1141 of the Bankruptcy Code, of and from any and all Claims, demands, causes of action and the like, existing as of the Effective Date or thereafter arising from any act, omission, event, or other occurrence that occurred on or prior to the Effective Date, whether direct or derivative, liquidated or unliquidated, fixed or contingent, matured or unmatured, disputed or undisputed, known or unknown, foreseen or unforeseen, at law, in equity or otherwise that is based on, relates to, or in any manner arises from, in whole or in part, the Debtors, the Debtors' restructuring, the Chapter 11 Cases, the purchase, sale or rescission of the purchase or sale of any security of the Debtors, the subject matter of, or the transactions or events giving rise to, any Claim that is treated in this Plan, the business or contractual arrangements between the Debtors and any Released Party relating to the restructuring of Claims prior to or in the Chapter 11 Cases or the negotiation, formulation or preparation of this Plan, or any related agreements, instruments or other documents (except for any liability that results from bad faith, willful misconduct or gross negligence as determined by a Final Order). Except as otherwise provided herein and in the Plan, upon the Effective Date, all such Holders of Claims and their affiliates shall be forever precluded and enjoined from prosecuting or asserting any such discharged Claim against the Debtors, any other Released Party, or any of their Affiliates or Subsidiaries. Notwithstanding the foregoing, in the event that this Plan is not confirmed, no party shall be deemed to have released or shall release any claims or be released hereby. Furthermore, notwithstanding the foregoing, such release, waiver and discharge shall not operate as a release, waiver or discharge of any Released Party in respect of any express contractual obligation of any such Released Party incurred in connection with this Plan or of any express contractual obligation of any non-Debtor party due to any other non-Debtor party.

9. **Term of Injunctions or Stays**

Except as otherwise expressly provided herein or in the Plan, and except with respect to enforcement of the Plan, all Persons who have held, hold or may hold any Claim against, or Equity Interest in, the Debtors as of the Effective Date will be permanently enjoined, from and after the Effective Date, from (i) commencing or continuing in any manner any action or other proceeding of any kind in any forum with respect to such Claim or Equity Interest against the

Reorganized Debtors, the Joint Venture Company, the Recovery Trusts, or their property, (ii) the enforcement, attachment, collection or recovery in any manner or by any means any judgment, award, decree or order against the Reorganized Debtors, the Joint Venture Company, the Recovery Trusts, or their respective property with respect to such Claim or Equity Interest, (iii) creating, perfecting or enforcing any Lien or other encumbrance of any kind against the Reorganized Debtors, the Joint Venture Company, the Recovery Trusts, or against any property or interests in property of the Reorganized Debtors with respect to any such Claim or Equity Interest, (iv) asserting a right of setoff, subrogation or recoupment of any kind against any obligation due from the Reorganized Debtors, the Joint Venture Company, the Recovery Trusts, or against any property or interests in property of the Reorganized Debtors, Joint Venture Company, or the Recovery Trusts with respect to such Claim or Equity Interest, (v) commencing or continuing any action, in any forum, that does not comply or is inconsistent with the provisions of this Plan and (vi) pursuing any such Claim released pursuant to Section 10.5, 10.6, 10.7 or 10.8 of the Plan. Unless otherwise provided or in the Plan, all injunctions or stays arising under or entered during the Debtors' Chapter 11 Cases under section 105 or 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect until the Effective Date.

10. **Termination of Subordination Rights and Settlement of Related Claims**

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

11. **Indemnification Obligations**

Notwithstanding anything to the contrary herein or in the Plan, subject to the occurrence of the Effective Date, the obligations of the Debtors as provided in the Debtors' certificates of incorporation and bylaws as in effect through the Effective Date and under applicable law or other applicable agreements as in effect through the Effective Date to indemnify, defend, reimburse, exculpate, advance fees and expenses to, or limit the liability of, directors, officers and employees of the Debtors as of the Effective Date (including in the case of officers and employees serving as directors, managers, officers and employees of any Affiliate or Subsidiary of the Debtors or as trustee (or similar position) of any employee benefit plan or trust (or similar Person) of the Debtors and their Affiliates and Subsidiaries, in such capacities) against any damages, liabilities, obligations, claims or causes of action whether direct or derivative, liquidated or unliquidated, fixed or contingent, disputed or undisputed, matured or unmatured, known or unknown, foreseen or unforeseen, asserted or unasserted, shall survive confirmation of the Plan, remain unaffected thereby after the Effective Date and not be discharged under section 1141 of the Bankruptcy Code or otherwise, irrespective of whether such indemnification, defense, advancement, reimbursement, exculpation or limitation is owed in connection with an event occurring before or after the Petition Date. Any Claim based on the Debtors' obligations

under the Plan shall not be subject to any objection in either case by reason of section 502(e)(1)(B) of the Bankruptcy Code.

As of the Effective Date, the Restated Certificates of Incorporation and/or Restated Bylaws shall provide for the indemnification, defense, reimbursement, exculpation and/or limitation of liability of, and advancement of fees and expenses to, directors and officers and employees of the Reorganized Debtors (including in the case of officers and employees serving as directors, managers, officers and employees of any Affiliate or Subsidiary of the Reorganized Debtors or as trustee (or similar position) of any employee benefit plan or trust (or similar Person) of the Reorganized Debtors and their Affiliates and Subsidiaries, in such capacities), to the fullest extent permitted by applicable state law.

The Debtors and the Reorganized Debtors shall indemnify and hold harmless (i) the DIP Agent and the DIP Lenders, (ii) the Plan Sponsor, (iii) the Joint Venture Company, (iv) the respective advisors, officers, directors and employees of the parties described in clauses (i) through (iii) hereof, and (iv) each of their respective successors and assigns (collectively, the "**Indemnified Persons**"), to the full extent lawful, from and against all losses, claims, damages, and liabilities incurred by them that are related to or arise out of (a) the formulation, negotiation and pursuit of the confirmation or consummation of the Plan or (b) the Indemnified Persons' consideration of other proposals for the reorganization of the Debtors under chapter 11 of the Bankruptcy Code.

12. **Limitation on Indemnification**

Notwithstanding anything to the contrary set forth in the Plan or elsewhere, neither the Reorganized Debtors nor the Joint Venture Company shall be obligated to indemnify and hold harmless any Person or entity for any claim, cause of action, liability, judgment, settlement, cost or expense that results from such Person's fraud, gross negligence, or willful misconduct as determined by a Final Order.

13. **Preservation of Claims**

All Causes of Action, rights of setoff and other legal and equitable defenses of any Debtor or any Estate are preserved for the benefit of the General Trust, and all Wapiti Causes of Action are preserved for the benefit of the Wapiti Trust, in each case unless expressly released, waived, or relinquished under the Plan or Confirmation Order. No Person may rely on the absence of a specific reference in the Plan or the Disclosure Statement to any Cause of Action or Wapiti Cause of Action against them as an indication that the Recovery Trusts will not pursue a Cause of Action or Wapiti Cause of Action against them.

The Recovery Trustee shall be appointed representative of the Estates pursuant to Bankruptcy Code § 1123(b)(3)(B) with respect to the Causes of Action and Wapiti Causes of Action and, except as otherwise ordered by the Bankruptcy Court and subject to any releases in this Plan, on the Effective Date, the General Trust and the Wapiti Trust shall be transferred, respectively, all Causes of Action and Wapiti Causes of Action, and may enforce, sue on, and, subject to Bankruptcy Court approval (except as otherwise provided herein) settle or compromise (or decline to do any of the foregoing) any or all of the Causes of Action and Wapiti Causes of Action. Except as otherwise ordered by the Bankruptcy Court and subject to the provisions of

the Recovery Trust Agreements and the oversight of the applicable Oversight Board, the Recovery Trustee shall be vested with authority and standing to prosecute any Causes of Action and Wapiti Causes of Action. The Recovery Trustee and his or her attorneys and other professional advisors shall have no liability for pursuing or failing to pursue any such Causes of Action or Wapiti Causes of Action.

At any time after the Confirmation Date and before the Effective Date, notwithstanding anything in this Plan to the contrary, the Debtors, with the consent of the DIP Agent, may settle some or all of the Causes of Action, the Wapiti Causes of Action or the Disputed Claims subject to obtaining any necessary Bankruptcy Court approval. The proceeds from the settlement of a Cause of Action or Wapiti Cause of Action shall constitute, respectively, a General Trust Asset or a Wapiti Trust Asset that shall be transferred to, as applicable, the General Trust or the Wapiti Trust on the Effective Date, for distribution in accordance with this Plan and the Recovery Trust Agreements. For the avoidance of doubt, proceeds of Causes of Action (including the Wapiti Causes of Action), to the extent not used to fund the Recovery Trusts, shall be for the benefit of Reorganized Delta.

### 14. No Acquisition of a Majority of Voting Interests

The confirmation and consummation of the Plan, and the issuance of New Common Stock pursuant thereto, shall not, and shall not be deemed to, constitute or result in an acquisition of a majority of the voting interests of the Debtors or any of their Affiliates or Subsidiaries for purposes of any agreement to which the Debtors or any of their Affiliates or Subsidiaries are a party.

## S. Retention of Jurisdiction

Unless otherwise provided for in the Plan or in a prior order of the Bankruptcy Court, the Bankruptcy Court shall have exclusive jurisdiction over all matters arising out of, or related to, the Debtors' Chapter 11 Cases and the Plan pursuant to, and for the purposes of, sections 105(a) and 1142 of the Bankruptcy Code and for, among other things, the following purposes:

1. To hear and determine pending applications for the assumption, assignment or rejection of executory contracts or unexpired leases and the allowance of Claims resulting therefrom;

2. To determine any and all adversary proceedings, applications and contested matters in the Debtors' Chapter 11 Cases and grant or deny any application involving the Debtors that may be pending on the Effective Date;

3. To ensure that distributions to holders of Allowed Claims are accomplished as provided in the Plan;

4. To hear and determine any timely objections to Administrative Expense Claims or to proofs of claim and Equity Interests, including any objections to the classification of any Claim or Equity Interest, and to allow or disallow any disputed Claim in whole or in part;

5. To determine any and all adversary proceedings, motions, applications, and contested or litigated matters, including, but not limited to, all Causes of Action, and consider and act upon the compromise and settlement of any Claim against, or Causes of Action on behalf of, the Recovery Trust;

6. To enter and implement such orders as may be appropriate in the event the Confirmation Order is for any reason stayed, revoked, modified or vacated;

7. To issue such orders in aid of execution of the Plan, to the extent authorized by section 1142 of the Bankruptcy Code;

8. To consider any amendments to or modifications of the Plan, or to cure any defect or omission, or reconcile any inconsistency in any order of the Bankruptcy Court, including the Confirmation Order;

9. To hear and determine all applications of retained professionals under sections 330, 331 and 503(b) of the Bankruptcy Code for awards of compensation for services rendered and reimbursement of expenses incurred prior to the Confirmation Date;

10. To hear and determine disputes arising in connection with the interpretation, implementation or enforcement of this Plan, the Confirmation Order, the Plan Supplements, the Recovery Trust, any transactions or payments contemplated by this Plan or any agreement, instrument or other document governing or relating to any of the foregoing;

11. To hear and determine matters concerning state, local and federal taxes in accordance with sections 346, 505 and 1146 of the Bankruptcy Code (including the expedited determination of taxes under section 505(b) of the Bankruptcy Code);

12. To hear any other matter not inconsistent with the Bankruptcy Code;

13. To hear and determine all disputes involving the existence, scope and nature of the discharges granted under Sections 10.4 and 10.5 of the Plan;

14. To hear and determine all disputes involving or in any manner implicating the exculpation provisions granted under Section 10.6 of the Plan;

15. To issue injunctions and effect any other actions that may be necessary or desirable to restrain interference by any Person with the consummation or implementation of the Plan;

16. To enforce all orders, judgments, injunctions, releases, exculpations, indemnifications and rulings entered in connection with the Plan with respect to any Person;

17. To hear and determine all disputes relating to whether any third party consent is required for the assumption under the Plan of any executory contract;

18. To enter a final decree closing the Debtors' Chapter 11 Cases;

19. To hear and determine all disputes relating to whether the confirmation and consummation of the Plan, and the issuance of New Common Stock pursuant thereto, shall have, or shall be deemed to, constitute or result in an acquisition of a majority of the voting interests of the Debtors or any of their Affiliates or Subsidiaries for purposes of any agreement to which the Debtors or any of their Affiliates or Subsidiaries are a party;

20. To hear and determine all disputes relating to the effect of the Plan under any agreement to which the Debtors, the Reorganized Debtors or any Affiliate or Subsidiary of the Debtors or the Reorganized Debtors are a party; and

21. To hear and determine all disputes relating to whether any third party consent is required for the assumption or assignment under the Plan of any executory contract.

### T. Miscellaneous

#### 1. Payment of Statutory Fees

All fees payable under section 1930 of title 28 of the United States Code, as determined by the Bankruptcy Court at the Confirmation Hearing, shall be paid on or before the Effective Date.

#### 2. Payment of Noteholder Professional Fees

The Reorganized Debtors shall pay all reasonable and documented fees, costs and expenses incurred by the DIP Agent, ZCOF and the Indenture Trustee after the Petition Date, subject to a $30,000 cap as to the Indenture Trustee. Notwithstanding the foregoing, the fees, costs and expenses discussed in this subsection in respect of ZCOF and the Indenture Trustee shall only be paid in the event that this Plan is confirmed and the Effective Date occurs.

#### 3. Further Assurances

The Debtors or the Reorganized Debtors, as applicable, may file such agreements and other documents as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan.

#### 4. Exhibits, Appendices and Schedules Incorporated

All exhibits, appendices and Schedules to this Disclosure Statement are incorporated into and are a part of this Disclosure Statement as if fully set forth herein.

#### 5. Intercompany Claims

Notwithstanding anything to the contrary herein or in the Plan, on or after the Effective Date, any claims held by one Debtor against any other Debtor may be adjusted (including by contribution, distribution in exchange for new debt or equity, or otherwise), paid, continued, or discharged to the extent reasonably determined appropriate by the Debtors and the Plan Sponsor.

### 6. Amendment or Modification of the Plan

Subject to section 1127 of the Bankruptcy Code and, to the extent applicable, sections 1122, 1123 and 1125 of the Bankruptcy Code, alterations, amendments or modifications of the Plan may be proposed in writing jointly by the Debtors, the Supporting Noteholders, and, with respect only to those provisions that have a material effect on Laramie's or the Joint Venture Company's commercial, economic or management (with respect to the Joint Venture Company) rights or interests, and the Plan Sponsor at any time prior to or after the Confirmation Date, but prior to the Effective Date. Holders of Claims that have accepted the Plan shall be deemed to have accepted the Plan, as altered, amended or modified, if the proposed alteration, amendment or modification does not materially and adversely change the treatment of the Claim of such holder; provided, however, that any holders of Claims who were deemed to accept the Plan because such Claims were unimpaired shall continue to be deemed to accept the Plan only if, after giving effect to such amendment or modification, such Claims continue to be unimpaired.

### 7. Inconsistency

In the event of any inconsistency among the Plan, this Disclosure Statement and any exhibit to this Disclosure Statement, the provisions of the Plan shall govern.

### 8. Section 1125(e) of the Bankruptcy Code

As of the Confirmation Date, the Debtors shall be deemed to have solicited acceptances of this Plan in good faith and in compliance with the applicable provisions of the Bankruptcy Code. The Debtors (and each of their successors, predecessors, control persons, members, Affiliates, Subsidiaries, agents, directors, officers, employees, investment bankers, financial advisors, accountants, attorneys and other professionals and any officer or employee serving as a director, manager, officer or employee of any Affiliate or Subsidiary of the Debtors or trustee (or similar position) of any employee benefit plan or trust (or similar person) of the Debtors or its Affiliates or Subsidiaries) have participated in good faith and in compliance with the applicable provisions of the Bankruptcy Code in the offer and issuance of the securities under the Plan. Accordingly, such entities and individuals shall not be liable at any time for the violation of any applicable law, rule or regulation governing the solicitation of acceptances or rejections of the Plan or the offer and issuance of the securities under the Plan.

### 9. Compliance with SEC Requirements

The Debtors shall (i) take all steps necessary to remedy any past instances of SEC non-compliance with public-company reporting requirements prior to the Effective Date, and (ii) commence timely filing of all SEC reports, statements and other information required of a public reporting company.

### 10. Compliance with Tax Requirements

In connection with the Plan and all instruments issued in connection herewith and distributed thereunder, any party issuing any instruments or making any distribution under the Plan shall comply with all applicable withholding and reporting requirements imposed by any federal, state or local taxing authority, and all distributions under the Plan shall be subject to any

withholding or reporting requirements. Notwithstanding the above, each holder of an Allowed Claim that is to receive a distribution under the Plan shall have the sole and exclusive responsibility for the satisfaction and payment of any tax obligations imposed by any governmental unit, including income, withholding and other tax obligations, on account of such distribution. Any party issuing any instruments or making any distribution under the Plan has the right, but not the obligation, to not make a distribution until such holder has made arrangements satisfactory to such issuing or distributing party for payment of any such tax obligations.

11. **Determination of Tax Filings and Taxes**

The Reorganized Debtors shall have the right to request an expedited determination of their tax liability, if any, under section 505(b) of the Bankruptcy Code with respect to any tax returns filed, or to be filed, for any and all taxable periods ending after the Petition Date through the Effective Date. The Reorganized Debtors shall have the sole right, at their expense, to control, conduct, compromise and settle any tax contest, audit or administrative or court proceeding relating to any liability for taxes.

12. **Exemption from Transfer Taxes**

Pursuant to section 1146(a) of the Bankruptcy Code, the issuance, transfer or exchange of notes or equity securities (including issuance of warrants) under or in connection with the Plan, the creation of any mortgage, deed of trust or other security interest, the making or assignment of any lease or sublease, or the making or delivery of any deed or other instrument of transfer under, in furtherance of, or in connection with the Plan, including any merger agreements or agreements of consolidation, deeds, bills of sale or assignments executed in connection with any of the transactions contemplated under the Plan shall not be subject to any stamp, real estate transfer, mortgage recording or other similar tax.

13. **Dissolution of Any Statutory Committees and Cessation of Fee and Expense Payment**

Any statutory committees appointed in the Debtors' Chapter 11 Cases shall be dissolved on the Effective Date. The Reorganized Debtors shall not be responsible for paying any fees and expenses incurred by the members or advisors of any statutory committees after the Effective Date.

14. **Severability of Provisions in the Plan**

If, prior to the entry of the Confirmation Order, any term or provision of the Plan is determined by the Bankruptcy Court to be invalid, void or unenforceable, the Bankruptcy Court, at the request of the Debtors, shall have the power to alter and interpret such term or provision to render it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void or unenforceable, and such term or provision shall then be applicable as so altered or interpreted. Notwithstanding any such holding, alteration or interpretation, the remaining terms and provisions of the Plan shall remain in full force and effect and shall in no way be affected, impaired or invalidated by such holding, alteration or interpretation. The Confirmation Order shall constitute a judicial determination and

shall provide that each term and provision of the Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms.

15. **Governing Law**

Except to the extent that the Bankruptcy Code or other federal law is applicable, or to the extent an exhibit to the Plan or the Plan Supplements provides otherwise (in which case the governing law specified therein shall be applicable to such exhibit), the rights, duties and obligations arising under the Plan shall be governed by, and construed and enforced in accordance with, the laws of the State of New York without giving effect to the principles of conflict of laws that would require application of the laws of another jurisdiction.

16. **No Admissions**

If the Effective Date does not occur, the Plan shall be null and void in all respects, and nothing contained in the Plan shall (a) constitute a waiver or release of any Claims by or against, or any Equity Interests in, the Debtors, (b) prejudice in any manner the rights of the Debtors or any other party in interest or (c) constitute an admission of any sort by the Debtors or other party in interest.

17. **Reservation of Rights**

The Plan shall have no force or effect unless and until the Effective Date occurs. Prior to the Effective Date, none of the filing of the Plan, any statement or provision contained in the Plan or action taken by the Debtors with respect to the Plan shall be, or shall be deemed to be, an admission or waiver of any rights of the Debtors or any other party with respect to any Claims or Equity Interests or any other matter.

## VII. CERTAIN RISK FACTORS AFFECTING THE DEBTORS

The holders of Claims against the Debtors should read and carefully consider the following factors, as well as the other information set forth in this Disclosure Statement (and the documents delivered together herewith), before deciding whether to vote to accept or reject the Plan. These risk factors should not, however, be regarded as constituting the only risks associated with the Plan and its implementation.

### A. Risk Factors Relating to the Chapter 11 Cases

1. **Parties in Interest May Object to the Debtors' Classification of Claims**

Section 1122 of the Bankruptcy Code provides that a chapter 11 plan of reorganization may place a claim or equity interest in a particular class only if such claim or equity interest is substantially similar to the other claims or equity interests in such class. The Debtors believe that the classification of Claims and Equity Interests under the Plan complies with the requirements in the Bankruptcy Code. However, certain holders of Claims may object to this.

In such event, the cost of the Plan and the time needed to confirm the Plan could increase and the Bankruptcy Court may not agree with the Debtors' classification of Claims and Equity

Interests. If the Bankruptcy Court concludes that the classification of Claims and Equity Interests under the Plan does not comply with the requirements of the Bankruptcy Code, the Debtors may need to modify the Plan. Such modification could require a resolicitation of votes on the Plan. If the Bankruptcy Court determines that the Debtors' classification of Claims and Equity Interests was not appropriate or if the Bankruptcy Court determines that different treatment provided to similarly situated Claim or Equity Interest holders was unfair or inappropriate, the Plan may not be confirmed. If this occurs, the amended plan of reorganization that would ultimately be confirmed may be less attractive to certain Classes than the Plan.

### 2. The Debtors May Object to the Amount, Secured Status or Priority Status of a Claim

The Debtors reserve the right to object to the amount, the secured status or the priority status of any Claim or Equity Interest under the Plan, except where indicated otherwise in the Plan. The estimates set forth in this Disclosure Statement cannot be relied on by a holder of any Claim or Equity Interest whose Claim or Equity Interest is or may be subject to an objection. Any such holder may not receive its specified share of the estimated distributions described in this Disclosure Statement.

### 3. In Certain Instances, Any Chapter 11 Case May Be Converted to a Case Under Chapter 7 of the Bankruptcy Code

If no plan can be confirmed, or if the Bankruptcy Court finds that it would be in the best interest of creditors and/or the Debtors, the Bankruptcy Court may convert the Chapter 11 Cases to cases under chapter 7 of the Bankruptcy Code. In such event, a chapter 7 trustee would be appointed or elected to liquidate the Debtors' assets for distribution in accordance with the priorities established by the Bankruptcy Code. The Debtors believe that liquidation under chapter 7 would result in significantly smaller distributions being made to the Debtors' creditors than those provided for in the Plan because of (i) the likelihood that the assets would have to be sold or otherwise disposed of in a disorderly fashion over a short period of time rather than reorganizing the Debtors' businesses as a going concern; (ii) additional administrative expenses involved in the appointment of a chapter 7 trustee; and (iii) additional expenses and claims, some of which would be entitled to priority, which would be generated during the liquidation and from the rejection of leases and other executory contracts in connection with a cessation of the operations.

### 4. The Bankruptcy Court May Decline to Confirm the Plan

Although the Debtors believe that the Plan will satisfy all requirements necessary for confirmation under the Bankruptcy Code, there can be no assurance that the Bankruptcy Court will reach the same conclusion. Moreover, there can be no assurance that modifications of the Plan will not be required for confirmation or that such modifications would not necessitate the resolicitation of votes. In the event that the Bankruptcy Court refuses to confirm the Plan, the Debtors may be required to seek an alternative restructuring of its obligations. There can be no assurance that the terms of any such alternative restructuring would be similar to or as favorable to the Debtors' creditors and shareholders as the terms proposed in the Plan.

The confirmation of the Plan is subject to certain conditions and requirements of the Bankruptcy Code. If the Plan is filed, the Bankruptcy Court may determine that one or more of those requirements is not satisfied. For example, the Bankruptcy Court might determine that the Plan is not "feasible" under section 1129(a)(11) of the Bankruptcy Code. For the Plan to be feasible, the Debtors must establish that the confirmation of the Plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of the Debtors or any successor of the Debtors under the Plan unless such liquidation or reorganization is proposed in the Plan. While the feasibility requirement is not rigorous, it does require the Debtors to put forth concrete evidence indicating that it has a reasonable likelihood of meeting its obligations under the Plan and remaining a commercially viable entity.

With regard to the Solicitation, if the Bankruptcy Court concludes that the requirements of section 1126(b) of the Bankruptcy Code and/or Bankruptcy Rule 3018(b) have not been met, then the Bankruptcy Court could deem such votes invalid, and the Plan would not be confirmed without a resolicitation of votes to accept or reject the Plan. While the Debtors believe that the requirements of section 1126(b) of the Bankruptcy Code and Bankruptcy Rule 3018 will be met, the Bankruptcy Court may not reach the same conclusion.

If the Bankruptcy Court were to find any of these deficiencies, the Debtors could be required to restart the process of filing another plan and disclosure statement by (i) seeking Bankruptcy Court approval of a disclosure statement, (ii) soliciting votes from classes of claims and equity interests and (iii) seeking Bankruptcy Court confirmation of such newly proposed plan of reorganization. If this situation occurs, confirmation of the Plan would be delayed and possibly jeopardized. Additionally, should the Plan fail to be approved, confirmed, or consummated, other parties with an interest in the Debtors may be in a position to propose alternative plans of reorganization. Therefore, any failure to confirm the Plan would likely entail significantly greater risk of delay, expense and uncertainty, which would likely have a material adverse effect upon the Debtors' businesses and financial condition.

### 5. The Debtors May Fail to Meet All Conditions Precedent to Effectiveness of the Plan

Although the Debtors believe that the Effective Date may occur very shortly after the Confirmation Date, there can be no assurance as to such timing. Moreover, if the conditions precedent to the Effective Date, including (i) the entry of a Confirmation Order as a Final Order, (ii) execution and delivery of certain documents, and (iii) receipt of all necessary authorizations and regulatory approvals, have not occurred, the Plan may not be confirmed by the Bankruptcy Court.

### 6. The Supporting Noteholders May Withdraw Their Support of the Plan

Pursuant to the terms of Section 4 of the Plan Support Agreement, the Supporting Noteholders may terminate their obligations under the Plan Support Agreement under a variety of circumstances. If the Plan Support Agreement is terminated, any vote by the Supporting Noteholders for the Plan would be immediately revoked and deemed void *ab initio*.

### 7. The Plan Sponsor May Withdraw Its Support of the Plan

Pursuant to the terms of the Contribution Agreement, the Plan Sponsor could choose to breach its obligations under the Contribution Agreement, and would only be liable to the Debtors for a reverse break-up fee of $5,000,000, and would not be required to close the transactions contemplated under the Contribution Agreement.

### 8. The Debtors May Seek to Amend, Waive, Modify or Withdraw the Plan at Any Time Prior to the Confirmation Date

The Debtors reserve the right, prior to confirmation or substantial consummation of the Plan, subject to the provisions of section 1127 of the Bankruptcy Code and Rule 3019 of the Bankruptcy Rules, to amend the terms of the Plan or waive any conditions thereto, if and to the extent such amendments or waivers are necessary or desirable to consummate the Plan. The potential impact of any such amendment or waiver on the holders of Claims cannot presently be foreseen, but may include a change in the economic impact of the Plan on some or all of the Classes or a change in the relative rights of such Classes. All holders of Claims and Equity Interests will receive notice of such amendments or waivers required by applicable law and the Bankruptcy Court. If, after receiving sufficient acceptances but prior to confirmation of the Plan, the Debtors seek to modify the Plan, the previously solicited acceptances will be valid only if (i) all Classes of adversely affected creditors accept the modification in writing, or (ii) the Bankruptcy Court determines, after notice has been given to designated parties, that such modification was *de minimis*, purely technical or otherwise did not materially, adversely change the treatment of holders of accepting Claims.

### 9. The Contribution Agreement May Not Achieve Its Intended Results and May Result in The Joint Venture Company Assuming Unanticipated Liabilities and Properties of Lower Value Than Originally Contemplated

We have the opportunity to conduct customary environmental and title due diligence following the execution of the Contribution Agreement, but our diligence efforts to date with respect to the Plan Sponsor's assets and liabilities have been limited. As a result, we may discover title defects or adverse environmental or other conditions of which we are currently unaware. Environmental, title and other problems could reduce the value of the properties contributed to the Joint Venture Company, and, depending on the circumstances, we could have limited or no recourse to the Plan Sponsor with respect to those problems. The Joint Venture Company would assume substantially all of the liabilities associated with the acquired Plan Sponsor properties, and the Joint Venture Company would be entitled to indemnification in connection with those liabilities in only limited circumstances and in limited amounts. We cannot assure that such potential remedies will be adequate for any liabilities incurred by the Joint Venture Company, and such liabilities could be significant. In addition, certain of the assets to be contributed to the Joint Venture Company are subject to consents to assign and preference rights. If Delta and the Plan Sponsor cannot obtain all applicable consents or waivers, the Joint Venture Company may not be able to acquire certain properties as originally contemplated. Also, it is uncertain whether Delta and the Plan Sponsor's contributed properties and assets can be integrated in an efficient and effective manner.

### 10. Inherent Uncertainty of Projections

The Projections cover the operations of the Reorganized Debtors through calendar year 201[_]. The fundamental premise of the Plan is the implementation and realization of the Debtors' business plan. The Projections reflect numerous assumptions concerning the anticipated post-bankruptcy performance of the Reorganized Debtors, some of which may not materialize. Such assumptions include, among other items, assumptions concerning (i) the general economy, (ii) industry performance, (iii) the ability to make necessary capital expenditures, (iv) the ability to establish market strength, (v) the ability to stabilize and control the Debtors' future operating expenses, (vi) no material adverse changes in applicable legislation or regulations, or the administration thereof, (vii) no material adverse changes in generally accepted accounting principles, (viii) no material adverse changes in competition, (ix) the Reorganized Debtors' retention of key management and other key employees, (x) adequate financing, (xi) the absence of material contingent or unliquidated litigation, indemnity or other claims, (xii) certain income tax matters, (xiii) future commodity prices, (xiv) future drilling results and (xv) other matters, many of which will be beyond the control of the Reorganized Debtors and some or all of which may not materialize. The Debtors believe that the assumptions underlying the Projections are reasonable. However, unanticipated events and circumstances occurring subsequent to the preparation of the Projections may affect the Reorganized Debtors' ability to maximize the intended benefits of the Chapter 11 Cases and undermine the financial results of the Reorganized Debtors. Therefore, the actual results achieved throughout the periods covered by the Projections necessarily will vary from the projected results, and such variations may be material and adverse. In light of the foregoing, readers are cautioned not to place undue reliance on the Projections.

The Projections were not prepared with a view to compliance with published guidelines of the Securities and Exchange Commission regarding projections or forecasts. The Projections have not been audited, reviewed, or compiled by the Debtors' independent public accountants. The projected financial information contained in this Disclosure Statement should not be regarded as a representation or warranty by the Debtors, the Debtors' advisors or any other Person that the Projections can or will be achieved.

## B. Risk Factors Regarding the Debtors' Businesses

### 1. Leverage

The Debtors believe that they will emerge from chapter 11 with a reasonable level of debt that can be effectively serviced in accordance with their business plan, and the size and terms of the Exit Facility will be disclosed as a Plan Supplement. Circumstances, however, may arise that might cause the Debtors to conclude that they are overleveraged, which could have significant negative consequences, including: (1) it may become more difficult for the Reorganized Debtors to satisfy their financial obligations; (2) the Reorganized Debtors may be vulnerable to a prolonged downturn in the market in which they operate or a prolonged downturn in the economy in general, and they will be subject to the risk of adverse changes in commodity prices as described below; (3) the Reorganized Debtors may be required to dedicate a substantial portion of their cash flow from operations to fund working capital, capital expenditures, and other general corporate requirements; (4) the Reorganized Debtors may be limited in their flexibility to plan for, or react to, changes in their businesses and the industry in which they

operate or entry of new competitors into their markets; (5) the Reorganized Debtors may be placed at a competitive disadvantage compared with their competitors that have less debt; and (6) the Reorganized Debtors may be limited in borrowing additional funds as they have pledged all of their oil and natural gas properties and the related equipment, inventory, accounts and proceeds as collateral for the borrowings under the Exit Loan.

Additionally, there may be factors beyond the control of the Reorganized Debtors that could affect their ability to meet debt service requirements. Current economic fundamentals portray an uncertain outlook for natural gas commodity prices in particular. These economic conditions have resulted in a decline in the Debtors' revenues and available capital, and have caused the Debtors to significantly decrease their drilling activities and operations. Although the Debtors have entered into derivative contracts that reduce exposure to changes in commodity prices, the Reorganized Debtors' ability to maintain adequate liquidity will nevertheless depend significantly on adequate pipeline capacity, maintaining low operating expenses, focused capital spending, generation of additional working capital, and the availability of funding. There is no assurance that industry commodity price or capital markets conditions will improve in the near term. If the Reorganized Debtors are unable to make scheduled debt payments or comply with the other provisions of their debt instruments, their various lenders will be permitted under certain circumstances to accelerate the maturity of the indebtedness owing to them and exercise other remedies provided for in those instruments and under applicable law.

2. **Dependence on the Performance of the Joint Venture Company**

One of Reorganized Delta's primary assets after the Effective Date will be its 33.34% ownership interest in the Joint Venture Company. Reorganized Delta's revenues will depend heavily on the profitability of the Joint Venture Company and on the ability of the Joint Venture Company to make distributions to its owners. The Joint Venture Company will likely face similar risk factors to those that face other natural gas exploration and production companies as described herein. The subsequent disclosure about business risks facing Reorganized Delta will also be risk factors faced by the Joint Venture Company.

3. **The JV Company Credit Agreement Contains Financial and Other Covenants That Impose Restrictions on the Debtors' Financial and Business Operations**

The JV Company Credit Agreement contains financial covenants that, among other things, will require the Joint Venture Company to maintain certain financial ratios and meet certain tests, and restrict its ability to make capital expenditures. In addition, the JV Company Credit Agreement restricts the Joint Venture Company's ability to, among other things, incur or secure additional indebtedness, make investments, sell assets, pay dividends, repurchase stock, sell assets, engage in certain mergers and acquisitions or refinance existing indebtedness. These covenants may have important consequences for the Joint Venture Company operations. In addition, if the Joint Venture Company fails to comply with the covenants in the JV Company Credit Agreement and is unable to obtain a waiver or amendment, an event of default would result under the JV Company Credit Agreement. If the Joint Venture Company is unable to repay amounts outstanding under the JV Company Credit Agreement when due, the JV Company Credit Facility Lenders thereunder could, subject to the terms of the JV Company

Credit Agreement, seek to foreclose on the collateral that is pledged to secure the indebtedness outstanding under such facility.

### 4. The JV Company LLC Agreement Contains Provisions that May Cause Dilution of Reorganized Delta's Interests in the Joint Venture Company

Representatives of Laramie on the Board of Managers, subject to their duties of good faith to the Joint Venture Company and the other terms of the Joint Venture Company LLC Agreement, may cause the Joint Venture Company to raise capital in an aggregate amount of up to $60,000,000 without the consent of the representatives of Reorganized Delta on the Board of Managers. Such a capital raise may be necessary or advantageous to the Joint Venture Company in terms of its pursuit of its exploration or development activities, but would also be dilutive of the ownership interest of Reorganized Delta (and Laramie) in the Joint Venture Company.

### 5. Natural Gas and Oil Prices are Volatile

The Debtors' revenues, operating results, profitability and future rate of growth depend primarily upon the prices they receive for the natural gas and oil they sell. Prices also affect the amount of cash flow available for capital expenditures and the Debtors' ability to borrow money or raise additional capital. The amount the Joint Venture Company can borrow under the JV Company Credit Facility is subject to periodic redeterminations based on prices specified by the JV Company Credit Facility Lenders at the time of redetermination.

Historically, the markets for natural gas and oil have been volatile and they are likely to continue to be volatile. Wide fluctuations in natural gas and oil prices may result from relatively minor changes in the supply of and demand for natural gas and oil, market uncertainty and other factors that are beyond the Debtors' control, including: (i) worldwide and domestic supplies of natural gas and oil; (ii) weather conditions; (iii) the level of consumer demand; (iv) the price and availability of alternative fuels; (v) the proximity and capacity of natural gas pipelines and other transportation facilities; (vi) the price and level of foreign imports; (vii) domestic and foreign governmental regulations and taxes; (viii) the nature and extent of regulation relating to carbon and other greenhouse gas emissions; (ix) the ability of members of the Organization of Petroleum Exporting Countries to agree to and maintain oil price and production controls; (x) political instability or armed conflict in oil-producing regions; and (xi) overall domestic and global economic conditions.

These factors and the volatility of the energy markets make it extremely difficult to predict future natural gas and oil price movements with any certainty. Declines in natural gas and oil prices not only reduce revenue, but also reduce the amount of natural gas and oil that the Debtors can produce economically and, as a result, have had, and could in the future have a material adverse effect on the Reorganized Debtors' financial condition, results of operations, cash flows and reserves. Further, natural gas and oil prices do not move in tandem. Because approximately 91% of the Debtors' reserves at December 31, 2010 were natural gas reserves, the Reorganized Debtors' will be more affected by movements in natural gas prices. Natural gas prices have fallen significantly in 2012, and may fall further or remain at low levels for an extended period of time.

6. **The Current Financial Environment**

The continued instability in the global financial system and related limitation on availability of credit may continue to have an impact on the Debtors' businesses and financial condition, and the Reorganized Debtors may continue to face challenges if conditions in the financial markets do not improve. Once adopted, the Reorganized Debtors' operating and capital budget will most likely be funded with anticipated internally generated cash flow and other available sources of liquidity. Such sources historically have not been sufficient to fund all of the Debtors' expenditures, and they have relied on the capital markets and asset monetization transactions to provide additional capital. The Debtors' ability to access the capital markets has been restricted as a result of the economic downturn and related financial market conditions and may be restricted in the future when the Reorganized Debtors would like, or need, to raise capital. The economic situation could also adversely affect the collectability of the Reorganized Debtors' or the Joint Venture Company's trade receivables and cause their respective commodity hedging arrangements, if any, to be ineffective if their counterparties are unable to perform their obligations. Additionally, the current economic situation could lead to further reduced demand for natural gas and oil, or lower prices for natural gas and oil, or both, which would have a negative impact on the Reorganized Debtors' revenues.

7. **Information Concerning Reserves is Uncertain**

There are numerous uncertainties inherent in estimating quantities of proved reserves and cash flows from such reserves, including factors beyond the Debtors' control. Reserve engineering is a subjective process of estimating underground accumulations of oil and natural gas that cannot be measured in an exact manner. The accuracy of an estimate of quantities of oil and natural gas reserves, or of cash flows attributable to such reserves, is a function of the available data, assumptions regarding future oil and natural gas prices, availability and terms of financing, expenditures for future development and exploitation activities, and engineering and geological interpretation and judgment. Reserves and future cash flows may also be subject to material downward or upward revisions based upon production history, development and exploitation activities, oil and natural gas prices and regulatory changes. Actual future production, revenue, taxes, development expenditures, operating expenses, quantities of recoverable reserves and value of cash flows from those reserves may vary significantly from their assumptions and estimates. In addition, reserve engineers may make different estimates of reserves and cash flows based on the same data. Further, the difficult financing environment may inhibit the Reorganized Debtors' ability to finance development of their reserves in the future.

8. **Replacing Production with New Reserves**

The Reorganized Debtors' reserves will decline significantly as they are produced unless the Reorganized Debtors acquire properties with proved reserves or conduct successful development and exploration drilling activities. The Reorganized Debtors' future oil and natural gas production is highly dependent upon their level of success in finding or acquiring additional reserves that are economically feasible and developing existing proved reserves, which is in turn dependent on the availability of capital to fund such acquisition and development activity.

9. **Commercially Productive Reserves**

The Debtors do not always encounter commercially productive reservoirs through their drilling operations. The new wells the Reorganized Debtors drill or participate in may not be productive and they may not recover all or any portion of their investment in wells they drill or participate in. The seismic data and other technologies the Debtors use do not allow them to know conclusively prior to drilling a well that oil or natural gas is present or may be produced economically. The cost of drilling, completing and operating a well is often uncertain, and cost factors can adversely affect the economics of a project. The Reorganized Debtors' efforts will be unprofitable if they drill dry wells or wells that are productive but do not produce enough reserves to return a profit after drilling, operating and other costs. Further, the Reorganized Debtors' drilling operations may be curtailed, delayed or canceled as a result of a variety of factors, including: (i) increases in the cost of, or shortages or delays in the availability of, drilling rigs and equipment; (ii) unexpected drilling conditions; (iii) title problems; (iv) pressure or irregularities in formations; (v) equipment failures or accidents; (vi) adverse weather conditions; and (vii) compliance with environmental and other governmental requirements.

10. **Writedowns**

In the past, the Debtors have been required to write down the carrying value of their oil and gas properties and other assets. There is a risk that the Reorganized Debtors will be required to take additional writedowns in the future, which would reduce their earnings and stockholders' equity. A writedown could occur when oil and natural gas prices are low or if the Reorganized Debtors have substantial downward adjustments to their estimated proved reserves, increases in their estimates of development costs or deterioration in their exploration and development results.

The Debtors account for their crude oil and natural gas exploration and development activities utilizing the successful efforts method of accounting. Under this method, costs of productive exploratory wells, development dry holes and productive wells and undeveloped leases are capitalized. Oil and gas lease acquisition costs are also capitalized. Exploratory drilling costs are initially capitalized, but charged to expense if and when the well is determined not to have found reserves in commercial quantities. If the carrying amount of the Debtors' oil and gas properties exceeds the estimated undiscounted future net cash flows, they will adjust the carrying amount of the oil and gas properties to their estimated fair value.

The Debtors review their oil and gas properties for impairment quarterly or whenever events and circumstances indicate that the carrying value may not be recoverable. Once incurred, a writedown of oil and gas properties is not reversible at a later date even if gas or oil prices increase. Given the complexities associated with oil and gas reserve estimates and the history of price volatility in the oil and gas markets, events may arise that would require the Reorganized Debtors to record an impairment of the recorded carrying values associated with their oil and gas properties.

11. **Inherent Risks in the Exploration, Development and Operation of Oil and Gas Properties**

The business of exploring for and, to a lesser extent, developing and operating oil and gas properties involves a high degree of business and financial risk, and thus a substantial risk of investment loss that even a combination of experience, knowledge and careful evaluation may

not be able to overcome. Oil and gas drilling and production activities may be shortened, delayed or canceled as a result of a variety of factors, many of which are beyond the Debtors' control. These factors include: (i) availability of capital; (ii) unexpected drilling conditions; (iii) pressure or irregularities in formations; (iv) equipment failures or accidents; (v) adverse changes in prices; (vi) adverse weather conditions; (vii) title problems; (viii) shortages in experienced labor; and (ix) increases in the cost of, or shortages or delays in the delivery of equipment.

In the current financing environment and given the significant capital the Debtors have raised in recent years, the Debtors expect it to be more difficult to obtain that capital than in the past and it may limit the Reorganized Debtors' success in attracting joint venture or industry partners to develop their reserves. The Reorganized Debtors may drill wells that are unproductive or, although productive, do not produce oil and/or natural gas in economic quantities. Acquisition and completion decisions generally are based on subjective judgments and assumptions that are speculative. It is impossible to predict with certainty the production potential of a particular property or well. Furthermore, a successful completion of a well does not ensure a profitable return on the investment. A variety of geological, operational, or market-related factors, including, but not limited to, unusual or unexpected geological formations, pressures, equipment failures or accidents, fires, explosions, blowouts, cratering, pollution and other environmental risks, shortages or delays in the availability of drilling rigs and the delivery of equipment, loss of circulation of drilling fluids or other conditions may substantially delay or prevent completion of any well or otherwise prevent a property or well from being profitable. A productive well may become uneconomic in the event water or other deleterious substances are encountered which impair or prevent the production of oil and/or natural gas from the well, or in the event of lower than expected commodity prices. In addition, production from any well may be unmarketable if it is contaminated with water or other deleterious substances.

### 12. Third Party Gas Gathering Systems, Pipelines and Processing Facilities

The marketability of the Debtors' production depends upon the availability, operation and capacity of gas gathering systems, pipelines and processing facilities, which are owned by third parties. The unavailability or lack of capacity of these systems and facilities could result in the shut-in of producing wells or the delay or discontinuance of development plans for properties. United States federal, state and foreign regulation of oil and gas production and transportation, tax and energy policies, damage to or destruction of pipelines, general economic conditions and changes in supply and demand could adversely affect the Reorganized Debtors' ability to produce and market oil and natural gas. If market factors changed dramatically, the financial impact on the Reorganized Debtors could be substantial. The availability of markets and the volatility of product prices are beyond the Reorganized Debtors' control and represent a significant risk.

### 13. Prices May be Affected by Regional Factors; Geographic Concentration

The prices received for the natural gas production from the Debtors' Rocky Mountain Region properties, where they conduct substantially all of their development activities, is determined to a significant extent by factors affecting the regional supply of and demand for natural gas, including the adequacy of the pipeline and processing infrastructure in the region to process, and transport, their production and that of other producers. Those factors result in basis differentials between the published indices generally used to establish the price received for

regional natural gas production and the actual (frequently lower) price the Debtors receive for their production. The Debtors' reserves and production are concentrated in the Piceance Basin area of the Rocky Mountain Region, making them vulnerable to regulatory and operational risks associated with that area. This may place them at a disadvantage relative to competitors with more geographically diverse operations.

14. **Industry Operating Hazards**

The exploration, development and operation of oil and gas properties involve a variety of operating risks including the risk of fire, explosions, blowouts, cratering, pipe failure, abnormally pressured formations, natural disasters, acts of terrorism or vandalism, and environmental hazards, including oil spills, gas leaks, pipeline ruptures or discharges of toxic gases. These industry-operating risks can result in injury or loss of life, severe damage to or destruction of property, natural resources and equipment, pollution or other environmental damage, clean-up responsibilities, regulatory investigation and penalties, and suspension of operations which could result in substantial losses.

The Debtors maintain insurance against some, but not all, of the risks described above. Such insurance may not be adequate to cover losses or liabilities. Also, the Debtors cannot predict the continued availability of insurance at premium levels that justify its purchase. Terrorist attacks and certain potential natural disasters may change the Debtors ability to obtain adequate insurance coverage. The occurrence of a significant event that is not fully insured or indemnified against could materially and adversely affect the Reorganized Debtors financial condition and operations.

15. **Competition with Larger Companies**

The oil and natural gas industry is intensely competitive, and the Debtors compete with other companies that have greater resources. The Reorganized Debtors' ability to acquire additional properties and to discover reserves in the future will be dependent upon their ability to evaluate and select suitable properties and to consummate transactions in a highly competitive environment. Many larger competitors not only explore for and produce oil and natural gas, but also carry on refining operations and market petroleum and other products on a regional, national or worldwide basis. These companies may be able to pay more for productive oil and natural gas properties and exploratory prospects or define, evaluate, bid for and purchase a greater number of properties and prospects than the Reorganized Debtors' financial resources permit. In addition, these companies may have a greater ability to continue exploration and development activities during periods of low oil and natural gas market prices and to absorb the burden of present and future federal, state, local and other laws and regulations. The Reorganized Debtors' inability to compete effectively with larger companies could have a material adverse effect on their businesses, results of operations, and financial condition.

16. **Hedging Transactions**

In order to manage exposure to price risks in the marketing of oil and gas, the Debtors periodically enter into oil and gas price hedging arrangements, typically fixed price swaps. While intended to reduce the effects of volatile oil and gas prices, such transactions, depending on the hedging instrument used, may limit the Reorganized Debtors' potential gains if oil and gas

prices were to rise substantially over the price established by the hedge. In addition, such transactions may expose the Reorganized Debtors to the risk of financial loss in certain circumstances, including instances in which: (i) production is substantially less than expected; (ii) the counterparties to their futures contracts fail to perform under the contracts; or (iii) a sudden, unexpected event materially impacts gas or oil prices.

17. **Future Production**

The Debtors' revenues are derived principally from uncollateralized sales to customers in the oil and gas industry. The concentration of credit risk in a single industry affects the Debtors overall exposure to credit risk because customers may be similarly affected by changes in economic and other conditions. Although the Debtors have not been directly affected, they are aware that some refiners have filed for bankruptcy protection, which has caused the affected producers to not receive payment for the production that was delivered. If economic conditions deteriorate, it is likely that additional, similar situations will occur which will expose the Reorganized Debtors to added risk of not being paid for oil or gas that they deliver. The Debtors do not attempt to obtain credit protections such as letters of credit, guarantees or prepayments from their purchasers. The Debtors are unable to predict what impact the financial difficulties of any of their purchasers may have on the Reorganized Debtors' future results of operations and liquidity.

18. **No Long-Term Contracts to Sell Oil and Gas**

The Debtors do not have any long-term supply or similar agreements with governments or other authorities or entities for which they act as a producer. The Reorganized Debtors will therefore be dependent upon their ability to sell oil and gas at the prevailing wellhead market price. There can be no assurance that purchasers will be available or that the prices they are willing to pay will remain stable and not decline.

19. **Terrorist Attacks**

The United States has been the target of terrorist attacks of unprecedented scale. The U.S. government has issued warnings that U.S. energy assets may be the future targets of terrorist organizations. These developments have subjected the Debtors' operations to increased risks. Any terrorist attack at the Debtors facilities, or those of their purchasers, could have a material adverse effect on the Reorganized Debtors' businesses.

20. **Federal, State and Local Oil and Gas Operations Laws and Regulations**

The Debtors are affected significantly by a substantial amount of governmental regulations that increase costs related to the drilling of wells and the transportation and processing of oil and gas. It is possible that the number and extent of these regulations, and the costs to comply with them, will increase significantly in the future. In Colorado, for example, significant new governmental regulations have been adopted that are primarily driven by concerns about wildlife and the environment. These government regulatory requirements complicate the Debtors' plans for development and may result in substantial costs that are not possible to pass through to their customers and which could impact the profitability of their Colorado operations.

The Debtors' oil and gas operations are subject to stringent federal, state and local laws and regulations relating to the release or disposal of materials into the environment or otherwise relating to health and safety, land use, environmental protection or the oil and gas industry generally. Legislation affecting the industry is under constant review for amendment or expansion, frequently increasing the Debtors' regulatory burden. Compliance with such laws and regulations often increases the Debtors' costs of doing business and, in turn, decreases their profitability. Failure to comply with these laws and regulations may result in the assessment of administrative, civil and criminal penalties, the incurrence of investigatory or remedial obligations, or issuance of cease and desist orders.

The environmental laws and regulations to which the Debtors are subject may: (i) require applying for and receiving a permit before drilling commences; (ii) restrict the types, quantities and concentration of substances that can be released into the environment in connection with drilling and production activities; (iii) limit or prohibit drilling activities on certain lands lying within wilderness, wetlands and other protected areas; and (iv) impose substantial liabilities for pollution resulting from the Debtors' operations.

Changes in environmental laws and regulations occur frequently, and any changes that result in more stringent or costly waste handling, storage, transport, disposal or cleanup requirements could require the Reorganized Debtors to make significant expenditures to maintain compliance, and may otherwise have a material adverse effect on the Reorganized Debtors' earnings, results of operations, competitive position or financial condition. Over the years, the Debtors have owned or leased numerous properties for oil and gas activities upon which petroleum hydrocarbons or other materials may have been released by them or by predecessor property owners or lessees who were not under their control. Under applicable environmental laws and regulations, including CERCLA, RCRA and analogous state laws, the Reorganized Debtors could be held strictly liable for the removal or remediation of previously released materials or property contamination at such locations regardless of whether they were responsible for the release or if their operations were standard in the industry at the time they were performed.

21. **Water Sources to Facilitate the Fracturing Process and Water Disposal**

New environmental regulations governing the withdrawal, storage and use of surface water or groundwater necessary for hydraulic fracturing of wells may increase operating costs and cause delays, interruptions or termination of operations, the extent of which cannot be predicted, all of which could have an adverse affect on the Reorganized Debtors' operations and financial performance.

Further, the Debtors must remove the water that they use to fracture their gas wells when it flows back to the well-bore. The Reorganized Debtors' ability to remove and dispose of water will affect their production and the cost of water treatment and disposal may affect their profitability. The imposition of new environmental initiatives and regulations could include restrictions on the Reorganized Debtors' ability to conduct hydraulic fracturing or disposal of waste, including produced water, drilling fluids and other wastes associated with the exploration, development and production of natural gas.

### 22. Federal and State Legislation and Regulatory Initiatives Relating to Hydraulic Fracturing

Congress has considered legislation to amend the federal Safe Drinking Water Act to require the disclosure of chemicals used by the oil and natural gas industry in the hydraulic fracturing process and to restrict hydraulic fracturing in other ways. The Environmental Protection Agency has also implemented rules relating to hydraulic fracturing and may implement additional rules on the subject. Hydraulic fracturing is an important and commonly used process in the completion of unconventional natural gas wells in shale formations, as well as tight conventional formations, including many of those that the Debtors complete and produce. This process involves the injection of water, sand and chemicals under pressure into rock formations to stimulate natural gas production. Sponsors of these bills have asserted that chemicals used in the fracturing process could adversely affect drinking water supplies. In addition, some states and local governmental authorities have adopted and others are considering legislation to restrict, and in some cases prohibit, hydraulic fracturing. Any additional level of regulation could lead to operational delays or increased operating costs and could result in additional regulatory burdens that could make it more difficult to perform hydraulic fracturing and increase the Reorganized Debtors' costs of compliance and doing business.

### 23. Credit Risk as it Affects Third Parties

Third parties with whom the Debtors have contracted may lose existing financing or be unable to obtain additional financing necessary to continue their businesses. The inability of a third party to make payments to the Reorganized Debtors for their accounts receivable, or the failure of the Reorganized Debtors' third party suppliers to meet their demands because they cannot obtain sufficient credit to continue their operations, may cause the Reorganized Debtors to experience losses and may adversely impact their liquidity and their ability to satisfy their payment obligations as they arise.

### 24. The Elimination of Certain Federal Income Tax Deductions Currently Available with Respect to Oil and Natural Gas Exploration and Development

Changes contained in President Obama's 2013 budget proposal included the elimination of certain key U.S. federal income tax preferences currently available to oil and gas exploration and production companies. Such changes include, but are not limited to, (i) the repeal of the percentage depletion allowance for oil and gas properties; (ii) the elimination of current deductions for intangible drilling and development costs; (iii) the elimination of the deduction for certain U.S. production activities; and (iv) an extension of the amortization period for certain geological and geophysical expenditures. It is unclear, however, whether any such changes will be enacted or how soon such changes could be effective.

The passage of any legislation as a result of the budget proposal, or any other similar change in U.S. federal income tax law, could eliminate certain tax deductions that are currently available with respect to oil and gas exploration and development, and any such change could negatively affect the Reorganized Debtors' financial condition and results of operations.

### 25. Potential Legislative and Regulatory Actions Addressing Climate Change

Recent scientific studies have suggested that emissions of certain gases, commonly referred to as "greenhouse gases" and including carbon dioxide and methane, may be contributing to warming of the earth's atmosphere. In December 2009, the EPA issued proposed regulations that would require a reduction in emissions of greenhouse gases from motor vehicles and also could require permits for emitting greenhouse gas from certain stationary sources such as ours. Congress has also been considering various bills that would establish an economy-wide cap-and-trade program to reduce U.S. emissions of greenhouse gases and at least one-third of the states, either individually or through multi-state regional initiatives, have already taken legal measures to reduce emissions of greenhouse gases, primarily through the planned development of greenhouse gas emission inventories and/or greenhouse gas cap and trade programs. As an alternative to reducing emission of greenhouse gases under cap and trade programs, Congress may consider the implementation of a program to tax the emission of carbon dioxide and other greenhouse gases. The net effect of such legislation would be to impose increasing costs on the combustion of carbon-based fuels such as oil, refined petroleum products and natural gas.

Passage of climate change legislation or other regulatory initiatives by Congress or various states of the U.S. or the adoption of regulations by the EPA or analogous state agencies that regulate or restrict emissions of greenhouse gases in areas in which the Reorganized Debtors conduct business, could increase the costs of the Reorganized Debtors' operations, including new or increased costs to operate and maintain their equipment and facilities, install new emission controls on their equipment and facilities, acquire allowances to authorize their greenhouse gas emissions, pay taxes related to their greenhouse gas emissions and administer and manage a greenhouse gas emissions program. Moreover, incentives to conserve energy or use alternative energy sources could reduce demand for natural gas and oil. Reductions in the Reorganized Debtors' revenues or increases in the Reorganized Debtors' expenses as a result of climate control initiatives could have adverse effects on their businesses, financial position, results of operations and prospects.

### 26. Legal Proceedings

The Debtors are currently involved in litigation arising in the ordinary course of business. A list of the various suits and proceedings is included as Exhibit 4a to Delta's amended *Statement of Financial Affairs* [D.I. 416]. In the Debtors' opinion, the outcome of these legal proceedings is not likely to have an adverse effect on the Debtors' financial condition or results of operation.

### 27. Certain Tax Considerations

There are a number of income tax considerations, risks and uncertainties associated with consummation of the Plan. Interested parties should read carefully the discussions set forth in Article XII of this Disclosure Statement regarding certain U.S. federal income tax consequences of the transactions proposed by the Plan to the Debtors and the Reorganized Debtors and to certain holders of Claims who are entitled to vote to accept or reject the Plan.

### C. Certain Risk Factors Relating to Securities to Be Issued Under the Plan

#### 1. No Current Public Market for Securities

The New Common Stock to be issued pursuant to the Plan are securities for which there may be a limited market, and there can be no assurance as to the development or liquidity of any market for such securities. The New Common Stock is subject to restrictions on transfer under Reorganized Delta's Restated Certificate of Incorporation and Stockholders' Agreement, and certain holders may be restricted under applicable securities laws in their ability to transfer or sell their securities. If a trading market does not develop or is not maintained, holders of such securities may experience difficulty in reselling such securities or may be unable to sell them at all. Even if such a market were to exist, such securities could trade at prices higher or lower than the estimated value set forth in this Disclosure Statement depending upon many factors, including, without limitation, prevailing interest rates, markets for similar securities, industry conditions and the performance of, and investor expectations for, Reorganized Delta.

Furthermore, Persons to whom such securities are issued pursuant to the Plan may prefer to liquidate their investments rather than hold such securities on a long-term basis. Accordingly, any market that does develop for such securities may be volatile.

#### 2. Potential Dilution

The shares of New Common Stock distributed on the Effective Date pursuant to the Plan will be subject to dilution on account of potential future equity financings or other share issuances by Reorganized Delta.

#### 3. Dividends

The Debtors do not anticipate that cash dividends or other distributions will be paid with respect to the New Common Stock in the foreseeable future.

#### 4. Transfer Restrictions on the New Common Stock Contained in the Restated Certificate of Incorporation

The Restated Certificate of Incorporation shall contain restrictions on the transfer of the New Common Stock intended to minimize the likelihood of any potential adverse U.S. federal income tax consequences resulting from an ownership change (as defined in section 382 of the Internal Revenue Code) in Reorganized Delta. The restrictions will prevent any person who is not a 5% or greater shareholder of Reorganized Delta (a **"5% Shareholder"**) at the Effective Date from acquiring sufficient shares to become a 5% Shareholder, unless such person obtains the permission of the board of directors of Reorganized Delta. All 5% Shareholders of Reorganized Delta at the Effective Date shall be permitted to acquire or dispose of shares of Reorganized Delta so long as, in the aggregate, Reorganized Delta does not undergo an "owner shift" (as that term is defined in section 382 of the Internal Revenue Code and the Treasury Regulations thereunder) of greater than 33% (as adjusted by the board of directors of Reorganized Delta from time to time to reflect transactions undertaken by Reorganized Delta) (the **"Permitted Owner Shift"**) in any "testing period" (as that term is defined in section 382 of

the Internal Revenue Code and the Treasury Regulations thereunder). Each 5% Shareholder at the Effective Date shall not be permitted to cause a greater "owner shift" in any "testing period" than the product of (i) the Permitted Owner Shift and (ii) a fraction equal to such 5% Shareholder's ownership as of the Effective Date divided by the aggregate ownership of all 5% Shareholders as of the Effective Date (such product, the **"Owner Shift Limit"**). For any transaction occurring between 5% Shareholders, any resulting "owner shift" shall be allocated equally to each such 5% Shareholder's Owner Shift Limit. All transfers in violation of the transfer restrictions contained in Reorganized Delta's certificate of incorporation shall be void *ab initio*. A copy of the Restated Certificate of Incorporation shall be filed as a Plan Supplement.

## VIII. VOTING PROCEDURES AND REQUIREMENTS

Before voting to accept or reject the Plan, each eligible holder of a Claim in Classes 4 and 5 should carefully review the Plan attached as Exhibit 1, and summarized above in Section I.B, "**Summary of the Chapter 11 Cases**." All descriptions of the Plan set forth in this Disclosure Statement are subject to the terms and conditions of the Plan.

IT IS IMPORTANT THAT THE HOLDERS OF CLAIMS IN CLASS 4 (GENERAL UNSECURED CLAIMS) OR CLASS 5 (NOTEHOLDER CLAIMS) EXERCISE THEIR RIGHT TO VOTE TO ACCEPT OR REJECT THE PLAN.

### A. Voting Deadline

The Debtors have engaged Epiq Bankruptcy Solutions, LLC as their voting agent (the "**Voting Agent**") to assist in the transmission of voting materials and in the tabulation of votes with respect to the Plan. IN ORDER FOR YOUR VOTE TO BE COUNTED, YOUR VOTE MUST BE RECEIVED BY THE VOTING AGENT AT THE ADDRESS SET FORTH BELOW ON OR BEFORE THE VOTING DEADLINE OF __:__ _.M., PREVAILING EASTERN TIME, ON _____ __, 2012 (THE "**VOTING DEADLINE**").

INSTRUCTIONS FOR VOTING PROCEDURES ARE CONTAINED IN THE DISCLOSURE STATEMENT ORDER.

IF YOU HAVE ANY QUESTIONS CONCERNING VOTING PROCEDURES, YOU MAY CONTACT THE VOTING AGENT AT:

Epiq Bankruptcy Solutions, LLC
757 Third Avenue, Third Floor
New York, NY
Telephone: (646) 282-2400

Additional copies of this Disclosure Statement are available upon request made to the Voting Agent, at the telephone number above.

### B. Parties in Interest Entitled to Vote; Record Date

The Debtors are providing copies of this Disclosure Statement (including all exhibits, appendices, and schedules), related materials and a ballot (collectively, a "**Solicitation Package**") to all Classes entitled to vote, including registered holders of the Notes.

In general, a holder of a claim may vote to accept or reject a plan of reorganization if (i) the holder's claim or interest is "allowed," (i.e., generally not disputed, contingent, or unliquidated), and (ii) such holder's claim or equity interest is "impaired" (as defined below) by the plan. However, if a holder of an allowed and impaired claim will not receive any distribution under a plan, than such holder is deemed to have rejected the plan and is not entitled to vote. In the same vein, a holder of an allowed and unimpaired claim will be presumed to have accepted the plan and will not be entitled to vote.

Under section 1126 of the Bankruptcy Code, only holders of claims or interests in "impaired" classes are entitled to vote on a plan of reorganization. Under section 1124 of the Bankruptcy Code, a class of claims or interests is deemed to be "impaired" under a plan unless (1) the plan leaves unaltered the legal, equitable and contractual rights to which such claim or interest entitles the holder thereof or (2) notwithstanding any legal right to an accelerated payment of such claim or interest, the plan, among other things, cures all existing defaults (other than defaults resulting from the occurrence of events of bankruptcy) and reinstates the maturity of such claim or interest as it existed before the default.

If, however, the holder of an impaired claim or interest will not receive or retain any distribution under the plan on account of such claim or interest, the Bankruptcy Code deems such holder to have rejected the plan, and, accordingly, holders of such claims and interests do not actually vote on the plan. If a claim or interest is not impaired by the plan, the Bankruptcy Code deems the holder of such claim or interest to have accepted the plan and, accordingly, holders of such claims and interests are not entitled to vote on the Plan. Claims in Classes 1, 2, 3, and 9 are unimpaired under the Plan, and holders of such Claims are therefore not entitled to vote. Holders of Claims and Equity Interests in Classes 6, 7 and 8 are impaired and deemed to reject the Plan and therefore are not entitled to vote.

The Bankruptcy Code defines "acceptance" of a plan by a class of claims as acceptance by creditors in that class that hold at least two-thirds (2/3) in dollar amount and more than one-half (1/2) in number of the claims whose holders cast ballots for acceptance or rejection of the plan.

The Claims in the following classes are impaired under the Plan and entitled to vote to accept or reject the Plan:

Class 4: General Unsecured Claims
Class 5 Noteholder Claims

The Record Date for determining which holders are allowed to vote on the Plan is the date of entry by the Bankruptcy Court of an order approving the Disclosure Statement. Except as provided in the Disclosure Statement Order, unless the ballot is timely submitted to the Voting Agent before the Voting Deadline together with any other documents required by such ballot, the Debtors may, in their sole discretion, reject such ballot as invalid, and therefore decline to use it in connection with seeking confirmation of the Plan.

The delivery of an accepting ballot pursuant to one of the procedures set forth above will constitute the agreement of the creditor with respect to such ballot to accept (1) all of the terms of, and conditions to, this Solicitation; and (2) the terms of the Plan including the releases or

exculpations set forth in Article X therein. All parties in interest retain their right to object to confirmation of the Plan under section 1128(b) of the Bankruptcy Code.

### C. Further Information; Additional Copies

If you have any questions or require further information about the voting procedures for voting your Claim or about the package of materials you received, or if you wish to obtain an additional copy of the Plan, this Disclosure Statement or any exhibits or appendices to such documents (at your own expense, unless otherwise specifically required by Bankruptcy Rule 3017(d) or order of the Bankruptcy Court), please contact the Voting Agent at:

Epiq Bankruptcy Solutions, LLC
757 Third Avenue, Third Floor
New York, NY
Telephone: (646) 282-2400
E-mail: tabulation@epiqsystems.com

## IX. CONFIRMATION OF THE PLAN

### A. Confirmation Hearing

Section 1128(a) of the Bankruptcy Code requires the Bankruptcy Court, after appropriate notice, to hold the Confirmation Hearing. The Bankruptcy Court has scheduled a hearing to consider confirmation of the Plan on _____, 2012 at _:00 _.m. (prevailing Eastern time). Notice of the Confirmation Hearing will be provided to holders of Claims and Equity Interests or their representatives (the "**Confirmation Hearing Notice**") as set forth in the scheduling order of the Bankruptcy Court. The Bankruptcy Court may adjourn the Confirmation Hearing from time to time without further notice except for an announcement of the adjourned date made at the Confirmation Hearing or any subsequent adjourned Confirmation Hearing.

Section 1128(b) of the Bankruptcy Code provides that any party in interest may object to confirmation of a plan. Any objection to confirmation of the Plan must be in writing, must conform to the Bankruptcy Rules, must set forth the name of the objecting party, the nature and amount of claims or interests held or asserted by the objecting party against the Debtors' estates or property and the basis for the objection and the specific grounds therefor, and must be filed with the Bankruptcy Court, together with proof of service thereof, and served upon (1) Hughes Hubbard & Reed LLP, One Battery Park Plaza, New York, NY 10004, Attn.: Kathryn A. Coleman, Esq. and W. Peter Beardsley, Esq., (2) Morris Nichols Arsht & Tunnell LLP, 1201 North Market Street, 18th Floor, Wilmington, DE 19899, Attn.: Derek Abbott, Esq., (3) Office of the United States Trustee for the District of Delaware, 844 King Street, Suite 207, Lockbox 35, Wilmington, DE 19801, Attn: Tiiara Patton, Esq. (4) Brown Rudnick LLP, Seven Times Square, New York, New York 10036, Attn: Robert Stark, Esq., and (5) such other parties as the Bankruptcy Court may order, so as to be received no later than the date and time designated in the Confirmation Hearing Notice.

Objections to confirmation of the Plan are governed by Bankruptcy Rule 9014. UNLESS AN OBJECTION TO CONFIRMATION IS TIMELY SERVED AND FILED, IT MAY NOT BE CONSIDERED BY THE BANKRUPTCY COURT.

### B. Requirements for Confirmation of the Plan – Consensual Confirmation

At the Confirmation Hearing, the Bankruptcy Court will determine whether the following confirmation requirements specified in section 1129(a) of the Bankruptcy Code have been satisfied:

- The Plan complies with the applicable provisions of the Bankruptcy Code.
- The Debtors have complied with the applicable provisions of the Bankruptcy Code.
- The Plan has been proposed in good faith and not by any means forbidden by law.
- Any payment made or promised by the Debtors or by a 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 disclosed to the Bankruptcy Court, and any such payment made before confirmation of the Plan is reasonable, or if such payment is to be fixed after confirmation of the Plan, such payment is subject to the approval of the Bankruptcy Court as reasonable.
- The Debtors have disclosed (i) the identity and affiliations of any individual proposed to serve, after confirmation of the Plan, as a director, officer or voting trustee of the Chapter 11 Cases, (ii) any Subsidiary of the Debtors participating in the Plan with the Debtors, or a successor to the Debtors under the Plan, and (iii) the appointment to, or continuance in, such office of such individual is consistent with the interests of creditors and equity holders and with public policy, and the Debtors have disclosed the identity of any insider that will be employed or retained by the Debtors, and the nature of any compensation for such insider.
- Any governmental regulatory commission with jurisdiction, after confirmation of the Plan, over the rates of the Debtors has approved any rate change provided for in the Plan, or such rate change is expressly conditioned on such approval.
- With respect to each Class of Claims or Equity Interests, each holder of an impaired Claim or impaired Equity Interest either has accepted the Plan or will receive or retain under the Plan on account of such holder's Claim or Equity Interest, property of a value, as of the Effective Date of the Plan, 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. See discussion of "Best Interests Test" below.
- Except to the extent the Plan meets the "Non-Consensual Confirmation" standards discussed below, each Class of Claims or Equity Interests has either accepted the Plan or is not impaired under the Plan.

- Except to the extent that the holder of a particular Claim has agreed to a different treatment of such Claim, the Plan provides that Administrative Expense Claims and Priority Claims other than Priority Tax Claims will be paid in full on the Effective Date and that Priority Tax Claims will receive on account of such Claims deferred cash payments, over a period not exceeding five (5) years after the date of the order for relief, of a value, as of the Effective Date, equal to the allowed amount of such Claims with interest from the Effective Date.

- At least one (1) Class of impaired Claims has accepted the Plan, determined without including any acceptance of the Plan by any insider holding a Claim in such Class.

- Confirmation of the Plan is not likely to be followed by the liquidation or the need for further financial reorganization of the Debtors or any successor to the Debtors under the Plan, unless such liquidation or reorganization is proposed in the Plan. See discussion of "Feasibility" below.

- All fees payable under section 1930 of title 28 of the United States Code, as determined by the court at the hearing on confirmation of the Plan, have been paid or the Plan provides for the payment of all such fees on the Effective Date.

- The Plan provides for the continuation after the Effective Date of payment of all Retiree Benefits (as defined in section 1114(a) of the Bankruptcy Code), at the level established under section 1114(e)(1)(B) or 1114(g) of the Bankruptcy Code at any time prior to confirmation of the Plan, for the duration of the period the Debtors have obligated themselves to provide such benefits.

1. **Best Interests Test**

As described above, section 1129(a)(7) of the Bankruptcy Code requires that each holder of an impaired allowed claim or interest either (i) accept the plan of reorganization or (ii) receive or retain under the Plan property of a value, as of the effective date, that is not less than the value such holder would receive or retain if the applicable debtor were liquidated under chapter 7 of the Bankruptcy Code on the Effective Date. This is referred to as the "Best Interests Test."

To show that the Plan complies with section 1129(a)(7) of the Bankruptcy Code, the Debtors, together with Conway, prepared the liquidation analysis attached hereto as Exhibit 3 to the Disclosure Statement (the "**Liquidation Analysis**"). Based on the Liquidation Analysis, the Debtors believe that Holders of Claims will receive equal or greater value as of the Effective Date under the Plan than such Holders would receive in a chapter 7 liquidation and that the Plan will therefore meet the "Best Interests Test."

The first step in the Liquidation Analysis is to determine the dollar amount that would be generated from a hypothetical chapter 7 liquidation of the Debtors' Assets in which a chapter 7 trustee is appointed and charged with reducing to cash any and all of the Debtors' Assets. In this hypothetical liquidation scenario, the trustee would be required to shut down the Debtors' businesses and sell the individual assets of the Debtors (and the stock of its non-Debtor Subsidiaries or their assets). The gross amount of cash available from a liquidation of the

Debtors' Assets would be the sum of the proceeds from the disposition of the Debtors' Assets and cash held by the Debtors at the time of the commencement of the hypothetical chapter 7 case. The next step is to reduce that total by the costs and expenses of the liquidation, the amount of any Claims secured by such assets, and such additional Administrative Expense Claims and Priority Claims that may result from the termination of the Debtors' businesses and the use of chapter 7 for purposes of the hypothetical liquidation. Any net cash would be allocated to creditors and stockholders in strict priority in accordance with section 726 of the Bankruptcy Code. Finally, the Debtors compare the Liquidation Analysis with the value provided under the Plan.

Notwithstanding the difficulties in quantifying recoveries to creditors with precision, the Debtors believe that taking into account the Liquidation Analysis and the Valuation, the Plan meets the "Best Interests Test" of section 1129(a)(7) of the Bankruptcy Code.

The Debtors believe that the holders of Claims in Classes 6 and 7 would receive no recovery in a chapter 7 liquidation. Creditors will receive at least as good a recovery through the distributions contemplated by the Plan because the continued operation of the Debtors as a going concern, rather than a forced liquidation, will allow realization of more value for the Debtors' Assets. Moreover, as a result of the Debtors' reorganization, creditors such as the Debtors' employees would retain their jobs and most likely make few, if any, other Claims against the Estate. Lastly, in the event of liquidation, the recovery of holders of General Unsecured Claims and Noteholder Claims that would receive a small distribution in a liquidation would no doubt increase significantly under the treatment proposed in the Plan. All of these factors lead to the conclusion that recoveries under the Plan would be at least as much as, and in many cases significantly greater than, the recoveries available in a chapter 7 liquidation.

2. **Acceptance**

As a condition to confirmation, the Bankruptcy Code requires that each Class of impaired Claims vote to accept the Plan in most circumstances. Section 1126(c) of the Bankruptcy Code provides that a class of claims has accepted a plan of reorganization if such plan has been accepted by creditors that hold at least two-thirds in dollar amount and more than one-half in number of the allowed claims of such class. For these purposes, only claims actually voting to accept or to reject the plan are counted. Holders of claims who fail to vote are not counted as either accepting or rejecting a plan.

Section 1126(d) of the Bankruptcy Code provides that a class of interests has accepted a plan of reorganization if such plan has been accepted by holders of such interests that hold at least two-thirds in amount of the allowed interests of such class whose holders vote on the plan.

3. **Feasibility**

Section 1129(a)(11) of the Bankruptcy Code requires that the court find that confirmation of a plan of reorganization is not likely to be followed by the liquidation, or the need for further financial reorganization, of the debtor, or any successor to the debtor (unless such liquidation or reorganization is proposed in the plan of reorganization).

To determine whether the Plan meets this feasibility requirement, the Debtors have analyzed their ability to meet their obligations under the Plan. As part of this analysis, the Debtors, together with their advisors, prepared the financial projections attached hereto as Exhibit 4 to the Disclosure Statement (the "**Financial Projections**").

The Financial Projections reflect estimates of the Debtors' expected consolidated financial position, results of operations and cash flows for the years 2012 through 2014 and indicate that the Reorganized Debtors should have sufficient cash flow to pay and service their debt obligations and to fund their operations. Accordingly, the Debtors believe that the Plan complies with the financial feasibility standard of section 1129(a)(11) of the Bankruptcy Code.

### C. Confirmation Without Acceptance of All Impaired Classes: The "Cram Down" Alternative

Notwithstanding rejection of the plan by an impaired class, the Bankruptcy Code permits confirmation of a plan of reorganization, so long as (a) the plan of reorganization otherwise satisfies the requirements for confirmation, (b) at least one impaired class of claims has accepted the plan of reorganization without taking into consideration the votes of any insiders in such class, and (c) the plan of reorganization is "fair and equitable" and does not "discriminate unfairly" as to any impaired class that has not accepted such plan. These so-called "cram down" provisions are set forth in section 1129(b) of the Bankruptcy Code.

#### 1. Fair and Equitable

The Bankruptcy Code establishes different tests for determining whether a plan is "fair and equitable" to dissenting impaired classes of secured creditors, unsecured creditors, and interest holders as follows:

##### a. Secured Creditors

A plan of reorganization is fair and equitable as to an impaired class of secured claims that rejects the plan if the plan provides: (a) that each of the holders of the secured claims included in the rejecting class (i) retains the liens securing its claim to the extent of the allowed amount of such claim, to the extent of the allowed amount of such claims, whether the property subject to those liens is retained by the debtor or transferred to another entity, and (ii) receives on account of its secured claim deferred cash payments having a present value, as of the effective date of the plan of reorganization, at least equal to the value of such holder's interest in the Estate's interest in such property; (b) that each of the holders of the secured claims included in the rejecting class realizes the "indubitable equivalent" of its allowed secured claim; or (c) for the sale, subject to section 363(k) of the Bankruptcy Code, of any property that is subject to the liens securing the claims included in the rejecting class, free and clear of such liens, with such liens to attach to the proceeds of the sale and the treatment of such liens on proceeds in accordance with clause (a) or (b) of this paragraph.

DIP Facility Claims and Other Secured Claims in Class 1 and 3 are unimpaired and thus deemed to accept the Plan.

**b. Unsecured Creditors**

A plan of reorganization is fair and equitable as to an impaired class of unsecured claims that rejects the plan if the plan provides that: (i) each holder of a claim included in the rejecting class receives or retains property of a value, as of the effective date of the plan, equal to the amount of its allowed claim; or (ii) the holders of claims and equity interests that are junior to the claims of the rejecting class will not receive or retain any property under the plan on account of such junior claims or interests.

In view of the deemed rejection by holders of Intercompany Claims in Class 6 and Securities Litigation Claims in Class 8, the Debtors will seek confirmation of the Plan pursuant to the "cram down" provisions of the Bankruptcy Code. The Debtors believe that it will meet the "fair and equitable" requirements of section 1129(b) of the Bankruptcy Code with respect to holders of Intercompany Claims in Class 6 and Securities Litigation Claims in Class 8 because no holders of junior Claims or Equity Interests will receive distributions under the Plan.

In the event that Class 4 or Class 5 does not vote in favor of the Plan, the Debtors will also seek a cram down confirmation of the Plan with respect to the Claims in Class 4 or Class 5. No Class junior to Class 4 or Class 5 will receive any recovery under the Plan. The Debtors believe that it would meet the "fair and equitable" requirements of section 1129(b) of the Bankruptcy Code with respect to holders of General Unsecured Claims in Class 4 and Noteholder Claims in Class 5 because no holders of junior Claims or Equity Interests will receive distributions under the Plan.

Priority Non-Tax Claims (Class 2) are unimpaired and thus are deemed to accept the Plan.

**c. Holders of Interests**

A plan of reorganization is fair and equitable as to an impaired class of interests that rejects the plan if the plan provides that: (a) each holder of an equity interest included in the rejecting class receives or retains under the plan property of a value, as of the effective date of the plan, equal to the greatest of the allowed amount of (i) any fixed liquidation preference to which such holder is entitled, (ii) the fixed redemption price to which such holder is entitled, and (iii) the value of the interest; or (b) the holder of any interest that is junior to the interests of the rejecting class will not receive or retain any property under the plan on account of such junior interest.

In view of the deemed rejection by holders of Existing Delta Equity Interests in Class 7, the Debtors will seek confirmation of the Plan pursuant to the "cram down" provisions of the Bankruptcy Code. The Debtors believe that they will meet the "fair and equitable" requirements of section 1129(b) of the Bankruptcy Code with respect to holders of Existing Delta Equity Interests in Class 7 because no holders of junior Claims or Equity Interests will receive distributions under the Plan.

Intercompany Equity Interests (Class 7) are unimpaired and thus are deemed to accept the Plan.

### d. Unfair Discrimination

A plan of reorganization does not "discriminate unfairly" if a dissenting class is treated substantially equally to other classes similarly situated and no such class receives more than it is legally entitled to receive for its claims or interests. The Debtors do not believe that the Plan discriminates unfairly against any impaired Class of Claims or Equity Interests. The Debtors believe that the Plan and the treatment of all Classes of Claims and Equity Interests under the Plan satisfy the foregoing requirements for nonconsensual confirmation of the Plan.

The Debtors believe the Plan does not discriminate unfairly with respect to the General Unsecured Claims in Class 4, the Noteholder Claims in Class 5, the Intercompany Claims in Class 6 and the Existing Delta Equity Interests in Class 7. Such Claims and Equity Interests are subordinated to other Claims under sections 510(b) or (c) of the Bankruptcy Code or sections 726(a)(2)(C), (a)(3), (a)(4), or (a)(5) of the Bankruptcy Code as incorporated into section 1129(a)(7) of the Bankruptcy Code, or are otherwise not entitled to payment under the absolute priority rule until all other creditors have been paid in full. Because all holders of General Unsecured Claims in Class 4, the Noteholder Claims in Class 5, the Intercompany Claims in Class 6, the Existing Delta Equity Interests in Class 7 and the Securities Litigation Claims in Class 8 are treated similarly to holders of Claims or Equity Interests in other Classes of equal rank, there is no unfair discrimination with respect to such holders of General Unsecured Claims, Noteholder Claims, Intercompany Claims and Existing Delta Equity Interests.

## D. Valuation of the Debtors

Conway has advised the Debtors with respect to the reorganization value of the Reorganized Debtors on a going concern basis and has estimated the reorganization value of the Reorganized Debtors. This estimated reorganization value includes (i) excess cash and (ii) consideration of NOLs. Conway's estimate of an enterprise value does not constitute an opinion as to fairness from a financial point of view of the consideration to be received under the Plan or of the terms and provisions of the Plan. The valuation analysis is attached hereto as Exhibit 5 to the Disclosure Statement (the "**Valuation Analysis**").

# X. CERTAIN FEDERAL AND STATE SECURITIES LAW CONSIDERATIONS

## A. Exemption from Registration Requirements for Issuance of New Securities

The Debtors will rely on section 1145 of the Bankruptcy Code to exempt the issuance of the New Common Stock issued pursuant to the Plan from the registration requirements of the Securities Act and any state securities laws. Section 1145 of the Bankruptcy Code exempts from registration the offer or sale of securities of the debtor or a successor to a debtor under a chapter 11 plan if such securities are offered or sold in exchange for a claim against or equity in, or a claim for an administrative expense in a case concerning, the debtor or a successor to the debtor under the plan. The Debtors believe that Reorganized Delta is a successor to the Debtors under the Plan for purposes of section 1145 of the Bankruptcy Code and that the issuance of the New Common Stock under the Plan will satisfy the requirements of section 1145 and is therefore exempt from the registration requirements of the Securities Act and state securities laws.

### B. Restrictions in the Stockholders' Agreement

At the Supporting Noteholders' discretion and with the Supporting Noteholders' unanimous consent, Supporting Noteholders may execute and enter into a Stockholders' Agreement containing restrictions on the transfer of the New Common Stock to minimize the likelihood of any potential adverse federal income tax consequences resulting from an ownership change (as defined in section 382 of the Internal Revenue Code) in Reorganized Delta consistent with those described in Section VII.C.4 of this Disclosure Statement.

### C. Subsequent Transfers of Securities

In general, recipients of New Common Stock under the Plan will, subject to the Restated Certificate of Incorporation and/or Stockholders' Agreement, as the case may be, be able to resell their securities without registration under the Securities Act pursuant to the exemption provided by section 4(1) of the Securities Act, unless the holder of such security is an "underwriter" within the meaning of section 2(a)(11) of the Securities Act. In addition, the New Common Stock issued under the Plan generally may be resold without registration under state securities laws pursuant to various exemptions provided by the respective laws of the several states. However, recipients of the New Common Stock issued under the Plan are advised to consult with their own legal advisors as to the availability of any such exemption from registration under state law in any given instance and as to any applicable requirements or conditions to such availability.

Section 1145(b) of the Bankruptcy Code defines "underwriter" as one who (a) purchases a claim with a view to distribution of any security to be received in exchange for such claim, (b) offers to sell securities issued under a plan for the holders of such securities, (c) offers to buy securities issued under a plan from persons receiving such securities, if the offer to buy is made with a view to distribution, or (d) is an issuer of the relevant security.

GIVEN THE COMPLEX NATURE OF THE QUESTION OF WHETHER A PARTICULAR PERSON MAY BE AN UNDERWRITER WITH RESPECT TO THE NEW COMMON STOCK, THE DEBTORS MAKE NO REPRESENTATION CONCERNING THE RIGHT OF ANY PERSON TO RESELL OR OTHERWISE TRANSFER THE SECURITIES ISSUED UNDER THE PLAN. THE DEBTORS RECOMMEND THAT HOLDERS OF CLAIMS CONSULT THEIR OWN COUNSEL CONCERNING WHETHER THEY MAY FREELY TRADE SUCH SECURITIES WITHOUT REGISTRATION UNDER THE SECURITIES ACT.

## XI. ALTERNATIVES TO CONFIRMATION AND CONSUMMATION

If the Plan is not confirmed and consummated, the alternatives to the Plan include (a) liquidation of the Debtors under chapter 7 of the Bankruptcy Code and (b) an alternative plan of reorganization.

### A. Liquidation Under Chapter 7

If the Plan cannot be confirmed, the Chapter 11 Cases may be converted to cases under chapter 7 of the Bankruptcy Code. In such a case, a trustee would be appointed to liquidate the

assets of the Debtors for distribution to the creditors in accordance with the priorities established by the Bankruptcy Code. The trustee would retain professionals at the expense of the Debtors' estates, liquidate the Debtors' remaining assets and, if necessary, investigate and pursue causes of action on the Debtors' behalf. A discussion of the effects of a chapter 7 liquidation would have on the recoveries of holders of Claims and Equity Interests is set forth in the Debtors' Liquidation Analysis attached hereto as Exhibit 3.

The Debtors believe that liquidation under chapter 7 would result in (a) significantly smaller distributions being made to its creditors than those provided for in the Plan because of (i) the likelihood that the assets of the Debtors would have to be sold or otherwise disposed of in a less orderly fashion over a shorter period of time in extremely poor market conditions, (ii) additional administrative expenses involved in the appointment of a trustee and its professionals, and (iii) additional expenses and Claims, some of which would be entitled to priority, which would be generated during the liquidation and from the rejection of leases and other executory contracts in connection with a cessation of the Debtors' operations; and (b) significantly less recovery for holders of General Unsecured Claims and Noteholder Claims.

### B. Alternative Plan(s) of Reorganization

If the Plan is not confirmed, the Debtors (or, in certain circumstances, any other party in interest) could attempt to formulate a different plan. Such a plan might involve either a reorganization and continuation of the Debtors' businesses, or an orderly liquidation of assets, or a combination of both. With respect to an alternative plan, the Debtors have explored various alternatives in connection with the formulation and development of the Plan. The Debtors believe that its Plan enables its creditors to realize the most value under the present circumstances. In a liquidation under chapter 11, the Debtors' assets would be sold in an orderly fashion over a more extended period of time than in a liquidation under chapter 7, possibly resulting in somewhat greater recoveries than would be obtained in chapter 7. No trustee is required in a chapter 11 liquidation, so if a trustee were not appointed, the expenses and professional fees for a chapter 11 liquidation would most likely be lower than those incurred in a chapter 7 liquidation. Although preferable to a chapter 7 liquidation, the Debtors believe that any alternative liquidation under chapter 11 is a much less attractive alternative to its creditors than the Plan because of the greater creditor recoveries provided by the Plan.

## XII. CERTAIN U.S. FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN

The following is a summary of certain U.S. federal income tax consequences of the Plan to the Debtors and certain Creditors and Interest Holders, including Holders of Allowed DIP Facility Claims, Allowed Priority Non-Tax Claims, Allowed Other Secured Claims, Allowed General Unsecured Claims, Allowed Noteholder Claims and Existing Delta Equity Interests. This summary is based on the Internal Revenue Code, Treasury Regulations thereunder, and administrative and judicial interpretations and practice, all as in effect on the date of the Disclosure Statement and all of which are subject to change, with possible retroactive effect. Due to the lack of definitive judicial and administrative authority in a number of areas, substantial uncertainty may exist with respect to some of the tax consequences described below. No opinion of counsel has been obtained, and the Debtors do not intend to seek a ruling from the IRS as to any of the tax consequences of the Plan discussed below. There can be no assurance that the IRS will not challenge one or more of the tax consequences of the Plan described below.

This summary does not apply to Holders of Claims or Interests that are not United States persons (as such term is defined in the Internal Revenue Code) or that are otherwise subject to special treatment under U.S. federal income tax law (including, for example, partnerships or entities treated as partnerships for U.S. federal income tax purposes; persons whose functional currency is not the U.S. dollar; banks; governmental authorities or agencies; financial institutions; insurance companies; pass-through entities; tax-exempt organizations; brokers and dealers in securities, currencies or commodities; small business investment companies; persons whose Claims arose in connection with providing services to the Debtors, including in an employment capacity; and regulated investment companies). The following discussion assumes that Holders of Allowed DIP Facility Claims, Allowed Priority Non-Tax Claims, Allowed Other Secured Claims, Allowed General Unsecured Claims, Allowed Noteholder Claims and Existing Delta Equity Interests hold such Claims and Interests as "capital assets" within the meaning of section 1221 of the Internal Revenue Code. Moreover, this summary does not purport to cover all aspects of U.S. federal income taxation that may apply to the Debtors and Holders of Allowed DIP Facility Claims, Allowed Priority Non-Tax Claims, Allowed Other Secured Claims, Allowed General Unsecured Claims, Allowed Noteholder Claims and Existing Delta Equity Interests based upon their particular circumstances. Additionally, this summary does not discuss any tax consequences that may arise under any laws other than U.S. federal income tax law, including under U.S. federal estate tax law or any state, local, or foreign tax law.

The following summary is not a substitute for careful tax planning and advice based on the particular circumstances of each Holder of a Claim or Interest, including Holders of Allowed DIP Facility Claims, Allowed Priority Non-Tax Claims, Allowed Other Secured Claims, Allowed General Unsecured Claims, Allowed Noteholder Claims and Existing Delta Equity Interests. Each Holder of a Claim or Interest is urged to consult his, her, or its own tax advisors as to the U.S. federal income tax consequences, as well as other tax consequences, including under U.S. federal estate tax law or any applicable state, local, and foreign law, of the restructuring described in the Plan.

### A. Certain U.S. Federal Income Tax Consequences to the Holders of Allowed Claims and Interests

#### 1. Consequences to Holders of Allowed DIP Facility Claims, Allowed Priority Non-Tax Claims, and Other Secured Claims

Pursuant to the Plan, each DIP Facility Claim, Priority Non-Tax Claim, and Other Secured Claim will be paid in full in Cash. If a Holder of an Allowed DIP Facility Claim, Allowed Priority Non-Tax Claim, or Allowed Other Secured Claim receives Cash in satisfaction of its Claim, the satisfaction should be treated as a taxable exchange under section 1001 of the Internal Revenue Code. Subject to the "market discount" rules described below in Article XII.A.6, the Holder should recognize capital gain or loss (which capital gain or loss will be long-term capital gain or loss if the Holder has held the debt instrument or other asset underlying its Claim for more than one year) equal to the difference between (x) the amount of Cash received and (y) the Holder's adjusted tax basis in the debt instrument underlying its Claim. To the extent that the Cash received in the exchange is allocable to accrued but unpaid interest that has not already been taken into income by the Holder, the Holder may recognize ordinary interest income (*see* Article XII.A.5 below for further information).

If a Holder of an Allowed DIP Facility Claim receiving Cash under the Plan makes a new loan to Reorganized Delta as part of the Exit Facility Loan, the tax consequences to such Holder could differ from those discussed above. Any Holder of an Allowed DIP Facility Claim contemplating such a loan is urged to seek advice from an independent tax advisor regarding the tax consequences to it in light of its particular circumstances.

### 2. Consequences to Holders of Allowed General Unsecured Claims

Pursuant to the Plan, General Unsecured Claims will be exchanged for New Common Stock of Reorganized Delta, although Holders of Allowed General Unsecured Claims may elect instead to receive 15% of the Allowed amount of such Claim in Cash on the Effective Date. A Holder of such General Unsecured Claims generally will be treated as exchanging its General Unsecured Claims for Cash and/or New Common Stock of Reorganized Delta in a taxable exchange under section 1001 of the Internal Revenue Code. Accordingly, each Holder of such an Allowed General Unsecured Claim should recognize gain or loss equal to the difference between: (i) the amount of Cash and the fair market value of the New Common Stock of Reorganized Delta (as of the date the stock is distributed to the Holder) received in exchange for the General Unsecured Claim; and (ii) the Holder's adjusted basis, if any, in the General Unsecured Claim. Subject to the "market discount" rules described below, such gain or loss should be capital gain or loss as long as the General Unsecured Claim is held as a capital asset and should be long-term capital gain or loss if the Holder has a holding period for a General Unsecured Claim of more than one year. A Holder's tax basis in New Common Stock of Reorganized Delta received should equal the fair market value of the New Common Stock of Reorganized Delta as of the date of the exchange. A Holder's holding period for New Common Stock of Reorganized Delta should begin on the day following the date of the exchange of the General Unsecured Claim for the New Common Stock of Reorganized Delta.

### 3. Consequences to Holders of Allowed Noteholder Claims

Pursuant to the Plan, Noteholder Claims will be exchanged for New Common Stock of Reorganized Delta. The U.S. federal income tax consequences to Holders of Allowed Noteholder Claims depend on whether: (i) the Noteholder Claims are treated as "securities" of Delta Corporation (as opposed to not being treated as "securities" or being treated as "securities" issued by Delta Corporation's subsidiaries) for purposes of the reorganization provisions of the Internal Revenue Code; and (ii) the Debtors' restructuring qualifies as a tax-free reorganization.

Whether an instrument constitutes a "security" is determined based on all the facts and circumstances, but most authorities have held that term-length of a debt instrument at issuance is an important factor in determining whether such an instrument is a security for U.S. federal income tax purposes. These authorities have indicated that a term of less than five years is evidence that the instrument is not a security, whereas a term of ten years or more is evidence that it is a security. There are numerous other factors that could be taken into account in determining whether a debt instrument is a security, including, among others: the security for payment; the creditworthiness of the obligor; the subordination or lack thereof to other creditors; the right to vote or otherwise participate in the management of the obligor; convertibility of the instrument into an equity interest of the obligor; whether payments of interest are fixed, variable, or contingent; and whether such payments are made on a current basis, or accrued. The Notes

are generally expected to be treated as securities for this purpose and the remainder of this discussion assumes the Notes will be so treated.

The exchange of Noteholder Claims for New Delta Common Stock pursuant to the Plan should be treated as a tax-free reorganization under the rules applicable to recapitalizations. Each Holder of an Allowed Noteholder Claim should not recognize any gain or loss on the exchange, although a Holder may recognize ordinary income to the extent that New Common Stock of Reorganized Delta is treated as received in satisfaction of accrued but unpaid interest on such Noteholder Claims (s*ee* Article XII.A.5 below for further information). Such Holder should obtain a tax basis in the New Common Stock of Reorganized Delta equal to the Holder's tax basis in the Noteholder Claim surrendered for the New Common Stock of Reorganized Delta and should have a holding period for the New Common Stock of Reorganized Delta that includes the Holder's holding period in the Noteholder Claim exchanged for the New Common Stock of Reorganized Delta; provided, however, that the tax basis of any share of New Common Stock of Reorganized Delta (or portion thereof) treated as received in satisfaction of accrued interest should equal the amount of such accrued interest, and the holding period for such New Common Stock of Reorganized Delta (or portion thereof) should begin on the day following the date of the exchange of the Noteholder Claim for the New Common Stock of Reorganized Delta.

4. **Consequences to Holders of Existing Delta Equity Interests**

Holders of Existing Delta Equity Interests, which are being cancelled under the Plan, will be entitled to claim a worthless stock deduction (assuming that the taxable year that includes the Effective Date of the Plan is the same taxable year in which such stock first became worthless and only if such Holder had not previously claimed a worthless stock deduction with respect to any Existing Delta Equity Interest) in an amount equal to the Holder's adjusted basis in the Existing Delta Equity Interests. If the Holder held its Existing Delta Equity Interest as a capital asset, the loss will be treated as a capital loss.

5. **Accrued But Unpaid Interest**

A portion of the New Common Stock of Reorganized Delta received by a Holder of a Claim may be attributable to accrued but unpaid interest on such Claim. Such amount should be taxable to that Holder as interest income if such accrued interest has not been previously included in the Holder's gross income for U.S. federal income tax purposes.

If the fair market value of the New Common Stock of Reorganized Delta is not sufficient to fully satisfy all principal and interest on an Allowed Claim, the extent to which such New Common Stock of Reorganized Delta will be attributable to accrued but unpaid interest is unclear. Under the Plan, the aggregate consideration to be distributed to Holders of Allowed Claims in each Class will be treated as first satisfying an amount equal to the stated principal amount of the Allowed Claim for such Holders and any remaining consideration as satisfying accrued but unpaid interest, if any. Certain legislative history indicates that an allocation of consideration as between principal and interest provided in a chapter 11 plan of reorganization is binding for U.S. federal income tax purposes. There can be no assurance, however, that the IRS will not take the position that the consideration received by a Holder should be allocated in some way other than as provided in the Plan. Holders of Claims should consult their own tax advisors regarding the proper allocation of the consideration received by them under the Plan.

6. **Market Discount**

Holders who exchange DIP Facility Claims, Priority Non-Tax Claims, or Other Secured Claims for Cash or General Unsecured Claims for New Common Stock of Reorganized Delta may be affected by the "market discount" provisions of sections 1276 through 1278 of the Internal Revenue Code. Under these rules, some or all of the gain recognized by a Holder may be treated as ordinary income (instead of capital gain), to the extent of the amount of accrued "market discount" on such DIP Facility Claims, Priority Non-Tax Claims, Other Secured Claims, General Unsecured Claims and Noteholder Claims.

In general, a debt obligation with a fixed maturity of more than one year that is acquired by a holder on the secondary market (or, in certain circumstances, upon original issuance) generally is considered to be acquired with "market discount" as to that holder if the debt obligation's stated redemption price at maturity (or revised issue price as defined in section 1278 of the Internal Revenue Code, in the case of a debt obligation issued with original issue discount) exceeds the tax basis of the debt obligation in the holder's hands immediately after its acquisition. However, a debt obligation is not a "market discount bond" if such excess is less than a statutory de minimis amount (equal to 0.25 percent of the debt obligation's stated redemption price at maturity or revised issue price, in the case of a debt obligation issued with original issue discount, multiplied by the number of complete years remaining until maturity at the time of the acquisition).

Gain recognized by a Holder on the taxable disposition of a DIP Facility Claim, Priority Non-Tax Claim, Other Secured Claim, General Unsecured Claim or Noteholder Claim (each as determined as described above) that was acquired with market discount may be treated as ordinary income to the extent of the market discount that accrued thereon while the DIP Facility Claim, Priority Non-Tax Claim, Other Secured Claim, General Unsecured Claim was held by the Holder (unless the Holder elected to include market discount in income as it accrued). To the extent that Noteholder Claims that were acquired with market discount are exchanged in a tax-free transaction for New Common Stock of Reorganized Delta, any market discount that accrued on the Noteholder Claims (up to the time of the exchange) but was not recognized by the Holder may be carried over to the New Common Stock of Reorganized Delta received therefor and any gain recognized on the subsequent sale, exchange, redemption or other disposition of such New Common Stock of Reorganized Delta will be treated as ordinary income to the extent of such accrued market discount.

Holders who purchased their DIP Facility Claims, Priority Non-Tax Claims, Other Secured Claims, General Unsecured Claims or Noteholder Claims with market discount are advised to consult their tax advisors regarding the tax consequences to them under the market discount rules.

7. **Bad Debt Deduction**

A Holder who, under the Plan, receives in respect of a Claim an amount less than the Holder's tax basis in the Claim may be entitled to a bad debt deduction in some amount under section 166(a) of the Internal Revenue Code. The rules governing character, timing and amount of bad debt deductions place considerable emphasis on the facts and circumstances of the Holder, the obligor and the instrument with respect to which a deduction is claimed. Each

Holder of a Claim, therefore, is urged to consult its tax advisors with respect to its ability to take such a deduction.

8. **Limitation on Use of Capital Losses**

Holders of Claims are subject to limits on their use of capital losses. For non-corporate holders, capital losses may be used to offset any capital gains (without regard to holding periods) plus ordinary income to the extent of the lesser of (1) $3,000 ($1,500 for married individuals filing separate returns) or (2) the excess of the capital losses over the capital gains. Non-corporate holders may carry over unused capital losses and apply them to capital gains and a portion of their ordinary income as described above for an unlimited number of years. Corporate holders cannot use capital losses to offset ordinary income and may carry over unused capital losses only to the five years following the capital loss year, and are allowed to carry back unused capital losses to the three years preceding the capital loss year.

9. **Information Reporting and Backup Withholding**

In general, information reporting requirements may apply to distributions or payments under the Plan. Additionally, under the backup withholding rules, a Holder of a Claim may be subject to backup withholding (currently at a rate of 28%) with respect to distributions or payments made pursuant to the Plan unless that Holder: (a) falls within certain exempt categories (which generally include corporations) and, when required, demonstrates that fact; or (b) provides a correct taxpayer identification number and certifies under penalty of perjury that the taxpayer identification number is correct and that the Holder is not subject to backup withholding because of a failure to report all dividend and interest income. Backup withholding is not an additional tax, but merely an advance payment that may be refunded to the extent it results in an overpayment of tax, provided that the required information is provided to the IRS.

The Debtors will withhold all amounts required by law to be withheld from payments of interest. The Debtors will comply with all applicable reporting requirements of the Internal Revenue Code.

THE U.S. FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN ARE COMPLEX. THE FOREGOING SUMMARY DOES NOT DISCUSS ALL ASPECTS OF U.S. FEDERAL INCOME TAXATION THAT MAY BE RELEVANT TO A PARTICULAR HOLDER OF A CLAIM OR INTEREST IN LIGHT OF SUCH HOLDER'S CIRCUMSTANCES AND INCOME TAX SITUATION. ALL HOLDERS OF CLAIMS AGAINST AND INTERESTS IN THE DEBTORS SHOULD CONSULT WITH THEIR TAX ADVISORS AS TO THE PARTICULAR TAX CONSEQUENCES TO THEM OF THE TRANSACTION CONTEMPLATED BY THE RESTRUCTURING, INCLUDING THE APPLICABILITY AND EFFECT OF ANY STATE, LOCAL, OR FOREIGN TAX LAWS, AND OF ANY CHANGE IN APPLICABLE TAX LAWS.

### B. Certain U.S. Federal Income Tax Consequences to Reorganized Debtors

#### 1. Cancellation of Debt and Reduction of Tax Attributes

In general, absent an exception, a debtor will realize and recognize cancellation of debt income ("**COD Income**") upon satisfaction of its outstanding indebtedness for total consideration less than the amount of such indebtedness. The amount of COD Income, in general, is the excess of (a) the adjusted issue price of the indebtedness satisfied, over (b) the sum of (x) the amount of Cash paid, and (y) the fair market value of any non-cash consideration (including stock of the debtor) given in satisfaction of such indebtedness at the time of the exchange.

A debtor will not, however, be required to include any amount of COD Income in gross income if the debtor is under the jurisdiction of a court in a case under chapter 11 of the Bankruptcy Code and the discharge of debt occurs pursuant to that proceeding. Instead, as a consequence of such exclusion, a debtor must reduce certain of its tax attributes by the amount of COD Income that it excluded from gross income under section 108 of the Internal Revenue Code. In general, tax attributes will be reduced in the following order: (a) NOLs; (b) general business tax credit carryovers, (c) minimum tax credits, (d) capital loss carryovers; (e) tax basis in assets; and (f) foreign tax credit carryovers. A debtor with COD Income may elect first to reduce the basis of its depreciable assets under section 108(b)(5) of the Internal Revenue Code.

Because the Plan provides that Holders of Allowed General Unsecured Claims may, and Noteholder Claims will, receive New Common Stock of Reorganized Delta, the amount of COD Income, and accordingly the amount of tax attributes required to be reduced, will depend on the fair market value of the New Common Stock of Reorganized Delta exchanged therefor. This value cannot be known with certainty until after the Effective Date.

#### 2. Limitation of Net Operating Loss Carry Forwards and Other Tax Attributes

The precise amount of NOL carryovers that will be available to the Reorganized Debtors at emergence is based on a number of factors and is impossible to calculate at this time. Some of the factors that will impact the amount of available NOLs include: the amount of tax losses incurred by the Debtors in 2012; the value of the New Common Stock of Reorganized Delta; and the amount of COD Income incurred by the Debtors in connection with consummation of the Plan. The Debtors anticipate that, taking these factors into account, they will have substantial federal NOL carryovers following emergence, subject to the limitations discussed below. The Reorganized Debtors' subsequent utilization of any losses and NOL carryovers remaining and possibly certain other tax attributes may be restricted as a result of and upon consummation of the Plan.

Following consummation of the Plan, the Debtors anticipate that any remaining NOL and tax credit carryovers and, possibly, certain other tax attributes of the Reorganized Debtors allocable to periods prior to the Effective Date (collectively, "**Pre-Change Losses**") may be subject to limitation under section 382 of the Internal Revenue Code as a result of an "ownership change" of the Reorganized Debtors by reason of the transactions pursuant to the Plan. Under section 382 of the Internal Revenue Code, if a corporation undergoes an "ownership change," the

amount of its Pre-Change Losses that may be utilized to offset future taxable income generally is subject to an annual limitation.

**a. General Section 382 Annual Limitation**

In general, the amount of the annual limitation to which a corporation that undergoes an "ownership change" would be subject is equal to the product of (i) the fair market value of the stock of the corporation immediately before the "ownership change" (with certain adjustments) multiplied by (ii) the "long-term tax-exempt rate" in effect for the month in which the "ownership change" occurs (currently 3.06%, as of June 2012). However, the annual limitation is reduced to zero if the corporation fails to continue its business enterprise for the two years following the ownership change. Any unused limitation may be carried forward, thereby increasing the annual limitation in the subsequent taxable year.

If the Debtors' assets in the aggregate have a fair market value less than the Debtors' tax basis therein (a "**Net Unrealized Built-in Loss**"), any built-in losses recognized during the following five years (up to the amount of the original Net Unrealized Built-in Loss), including loss on disposition of assets and depreciation and amortization deductions attributable to the excess of the tax basis of the assets of the Debtors over their fair market value as of the date of the ownership change, generally will be treated as Pre-Change Losses subject to the annual limitation. While the Debtors have not completed a review and valuation of their assets, the Debtors expect to have a Net Unrealized Built-in Loss after the consummation of the Plan, although this Net Unrealized Built-in Loss is not expected to be substantial.

If the Debtors' assets in the aggregate have a fair market value greater than the Debtors' tax basis therein (such excess, a "**Net Unrealized Built-in Gain**"), any Net Unrealized Built-in Gain recognized by the Debtors in the five years immediately after the ownership change will generally increase the section 382 limitation in the year recognized, such that the Debtors would be permitted to use their pre-change NOLs against such gain in addition to their regular allowance. For these purposes, the Debtors would be permitted to increase their annual section 382 limitation during the five years immediately after the ownership change by an amount determined by reference to the depreciation deductions that a hypothetical purchaser of the Debtors' assets would have been permitted to claim if it had acquired the Debtors' assets in a taxable transaction. While the Debtors have not completed a review and valuation of their assets, the Debtors do not anticipate that they will have a substantial Net Unrealized Built-in Gain in their assets that would allow them to increase the otherwise applicable section 382 limitation.

**b. Special Bankruptcy Exceptions**

An exception to the foregoing annual limitation rules generally applies when so-called "qualified creditors" of a debtor company in chapter 11 receive, in respect of their claims, at least 50% of the vote and value of the stock of the reorganized debtor (or a controlling corporation if also in chapter 11) pursuant to a confirmed chapter 11 plan (the "**382(l)(5) Exception**"). Under the 382(l)(5) Exception, a debtor's Pre-Change Losses are not limited on an annual basis but, instead, are required to be reduced by the amount of any interest deductions claimed during the three taxable years preceding the Effective Date, and during the part of the taxable year prior to and including the Effective Date, in respect of all debt converted into stock in the reorganization.

If the 382(l)(5) Exception applies and the Debtors undergo another "ownership change" within two years after consummation of the Plan, then the Debtors' Pre-Change Losses effectively would be eliminated in their entirety.

Where the 382(l)(5) Exception is not applicable (either because the debtor does not qualify for it or the debtor otherwise elects not to utilize the 382(l)(5) Exception), a second special rule will generally apply (the "**382(l)(6) Exception**"). When the 382(l)(6) Exception applies, a debtor corporation that undergoes an "ownership change" generally is permitted to determine the fair market value of its stock after taking into account the increase in value resulting from any surrender or cancellation of creditors' claims in the bankruptcy. This differs from the ordinary rule that requires the fair market value of a debtor corporation that undergoes an "ownership change" to be determined before the events giving rise to the change. The 382(l)(6) Exception also differs from the 382(l)(5) Exception in that under it the debtor corporation is not required to reduce its NOLs by the amount of interest deductions claimed within the prior three-year period, and the debtor may undergo a change of ownership within two years without triggering the elimination of its NOLs.

Although a final determination will not be made until the Debtors' 2012 U.S. federal income tax return is filed, the Debtors believe there is a significant likelihood they will be eligible to elect, and will elect, to utilize the 382(l)(5) Exception. In the event that the Debtors do not use the 382(l)(5) Exception, the Debtors expect that their use of their NOLs after the Effective Date will be subject to limitation based on the rules discussed above, but taking into account the 382(l)(6) Exception.

### 3. Restrictions on Resale of Securities to Protect NOLs

The Debtors expect to emerge from chapter 11 with valuable tax attributes, including substantial NOLs. Regardless of whether the Debtors elect to utilize the 382(l)(5) Exception, the Reorganized Debtors' ability to utilize these NOLs could be subject to limitation if an "ownership change" with respect to the New Common Stock of Reorganized Delta were to occur after emergence. In order to reduce the risk of an ownership change that might impose such a limitation, Delta's Restated Certificate of Incorporation shall contain restrictions on the transfer of New Common Stock consistent with those described in VII.C.4 of this Disclosure Statement.

### 4. Section 269 of the Internal Revenue Code

Aside from the objective limitations of section 382 of the Internal Revenue Code, the IRS may disallow the subsequent use of a corporation's losses pursuant to section 269 of the Internal Revenue Code. Under section 269, if the IRS determines that the "principal purpose" of an acquisition was to evade or avoid U.S. federal income tax by allowing the taxpayer to secure the benefit of a deduction, credit, or other allowance which such person or corporation would not otherwise enjoy, the IRS may disallow such deduction, credit, or other allowance. Section 269 applies to direct or indirect acquisition of 50% or more (by vote or value) of a corporation's stock, including such acquisition pursuant to a plan of reorganization in chapter 11. The Debtors do not believe that securing a tax benefit is the principal purpose of the acquisition of control of Reorganized Delta by the Debtors' creditors pursuant to the Plan. However, no assurance can be given in this regard.

### 5. Transfer of Assets to the Joint Venture Company

The transfer of assets to the Joint Venture Company by the Debtors generally will be treated in part as a tax-free contribution by the Debtors to the Joint Venture Company in exchange for an interest in the Joint Venture Company and in part as a taxable sale of the Debtors' assets. The Debtors generally will recognize gain or loss on the portion of the transfer treated as a sale in an amount equal to the difference between the Debtors' basis in the assets sold and the amount of cash received. To the extent the Debtors recognize gain on the sale of assets, such gain generally can be sheltered by the Debtors' NOLs.

### 6. Alternative Minimum Tax

In general, an alternative minimum tax ("**AMT**") is imposed on a corporation's alternative minimum taxable income ("**AMTI**") at a 20% rate to the extent such tax exceeds the corporation's regular federal income tax for the year. AMTI is generally equal to regular taxable income with certain adjustments. For purposes of computing AMTI, certain tax deductions and other beneficial allowances are modified or eliminated. In particular, even though a corporation otherwise might be able to offset all of its taxable income for regular tax purposes by available NOL carryforwards, only 90% of a corporation's AMTI may be offset by available NOL carryforwards. The effect of this rule could cause Reorganized Delta to owe a modest amount of federal income tax on taxable income in future years even if NOL carryforwards are otherwise available to offset that taxable income. Additionally, under section 56(g)(4)(G) of the Internal Revenue Code, an ownership change (as discussed above) that occurs with respect to a corporation having a net unrealized built-in loss in its assets will cause, for purposes of calculating Reorganized Delta's "Adjusted Current Earnings" that may increase Reorganized Delta's AMTI, the adjusted basis of each asset of the corporation immediately after the ownership change to be equal to its proportionate share (determined on the basis of respective fair market values) of the fair market value of the assets of the corporation, as determined under section 382(h) of the Internal Revenue Code, immediately before the ownership change.

## XIII. CONCLUSION AND RECOMMENDATION

The Debtors believe that confirmation and implementation of the Plan is in the best interests of the holders of Claims in Classes 4 and 5, who are entitled to vote on the Plan, and preferable to any of the alternatives described above because it will result in the greatest recoveries to holders of all Claims. Other alternatives would involve significant delay, uncertainty and substantial additional administrative costs. Consequently, the Debtors urge holders of Claims in Classes 4 and 5 to vote to ACCEPT the Plan and to evidence their acceptance by duly completing and returning their ballots so that they are actually received by Epiq Bankruptcy Solutions, LLC on or before __:__ _.m., Eastern Time, on _____ __, 2012.

The Supporting Noteholders, the DIP Agent and the Plan Sponsor have reviewed the Plan in detail. Subject to the approval of certain terms described in Plan Supplements prior to the Voting Deadline, the Supporting Noteholders, the DIP Agent and the Plan Sponsor support the Plan.

Respectfully Submitted,

Dated: June 4, 2012
Denver, Colorado

**DELTA PETROLEUM CORPORATION**

By:_____
John T. Young, Jr.
Chief Restructuring Officer

**DPCA LLC**

By:_____
John T. Young, Jr.
Chief Restructuring Officer

**DELTA EXPLORATION COMPANY, INC.**

By:_____
John T. Young, Jr.
Chief Restructuring Officer

**DELTA PIPELINE, LLC**

By:_____
John T. Young, Jr.
Chief Restructuring Officer

**DLC, INC.**

By:_____
John T. Young, Jr.
Chief Restructuring Officer

**CEC, INC.**

By:_____
John T. Young, Jr.
Chief Restructuring Officer

**CASTLE TEXAS PRODUCTION LIMITED PARTNERSHIP**

By:_____
John T. Young, Jr.
Chief Restructuring Officer

**AMBER RESOURCES COMPANY OF COLORADO**

By:_____
John T. Young, Jr.
Chief Restructuring Officer

**CASTLE EXPLORATION COMPANY, INC.**

By:_____
John T. Young, Jr.
Chief Restructuring Officer

# Exhibit 1

Proposed Joint Chapter 11 Plan of Reorganization of Delta Petroleum Corporation and its Debtor Affiliates

**IN THE UNITED STATES BANKRUPTCY COURT**
**FOR THE DISTRICT OF DELAWARE**

| | |
|---|---|
| *In re* | Chapter 11 |
| DELTA PETROLEUM CORPORATION, et al.,[1] | Case No. 11-14006 (KJC) |
| Debtors. | (Jointly Administered) |

# PROPOSED JOINT CHAPTER 11 PLAN OF REORGANIZATION OF DELTA PETROLEUM CORPORATION AND ITS DEBTOR AFFILIATES

Delta Petroleum Corporation and its above-captioned debtor affiliates, as debtors and debtors in possession (collectively, the "***Debtors***"), propose the following joint chapter 11 plan of reorganization (the "***Plan***") pursuant to section 1121(a) of the Bankruptcy Code. These Chapter 11 Cases have been consolidated for procedural purposes only and are being jointly administered pursuant to an order of the Bankruptcy Court. Capitalized terms used in the Plan and not otherwise defined have the meanings ascribed to such terms in Article I. Section 1.1. of the Plan.

Reference is made to the Disclosure Statement, filed contemporaneously with the Plan, for a discussion of the Debtors' history, businesses, results of operations, historical financial information, projections and future operations, as well as a summary and analysis of the Plan and certain related matters, including distributions to be made under this Plan.

1. The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number are: Delta Petroleum Corporation (0803), DPCA LLC (0803), Delta Exploration Company, Inc. (9462), Delta Pipeline, LLC (0803), DLC, Inc. (3989), CEC, Inc. (3154), Castle Texas Production Limited Partnership (6054), Amber Resources Company of Colorado (0506), and Castle Exploration Company, Inc. (9007). The Debtors' headquarters are located at: 370 17th Street, Suite 4300, Denver, Colorado 80202.

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2. The Contribution Agreement is attached as an Exhibit hereto without certain schedules and exhibits thereto that contain confidential information about leases, property holdings and agreements. A party-in-interest may view copies of those schedules and exhibits upon entry into a confidentiality agreement with the Debtors, in form and substance satisfactory to the Debtors and the Plan Sponsor in their sole discretion.

## ARTICLE I

## DEFINITIONS AND INTERPRETATION

1.1. ***Definitions***. The following terms used herein shall have the respective meanings set forth below:

***3 3/4% Indenture*** means that certain indenture, dated as of April 25, 2007, between Delta and the Indenture Trustee, pursuant to which the 3 3/4% Notes were issued.

***3 3/4% Notes*** means those certain 3 3/4% Senior Convertible Notes due 2037 issued by Delta pursuant to the 3 3/4% Indenture, approximately $115,527,083.30 of which were outstanding as of the Petition Date.

***7% Indenture*** means that certain indenture, dated as of March 15, 2005, between Delta and the Indenture Trustee, pursuant to which the 7% Notes were issued.

***7% Notes*** means those certain 7% Senior Unsecured Notes due 2015 issued by Delta pursuant to the 7% Indenture, approximately $152,187,500 of which were outstanding as of the Petition Date.

***Administrative Claim*** means a Claim for any right to payment of an administrative expense of the Chapter 11 Cases, of a kind specified in section 503(b) of the Bankruptcy Code and entitled to priority pursuant to sections 507(a)(2) or 507(b) of the Bankruptcy Code, including (i) any actual and necessary costs and expenses of preserving the Estates, (ii) any indebtedness or obligations incurred or assumed by the Debtors during the Chapter 11 Cases and (iii) any compensation for professional services rendered and reimbursement of expenses incurred by the advisors to the Debtors. Any fees or charges assessed against the estate of the Debtors under section 1930, title 28 of the United States Code are excluded from the definition of Administrative Claim and shall be paid in accordance with Section 12.1 hereof.

***Affiliate*** has the meaning set forth in section 101(2) of the Bankruptcy Code.

***Allowed*** means, with reference to any Claim or Equity Interest, (a) any Claim or Equity Interest arising on or before the Effective Date (i) as to which the Debtor does not object before the Claims Objection Deadline, or (ii) as to which any objection (by any party) has been determined by a Final Order to the extent any interposed objection is determined in favor of the respective Holder, (b) any Claim or Equity Interest as to which the liability of the Debtor and the amount thereof are determined by Final Order of a court of competent jurisdiction other than the Bankruptcy Court, or (c) any Claim or Equity Interest expressly allowed hereunder.

***Avoidance Actions*** means any and all rights, claims and causes of action which a trustee, debtor in possession or other appropriate party in interest (including the Recovery Trustee) would be able to assert on behalf of any of the Estates under applicable state statutes or the avoidance provisions of chapter 5 of the Bankruptcy Code, including actions under one or more of the provisions of Bankruptcy Code §§ 506, 542 through 551, and 553.

***Bankruptcy Code*** means chapter 11 of title 11 of the United States Code.

***Bankruptcy Court*** means the United States Bankruptcy Court for the District of Delaware.

***Bankruptcy Rules*** means the Federal Rules of Bankruptcy Procedure as promulgated by the United States Supreme Court under section 2075 of title 28 of the United States Code.

***Bar Date*** means the deadline established by order of the Bankruptcy Court for filing a Proof of Claim against a Debtor.

***Benefit Plan*** means any employment, compensation, tax-qualified retirement plan, healthcare, bonus, incentive compensation, sick leave and other leaves, vacation pay, expense reimbursement, dependent care, retirement, savings, workers' compensation, life insurance, disability, dependent healthcare, education, severance or other benefit plans or programs and any individual contract or agreement that has not been terminated or rejected for the benefit of the current or former directors, officers or employees of the Debtors and their eligible dependents.

***Board of Managers*** means the board of members of the Joint Venture Company composed of six representatives; four appointed by the Plan Sponsor and two appointed by Reorganized Delta (one of which is to be selected by members of Reorganized Delta board appointed by Whitebox and one of which is to be selected by members of Reorganized Delta board appointed by ZCOF).

***Business Day*** means any day other than a Saturday, a Sunday, a "legal holiday" (as defined in Bankruptcy Rule 9006(a)) or any other day on which banking institutions in New York, New York are required or authorized to close by law or executive order.

***Carry Agreement*** means that certain Carry and Earning Agreement between EnCana Oil & Gas (USA) Inc. and Delta dated February 27, 2008.

***Cash*** means legal tender of the United States of America or equivalents thereof, including, without limitation, payment in such tender by check, wire transfer or any other customary payment method.

***Causes of Action*** means any and all rights, claims, causes of action, litigation, suits, proceedings, rights of setoff, rights of recoupment, complaints, defenses, counterclaims cross-claims and affirmative defenses of any kind or character whatsoever whether known or unknown, asserted or unasserted, reduced to judgment or otherwise, liquidated or unliquidated, fixed or contingent, matured or unmatured, disputed or undisputed, secured or unsecured, assertable directly or derivatively, currently existing or hereafter arising, whether Scheduled or not Scheduled and whether arising under the Bankruptcy Code or other applicable law, in contract or in tort, in law, in equity or otherwise, based in whole or in part upon any act or omission or other event occurring, prior to the Petition Date or during the course of the Chapter 11 Cases, to and including the Effective Date, including, without limitation, (a) claims pursuant

to Bankruptcy Code § 362, (b) claims and defenses such as fraud, mistake, duress and usury, (c) claims under Bankruptcy Code § 510(c), and (d) all Avoidance Actions, but in each case excluding the Wapiti Causes of Action.

***Chapter 11 Cases*** means (a) when used with reference to a particular Debtor, the case pending for that Debtor under chapter 11 of the Bankruptcy Code and (b) when used with reference to all Debtors, the procedurally consolidated chapter 11 cases pending for the Debtors in the Bankruptcy Court under case number 11-14006 (KJC).

***Claim*** has the meaning set forth in section 101(5) of the Bankruptcy Code.

***Claims Objection Deadline*** means the date that is 180 days after the Effective Date.

***Claims Register*** means a register of Claims in the Debtors' cases maintained by the Disbursement Agent.

***Class*** means any group of substantially similar Claims or Equity Interests classified together hereby pursuant to sections 1122 and 1123(a)(1) of the Bankruptcy Code.

***Collateral*** means any property or interest in property of the Estates subject to a Lien, charge or other encumbrance to secure the payment or performance of a Claim, which Lien, charge or other encumbrance is not subject to avoidance or otherwise invalid under the Bankruptcy Code or other applicable law.

***Confirmation Date*** means the date on which the Bankruptcy Court enters the Confirmation Order on the docket of the Chapter 11 Cases, within the meaning of Bankruptcy Rules 5003 and 9021.

***Confirmation Hearing*** means the hearing conducted by the Bankruptcy Court pursuant to section 1128(a) of the Bankruptcy Code to consider confirmation of this Plan, as such hearing may be adjourned or continued from time to time.

***Confirmation Order*** means the order or orders of the Bankruptcy Court entered pursuant to section 1129 of the Bankruptcy Code confirming this Plan, which shall be in form and substance reasonably acceptable to the Plan Sponsor (with respect only to those provisions that have a material effect on the Plan Sponsor's or the Joint Venture Company's commercial, economic or management (with respect to the Joint Venture Company) rights or interests) and reasonably acceptable in all respects to the Supporting Noteholders.

***Contribution Agreement*** means the contribution agreement between the Plan Sponsor, the Debtors and the Joint Venture Company, substantially in the form attached as Plan Exhibit 1.

***Cure*** means the payment of Cash by the Debtors, or the distribution of other property (as the parties may agree or the Bankruptcy Court may order), made in the ordinary course of business after the Effective Date pursuant to an executory contract or unexpired lease

assumed under section 365 or 1123 of the Bankruptcy Code as necessary to (i) cure a monetary default by the Debtors or (ii) if an objection is filed to the Debtors' proposed assumption or rejection of an executory contract or unexpired lease pursuant to the provisions of this Plan, the amount equal to the unpaid monetary obligations owing by the Debtors and required to be paid pursuant to section 365(b) of the Bankruptcy Code, as may be (x) determined by Final Order or (y) otherwise agreed upon by the parties.

***Debtor*** means Delta Petroleum Corporation or any of its affiliated debtors and debtors in possession each in its respective individual capacity as a debtor and debtor in possession in the Chapter 11 Cases.

***Debtors*** means collectively: (a) Delta Petroleum Corporation; (b) DPCA LLC; (c) Delta Exploration Company, Inc.; (d) Delta Pipeline, LLC; (e) DLC, Inc.; (f) CEC, Inc.; (g) Castle Texas Production Limited Partnership; (h) Amber Resources Company of Colorado; and (i) Castle Exploration Company, Inc.

***Delta*** means Delta Petroleum Corporation, a Delaware corporation.

***DIP Agent*** means Whitebox, in its capacity as agent under the DIP Credit Agreement.

***DIP Commitments*** means the commitments of the individual DIP Lenders to make their Pro Rata shares of the DIP Facility available under the DIP Credit Agreement.

***DIP Credit Agreement*** means the *Amended And Restated Senior Secured Debtor-In-Possession Credit Agreement*, dated as of December 21, 2011, among the Debtors, the DIP Agent, the DIP Lenders and the DIP Guarantors, as such agreement has been amended, supplemented or otherwise modified from time-to-time.

***DIP Facility*** means the DIP credit facility governed by the DIP Credit Agreement.

***DIP Facility Claims*** means any Claims arising under or related to any and all amounts outstanding and all other obligation under the DIP Credit Agreement.

***DIP Guarantors*** means the institutions party from time to time as "Guarantors" under the DIP Credit Agreement.

***DIP Lenders*** means the institutions party from time to time as "Lenders" under the DIP Credit Agreement.

***DIP Order*** means that certain *Order (Final) (I) Authorizing the Debtors (A) to Obtain Post-Petition Secured DIP Financing and (B) to Refinance Certain Pre-Petition Indebtedness;(II) Granting Liens and Providing for Superiority Administrative Expense Status;(III) Modifying the Automatic Stay; and (IV) Granting Related Relief*.

***Disbursement Agent*** means any Person in its capacity as a disbursement agent under Section 7.4 hereof. The initial Disbursement Agent shall be the Recovery Trustee.

***Disclosure Statement*** means that certain disclosure statement relating to this Plan, including all exhibits and schedules thereto including this Plan and certain Plan Supplements, as the same may be amended, supplemented or otherwise modified from time to time, as approved by the Bankruptcy Court pursuant to section 1125 of the Bankruptcy Code and rule 3017 of the Bankruptcy Rules.

***Disputed*** means, with respect to any Claim or Interest, any Claim or Interest that is (a) disputed under the Plan, or subject to a timely objection and/or request for estimation in accordance with section 502(c) of the Bankruptcy Code and Bankruptcy Rule 3018, which objection and/or request for estimation has not been withdrawn or determined by a Final Order as to which the time to appeal has expired, (b) improperly asserted, by the untimely or otherwise improper filing of a Proof of Claim as required by order of the Bankruptcy Court or (c) disallowed pursuant to section 502(d) of the Bankruptcy Code. A Claim or Administrative Claim that is Disputed as to its amount shall not be Allowed in any amount for purposes of distribution until it is no longer a Disputed Claim.

***Disputed Claim*** means any Claim that is Disputed.

***Disputed Claims Reserve*** means that portion of property of the Estates constituting Cash which otherwise would have been distributed to the holder of such Disputed Claim if the Disputed Claim had been Allowed in the full amount asserted by the Holder of such Claim or as estimated or otherwise fixed for distribution purposes by agreement of the parties or order of the Bankruptcy Court.

***Effective Date*** means the first Business Day on which all the conditions precedent to the Effective Date specified in Section 9.1 hereof shall have been satisfied or waived as provided in Section 9.2 hereof and upon the filing of a notice by the Debtors of the occurrence of the Effective Date; provided, however, that if a stay, injunction or similar prohibition of the Confirmation Order is in effect, the Effective Date shall be the first Business Day after such stay, injunction or similar prohibition is no longer in effect.

***Entity*** means an entity as such term is defined in section 101(15) of the Bankruptcy Code.

***Equity Interest*** means the interest of any Holders of equity securities of the Debtors represented by issued and outstanding shares of common or preferred stock or other instruments evidencing a present ownership interest in the Debtors, whether or not transferable, or any option, warrant, or right, contractual or otherwise, to acquire any such interest.

***Estates*** means, as to each Debtor, the estate created for the Debtor in its Chapter 11 Case pursuant to section 541 of the Bankruptcy Code.

***Executory Contract*** means a contract to which one or more of the Debtors is a party and that is subject to assumption or rejection under section 365 of the Bankruptcy Code.

***Existing Delta Equity Interest*** means any Equity Interest in Delta existing immediately prior to the Effective Date, which shall include, without limitation, all existing common and preferred stock, existing restricted stock, restricted stock units and stock options.

***Exit Loan*** means the exit term loan to be provided to Reorganized Delta in an amount sufficient, among other needs, to refinance all unpaid Allowed DIP Facility Claims.

***Final Order*** means an order or judgment of the Bankruptcy Court or other court of competent jurisdiction that has been entered on the docket maintained by the clerk of such court and (i) has not been reversed, vacated, stayed, or amended and (ii) as to which 14 calendar days have elapsed following such entry on the docket; provided, however, that no order or judgment shall fail to be a "Final Order" solely because of the possibility that a motion pursuant to section 502(j) or 1144 of the Bankruptcy Code or under Rule 60 of the Federal Rules of Civil Procedure, or Bankruptcy Rule 9024 may be filed with respect to such order or judgment.

***General Trust*** means the Delta Petroleum General Recovery Trust created under the Delta Petroleum General Recovery Trust Agreement for the benefit of Reorganized Delta.

***General Trust Agreement*** means the Delta Petroleum General Recovery Trust Agreement approved and entered into in accordance with the Plan pursuant to which the General Trust will be established and administered, in substantially the same form as attached hereto as Plan Exhibit 4.

***General Trust Assets*** means all legal and equitable interests of the Debtors in the Causes of Action and all legal or equitable defenses or counterclaims of the Debtors to Claims, and any other assets to be vested in the General Trust pursuant to the General Trust Agreement.

***General Trust Oversight Board*** means a three person board selected as follows: one person shall be selected by Whitebox, one person shall be selected by ZCOF, and one person shall be the Recovery Trustee.

***General Unsecured Claim*** means any Claim against the Debtors that is (a) not an Administrative Claim, a Priority Tax Claim, a DIP Facility Claim, a Priority Non-Tax Claim, an Other Secured Claim, a Noteholder Claim, an Intercompany Claim or a Securities Litigation Claim, or (b) is otherwise determined by the Bankruptcy Court to be a General Unsecured Claim. General Unsecured Claims will not include Claims that are disallowed or released, whether by operation of law or pursuant to order of the Bankruptcy Court, written release or settlement, the provisions of this Plan or otherwise.

***Governmental Unit*** means a governmental unit as defined in section 101(27) of the Bankruptcy Code.

***Holder*** means an Entity holding a Claim or an Equity Interest.

***Impaired*** means, with respect to a Class of Claims or Equity Interests, a Class of Claims or Equity Interests that is impaired within the meaning of section 1124 of the Bankruptcy Code.

***Indemnified Person*** has the meaning assigned to such term in Section 10.12 of this Plan.

***Indentures*** means the 3 3/4% Indenture and the 7% Indenture.

***Indenture Trustee*** means US Bank, N.A. and/or its successors, as indenture trustee under each of the Indentures.

***Intercompany Claim*** means any Claim held by one Debtor against any other Debtor(s), including, without limitation, (a) any account reflecting intercompany book entries by such Debtor with respect to any other Debtor(s), (b) any Claim not reflected in intercompany book entries that is held by such Debtor, and (c) any derivative Claim asserted or assertable by or on behalf of such Debtor against any other Debtor(s).

***Intercompany Equity Interest*** means an Equity Interest in a Debtor held by any other Debtor or an Equity Interest in a Debtor held by an Affiliate or Subsidiary of a Debtor.

***Joint Venture Company*** means the limited liability company, Piceance Energy, LLC, established by the Plan Sponsor, and in which Reorganized Delta shall become a member, in accordance with the terms of the Joint Venture Company LLC Agreement, the Contribution Agreement, and the Management Services Agreement.

***Joint Venture Company LLC Agreement*** means the Limited Liability Company Agreement of the Joint Venture Company, substantially in the form attached as Plan Exhibit 2.

***JV Company Credit Facility*** means the $400,000,000 senior secured revolving credit facility, entered into by the Joint Venture Company, the JV Company Credit Facility Guarantors, the JV Company Credit Facility Lenders and the JV Company Credit Facility Agent to provide funds for distributions under this Plan and for the exploration, development, and/or acquisition of oil and gas properties, and for working capital and other general corporate purposes.

***JV Company Credit Facility Agent*** means the institution party from time to time as "Agent" under the JV Company Credit Facility Agreement.

***JV Company Credit Agreement*** means the senior secured revolving credit agreement, which shall be substantially on the terms summarized in Plan Exhibit 6.

***JV Company Credit Facility Guarantors*** means the Plan Sponsor and Reorganized Delta.

***JV Company Credit Facility Lenders*** means the institutions party from time to time as "Lenders" under the JV Company Credit Agreement, including, without limitation, J.P. Morgan Chase Bank, N.A. and Wells Fargo Bank, N.A.

***JV Company Credit Facility Documents*** means the JV Company Credit Agreement and all other documents comprising the definitive documentation of the JV Company

Credit Facility, including, without limitation, all collateral and security documents and any inter-creditor agreements executed in connection therewith as may be amended, restated, supplemented or otherwise modified from time to time.

***Lien*** has the meaning set forth in section 101(37) of the Bankruptcy Code.

***Local Bankruptcy Rules*** means the Local Bankruptcy Rules for the United States Bankruptcy Court for the District of Delaware.

***Manager*** means the party from time to time named as "Sole Manager" under the Joint Venture Company LLC Agreement. The initial Manager shall be the Plan Sponsor.

***Management Fee*** means an amount equal to $650,000 per month paid by the Joint Venture Company to the Manager to reimburse the Manager for its general and administrative overhead expenses in accordance with the Management Services Agreement.

***Management Services Agreement*** means the management services agreement between the Plan Sponsor and the Joint Venture Company, substantially in the form attached as Plan Exhibit 3.

***New Delta Board*** means the initial board of directors of Reorganized Delta.

***New Boards*** mean, collectively, the New Delta Board and the New Subsidiary Boards.

***New Common Stock*** means the new common stock issued by Reorganized Delta on the Effective Date, each par value $0.01 per share.

***New Stockholders' Agreement*** means the Stockholders' Agreement, if any, to be entered into on the Effective Date by the Supporting Noteholders substantially in the form attached as Plan Exhibit 7, with any modifications that are required to be consistent with the provisions of this Plan and the Bankruptcy Code.

***New Subsidiary Boards*** means, with respect to each of the Reorganized Debtors other than Reorganized Delta, the initial board of directors of each such Reorganized Debtor.

***Notes*** means the 3 3/4% Notes and the 7% Notes collectively.

***Noteholder*** means any Holder of the 3 3/4% Notes or the 7% Notes.

***Noteholder Claim*** means any Claim of a Noteholder arising under or related to the 3 3/4% Notes and the 7% Notes.

***Other Secured Claim*** means any Secured Claim against the Debtors other than the DIP Facility Claims.

***Oversight Board*** means the General Trust Oversight Board and/or the Wapiti Trust Oversight Board.

***Person*** means an individual, partnership, corporation, limited liability company, cooperative, trust, unincorporated organization, association, joint venture, government or agency or political subdivision thereof or any other form of legal entity.

***Petition Date*** means December 16, 2011, the date on which each of the Debtors except for Castle Exploration Company, Inc. commenced their Chapter 11 Cases, together with January 6, 2012, the date on which Castle Exploration Company, Inc. commenced its Chapter 11 Case.

***Plan*** means this *Proposed Joint Chapter 11 Plan of Reorganization of Delta Petroleum Corporation and its Debtor Affiliates*, including the exhibits and schedules hereto and documents contained in the Plan Supplements.

***Plan Documents*** means this Plan, the Exit Loan documents, all Plan Exhibits, all documents referenced in or attached as exhibits or schedules to any of the Plan Exhibits, and all other documents described or contemplated herein to be included in the Plan Supplements, including, as the case may be, the documents comprising, or summarized by, the Plan Exhibits.

***Plan Exhibit*** means an exhibit to this Plan, which may be altered, amended, modified or supplemented by Plan Supplements, each of which shall be in form and substance reasonably acceptable to the Supporting Noteholders and, to the extent applicable, the Plan Sponsor (with respect only to those provisions that have a material effect on the Plan Sponsor's or the Joint Venture Company's commercial, economic or management (with respect to the Joint Venture Company) rights or interests).

***Plan Sponsor*** means Laramie Energy II, LLC.

***Plan Supplements*** means, collectively, the documents, agreements, instruments, schedules and exhibits and forms or, as applicable, summaries thereof, specified in this Plan or amending Plan Exhibits, to be filed with the Bankruptcy Court not later than ten (10) days prior to the Confirmation Hearing, each of which shall be in form and substance reasonably acceptable to the Supporting Noteholders and, to the extent applicable, the Plan Sponsor (with respect only to those provisions that have a material effect on the Plan Sponsor's or the Joint Venture Company's commercial, economic or management (with respect to the Joint Venture Company) rights or interests).

***Priority Non-Tax Claim*** means any unsecured Claim entitled to priority in payment as specified in section 507(a)(4), (5), (6) or (7) of the Bankruptcy Code.

***Priority Tax Claim*** means any unsecured Claim of a Governmental Unit of the kind entitled to priority in payment pursuant to sections 502(i) and 507(a)(8) of the Bankruptcy Code.

***Pro Rata*** means the proportion that a Claim in a particular class bears to the aggregate amount of all Claims in such class, except in cases where Pro Rata is used in reference to multiple classes, in which case Pro Rata means the proportion that a Claim in a particular class bears to the aggregate amount of all Claims in such multiple classes.

***Professional*** means an Entity: (a) employed pursuant to a Bankruptcy Court order in accordance with sections 327, 363 or 1103 of the Bankruptcy Code and to be compensated for services rendered before or on the Confirmation Date, pursuant to sections 327, 328, 329, 330, 331 and 363 of the Bankruptcy Code or (b) awarded compensation and reimbursement by the Bankruptcy Court pursuant to section 503(b)(4) of the Bankruptcy Code.

***Proof of Claim*** means a proof of Claim filed against any of the Debtors in the Chapter 11 Cases.

***Record Date*** means the Confirmation Date.

***Recovery Trusts*** means the General Trust and the Wapiti Trust.

***Recovery Trust Agreements*** means the General Trust Agreement and the Wapiti Trust Agreement.

***Recovery Trust Assets*** means the General Trust Assets and the Wapiti Trust Assets.

***Recovery Trust Beneficiaries*** means Reorganized Delta.

***Recovery Trustee*** means John T. Young, Jr., the trustee of the Recovery Trusts, and any successor to that trustee.

***Released Parties*** means each of: (a) the Debtors, the Reorganized Debtors and their Affiliates and Subsidiaries; (b) the DIP Agent; (c) the Indenture Trustee; (d) the Plan Sponsor; (e) the Joint Venture Company; (f) the Supporting Noteholders; and (g) with respect to each of the foregoing Entities in clauses (a) through (f), each such Entities' current or former Affiliates, Subsidiaries, officers, directors, members, principals, employees, agents, financial advisors, attorneys, accountants, investment bankers, consultants, representatives and other Professionals. Subject to Section 10.7 of this Plan, Released Parties shall not include any defendant or potential defendant to a Wapiti Cause of Action.

***Reorganized Delta*** means Delta on and after the Effective Date, which shall be renamed Par Petroleum Corp.

***Reorganized Debtors*** means the Debtors, or any successor thereto, by merger, consolidation or otherwise, on or after the Effective Date.

***Restated Bylaws*** means the amended and restated bylaws (or other analogous charter documents) to be adopted by each of Reorganized Delta and the Reorganized Debtors upon the Effective Date, which shall be substantially in the form to be included in Plan Exhibit 9, and which shall be in a form and substance reasonably acceptable in all respects to the Supporting Noteholders and, with respect to restrictions on transfer described in Section 6.1(b) of this Plan, is acceptable to each of the Supporting Noteholders, with any modifications that are required to be consistent with the provisions of this Plan and the Bankruptcy Code.

***Restated Certificate of Incorporation*** means the amended and restated certificate of incorporation (or other analogous formation document) to be adopted by each of Reorganized Delta and the Reorganized Debtors and filed with the applicable Secretaries of State and/or other applicable authorities in their respective states prior to or on the Effective Date, which shall be substantially in the form to be included in Plan Exhibit 8, and which shall be in a form and substance reasonably acceptable to the Supporting Noteholders and, with respect to restrictions on transfer described in Section 6.1(b) of the Plan, is acceptable to each of the Supporting Noteholders, with any modifications that are required to be consistent with the provisions of this Plan and the Bankruptcy Code.

***Schedules*** means, with respect to each Debtor, those certain Schedules of Assets and Liabilities filed in the Bankruptcy Court, as such Schedules may be amended from time to time.

***Secured Claim*** means, with respect to any Claim against the Debtors, that portion which, pursuant to section 506 of the Bankruptcy Code, is (a) secured by a valid, perfected and enforceable security interest, Lien, mortgage or other encumbrance, that is not subject to avoidance under applicable bankruptcy or non-bankruptcy law, in or upon any right, title or interest of the Debtors in and to property of the relevant Estates, to the extent of the value of the Holder's interest in such property as of the relevant determination date or (b) Allowed as such pursuant to the terms of this Plan (subject to the occurrence of the Effective Date). The defined term Secured Claim includes any Claim to the extent that it is: (i) subject to an offset right under applicable law and (ii) a secured claim against the Debtors pursuant to sections 506(a) and 553 of the Bankruptcy Code.

***Securities Litigation Claim*** means any Claim against any of the Debtors, except any Claim that survives confirmation and effectiveness of this Plan pursuant to Section 10.11, (i) arising from the rescission of a purchase or sale of shares, notes or any other securities of any of the Debtors or an Affiliate of any of the Debtors, (ii) for damages arising from the purchase or sale of any such security, (iii) for violations of the securities laws or the Employee Retirement Income Security Act of 1974 (unless there has been a judicial determination by Final Order that any such Claim is not subject to subordination under section 510(b) of the Bankruptcy Code), or for misrepresentations or any similar Claims related to the foregoing or otherwise subject to subordination under section 510(b) of the Bankruptcy Code, (iv) for attorneys' fees, other charges or costs incurred on account of any of the foregoing Claims, or (v) for reimbursement, contribution or indemnification allowed under section 502 of the Bankruptcy Code on account of any of the foregoing Claims, including Claims based upon allegations that the Debtors made false and misleading statements or engaged in other deceptive acts in connection with the offer, purchase, or sale of securities.

***Subsidiary*** means, with respect to any Person, any other Person as to whom such first Person directly or indirectly (a) owns or controls the majority of equity interests, (b) owns or controls the majority of voting interests or (c) has the power to elect or nominate a majority of the board of directors (or other persons having similar functions).

***Supporting Noteholders*** means Waterstone, Whitebox, ZCOF, and such other holders of the 3 ¾% Notes and 7% Notes party to the Plan Support Agreement and/or the DIP Lenders.

***Tax Code*** means the Internal Revenue Code of 1986, as amended from time to time, and the Treasury regulations promulgated thereunder.

***Wapiti Causes of Action*** means any and all rights, claims, causes of action, litigation, suits, proceedings, rights of setoff, rights of recoupment, complaints, defenses, counterclaims cross-claims and affirmative defenses of any kind or character whatsoever whether known or unknown, asserted or unasserted, reduced to judgment or otherwise, liquidated or unliquidated, fixed or contingent, matured or unmatured, disputed or undisputed, secured or unsecured, assertable directly or derivatively, currently existing or hereafter arising, whether Scheduled or not Scheduled and whether arising under the Bankruptcy Code or other applicable law, in contract or in tort, in law, in equity or otherwise, based in whole or in part upon any act or omission or other event occurring, prior to the Petition Date or during the course of the Chapter 11 Cases, to and including the Effective Date, including, without limitation, (a) claims pursuant to Bankruptcy Code § 362, (b) claims and defenses such as fraud, mistake, duress and usury, (c) claims under Bankruptcy Code § 510(c), and (d) all Avoidance Actions, in each case against Wapiti Oil & Gas Energy, LLC and affiliated persons and entities, excluding ZCOF, any of its affiliates (other than Wapiti Oil & Gas Energy, LLC, and Wapiti Oil & Gas, LLC), and their directors, officers, and employees, but including the ZCOF Parties solely to the extent explicitly set forth in Section 10.7 of this Plan.

***Wapiti Trust*** means the Wapiti Recovery Trust created under the Wapiti Recovery Trust Agreement for the benefit of the Recovery Trust Beneficiaries.

***Wapiti Trust Agreement*** means the Wapiti Recovery Trust Agreement approved and entered into in accordance with the Plan pursuant to which the Wapiti Recovery Trust will be established and administered, in substantially the same form as attached hereto as Plan Exhibit 5.

***Wapiti Trust Assets*** means all legal and equitable interests of the Debtors in the Wapiti Causes of Action.

***Wapiti Trust Oversight Board*** means a three person board selected as follows: one person shall be selected by Whitebox, one person shall be selected by Waterstone, and one person shall be the Recovery Trustee.

***Waterstone*** means Waterstone Capital Management l.p. and/or Waterstone Advisors, LLC.

***Whitebox*** means Whitebox Advisors, LLC.

***ZCOF*** means Zell Credit Opportunities Master Fund, L.P.

***ZCOF Parties*** shall have the meaning set forth in Section 10.7 of this Plan.

1.2. ***Rules of Interpretation***. For purposes of this Plan: (a) whenever from the context it is appropriate, each term, whether stated in the singular or the plural, shall include both the singular and the plural, and pronouns stated in the masculine, feminine or neuter gender shall include the masculine, feminine and the neuter gender; (b) unless otherwise specified, any reference in this Plan to a contract, instrument, release, indenture, or other agreement or document being in a particular form or on particular terms and conditions means that such document shall be substantially in such form or substantially on such terms and conditions; (c) unless otherwise specified, any reference in this Plan to an existing document, schedule or exhibit, whether or not filed with the Bankruptcy Court, shall mean such document, schedule or exhibit, as it may have been or may be amended, modified or supplemented; (d) any reference to a Person as a Holder of a Claim or Equity Interest includes that Person's successors and assigns; (e) unless otherwise specified, all references in this Plan to articles are references to articles of this Plan; (f) unless otherwise specified, all references in this Plan to exhibits are references to exhibits hereto or in the Plan Supplements; (g) the words "herein," "hereof" and "hereby" refer to this Plan in its entirety rather than to a particular portion of this Plan; (h) subject to the provisions of any contract, certificate of incorporation, bylaw, instrument, release or other agreement or document entered into in connection with this Plan, the rights and obligations arising pursuant to this Plan shall be governed by, and construed and enforced in accordance with, applicable federal law, including the Bankruptcy Code and Bankruptcy Rules; (i) captions and headings to articles of this Plan are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation of this Plan; (j) unless otherwise set forth in this Plan, the rules of construction set forth in section 102 of the Bankruptcy Code shall apply; (k) any term used in capitalized form in this Plan that is not otherwise defined but that is used in the Bankruptcy Code or the Bankruptcy Rules shall have the meaning assigned to such term in the Bankruptcy Code or the Bankruptcy Rules, as applicable; (l) all references to docket numbers of documents filed in the Debtors' Chapter 11 Cases are references to the docket numbers under the Bankruptcy Court's CM/ECF system; (m) all references to statutes, regulations, orders, rules of courts and the like shall mean as amended from time to time, as applicable to the Debtors' Chapter 11 Cases, unless otherwise stated; and (n) any immaterial effectuating provisions may be interpreted by the Reorganized Debtors after the Effective Date in such a manner that is consistent with the overall purpose and intent of this Plan all without further Bankruptcy Court order.

In computing any period of time prescribed or allowed by this Plan, the provisions of Bankruptcy Rule 9006(a) shall apply.

## ARTICLE II

## PROVISIONS FOR PAYMENT OF UNCLASSIFIED ADMINISTRATIVE, PROFESSIONAL AND TAX CLAIMS

2.1. ***Administrative Claims***. Each Holder of an Allowed Administrative Claim will receive payment in full in Cash of the unpaid portion of such Allowed Administrative Claim (a) in the case of professional fees and expenses for professionals and advisors retained by the Debtors, as soon as practicable after Bankruptcy Court approval thereof, or, in the case of professionals retained by the Debtors in the ordinary course of its business, if any, on such terms

as are customary between the Debtors and such professionals; (b) with respect to all other Holders of Allowed Administrative Claims, on the later of (i) the Effective Date, (ii) the date such Claim becomes an Allowed Administrative Claim, and (iii) such other date as the Bankruptcy Court may order; or (c) with respect to any Claim described in clauses (a) and (b) above, such later date(s) as otherwise agreed by the Holder of such Claim and the Debtors. Disputed but not yet Allowed Administrative Claims will receive payment on the later of (i) the date such disputed Allowed Administrative Claim becomes Allowed and (ii) the date on which such payment would be made in the ordinary course of the Debtors' business, consistent with past practice and in accordance with the terms and subject to the conditions of any agreements or regulations governing, instruments evidencing or other documents relating to such transactions; provided, however, that Allowed Administrative Claims with respect to liabilities incurred by the Debtors in the ordinary course of business during the Reorganization Case shall be paid in the ordinary course of business in accordance with the terms and conditions of any agreements relating thereto. All Administrative Claims against the Debtors (except for professional fees and expenses for professionals and advisors retained by the Debtors as provided in Section 2.2 below) must be filed with the Bankruptcy Court and served upon the Debtors and their counsel on or before the date that is sixty (60) days after the Effective Date.

2.2. ***Professional Compensation and Reimbursement Claims***. Except as provided in Section 2.1 hereof, all Persons seeking awards by the Bankruptcy Court of compensation for services rendered or reimbursement of expenses incurred through and including the Effective Date under sections 330, 331, 503(b)(2), 503(b)(3), 503(b)(4) or 503(b)(5) of the Bankruptcy Code shall (a) file, on or before the date that is sixty (60) days after the Effective Date, their respective applications for final allowances of compensation for services rendered and reimbursement of expenses incurred and (b) be paid in full, in Cash, in such amounts as are Allowed by the Bankruptcy Court in accordance with the order relating to or Allowing any such Administrative Claim. The Reorganized Debtors are authorized to pay compensation for professional services rendered and reimbursement of expenses incurred after the Effective Date in the ordinary course and without the need for Bankruptcy Court approval.

2.3. ***Priority Tax Claims***. Each Holder of an Allowed Priority Tax Claim shall, in full satisfaction, release, and discharge of such Allowed Priority Tax Claim, at the Reorganized Debtors' election: (a) be paid in full, in Cash on (i) the Effective Date, (ii) the date such Claim becomes an Allowed Priority Tax Claim, (iii) such other date as may be agreed upon by the Reorganized Debtors and the holder of such Allowed Priority Tax Claim, or (iv) such other date as the Bankruptcy Court may order; or (b) be paid in Cash in regular installment payments over the period ending on the fifth anniversary of the Petition Date in accordance with section 1129(a)(9)(C) of the Bankruptcy Code.

## ARTICLE III

## CLASSIFICATION OF CLAIMS AND EQUITY INTERESTS

The categories of prepetition Claims and Equity Interests are classified for all purposes, including voting, confirmation, and distribution, pursuant to this Plan as follows:

| Class | Designation | Impairment | Entitled to Vote |
|---|---|---|---|
| Class 1 | DIP Facility Claims | Unimpaired | No (deemed to accept) |
| Class 2 | Priority Non-Tax Claims | Unimpaired | No (deemed to accept) |
| Class 3 | Other Secured Claims | Unimpaired | No (deemed to accept) |
| Class 4 | General Unsecured Claims | Impaired | Yes |
| Class 5 | Noteholder Claims | Impaired | Yes |
| Class 6 | Intercompany Claims | Impaired | No (deemed to reject) |
| Class 7 | Existing Delta Equity Interests | Impaired | No (deemed to reject) |
| Class 8 | Securities Litigation Claims | Impaired | No (deemed to reject) |
| Class 9 | Intercompany Equity Interests | Unimpaired | No (deemed to accept) |

3.1. ***Introduction***.

In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Claims and Priority Tax Claims have not been classified, and the respective treatment of such unclassified claims is set forth in Article II of this Plan.

A Claim or Equity Interest is placed in a particular Class only to the extent that the Claim or Equity Interest is of the type described in such Class and such Claim or Equity Interest has not been paid, released, or otherwise settled prior to the Effective Date. A Claim or Equity Interest may be bifurcated and classified in other Classes to the extent that any portion of the Claim or Equity Interest is of a type described in such other Classes.

3.2. ***Classes of Claims Against and Equity Interests in Debtors' Estates***.

*Class 1: DIP Facility Claims*

Class 1 consists of all DIP Facility Claims against the Debtors.

*Class 2: Priority Non-Tax Claims*

Class 2 consists of all Priority Non-Tax Claims against the Debtors.

*Class 3: Other Secured Claims*

Class 3 consists of all Other Secured Claim against the Debtors.

*Class 4: General Unsecured Claims*

Class 4 consists of all General Unsecured Claims against the Debtors.

*Class 5: Noteholder Claims*

Class 5 consists of all Noteholder Claims against the Debtors.

*Class 6: Intercompany Claims*

Class 6 consists of all Intercompany Claims against the Debtors.

*Class 7: Existing Delta Equity Interests*

Class 7 consists of all Existing Delta Equity Interests.

*Class 8: Securities Litigation Claims*

Class 8 consists of all Securities Litigation Claims against the Debtors.

*Class 9: Intercompany Equity Interests*

Class 9 consists of all Intercompany Equity Interests.

## ARTICLE IV

## TREATMENT OF CLAIMS AND INTERESTS

4.1. ***Class 1: DIP Facility Claims***. On the Effective Date, each Holder of a DIP Facility Claim shall receive, in full satisfaction, settlement, release, and discharge of and in exchange for such DIP Facility Claim, Cash equal to such Holder's DIP Facility Claims.

4.2. ***Class 2: Priority Non-Tax Claims***. Each Holder of an Allowed Priority Non-Tax Claim shall receive, in full satisfaction, settlement, release, and discharge of and in exchange for such Allowed Priority Non-Tax Claim, Cash equal to the unpaid portion of such Allowed Priority Non-Tax Claim (i) at the Reorganized Debtors' election, either (a) in accordance with the reinstated terms of such indebtedness; (b) in accordance with section 1129(a)(9) of the Bankruptcy Code; or (c) on the latest to occur of (x) the Effective Date, (y) the date such Claim becomes an Allowed Priority Non-Tax Claim, and (z) such other date as may be agreed upon by the Reorganized Debtors and the Holder of such Allowed Priority Non-Tax Claim; or (ii) on such other date as the Bankruptcy Court may order.

4.3. ***Class 3: Other Secured Claims***. Each Holder of an Allowed Other Secured Claim shall receive, in full satisfaction, settlement, release, and discharge of and in exchange for such Allowed Other Secured Claim, Cash equal to the unpaid portion of such Allowed Other Secured Claim (i) at the Reorganized Debtors' election, either (a) in accordance with the reinstated terms of such indebtedness; (b) in accordance with section 1129(a)(9) of the Bankruptcy Code; or (c) on the latest to occur of (x) the Effective Date, (y) the date such Claim

becomes an Allowed Other Secured Claim, and (z) such other date as may be agreed upon by the Reorganized Debtors and the Holder of such Allowed Other Secured Claim; or (ii) on such other date as the Bankruptcy Court may order.

To the extent an Other Secured Claim is an Allowed Priority Tax Claim, except to the extent that the Holder of such Allowed Priority Tax Claim against the Debtors agrees to a different treatment or has been paid by the Debtors prior to the Effective Date, each Holder of an Allowed Priority Tax Claim shall, in full satisfaction, release, and discharge of such Allowed Priority Tax Claim: (i) to the extent such Claim is due and owing on the Effective Date, be paid in full, in Cash, on the Effective Date, (ii) to the extent such Claim is not due and owing on the Effective Date, be paid in full, in Cash, in accordance with the terms of any agreement between the Debtors and such Holder, or as may be due and owing under applicable non-bankruptcy law, or in the ordinary course of business, or (iii) be treated on such other terms and conditions as are acceptable to the Debtors and the Holder of such Claim.

The Debtors' failure to object to any Other Secured Claim shall be without prejudice to the Debtors' or the Reorganized Debtors' right to contest or otherwise defend against such Claim in the appropriate forum when and if such Claim is sought to be enforced by the Other Secured Claim Holder. Notwithstanding section 1141(c) or any other provision of the Bankruptcy Code, all prepetition Liens on property of the Debtors held with respect to an Other Allowed Secured Claim shall survive the Effective Date and continue in accordance with the contractual terms of the underlying agreement governing such Claim only until such Allowed Claim is paid in full unless otherwise satisfied, as agreed by the Holder of such Allowed Claim. Nothing in this Section 4.3 or elsewhere in this Plan shall preclude the Debtors or the Reorganized Debtors from challenging the validity of any alleged Lien on any asset of the Debtors or the value of the property that secures any alleged Lien.

4.4. ***Class 4: General Unsecured Claims***. On the Effective Date, or as soon as reasonably practicable thereafter, each Holder of an Allowed General Unsecured Claim shall, at its option, receive, in full satisfaction, settlement, release, and discharge of and in exchange for such General Unsecured Claim, either (i) cash equal to 15% of the Allowed amount of its Claim or (ii) its Pro Rata Share of the New Common Stock of Reorganized Delta. Each Holder of a General Unsecured Claim shall receive the cash payment described in (i) above unless such holder opts to receive its Pro Rata share of the New Common Stock on its ballot.

4.5. ***Class 5: Noteholder Claims.*** On the Effective Date, or as soon as reasonably practicable thereafter, each Holder of a Noteholder Claim shall receive, in full satisfaction, settlement, release, and discharge of and in exchange for such Noteholder Claim, its Pro Rata Share of the New Common Stock of Reorganized Delta. The Noteholder Claims shall be Allowed in the full principal amount thereof ($265,000,000) plus interest as of the Petition Date ($2,685,416.66).

4.6. ***Class 6: Intercompany Claims.*** On the Effective Date the legal, equitable and contractual rights of each Holder of an Intercompany Claim against the Debtors shall be extinguished and such Holders of Intercompany Claims shall not receive any distribution or consideration in connection with such Intercompany Claims.

4.7. ***Class 7: Existing Delta Equity Interests.*** On the Effective Date the legal, equitable and contractual rights of each Holder of an Existing Delta Equity Interest against the Debtors shall be extinguished, canceled and discharged and such Holders of Existing Delta Equity Interests shall not receive any distribution or consideration in connection with such Existing Delta Equity Interests.

4.8. ***Class 8***: ***Securities Litigation Claims***. On the Effective Date the legal, equitable and contractual rights of each Holder of a Securities Litigation Claim against the Debtors shall be extinguished and such Holders of Securities Litigation Claims shall not receive any distribution or consideration in connection with such Securities Litigation Claims.

4.9. ***Class 9: Intercompany Equity Interests.*** All Intercompany Equity Interests shall be reinstated on the Effective Date.

4.10. ***Compliance with Laws and Effects on Distributions.*** In connection with the consummation of this Plan, the Reorganized Debtors will comply with all withholding and reporting requirements imposed by federal, state, local or foreign taxing authorities, and all distributions hereunder will be subject to applicable withholding and reporting requirements. In order to satisfy withholding tax obligations, the Reorganized Debtors will need to withhold and remit to taxing authorities a portion of the Cash that would otherwise be distributable under this Plan to certain employees and former employees of the Reorganized Debtors.

4.11. ***Reservation of Rights Regarding Claims.*** Except as otherwise explicitly provided in this Plan, nothing shall affect the Debtors' or the Reorganized Debtors' rights, defenses, and counterclaims, both legal and equitable, with respect to any Claims, including, but not limited to, all rights with respect to legal and equitable defenses to alleged rights of setoff or recoupment.

## ARTICLE V

## IDENTIFICATION OF CLASSES OF CLAIMS AND EQUITY INTERESTS IMPAIRED; ACCEPTANCE OR REJECTION OF THIS PLAN OF REORGANIZATION

5.1. ***Holders of Claims and Equity Interests Entitled to Vote.*** Classes 4 and 5 are entitled to vote to accept or reject this Plan.

5.2. ***Presumed Acceptance of the Plan.*** Each of Classes 1, 2, 3 and 9 is unimpaired by this Plan. Pursuant to section 1126(f) of the Bankruptcy Code, the Holders of Claims in such Classes are conclusively presumed to have accepted this Plan and the votes of such Holders will not be solicited.

5.3. ***Presumed Rejection of the Plan***. Each of Classes 6, 7 and 8 shall not receive any distribution under this Plan on account of such Claims or Equity Interests. Pursuant to section 1126(g) of the Bankruptcy Code, the holders of Claims and Equity Interests in such Classes are presumed to have rejected this Plan and the votes of such holders will not be solicited.

5.4. ***Acceptance by Impaired Classes.*** Pursuant to section 1126(c) of the Bankruptcy Code, and except as otherwise provided in section 1126(e) of the Bankruptcy Code, an impaired Class of Claims shall have accepted this Plan if the Holders of at least two-thirds in dollar amount and more than one-half in number of the Claims of such Class entitled to vote that actually vote on this Plan have voted to accept this Plan. Because Classes 4 and 5 are impaired, the votes of Holders of Claims in Classes 4 and 5 will be solicited.

5.5. ***Nonconsensual Confirmation***. If either Class 4 or Class 5 shall not accept this Plan by the requisite statutory majority provided in section 1126(c) of the Bankruptcy Code, the Debtors intend to request that the Bankruptcy Court confirm this Plan under section 1129(b) of the Bankruptcy Code with respect to such nonconsenting class over the objection of Class 4 or Class 5.

## ARTICLE VI

## MEANS OF IMPLEMENTATION AND POST-EFFECTIVE DATE GOVERNANCE

6.1. ***Corporate Action***.

(a) General. Upon the occurrence of the Effective Date, all actions contemplated by this Plan shall be deemed authorized and approved in all respects, including (i) selection of the directors and officers for the Reorganized Debtors, (ii) the issuance and distribution of the New Common Stock, (iii) entry into the Joint Venture Company LLC Agreement, (iv) entry into the Contribution Agreement, (v) entry into the Management Services Agreement, (vi) entry into the JV Company Credit Facility, (vii) entry into the Exit Loan facility, (viii) the adoption of the Restated Certificates of Incorporation and Restated Bylaws, (ix) entry into the New Stockholders' Agreement, if any, (x) entry into the Recovery Trust Agreements and (xi) all other actions contemplated by this Plan (whether to occur before or on the Effective Date). All matters provided for in this Plan involving the corporate structure of the Debtors or the Reorganized Debtors, and any corporate action required by the Debtors or the Reorganized Debtors in connection with this Plan, shall be deemed to have occurred and shall be in effect, without any requirement of further action by the equity security holders, directors or officers of the Debtors or the Reorganized Debtors. On or (as applicable) prior to the Effective Date, the appropriate officers of the Debtors or the Reorganized Debtors, as applicable, shall be authorized and directed to issue, execute and deliver the agreements, documents, securities, and instruments contemplated by this Plan (or necessary or desirable to effect the transactions contemplated by this Plan) in the name of and on behalf of the Reorganized Debtors, including the JV Company Credit Facility Documents and any and all other agreements, documents, securities and instruments relating to the foregoing.

(b) Restated Certificates of Incorporation and Restated Bylaws. The Restated Bylaws and the Restated Certificates of Incorporation attached hereto as Plan Exhibits 9 and 8, respectively, shall be (i) consistent with the provisions of this Plan and the Bankruptcy Code, and (ii) satisfactory to the Supporting Noteholders. On or immediately before the Effective Date, the Reorganized Debtors will file their respective Restated Certificates of Incorporation with the applicable Secretaries of State and/or other applicable authorities in their respective states,

provinces or countries of incorporation in accordance with the corporate laws of the respective states, provinces or countries of incorporation. Pursuant to section 1123(a)(6) of the Bankruptcy Code, the Restated Certificates of Incorporation will prohibit the issuance of non-voting equity securities. After the Effective Date, the Reorganized Debtors may amend and restate their respective Restated Certificates of Incorporation and Restated Bylaws and other constituent documents as permitted by the laws of their respective states, provinces or countries of organization and their respective Restated Certificates of Incorporation and Restated Bylaws. The Restated Certificate of Incorporation of Reorganized Delta will, among other things authorize the New Common Stock and, at the Supporting Noteholders' discretion and with the Supporting Noteholders' unanimous consent, contain restrictions on the transfer of the New Common Stock to minimize the likelihood of any potential adverse federal income tax consequences resulting from an ownership change (as defined in section 382 of the Internal Revenue Code) in Reorganized Delta. The restrictions will prevent any person who is not a 5% or greater shareholder of Reorganized Delta (a ***"5% Shareholder"***) at the Effective Date from acquiring sufficient shares to become a 5% Shareholder, unless such person obtains the permission of the board of directors of Reorganized Delta. All 5% Shareholders of Reorganized Delta at the Effective Date shall be permitted to acquire or dispose of shares of Reorganized Delta so long as, in the aggregate, Reorganized Delta does not undergo an "owner shift" (as that term is defined in section 382 of the Internal Revenue Code and the Treasury Regulations thereunder) of greater than 33% (as adjusted by the board of directors of Reorganized Delta from time to time to reflect transactions undertaken by Reorganized Delta) (the ***"Permitted Owner Shift"***) in any "testing period" (as that term is defined in section 382 of the Internal Revenue Code and the Treasury Regulations thereunder). Each 5% Shareholder at the Effective Date shall not be permitted to cause a greater "owner shift" in any "testing period" than the product of (i) the Permitted Owner Shift and (ii) a fraction equal to such 5% Shareholder's ownership as of the Effective Date divided by the aggregate ownership of all 5% Shareholders as of the Effective Date (such product, the ***"Owner Shift Limit"***). For any transaction occurring between 5% Shareholders, any resulting "owner shift" shall be allocated equally to each such 5% Shareholder's Owner Shift Limit. All transfers in violation of the transfer restrictions contained in Reorganized Delta's certificate of incorporation shall be void *ab initio*. Any material modification to the originally filed Restated Certificate of Incorporation or Restated Bylaws of Reorganized Delta after the Confirmation Date but prior to the Effective Date may become effective; provided, however that any such modification must be approved by the Supporting Noteholders.

(c) Directors and Officers of the Reorganized Debtors and Reorganized Delta. As of the Effective Date, the term of the current members of the board of directors of the Debtors shall expire, and the New Boards, including the New Delta Board and the New Subsidiary Boards, as well as the officers of each of the Reorganized Debtors shall be appointed in accordance with the Restated Certificates of Incorporation and Restated Bylaws of each Reorganized Debtor. On the Effective Date, the New Delta Board shall consist of five directors. The initial New Delta Board shall be selected as follows: two Directors shall be selected by Whitebox, two Directors shall be selected by ZCOF, and one Director shall be an independent Director jointly selected by unanimous consent of Whitebox, ZCOF and Waterstone Capital Management, L.P., provided that if non-noteholder shareholders own 20% or more of the New Common Stock of Reorganized Delta, then a sixth Director shall be selected by the non-

noteholder shareholders. Reorganized Delta's formation documents shall contain provisions for tie-breaking in the event there are an even number of board members Pursuant to section 1129(a)(5) of the Bankruptcy Code, the Debtors will disclose in advance of the Confirmation Hearing the identity and affiliations of any Person proposed to serve on the initial New Delta Board and the New Subsidiary Boards, as well as those Persons that serve as an officer of any of the Reorganized Debtors. To the extent any such director or officer is an "insider" under the Bankruptcy Code, the nature of any compensation to be paid to such director or officer will also be disclosed. Each such director and officer shall serve from and after the Effective Date pursuant to the terms of the Restated Certificates of Incorporation, Restated Bylaws and other constituent documents of the Reorganized Debtors.

6.2. ***The Joint Venture Company***. On the Effective Date, Reorganized Delta and the Plan Sponsor shall amend the organizational documents of the Joint Venture Company in accordance with the terms of the Joint Venture Company LLC Agreement, the Contribution Agreement, and the Management Services Agreement. Drafts of the Limited Liability Company Agreement, Contribution Agreement, and the Management Services Agreement are attached hereto as Plan Exhibits 2, 1 and 3, respectively.

(a) The Joint Venture Company LLC Agreement. Pursuant to the Joint Venture Company LLC Agreement, the Joint Venture Company will serve as an operating company owning the oil and gas, surface real estate and related assets formerly owned by each of Delta and the Plan Sponsor in Garfield and Mesa Counties, Colorado. Upon the execution of the Joint Venture Company LLC Agreement, there shall be 1,000,000 authorized membership units and 500,000 issued units. The Plan Sponsor shall own 333,333 (66.66%) and Reorganized Delta shall own 166,667 (33.34%) of the issued units. Each member shall have one vote for each unit that it holds in all matters subject to a vote, and the affirmative act of the members shall require the vote of at least 51% of the outstanding units. The Joint Venture Company LLC Agreement provides for corporate governance of the Joint Venture Company through the Manager and Board of Managers. The initial Manager shall be the Plan Sponsor. The Manager's duties are set forth in the Management Services Agreement. The Manager shall serve at the pleasure of the Board of Managers, composed of six representatives; four appointed by the Plan Sponsor and two appointed by Reorganized Delta. For all actions taken by members, the member must act through the Board of Managers. Board of Managers decisions shall be binding on the Manager and the Joint Venture Company. The Board of Managers shall have a duty of good faith to the Joint Venture Company. Lastly, the Joint Venture Company LLC Agreement contains a number of minority protections that require the unanimous approval of the Board of Managers.

(b) The Contribution Agreement. Pursuant to the Contribution Agreement, both the Plan Sponsor and Delta will contribute assets to the Joint Venture Company in exchange for their respective membership interests. A full list of the assets is set forth in Section 1.1 to the Contribution Agreement. Such assets include all of the Plan Sponsor's oil and gas assets and all surface real estate assets in Garfield and Mesa Counties, Colorado, and all of Delta's oil and gas assets and surface real estate assets in Garfield and Mesa Counties, Colorado (except for the Buzzard Creek Elk Ranch lease). Excluded assets are set forth in Section 1.3 of the Contribution Agreement and, among other things, comprise both the Plan Sponsor's or Delta's oil and gas assets located outside of Mesa and Garfield Counties, Colorado, records relating to their

businesses generally or excluded assets and their respective office leases. Delta's excluded assets additionally include, among other things, Delta's Point Arguello interests, certain compressors owned by Delta that were located in the State of Wyoming as of September 30, 2011, all Cash on hand, and all of the Causes of Action and Wapiti Causes of Action (including the Avoidance Actions). The Contribution Agreement further provides for the assumption and assignment of various contracts and leases of both the Plan Sponsor and Delta to the Joint Venture Company. Such contracts and leases are listed on Exhibits C-1, C-6, D-1 and D-6 to the Contribution Agreement. Cure amounts owed pursuant to section 365 of the Bankruptcy Code shall be paid in accordance with the Contribution Agreement; provided, however, that in no event shall such cure amounts exceed $2,000,000. The transfer to the Joint Venture Company of any of the Debtors' rights and interests in or to property, including the assumption and assignment to the Joint Venture Company of any executory contracts, and the Debtors' assumption of any contracts and leases shall be free and clear of all Liens, Claims and interests to the fullest extent permitted under sections 365 and 1141(c) of the Bankruptcy Code, with the exception of certain existing mortgage liens on certain Laramie assets to be assigned to the JV Company Credit Facility Lenders. Notwithstanding the foregoing, the Contribution Agreement shall be subject to the provisions of any agreement subsequently assigning rights and/or interests to Reorganized Delta.

(c) The Management Services Agreement. Pursuant to the Management Services Agreement, the Joint Venture Company will retain the Manager as an independent contractor to manage the Joint Venture Company's assets. In particular, the services to be rendered by the Manager shall include: (i) executive level services, (ii) administrative and operating level management responsibilities, and (iii) supervision of oil and gas field development services. In compensation for such services, the Joint Venture Company will pay the Manager the Management Fee in an amount equal to $650,000 per month.

6.3. ***JV Company Credit Agreement.*** As of June 4, 2012, the JV Company Credit Agreement shall have been executed and delivered. On the Effective Date, the Reorganized Debtors and the JV Company Credit Facility Guarantors shall be authorized to execute and deliver the JV Company Credit Facility Documents, including Reorganized Delta's guaranty of the JV Company Credit Facility, without the need for any further corporate action and without further action by the Holders of Claims or Equity Interests. On the Effective Date, no less than $75,000,000 (subject to any adjustments made by the Plan Sponsor, the Debtors and the Supporting Noteholders on account on account of title or environmental defects and other adjustments as described in the Contribution Agreement) shall be transferred in accordance with a flow of funds memorandum agreed upon by the Debtors and the Supporting Noteholders.

6.4. ***Issuance of New Common Stock.*** On the Effective Date, the New Common Stock shall be issued and distributed on behalf of Reorganized Delta to the Holders of Allowed General Unsecured Claims and Noteholder Claims, as applicable.

6.5. ***New Stockholders' Agreement***. At the Supporting Noteholders' discretion and with the Supporting Noteholders' unanimous consent, Supporting Noteholders may execute and enter into a Stockholders' Agreement containing restrictions on the transfer of

the New Common Stock to minimize the likelihood of any potential adverse federal income tax consequences resulting from an ownership change (as defined in section 382 of the Internal Revenue Code) in Reorganized Delta consistent with those described in Section 6.1(b) of this Plan.

6.6. ***Recovery Trusts.***

(a) Creation of Recovery Trusts. On the Effective Date, the Recovery Trusts shall be formed pursuant to this Plan, the Recovery Trust Agreements shall be executed, and the Recovery Trust Agreements shall be established and become effective.

(b) The Recovery Trust Assets. Except as otherwise set forth in this Plan or the Confirmation Order, on the Effective Date, the Debtors shall transfer and assign to the General Trust all of their legal and equitable interests in the General Trust Assets, including, without limitation, all Causes of Action, and shall transfer and assign to the Wapiti Trust all of their legal and equitable interests in the Wapiti Trust Assets, including, without limitation, all Wapiti Causes of Action. The Recovery Trustee, as trustee of each of the Recovery Trusts, shall, without further order of this or any other court, be substituted as the plaintiff, defendant, or other party in all lawsuits regarding Causes of Action and Wapiti Causes of Action pending in which any of the Debtors is the plaintiff as of the Effective Date. Upon the Effective Date, the General Trust shall also be deemed to have taken an assignment of all Causes of Action, and the Wapiti Trust shall also be deemed to have taken an assignment of the Wapiti Causes of Action, in each case against third parties for obligations or claims existing on or created by virtue of the Effective Date, unless expressly released in this Plan.

(c) The Recovery Trustee. The initial Recovery Trustee of each Recovery Trust shall be John T. Young, Jr., the Chief Restructuring Officer of Delta subject to a contractual arrangement for compensation approved by the Supporting Noteholders prior to the deadline set to vote on the Plan. The Recovery Trustee shall retain and have all the rights, powers and duties necessary to carry out his responsibilities under this Plan and the Recovery Trust Agreements, and as otherwise provided in the Confirmation Order. The Recovery Trustee shall be the exclusive trustee of the Recovery Trust Assets for the purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), as well as the representative of the Estates appointed pursuant to Bankruptcy Code § 1123(b)(3)(B). Matters relating to the appointment, compensation, removal and resignation of the Recovery Trustee and the appointment of any successor Recovery Trustee shall be set forth in the Recovery Trust Agreements.

(d) Retention of Professionals. The Recovery Trustee shall have the right to retain the services of attorneys, accountants, and other professionals that, in the discretion of the Recovery Trustee, are necessary to assist the Recovery Trustee in the performance of his duties. The reasonable fees and expenses of such professionals shall be paid by the Recovery Trustee from the General Trust or the Wapiti Trust, as applicable, upon the monthly submission of statements to the Recovery Trustee. The payment of the reasonable fees and expenses of the Recovery Trustee's retained professionals shall be made in the ordinary course of business from the applicable Recovery Trust Assets, and shall not be subject to the approval of the Bankruptcy Court.

(e) Recovery Trust Expenses. The Recovery Trusts shall be funded in the initial amounts as set forth in their respective Recovery Trust Agreements. Subject to the provisions of the Recovery Trust Agreements, and in the discretion of Reorganized Delta, all costs, expenses and obligations incurred by the Recovery Trustee in administering this Plan, the Recovery Trusts, or in any manner connected, incidental or related thereto, in effecting distributions from, as applicable, the General Trust or the Wapiti Trust thereunder (including the reimbursement of reasonable expenses) shall be a charge against the applicable Recovery Trust Assets remaining from time to time in the hands of the Recovery Trustee. Such expenses shall be paid as they are incurred without the need for Bankruptcy Court approval. To conduct its operations and fulfill its responsibilities under this Plan and the Recovery Trust Agreements, the Recovery Trustee may request additional funding from Reorganized Delta as set forth in the Recovery Trust Agreements; provided, however, all Directors nominated by ZCOF shall recuse themselves from all discussions and decision-making by the Reorganized Delta Board of Directors regarding funding requests for the benefit of the Wapiti Trust.

(f) Liability; Indemnification. The Recovery Trustee shall not be liable for any act or omission taken or omitted to be taken in his or her capacity as the Recovery Trustee, other than acts or omissions resulting from the Recovery Trustee's willful misconduct, gross negligence or fraud. The General Trust or the Wapiti Trust, as applicable, shall, subject to the terms approved by the Oversight Board, indemnify and hold harmless the Recovery Trustee and his or her agents, representatives, professionals, and employees from and against and in respect to any and all liabilities, losses, damages, claims, costs and expenses, including, but not limited to attorneys' fees and costs arising out of or due to their actions or omissions, or consequences of such actions or omissions, with respect to such trust, or the implementation or administration of this Plan; provided, however, that no such indemnification will be made to such Persons for such actions or omissions as a result of willful misconduct, gross negligence or fraud.

(g) No Distributions from Litigation Recoveries to Defendants. If a litigation recovery on behalf of a Cause of Action or Wapiti Cause of Action arising from a defendant Person's bad faith, willful misconduct, or gross negligence is obtained by the Recovery Trustee against a Person, such Person shall not be entitled to a Plan Distribution from such litigation recovery.

(h) Termination. The duties, responsibilities and powers of the Recovery Trustee shall terminate after all Recovery Trust Assets, including the Causes of Action and Wapiti Causes of Action, transferred and assigned to the Recovery Trust, or involving the Recovery Trustee on behalf of the Recovery Trust, are fully resolved, abandoned or liquidated and been distributed in accordance with this Plan and the Recovery Trust Agreements and the administration of the Recovery Trusts has otherwise been completed. The Recovery Trusts shall terminate no later than five (5) years after the Effective Date unless extended by order of the Bankruptcy Court. Upon the occurrence of the termination of the Recovery Trusts, the Recovery Trustee shall file with the Bankruptcy Court a report thereof, seeking an order discharging the Recovery Trustee.

(i) Conflicts Between the Recovery Trust Agreement and the Plan. In the event of any inconsistencies or conflict between the Recovery Trust Agreements and this Plan, the terms and provisions of this Plan shall control.

6.7. ***Cancellation of Agreements.*** On the Effective Date, the DIP Facility and the Indentures shall be canceled and shall be of no further force and effect except as to obligations between parties other than the Debtors and their Affiliates and Subsidiaries.

6.8. ***Surrender of Existing Securities.*** Each Holder of a Noteholder Claim shall surrender its note(s) to the Indenture Trustee or in the event such note(s) are held in the name of, or by a nominee of, The Depository Trust Company, the Reorganized Debtors shall seek the cooperation of The Depository Trust Company to provide appropriate instructions to the Indenture Trustee. Each Holder of Noteholder Claim shall send its note(s) to the Indenture Trustee or The Depository Trust Company shall provide appropriate instructions to the Indenture Trustee or the loss, theft or destruction of such note shall be established to the reasonable satisfaction of the Indenture Trustee as applicable, which satisfaction may require such Holder to submit (a) a lost instrument affidavit and (b) an indemnity bond holding the Debtors, the Reorganized Debtors, and the Indenture Trustee harmless in respect of such note and any distributions made on account thereof. Upon compliance with this Section 6.8 by a Holder of any Note, such Holder shall, for all purposes under this Plan, be deemed to have surrendered such note. All property in respect of such forfeited distributions, including interest thereon, shall be promptly returned to the Reorganized Debtors by the Indenture Trustee and any such security shall be canceled.

6.9. ***Cancellation of the Notes and Equity Interests***. On the Effective Date, except to the extent otherwise provided in this Plan or in the Equity Purchase Agreement, all notes, instruments, certificates and other documents evidencing (a) the 3 3/4% Notes, (b) the 7% Notes and (c) the Equity Interests shall be canceled, and the obligations of the Debtors thereunder and in any way related thereto shall be fully satisfied, released and discharged; provided, however, that such cancellation shall not itself alter the obligations or rights of any third parties (apart from the Debtors, their Affiliates and Subsidiaries, the Reorganized Debtors, and the Joint Venture Company). With respect to the Notes, on the Effective Date, except to the extent otherwise provided in this Plan, the Indentures and any similar agreements, including, without limitation, any related note, guaranty or similar instrument of the Debtors shall be deemed to be canceled, as permitted by section 1123(a)(5)(F) of the Bankruptcy Code, and discharged (i) with respect to all obligations owed by the Debtors under any such agreement and (ii) except to the extent provided herein below, with respect to the respective rights and obligations of the Indenture Trustee under the Indentures against the Holders of Noteholder Claims. Solely for the purpose of clause (ii) in the immediately preceding sentence, only the following rights of the Indenture Trustee shall remain in effect after the Effective Date: (A) rights as trustee, paying agent and registrar, including but not limited to any rights to payment of fees, expenses and indemnification obligations and liens securing such rights to payment including, but not limited to, from or on property distributed under this Plan to the Indenture Trustee (but excluding any other property of the Debtors, the Reorganized Debtors or their Estates), (B) rights relating to distributions to be made to the Holders of the 3 3/4% Notes or the 7% Notes by the Indenture Trustee from any source, including, but not limited to, distributions

under this Plan including, without limitation, any Liens on distributions to the Holders that may be provided to the Indenture Trustee pursuant to the Indentures (but excluding any other property of the Debtors, the Reorganized Debtors or their Estates), (C) rights relating to representation of the interests of the Holders of the 3 3/4% Notes or the 7% Notes by the Indenture Trustee in the Chapter 11 Cases to the extent not discharged or released by this Plan or any order of the Bankruptcy Court and (D) rights relating to participation by the Indenture Trustee in proceedings and appeals related to this Plan. Notwithstanding the continued effectiveness of such rights after the Effective Date, such Indenture Trustee shall have no obligation to object to Claims against the Debtors and the Indenture Trustee shall have no obligation to locate certificated Holders of the 3 3/4% Notes or the 7% Notes who fail to surrender the 3 3/4% Notes and/or the 7% Notes in accordance with Section 6.8 of this Plan.

6.10. ***Existing Liens.*** Except as otherwise provided in this Plan, upon the occurrence of the Effective Date, any Lien securing any Allowed Secured Claim shall continue in effect notwithstanding the occurrence of the Effective Date until such Allowed Secured Claim has been paid in full. For the avoidance of doubt, all property rights and interests to be transferred to the Joint Venture Company by the Debtors, including any executory contracts that shall be assumed and assigned to the Joint Venture Company by the Debtors, shall be free and clear of all Liens, Claims and liabilities to the fullest extent permitted by sections 365 and 1141(c) of the Bankruptcy Code.

6.11. ***Compromise of Controversies.*** In consideration for the distributions and other benefits provided under this Plan, the provisions of this Plan constitute a good faith compromise and settlement of all Claims and controversies resolved under this Plan and the entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of such compromises and settlements under Bankruptcy Rule 9019.

6.12. ***Effectuating Documents; Further Transactions.*** The chief executive officer, the president, the chief financial officer, the general counsel or any other appropriate officer of the Debtors, of the Reorganized Debtors, or the Recovery Trustee, as the case may be, shall be authorized to execute, deliver, file, or record such contracts, instruments, releases, indentures and other agreements or documents, and take such actions as may be necessary or appropriate to effectuate and further evidence the terms and conditions of this Plan. The secretary or assistant secretary of the Debtors, the Reorganized Debtors, or the Recovery Trustee, as the case may be, shall be authorized to certify or attest to any of the foregoing actions.

## ARTICLE VII

## PROVISIONS GOVERNING DISTRIBUTIONS; TREATMENT OF DISPUTED CLAIMS

7.1. ***Date of Distributions on Account of Allowed Claims.*** Unless otherwise provided herein, any distributions and deliveries to be made under this Plan shall be made on the Effective Date or as soon as practicable thereafter. In the event that any payment or act under this Plan is required to be made or performed on a date that is not a Business Day, then the

making of such payment or the performance of such act may be completed on the next succeeding Business Day, but shall be deemed to have been completed as of the required date.

7.2. ***Sources of Cash for Plan Distribution.*** Except as otherwise provided in this Plan or Confirmation Order, all Cash required for the payments to be made hereunder shall be obtained from the Cash proceeds drawn from the JV Company Credit Facility, the Exit Loan and the Debtors' and the Reorganized Debtors' operations and Cash on hand all as set forth in the flow of funds memorandum agreed upon by the Debtors and the Supporting Noteholders.

7.3. ***Time Bar to Cash Payments.*** Checks issued in respect of Allowed Claims shall be null and void if not negotiated within one hundred eighty (180) days after the date of issuance thereof. Requests for reissuance of any voided check shall be made directly to the Disbursement Agent by the Holder of the Allowed Claim to whom such check was originally issued. Any Claim in respect of such a voided check shall be made on or before the first anniversary of the date on which such distribution or payment was made. If no Claim is made as provided in the preceding sentence, all Claims in respect of voided checks shall be discharged and forever barred and such unclaimed distributions shall revert to the Reorganized Debtors, notwithstanding any federal or state escheat laws to the contrary.

7.4. ***Disbursement Agent.*** The Disbursement Agent, or such other Person designated by Reorganized Delta as Disbursement Agent, shall make all distributions under this Plan on the Effective Date. A Disbursement Agent shall not be required to give any bond or surety or other security for the performance of its duties unless otherwise ordered by the Bankruptcy Court.

7.5. ***Record Date for Distribution.*** Distributions shall only be made to the record Holders of Allowed Claims as of the Confirmation Date. On the Confirmation Date, at the close of business for the relevant register, all registers maintained by the Debtors and the Reorganized Debtors, and each of their respective agents, successors and assigns, shall be deemed closed for purposes of determining whether a Holder of such a Claim is a record Holder entitled to distributions under this Plan. The Debtors and the Reorganized Debtors, and all of their respective agents, successors and assigns shall have no obligation to recognize, for purposes of distributions pursuant to or in any way arising from this Plan (or for any other purpose), any Claims that are transferred after the Confirmation Date. Instead, they shall be entitled to recognize only those record Holders set forth in the registers as of the Confirmation Date, irrespective of the number of distributions made under this Plan or the date of such distributions. Furthermore, if a Claim is transferred twenty (20) or fewer calendar days before the Confirmation Date, the Disbursement Agent shall make distributions to the transferee only if the transfer form or other appropriate writing contains an unconditional and explicit certification and waiver of any objection to the transfer by the transferor.

If any dispute arises as to the identity of a Holder of an Allowed Claim that is entitled to receive a distribution pursuant to this Plan, the Disbursement Agent or the servicers, as applicable, may, in lieu of making such distribution to such Person, make the distribution into an escrow account until the disposition thereof is determined by Final Order or by written agreement among the interested parties to such dispute.

7.6. ***Delivery of Distributions.*** Subject to Bankruptcy Rule 9010, all distributions to Holders of Allowed Claims shall be made at the address of such Holder as set forth in the books and records of the Debtors. In the event that any distribution to any Holder is returned as undeliverable, the Disbursement Agent shall use reasonable efforts to determine the current address of such Holder, but no distribution to such Holder shall be made unless and until the Disbursement Agent has determined the then current address of such Holder, at which time such distribution shall be made to such Holder without interest; provided, however, that such distributions shall be deemed unclaimed property under section 347(b) of the Bankruptcy Code at the expiration of one year from the Effective Date. After such date, all unclaimed property or interest in property shall revert to the Reorganized Debtors and the Claim of any other Holder to such property or interest in property shall be discharged and forever barred notwithstanding any applicable federal or state escheat, abandoned or unclaimed property laws to the contrary.

7.7. ***Objections to and Estimations of Claims; Resolution of Disputed Claims.***

(a) On and after the Effective Date, the Recovery Trustee, the Reorganized Debtors and any creditor, may continue to attempt to consensually resolve any disputes regarding the amount of any Claim and shall have the right, but not the obligations, to object to the allowance of any Claim and may file with the Court any other appropriate motion or adversary proceeding with respect thereto. All such objections may be litigated to Final Order. The Recovery Trustee shall retain the rights and defenses the Debtors or their Estates had with respect to any Claim or Equity Interest immediately prior to the Effective Date, subject to the provisions of the Plan.

(b) All objections to Claims shall be filed with the Bankruptcy Court by the Claims Objection Deadline in accordance with its local rules, and a copy of the objection must be served on the Holder of the subject Claim before the expiration of the Claims Objection Deadline; otherwise such Claims shall be deemed allowed in accordance with section 502 of the Bankruptcy Code. The objection shall notify the Holder of the subject Claim of the deadline for responding to such objection. The Claims Objection Deadline can be extended up to an additional ninety (90) days by the Recovery Trustee filing a notice with the Court and thereafter as permitted by order of the Bankruptcy Court, upon notice and a hearing.

(c) Within thirty (30) days after service of an objection, the Holder whose Claim was objected to must, in accordance with the local rules of the Bankruptcy Court, serve and file a written response to the objection with the Bankruptcy Court and serve a copy on the Disbursement Agent, the Recovery Trustee, the Reorganized Debtors, any objecting creditor and the notice parties for the Debtors and the Supporting Noteholders identified in section 12.18 of the Plan. Failure to serve and file a written response within the thirty (30) day time period may result in the Bankruptcy Court granting the relief demanded in the Claim objection without further notice or hearing.

(d) Before the Effective Date, the Debtors or any objecting creditors may (but are not required to) at any time request that the Bankruptcy Court estimate any Disputed Claim pursuant to § 502(c) of the Bankruptcy Code, that is contingent or unliquidated or any Disputed

Claim arising from a right to an equitable remedy or breach of performance for any reason, regardless of whether any party previously has objected to such Claim or whether the Bankruptcy Court has ruled on any such objection. From and after the Effective Date, the Recovery Trustee, the Reorganized Debtors or any objecting creditor may (but are not required to) at any time request that the Bankruptcy Court estimate any Disputed Claim pursuant to § 502(c) of the Bankruptcy Code, that is contingent or unliquidated or any Disputed Claim arising from a right to an equitable remedy or breach of performance for any reason, regardless of whether any party previously has objected to such Claim or whether the Bankruptcy Court has ruled on any such objection. With respect to any request for estimation, the Bankruptcy Court shall retain jurisdiction to estimate any such Claim at any time, including during the litigation of any objection to any Claim or during the pendency of any appeal relating to such objection. Notwithstanding any provision otherwise in the Plan, a Claim that has been expunged from the Claims Register, but that either is subject to appeal or has not been the subject of a Final Order, shall be deemed to be estimated for distribution purposes at zero (0) dollars, unless otherwise ordered by the Bankruptcy Court. In the event that the Bankruptcy Court estimates any contingent or unliquidated Claim, that estimated amount shall constitute a maximum limitation on such Claim for all purposes under the Plan (including for purposes of distributions), and the relevant party may elect to pursue any supplemental proceedings to object to any distribution under the Plan on such Claim. All of the aforementioned objection, estimation and resolution procedures are intended to be cumulative and not exclusive of one another. Claims may be estimated and subsequently compromised, settled, withdrawn, recharacterized or resolved by any mechanism approved by the Bankruptcy Court.

(e) The Debtors, the Disbursement Agent and the Recovery Trustee (in consultation with the applicable Oversight Board), as applicable, may set off against any Claim, and the payments made pursuant to this Plan in respect of such Claim, any claims of any nature whatsoever that any of the Debtors or the Recovery Trustee (as assignee of such claims) may have against the Holder of the Claim, but neither the failure to do so nor the allowance of such Claim shall constitute a waiver or release by the Debtors or the Recovery Trustee of any claims or rights against the Holder of the Claim. Any payment in respect of a disputed, unliquidated, or contingent Claim shall be returned promptly to the Disbursement Agent in the event and to the extent such Claims are determined by the Bankruptcy Court or any other court of competent jurisdiction not to be Allowed Claims.

(f) Notwithstanding any other provision of the Plan and except as otherwise agreed by the relevant parties, the Disbursement Agent shall not be required to (i) make any partial payments or partial distributions to a Person, estate or trust with respect to a Disputed Claim until all such disputes in connection with such Disputed Claim have been resolved by settlement or Final Order or (ii) make any distributions on account of an Allowed Claim of any Person, estate or trust that holds both an Allowed Claim and a Disputed Claim, unless and until all objections to the Disputed Claim have been resolved by settlement or Final Order and both Claims have been Allowed. To the extent that there is any Holder of a Claim that is the subject of a Cause of Action, the Disbursement Agent shall have the authority to withhold any distribution to such Holder of a Claim until such Cause of Action is subject to final nonappealable order or otherwise is settled or adjudicated in the Bankruptcy Court.

(g) The holder of a Disputed Claim is not entitled to recover unless a Disputed Claim becomes an Allowed Claim and in such event any Holder of a Disputed Claim may only be entitled to receive a distribution on its Allowed Claim from the Disputed Claim Reserve.

(h) The Disbursement Agent shall establish and maintain the Disputed Claim Reserve as a separate reserve in order to satisfy Disputed Claims upon the resolution of such claims. Estate Property deposited into the Disputed Claim Reserve shall be distributed to the holders of Disputed Claims when such Disputed Claims become Allowed Claims. Any funds remaining in the Disputed Claim Reserve after all Disputed Claims are resolved shall be transferred to Reorganized Delta.

7.8. ***Noteholder Claims and DIP Facility Claims.*** (a) The Indenture Trustee shall be deemed to be the Holder of all Noteholder Claims, for purposes of distributions to be made hereunder, and all distributions on account of such notes shall be made to or on behalf of the Indenture Trustee. The Indenture Trustee shall hold or direct such distributions for the benefit of the Holders of Allowed Noteholder Claims. As soon as practicable following compliance with the requirements set forth in Section 6.9 of this Plan, the Indenture Trustee shall arrange to deliver such distributions to or on behalf of such Noteholders.

(b) For purposes of distributions to be made hereunder, all distributions on account of the DIP Facility Claims shall be made at the direction of the DIP Agent in accordance with the provisions of the DIP Credit Agreement and shall be distributed to the DIP Agent.

7.9. ***Recovery Trust Distributions***. The Recovery Trust Agreements shall govern distributions from the Recovery Trusts and shall include the terms of the other sections of this Article VII and other relevant provisions of this Plan.

7.10. ***Manner of Cash Payments Under Plan.*** At the Reorganized Debtors' option, any Cash payment to be made hereunder may be made by a check or wire transfer or as otherwise required or provided in applicable agreements, or as agreed by the Recovery Trustee and the claimant subject to the terms of the Recovery Trust Agreements.

7.11. ***Fractional Shares.*** No fractional shares of New Common Stock shall be distributed and no Cash shall be distributed in lieu of such fractional shares. When any distribution pursuant to this Plan on account of an Allowed Claim would otherwise result in the issuance of a number of shares of New Common Stock that is not a whole number, the actual distribution of shares of New Common Stock shall be rounded as follows: (a) fractions of one-half (½) or greater shall be rounded to the next higher whole number and (b) fractions of less than one-half (½) shall be rounded to the next lower whole number with no further payment therefor. The total number of authorized shares of New Common Stock to be distributed to Holders of Allowed Claims shall be adjusted as necessary to account for the foregoing rounding.

7.12. ***Setoffs and Recoupment.*** Except as provided in this Plan, the Debtors may, but shall not be required to, set off against or recoup from any Claim or Claims of any nature whatsoever that the Debtors may have against the claimant, but neither the failure to do so nor the allowance of any Claim hereunder shall constitute a waiver or release by the Debtors or the Reorganized Debtors of any such Claim it may have against such claimant.

7.13. ***Exemption from Securities Law.*** The issuance of the New Common Stock and any other securities issued pursuant to this Plan and any subsequent sales, resales or transfers, or other distributions of any such securities shall be exempt from any federal or state securities laws registration requirements to the fullest extent permitted by section 1145 of the Bankruptcy Code. Transfers of securities issued under the Plan will be subject to the terms and conditions of the Stockholders' Agreement.

7.14. ***Allocation of Payments.*** In the case of distributions with respect to Claims pursuant to this Plan, the amount of any Cash and the fair market value of any other consideration received by the Holder of such Claim will be allocable first to the principal amount of such Claim (as determined for federal income tax purposes), and then, to the extent of any excess, the remainder of the Claim.

7.15. ***No Postpetition Interest on Claims.*** Unless otherwise specifically provided for in this Plan or the Confirmation Order, or required by applicable bankruptcy law, postpetition interest shall not accrue or be paid on any Claims, and no Holder of a Claim shall be entitled to interest accruing on or after the Petition Date on such Claim.

## ARTICLE VIII

## TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES

8.1. ***Assumption of Contracts and Leases.*** On the Effective Date, all executory contracts and unexpired leases to which the Debtors are a party that have not been expressly assumed and/or assumed and assigned by the Debtors on or before the Effective Date shall be deemed rejected in accordance with sections 365 and 1123 of the Bankruptcy Code, unless such contract or lease (i) was previously assumed or rejected by the Debtors, (ii) previously expired or was terminated pursuant to its own terms, (iii) is the subject of a separate assumption or rejection motion filed by the Debtors on or before the Confirmation Date or is required under the Plan to be included in such a motion, (iv) is set forth in a schedule as an executory contract or unexpired lease to be assumed on or after the Effective Date, if any, filed by the Debtors as part of the Plan Supplement, which schedule shall separately set forth those executory contracts or unexpired leases which will be assigned to the Joint Venture Company or (v) if there is a dispute as to the amount of cure that cannot be resolved consensually among the parties, the Debtors or Reorganized Delta shall have the right to assume or reject the contract or lease, by written notice to the counterparty, for a period of five (5) Business Days after entry of a Final Order establishing a cure amount in excess of that provided by the Debtors. The Confirmation Order shall constitute an order of the Bankruptcy Court under sections 365 and 1123 of the Bankruptcy Code approving the contract and lease assumptions, assignments or rejections described above, subject to the occurrence of the Effective Date. Without limitation of the foregoing, upon the Effective Date, and in accordance with the Contribution Agreement, all rights of Delta in, to and under the Carry Agreement, and all right, title and interest of Delta in and to (i) the Delta Properties, the Existing Agreement Wells, the EnCana Wells, the Carry Wells (as all of the foregoing terms are defined in the Carry Agreement), (ii) all other contract rights and interests of Delta under any contracts provided for in the Carry Agreement and (iii) all other oil and gas rights and interests of every kind and nature owned by Delta, or which Delta may in

the future have the right to own or receive, under or pursuant to the Carry Agreement, shall be assigned to, and shall be vested in, the Joint Venture Company, which shall acquire and own such rights, free and clear of any transfer or assignment restrictions in the Carry Agreement, and the Plan Confirmation Order shall provide as such. Cure amounts owed pursuant to section 365 of the Bankruptcy Code shall be paid in accordance with the Contribution Agreement; provided, however, that in the event that cure amounts exceed $2,000,000, such cure amounts shall be paid by the Plan Sponsor, in its sole discretion, or such executory contracts or unexpired leases shall be rejected by written notice to the counterparty unless otherwise agreed by the Debtors and the Supporting Noteholders prior to the Effective Date or by Reorganized Delta after the Effective Date.

(a) To the extent applicable, all executory contracts of the Reorganized Debtors assumed, or assumed and assigned, pursuant to this Plan shall be deemed modified such that the transactions contemplated by this Plan shall not be a "change of control," however such term may be defined in the relevant executory contract, and any required consent under any such contract or lease shall be deemed satisfied by the confirmation of this Plan, and all executory contracts assumed, or assumed and assigned, pursuant to this Plan shall be assumed, or assumed and assigned, notwithstanding any provisions therein that purport to modify Delta's rights, or the rights of any Affiliate or Subsidiary of the Debtors, thereunder as a result of the Debtors' commencement of the Chapter 11 Cases, which rights shall not be modified by such assumption.

(b) Each executory contract assumed, or assumed and assigned, pursuant to this Plan (or pursuant to other Bankruptcy Court order) shall remain in full force and effect and be fully enforceable by the Reorganized Debtors or the Joint Venture Company, as applicable, in accordance with its terms, except as modified by the provisions of this Plan, or any order of the Bankruptcy Court authorizing and providing for its assumption, or assumption and assignment, or applicable law.

(c) Any monetary amounts required as cure payments on each executory contract and unexpired lease to be assumed, or assumed and assigned, pursuant to this Plan shall be satisfied, pursuant to section 365(b)(1) of the Bankruptcy Code, by payment of the Cure amount in Cash on the Effective Date or upon such other terms and dates as the parties to such executory contracts or unexpired leases otherwise may agree. If there is a dispute regarding (i) the nature or amount of any Cure, (ii) the ability of the Debtors or any assignee to provide "adequate assurance of future performance" (within the meaning of section 365 of the Bankruptcy Code) under the contract or lease to be assumed, or assumed and assigned, or (iii) any other matter pertaining to assumption or assignment, Cure shall occur following the entry of a Final Order of the Bankruptcy Court resolving the dispute.

(d) **The Debtors hereby give notice that the Cure amounts for each such contract and lease shall be zero dollars unless otherwise noticed on a schedule filed by the Debtors hereafter.**

(e) All Claims arising out of the rejection of executory contracts and unexpired leases under this Plan must be served upon the Debtors and their counsel within thirty

(30) days after the later of (i) the date of entry of an order of the Bankruptcy Court approving such rejection or (ii) notice of rejection provided as set forth above. Any Claims not filed within such time shall be forever barred from assertion against the Debtors, their Estates, the Reorganized Debtors, the Joint Venture Company and their respective property.

(f) Reorganized Delta shall continue, in accordance with its ordinary course of business, after the Effective Date, to provide and administer (i) payroll services for the benefit of its employees and the employees of its Affiliates and Subsidiaries and (ii) the Benefit Plans (subject to the terms of such Benefit Plans and as they may be amended and/or terminated from time to time).

## ARTICLE IX

## CONDITIONS PRECEDENT TO EFFECTIVE DATE

9.1. ***Conditions Precedent to Effective Date of Plan.*** The occurrence of the Effective Date of this Plan is subject to satisfaction of the following conditions precedent and the filing by the Debtors of a notice of the occurrence of the Effective Date in the Chapter 11 Cases:

(a) Confirmation Order. The clerk of the Bankruptcy Court shall have entered the Confirmation Order in the Debtors' Chapter 11 Cases, which shall be in form and substance reasonably acceptable to the Plan Sponsor (with respect only to those provisions that have a material effect on the Plan Sponsor's or the Joint Venture Company's commercial, economic or management (with respect to the Joint Venture Company) rights or interests) and reasonably acceptable in all respects to the Supporting Noteholders, and there shall not be a stay or injunction (or similar prohibition) in effect with respect thereto.

(b) Exit Loan. The Debtors shall have entered into agreements or binding term sheets for the Exit Loan in form and substance reasonably satisfactory to the Supporting Noteholders in all respects and, to the extent applicable, the Plan Sponsor (with respect only to those provisions that have a material effect on the Plan Sponsor's or the Joint Venture Company's commercial, economic or management (with respect to the Joint Venture Company) rights or interests), and all conditions precedent to the consummation thereof shall have been waived or satisfied in accordance with the terms thereof, the proceeds of which shall be disbursed in accordance with a flow of funds memorandum agreed upon by the Debtors and the Supporting Noteholders.

(c) Contracts and Leases. The Bankruptcy Court shall have entered one or more orders, which may include the Confirmation Order, authorizing the assumption, assignment, and rejection of unexpired leases and executory contracts by the Debtors as contemplated by Article 8.1 of this Plan.

(d) Execution and Delivery of Other Documents. All other actions and all agreements, instruments or other documents necessary to implement the terms and provisions of the Plan, including, without limitation, the Plan Documents, the Plan Exhibits, and the Plan Supplements shall be in form and substance reasonably satisfactory to the Supporting Noteholders, and, to the extent applicable, the Plan Sponsor (with respect only to those

provisions that have a material effect on the Plan Sponsor's or the Joint Venture Company's commercial, economic or management (with respect to the Joint Venture Company) rights or interests). The Recovery Trust Agreements, the Joint Venture Company LLC Agreement, the Contribution Agreement, the Management Services Agreement, the JV Company Credit Facility Documents and the Exit Loan, shall be in form and substance reasonably acceptable to the Supporting Noteholders and the Plan Sponsor (with respect only to those provisions that have a material effect on the Plan Sponsor's or the Joint Venture Company's commercial, economic or management (with respect to the Joint Venture Company) rights or interests) and shall have been effected, duly and validly executed and delivered by the parties thereto and all conditions to their effectiveness shall have been satisfied or waived in accordance with their respective terms.

(e) Corporate Formalities. The Restated Certificates of Incorporation shall be filed with the applicable Secretaries of State and/or other applicable authorities in the Debtors' respective states contemporaneously with the Effective Date.

(f) SEC Filings. Delta shall be in compliance with all applicable SEC reporting obligations required of a public reporting company.

(g) Other Acts. Any other actions the Debtors, in consultation with the Plan Sponsor, determines are necessary to implement the terms of this Plan shall have been taken.

9.2. ***Debtors' Waiver of Conditions Precedent.*** Each of the conditions precedent in Section 9.1 (except for Section 9.1(a)) hereof may be waived, in whole or in part, by the Debtors, with approval of the Plan Sponsor ((with respect only to those provisions that have a material effect on the Plan Sponsor's or the Joint Venture Company's commercial, economic or management (with respect to the Joint Venture Company) rights or interests) and the Supporting Noteholders, without notice or an order of the Bankruptcy Court.

9.3. ***Substantial Consummation.*** Substantial consummation of this Plan under section 1101(2) of the Bankruptcy Code shall be deemed to occur on the Effective Date.

## ARTICLE X

## EFFECT OF CONFIRMATION

10.1. ***Vesting of Assets***. Except as otherwise provided in this Plan, on the Effective Date all property comprising the Estates not otherwise vested in the Joint Venture Company or the Recovery Trusts shall revest in the Reorganized Debtors, free and clear of all Liens, Claims and Equity Interests (other than as expressly provided herein), including, without limitation: (i) the 33.34% membership interest in the Joint Venture Company; (ii) the Delta oil and gas assets not located in Mesa and Garfield Counties, Colorado; (iii) the certain compressors owned by the Debtors that were located in the State of Wyoming as of September 30, 2011; (iv) the Plan Documents; (v) Cash, any accounts receivables or other cash equivalent forms of value (vi) the oil and gas lease in Mesa County, CO, between Delta and Buzzard Creek Elk Ranch and its Amendment effective August 15, 2011 and all rights and obligations thereunder, (vii) all frac water tanks, (viii) the gathering agreement between Delta and Encana dated September 24, 2008, (ix) Delta's Denver and Grand Junction office leases, office fixtures, and personal property

located in such offices not pertaining to the Delta Records (as defined in the Contribution Agreement), except for the HP T-1100 Map Plotter Scanner referenced in Section 1.1(d)(5) of the Contribution Agreement, and (x) all other assets not specifically described in Exhibits D-1, D-2, D-3, D-4, D-5 and D-6 to the Contribution Agreement. On and after the Effective Date, the Reorganized Debtors shall be authorized to operate its businesses, and to use, acquire or dispose of assets without supervision or approval by the Bankruptcy Court, and free from any restrictions of the Bankruptcy Code or the Bankruptcy Rules.

10.2. ***Corporate Existence.*** Except as otherwise provided in this Plan, each Debtor, as a Reorganized Debtor, shall continue to exist on and after the Effective Date as a separate corporation, limited liability company, partnership or other form of entity, as the case may be, with all the powers of a corporation, limited liability company, partnership or other form of entity, as the case may be, pursuant to the applicable law in the jurisdiction in which each applicable Debtor is incorporated or formed and pursuant to the respective certificate of incorporation and by-laws (or other analogous formation documents) in effect before the Effective Date, except to the extent such certificate of incorporation and bylaws (or other analogous formation documents) are amended by this Plan or otherwise and without prejudice to any right to alter or terminate such existence (whether by merger or otherwise) in accordance with such applicable law.

10.3. ***Binding Effect.*** Except as otherwise provided in section 1141(d)(3) of the Bankruptcy Code and subject to the occurrence of the Effective Date, the provisions of this Plan shall bind any Holder of a Claim against, or Equity Interest in, the Debtors and such Holder's respective successors and assigns, whether or not the Claim or Equity Interest of such Holder is impaired under this Plan and whether or not such Holder has accepted this Plan. The provisions of the Plan shall bind the respective Estates of the Debtors and any chapter 7 Trustee that might be appointed upon a subsequent conversion of any of the Chapter 11 Cases to cases under chapter 7 of the Bankruptcy Code.

10.4. ***Settlements, Releases and Discharges***. The settlements, releases and discharges of Claims and Causes of Action described in this Plan, including releases by the Debtors and by Holders of Claims, constitute good faith compromises and settlements of the matters covered thereby and are consensual. Such compromises and settlements recognize the substantial contributions by parties in these Chapter 11 Cases, are made in exchange for consideration, including the release of certain Claims, and are in the best interest of Holders of Claims, are fair, equitable and reasonable and are integral elements of the resolution of the Chapter 11 Cases in accordance with this Plan. Each of the discharge, release, indemnification and exculpation provisions set forth in this Plan (a) is within the jurisdiction of the Bankruptcy Court under sections 1334(a), 1334(b) and 1334(d) of title 28 of the United States Code, (b) is an essential means of implementing this Plan pursuant to section 1123(a)(5) of the Bankruptcy Code, (c) is an integral element of the transactions incorporated into this Plan, (d) confers material benefit on, and is in the best interests of, the Debtors, their Estates and their creditors, (e) is important to the overall objective of this Plan to finally resolve all Claims among or against the parties in interest in the Chapter 11 Cases with respect to the Debtors and (f) is consistent with sections 105, 1123, 1129 and other applicable provisions of the Bankruptcy Code.

10.5. ***Discharge of the Debtors.*** Except to the extent otherwise provided in this Plan or the Confirmation Order, the treatment of all Claims against or Equity Interests in the Debtors under this Plan shall be in exchange for and in complete satisfaction, discharge and release of, all Claims against or Equity Interests in the Debtors of any nature whatsoever, known or unknown, including any interest accrued or expenses incurred thereon from and after the Petition Date, or against their Estates or properties or interests in property. Except as otherwise provided in this Plan or the Confirmation Order, upon the Effective Date, all Claims against and Equity Interests in the Debtors shall be satisfied, discharged and released in full exchange for the consideration provided under this Plan. Except as otherwise provided in this Plan or the Confirmation Order or under the terms of the documents evidencing the Exit Loan, all Persons shall be precluded from asserting, against the Debtors, the Reorganized Debtors, or their respective properties or interests in property, any other Claims based upon any act or omission, transaction or other activity of any kind or nature that occurred prior to the Effective Date. In accordance with the foregoing, except as provided in this Plan or the Confirmation Order, the Confirmation Order shall constitute a judicial determination, as of the Effective Date, of the discharge of all such Claims and other debts and liabilities of the Debtors, pursuant to sections 524 and 1141 of the Bankruptcy Code, and such discharge shall void and extinguish any judgment obtained against the Debtors or the Reorganized Debtors at any time, to the extent such judgment is related to a discharged Claim.

10.6. ***Exculpation.*** To the extent permitted by applicable law and approved by the Bankruptcy Court, the Released Parties shall not have any liability to any Holder of a Claim or Equity Interest for any act or omission in connection with, or arising out of, the negotiation and the pursuit of approval of the Disclosure Statement, this Plan or the solicitation of votes for, or confirmation of, this Plan, the funding of this Plan, the consummation of this Plan, or the administration of this Plan or the property to be distributed under this Plan (except for any liability that results from bad faith, willful misconduct or gross negligence as determined by a Final Order), and, in all respects, shall be entitled to rely upon the advice of counsel with respect to their duties and responsibilities under this Plan.

10.7. ***Releases By the Debtors and their Estates.*** Except for the right to enforce this Plan, the Debtors shall, on their own behalf and on behalf of their Estates, effective upon the occurrence of the Effective Date, be deemed to forever release, waive and discharge the Released Parties of and from any and all Claims, demands, causes of action and the like, existing as of the Effective Date or thereafter arising from any act, omission, event, or other occurrence that occurred on or prior to the Effective Date, whether direct or derivative, liquidated or unliquidated, fixed or contingent, matured or unmatured, disputed or undisputed, known or unknown, foreseen or unforeseen, at law, in equity or otherwise (except for any liability that results from bad faith, willful misconduct or gross negligence as determined by a Final Order); provided, however, that to the extent the Wapiti Trust prevails in a fraudulent conveyance action under section 548 or section 544 against Wapiti Oil & Gas, L.L.C. or any affiliated person or entity (excluding ZCOF, the affiliate of ZCOF that has directly invested in Wapiti (collectively, the "***ZCOF Parties***"), and each of its directors and employees) (collectively, other than the ZCOF Parties and each of their directors and employees, "***Wapiti***") pursuant to a final, non-appealable order (the "***Judgment***"), and, Wapiti is unable to pay on the Judgment after the Wapiti Trust has used reasonable efforts to collect from Wapiti, then, subject to the ZCOF

Parties' reservation of rights below, the Wapiti Trust may take action against the ZCOF Parties in connection with such fraudulent conveyance action pursuant to 11 U.S.C. § 550(a)(2), but only to the extent (a) of the deficiency between the amount of the Judgment and the amount paid, (b) of the value of the assets distributed, dividended or otherwise paid from Wapiti to the ZCOF Parties, if any, and (c) the commencement of such litigation against the ZCOF Parties has been approved in advance by a majority of the Wapiti Trust Oversight Board, which majority shall include the vote of Whitebox, provided that to the extent Whitebox votes against the commencement of such litigation against the ZCOF Parties and the Recovery Trustee disagrees with such determination, then the Recovery Trustee is hereby authorized to file a motion with the Bankruptcy Court seeking a finding that such determination not to pursue the litigation against the ZCOF Parties was not reasonable and upon such a finding, the Bankruptcy Court shall order the Wapiti Trust to pursue such litigation against the ZCOF Parties; provided further, however, that the ZCOF Parties reserve all rights and defenses, at law and in equity to defend against any and all actions and no release of any party provided for herein shall prejudice the ZCOF Parties' rights or defenses. Such release, waiver and discharge shall not operate as a release, waiver or discharge of any Released Party in respect of any express contractual obligation of any such party effective from and after the Effective Date, provided that no Person who votes to reject this Plan will receive the benefit of a release.

10.8. ***Consensual Releases By Holders of Claims and Equity Interests.*** Except for the right to enforce this Plan, each Person who votes to accept this Plan shall be deemed to forever release, waive and discharge the Released Parties, to the fullest extent permitted by section 1141 of the Bankruptcy Code, of and from any and all Claims, demands, causes of action and the like, existing as of the Effective Date or thereafter arising from any act, omission, event, or other occurrence that occurred on or prior to the Effective Date, whether direct or derivative, liquidated or unliquidated, fixed or contingent, matured or unmatured, disputed or undisputed, known or unknown, foreseen or unforeseen, at law, in equity or otherwise that is based on, relates to, or in any manner arises from, in whole or in part, the Debtors, the Debtors' restructuring, the Chapter 11 Cases, the purchase, sale or rescission of the purchase or sale of any security of the Debtors, the subject matter of, or the transactions or events giving rise to, any Claim that is treated in this Plan, the business or contractual arrangements between the Debtors and any Released Party relating to the restructuring of Claims prior to or in the Chapter 11 Cases or the negotiation, formulation or preparation of this Plan, or any related agreements, instruments or other documents (except for any liability that results from bad faith, willful misconduct or gross negligence as determined by a Final Order). Except as otherwise provided herein, upon the Effective Date, all such Holders of Claims and their affiliates shall be forever precluded and enjoined from prosecuting or asserting any such discharged Claim against the Debtors, any other Released Party, or any of their Affiliates or Subsidiaries. Notwithstanding the foregoing, in the event that this Plan is not confirmed, no party shall be deemed to have released or shall release any claims or be released hereby. Furthermore, notwithstanding the foregoing, such release, waiver and discharge shall not operate as a release, waiver or discharge of any Released Party in respect of any express contractual obligation of any such Released Party incurred in connection with this Plan or of any express contractual obligation of any non-Debtor party due to any other non-Debtor party.

10.9. ***Abrogation of Successor Liability***. The transfer of property of the Debtors to the Joint Venture Company shall be free and clear of any claim, or resulting liability, that the Joint Venture Company or the Plan Sponsor is to any extent a "successor" to any of the Debtors under any state or federal statutory or common law relating to "successor liability," or any claim that an entity is legally responsible for the debts or liabilities of another entity as a successor to, continuation of, or participant in a de facto or actual merger with, the other entity, under any theory or legal doctrine of any type or nature whatsoever. Neither of the Joint Venture Company nor the Plan Sponsor shall be, or shall be deemed to be, a successor to any of the Debtors for any purpose.

10.10. ***Term of Injunctions or Stays.***

(a) Except as otherwise expressly provided herein, and except with respect to enforcement of this Plan, all Persons who have held, hold or may hold any Claim against, or Equity Interest in, the Debtors as of the Effective Date will be permanently enjoined, from and after the Effective Date, from (i) commencing or continuing in any manner any action or other proceeding of any kind in any forum with respect to such Claim or Equity Interest against the Reorganized Debtors, the Joint Venture Company, the Recovery Trusts, or their property, (ii) the enforcement, attachment, collection or recovery in any manner or by any means any judgment, award, decree or order against the Reorganized Debtors, the Joint Venture Company, the Recovery Trusts, or their respective property with respect to such Claim or Equity Interest, (iii) creating, perfecting or enforcing any Lien or other encumbrance of any kind against the Reorganized Debtors, the Joint Venture Company, the Recovery Trusts, or against any property or interests in property of the Reorganized Debtors with respect to any such Claim or Equity Interest, (iv) asserting a right of setoff, subrogation or recoupment of any kind against any obligation due from the Reorganized Debtors, the Joint Venture Company, the Recovery Trusts, or against any property or interests in property of the Reorganized Debtors, the Joint Venture Company or the Recovery Trusts with respect to such Claim or Equity Interest, (v) commencing or continuing any action, in any forum, that does not comply or is inconsistent with the provisions of this Plan and (vi) pursuing any such Claim released pursuant to Section 10.5, 10.6, 10.7 or 10.8 hereof.

(b) Unless otherwise provided herein, all injunctions or stays arising under or entered during the Debtors' Chapter 11 Cases under section 105 or 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect until the Effective Date.

10.11. ***Termination of Subordination Rights and Settlement of Related Claims.*** The classification and manner of satisfying all Claims and Equity Interests under this Plan takes into consideration all subordination rights, whether arising by contract or under general principles of equitable subordination, section 510(b) or 510(c) of the Bankruptcy Code, or otherwise.

10.12. ***Indemnification Obligations.*** Notwithstanding anything to the contrary herein, subject to the occurrence of the Effective Date, the obligations of the Debtors as provided in the Debtors' certificates of incorporation and bylaws as in effect through the Effective Date

and under applicable law or other applicable agreements as in effect through the Effective Date to indemnify, defend, reimburse, exculpate, advance fees and expenses to, or limit the liability of, directors, officers and employees of the Debtors as of the Effective Date (including in the case of officers and employees serving as directors, managers, officers and employees of any Affiliate or Subsidiary of the Debtors or as trustee (or similar position) of any employee benefit plan or trust (or similar Person) of the Debtors and their Affiliates and Subsidiaries, in such capacities) against any damages, liabilities, obligations, claims or causes of action whether direct or derivative, liquidated or unliquidated, fixed or contingent, disputed or undisputed, matured or unmatured, known or unknown, foreseen or unforeseen, asserted or unasserted, shall survive confirmation of this Plan, remain unaffected thereby after the Effective Date and not be discharged under section 1141 of the Bankruptcy Code or otherwise, irrespective of whether such indemnification, defense, advancement, reimbursement, exculpation or limitation is owed in connection with an event occurring before or after the Petition Date. Any Claim based on the Debtors' obligations herein shall not be subject to any objection in either case by reason of section 502(e)(1)(B) of the Bankruptcy Code.

As of the Effective Date, the Restated Certificates of Incorporation and/or Restated Bylaws shall provide for the indemnification, defense, reimbursement, exculpation and/or limitation of liability of, and advancement of fees and expenses to, directors and officers and employees of the Debtors (including in the case of officers and employees serving as directors, managers, officers and employees of any Affiliate or Subsidiary of the Reorganized Debtors or as trustee (or similar position) of any employee benefit plan or trust (or similar Person) of the Reorganized Debtors and their Affiliates and Subsidiaries, in such capacities), to the fullest extent permitted by applicable state law.

The Debtors and the Reorganized Debtors shall indemnify and hold harmless (i) the DIP Agent and the DIP Lenders, (ii) the Plan Sponsor, (ii) the Joint Venture Company, (iii) the respective advisors, officers, directors and employees of the parties described in clauses (i) through (iii) hereof, and (v) each of their respective successors and assigns (collectively, the "***Indemnified Persons***"), to the full extent lawful, from and against all losses, claims, damages, and liabilities incurred by them that are related to or arise out of (a) the formulation, negotiation and pursuit of the confirmation or consummation of this Plan or (b) the Indemnified Persons' consideration of other proposals for the reorganization of the Debtors under chapter 11 of the Bankruptcy Code.

10.13. ***Limitation on Indemnification.*** Notwithstanding anything to the contrary set forth in this Plan or elsewhere, neither the Reorganized Debtors nor the Joint Venture Company shall be obligated to indemnify and hold harmless any Person or entity for any claim, cause of action, liability, judgment, settlement, cost or expense that results from such Person's fraud, gross negligence, or willful misconduct as determined by a Final Order as to which the time to appeal has expired.

10.14. ***Preservation of Claims.***

(a) Preservation of Causes of Action and Wapiti Causes of Action. All Causes of Action and Wapiti Causes of Action, rights of setoff and other legal and equitable

defenses of any Debtor or any Estate are preserved for the benefit of the Recovery Trusts unless expressly released, waived, or relinquished under the Plan or Confirmation Order. No Person may rely on the absence of a specific reference in the Plan or the Disclosure Statement to any Cause of Action or any Wapiti Cause of Action against them as an indication that the Recovery Trusts will not pursue a Cause of Action or Wapiti Cause of Action against them.

(b) Recovery Trustee as Representative of the Estate. The Recovery Trustee shall be appointed representative of the Estates pursuant to Bankruptcy Code § 1123(b)(3)(B) with respect to the Claims, the Causes of Action and the Wapiti Causes of Action and, except as otherwise ordered by the Bankruptcy Court and subject to any releases in this Plan, on the Effective Date, the Recovery Trust shall be transferred (i) all defenses and counterclaims, whether legal or equitable, of the Debtors against all Claims and (ii) all Causes of Action and Wapiti Causes of Action, and may object to, enforce, sue on, defend and, subject to Bankruptcy Court approval (except as otherwise provided herein) settle or compromise (or decline to do any of the foregoing) any or all of Claims or the Causes of Action or Wapiti Causes of Action. Except as otherwise ordered by the Bankruptcy Court, and subject to the provisions of the Recovery Trust Agreements and the oversight of the applicable Oversight Board, the Recovery Trustee shall be vested with authority and standing to prosecute any Causes of Action and any Wapiti Causes of Action and to defend against any Claim. The Recovery Trustee and his or her attorneys and other professional advisors shall have no liability for pursuing or failing to pursue any such Causes of Action or Wapiti Causes of Action or for defending or failing to defend against any Claim.

(c) Settlement of Causes of Action, Wapiti Causes of Action and Disputed Claims Prior to Effective Date. At any time after the Confirmation Date and before the Effective Date, notwithstanding anything in this Plan to the contrary, the Debtors, with the consent of the DIP Agent, may settle some or all of the Causes of Action, the Wapiti Causes of Action or the Disputed Claims subject to obtaining any necessary Bankruptcy Court approval. The proceeds from the settlement of a Cause of Action shall constitute a General Trust Asset that shall be transferred to the General Trust on the Effective Date, for distribution in accordance with this Plan and the General Trust Agreement. The proceeds from the settlement of a Wapiti Cause of Action shall constitute a Wapiti Trust Asset that shall be transferred to the Wapiti Trust on the Effective Date, for distribution in accordance with this Plan and the Wapiti Trust Agreement. For the avoidance of doubt, proceeds of Causes of Action (including the Wapiti Causes of Action), to the extent not used to fund the Recovery Trusts, shall be for the benefit of Reorganized Delta.

(d) Settlement of Causes of Action, Wapiti Causes of Action and Claims By Recovery Trustee. Notwithstanding any requirement that may be imposed pursuant to Bankruptcy Rule 9019, from and after the Effective Date, the Recovery Trustee may, subject to the Recovery Trust Agreements and, as applicable, approval of the Recovery Trust Oversight Board, settle all Claims, Causes of Action and Wapiti Causes of Action without supervision or approval of the Bankruptcy Court, free of any restrictions of the Bankruptcy Code, the Bankruptcy Rules, the local rules of the Bankruptcy Court, and the guidelines and requirements of the United States Trustee.

10.15. ***No Acquisition of a Majority of Voting Interests.*** The confirmation and consummation of this Plan, and the issuance of New Common Stock pursuant thereto, shall not, and shall not be deemed to, constitute or result in an acquisition of a majority of the voting interests of the Debtors or any of their Affiliates or Subsidiaries for purposes of any agreement to which the Debtors or any of their Affiliates or Subsidiaries are a party.

## ARTICLE XI

## RETENTION OF JURISDICTION

11.1. ***Jurisdiction of the Bankruptcy Court.*** Unless otherwise provided for herein or in a prior order of the Bankruptcy Court, the Bankruptcy Court shall have exclusive jurisdiction over all matters arising out of, or related to, the Debtors' Chapter 11 Cases and this Plan pursuant to, and for the purposes of, sections 105(a) and 1142 of the Bankruptcy Code and for, among other things, the following purposes:

(a) To hear and determine pending applications for the assumption, assignment or rejection of executory contracts or unexpired leases and the allowance of Claims resulting therefrom;

(b) To determine any and all applications and contested matters in the Debtors' Chapter 11 Cases and grant or deny any application involving the Debtors that may be pending on the Effective Date;

(c) To ensure that distributions to Holders of Allowed Claims are accomplished as provided in this Plan;

(d) To hear and determine any timely objections to Administrative Claims or to proofs of claim and equity interests, including any objections to the classification of any Claim or Equity Interest, and to allow or disallow any disputed claim in whole or in part;

(e) To determine any and all adversary proceedings, motions, applications, and contested or litigated matters, including, but not limited to, all Causes of Action and Wapiti Causes of Action, and consider and act upon the compromise and settlement of any Claim against, or Causes of Action or Wapiti Causes of Action on behalf of, the General Trust or the Wapiti Trust, as applicable;

(f) To enter and implement such orders as may be appropriate in the event the Confirmation Order is for any reason stayed, revoked, modified or vacated;

(g) To issue such orders in aid of execution of this Plan, to the extent authorized by section 1142 of the Bankruptcy Code;

(h) To consider any amendments to or modifications of this Plan, or to cure any defect or omission, or reconcile any inconsistency in any order of the Bankruptcy Court, including the Confirmation Order;

(i) To hear and determine all applications of retained professionals under sections 330, 331 and 503(b) of the Bankruptcy Code for awards of compensation for services rendered and reimbursement of expenses incurred prior to the Confirmation Date;

(j) To hear and determine disputes arising in connection with the interpretation, implementation or enforcement of this Plan, the Confirmation Order, the Plan Supplements, the Recovery Trusts, any transactions or payments contemplated by this Plan or any agreement, instrument or other document governing or relating to any of the foregoing;

(k) To hear and determine matters concerning state, local and federal taxes in accordance with sections 346, 505 and 1146 of the Bankruptcy Code (including the expedited determination of taxes under section 505(b) of the Bankruptcy Code);

(l) To hear any other matter not inconsistent with the Bankruptcy Code;

(m) To hear and determine all disputes involving the existence, scope and nature of the discharges granted under Sections 10.4 and 10.5 hereof;

(n) To hear and determine all disputes involving or in any manner implicating the exculpation provisions granted under Section 10.6 hereof;

(o) To issue injunctions and effect any other actions that may be necessary or desirable to restrain interference by any Person with the consummation or implementation of this Plan;

(p) To enforce all orders, judgments, injunctions, releases, exculpations, indemnifications and rulings entered in connection with this Plan with respect to any Person;

(q) To enter a final decree closing the Debtors' Chapter 11 Cases;

(r) To hear and determine all disputes relating to whether the confirmation and consummation of this Plan, and the issuance of New Common Stock pursuant thereto, shall have, or shall be deemed to, constitute or result in an acquisition of a majority of the voting interests of the Debtors or any of their Affiliates or Subsidiaries for purposes of any agreement to which the Debtors or any of their Affiliates or Subsidiaries are a party;

(s) To hear and determine all disputes relating to the effect of this Plan under any agreement to which the Debtors, the Reorganized Debtors or any Affiliate or Subsidiary of the Debtors or the Reorganized Debtors are a party; and

(t) To hear and determine all disputes relating to whether any third party consent is required for the assumption or assignment under this Plan of any executory contract.

## ARTICLE XII

## MISCELLANEOUS

12.1. ***Payment of Statutory Fees.*** All fees payable under section 1930 of title 28 of the United States Code, as determined by the Bankruptcy Court at the Confirmation Hearing, shall be paid on or before the Effective Date.

12.2. ***Payment Noteholder Professional Fees***. The Reorganized Debtors shall pay all reasonable and documented fees, costs and expenses incurred by the DIP Agent, ZCOF, and the Indenture Trustee after the Petition Date, subject to a $30,000 cap as to the Indenture Trustee. Notwithstanding the foregoing, the fees, costs and expenses discussed in this Section 12.2 in respect of ZCOF and the Indenture Trustee shall only be paid in the event that this Plan is confirmed and the Effective Date occurs.

12.3. ***Further Assurances.*** The Debtors or the Reorganized Debtors, as applicable may file such agreements and other documents as may be necessary or appropriate to effectuate and further evidence the terms and conditions of this Plan.

12.4. ***Exhibits Incorporated.*** All exhibits to this Plan, including the Plan Exhibits and the Plan Supplements, are incorporated into and are a part of this Plan as if fully set forth herein.

12.5. ***Intercompany Claims.*** Notwithstanding anything to the contrary herein, on or after the Effective Date, any claims held by one Debtor against any other Debtor may be adjusted (including by contribution, distribution in exchange for new debt or equity, or otherwise), paid, continued, or discharged to the extent reasonably determined appropriate by the Debtors and the Plan Sponsor.

12.6. ***Amendment or Modification of this Plan.*** Subject to section 1127 of the Bankruptcy Code and, to the extent applicable, sections 1122, 1123 and 1125 of the Bankruptcy Code, alterations, amendments or modifications of this Plan or the Plan Exhibits may be proposed in writing jointly by the Debtors, the Supporting Noteholders and, with respect only to those provisions that have a material effect on the Plan Sponsor's or the Joint Venture Company's commercial, economic or management (with respect to the Joint Venture Company) rights or interests, the Plan Sponsor at any time prior to or after the Confirmation Date, but prior to the Effective Date. Holders of Claims that have accepted this Plan shall be deemed to have accepted this Plan, as altered, amended or modified, if the proposed alteration, amendment or modification does not materially and adversely change the treatment of the Claim of such Holder; provided, however, that any Holders of Claims who were deemed to accept this Plan because such Claims were unimpaired shall continue to be deemed to accept this Plan only if, after giving effect to such amendment or modification, such Claims continue to be unimpaired.

12.7. ***Inconsistency.*** In the event of any inconsistency among this Plan, the Disclosure Statement and any exhibit to the Disclosure Statement, the provisions of this Plan shall govern.

12.8. ***Section 1125(e) of the Bankruptcy Code.*** As of the Confirmation Date, the Debtors shall be deemed to have solicited acceptances of this Plan in good faith and in compliance with the applicable provisions of the Bankruptcy Code. The Debtors (and each of their successors, predecessors, control persons, members, Affiliates, Subsidiaries, agents, directors, officers, employees, investment bankers, financial advisors, accountants, attorneys and other professionals and any officer or employee serving as a director, manager, officer or employee of any Affiliate or Subsidiary of the Debtors or trustee (or similar position) of any employee benefit plan or trust (or similar person) of the Debtors or its Affiliates or Subsidiaries) have participated in good faith and in compliance with the applicable provisions of the Bankruptcy Code in the offer and issuance of the securities under this Plan. Accordingly, such entities and individuals shall not be liable at any time for the violation of any applicable law, rule or regulation governing the solicitation of acceptances or rejections of this Plan or the offer and issuance of the securities under this Plan.

12.9. ***Compliance with SEC Requirements***. The Debtors shall (i) take all steps necessary to remedy any past instances of SEC non-compliance with public-company reporting requirements prior to the Effective Date, and (ii) commence timely filing of all SEC reports, statements and other information required of a public reporting company.

12.10. ***Compliance with Tax Requirements.*** In connection with this Plan and all instruments issued in connection herewith and distributed hereunder, any party issuing any instruments or making any distribution under this Plan, shall comply with all applicable withholding and reporting requirements imposed by any federal, state or local taxing authority, and all distributions under this Plan shall be subject to any withholding or reporting requirements. Notwithstanding the above, each Holder of an Allowed Claim that is to receive a distribution under this Plan shall have the sole and exclusive responsibility for the satisfaction and payment of any tax obligations imposed by any governmental unit, including income, withholding and other tax obligations, on account of such distribution. Any party issuing any instruments or making any distribution under this Plan has the right, but not the obligation, to not make a distribution until such Holder has made arrangements satisfactory to such issuing or distributing party for payment of any such tax obligations.

12.11. ***Determination of Tax Filings and Taxes.*** The Reorganized Debtors shall have the right to request an expedited determination of its tax liability, if any, under section 505(b) of the Bankruptcy Code with respect to any tax returns filed, or to be filed, for any and all taxable periods ending after the Petition Date through the Effective Date. The Reorganized Debtors shall have the right, at their expense, to control, conduct, compromise and settle any tax contest, audit or administrative or court proceeding relating to any liability for taxes.

12.12. ***Exemption from Transfer Taxes.*** Pursuant to section 1146(a) of the Bankruptcy Code, the issuance, transfer or exchange of notes or equity securities (including issuance of warrants) under or in connection with this Plan, the creation of any mortgage, deed of trust or other security interest, the making or assignment of any lease or sublease, or the making or delivery of any deed or other instrument of transfer under, in furtherance of, or in connection with this Plan, including any merger agreements or agreements of consolidation, deeds, bills of sale or assignments executed in connection with any of the transactions contemplated under this

Plan shall not be subject to any stamp, real estate transfer, mortgage recording or other similar tax.

12.13. ***Dissolution of any Statutory Committees and Cessation of Fee and Expense Payment.*** Any statutory committees appointed in the Debtors' Chapter 11 Cases shall be dissolved on the Effective Date. The Reorganized Debtors shall not be responsible for paying any fees and expenses incurred by the advisors and any statutory committees after the Effective Date.

12.14. ***Severability of Provisions in this Plan.*** If prior to the entry of the Confirmation Order, any term or provision of this Plan is determined by the Bankruptcy Court to be invalid, void or unenforceable, the Bankruptcy Court, at the request of the Debtors, upon the consent of the Plan Sponsor, shall have the power to alter and interpret such term or provision to render it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void or unenforceable, and such term or provision shall then be applicable as so altered or interpreted. Notwithstanding any such holding, alteration or interpretation, the remaining terms and provisions of this Plan shall remain in full force and effect and shall in no way be affected, impaired or invalidated by such holding, alteration or interpretation. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of this Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms.

12.15. ***Governing Law.*** Except to the extent that the Bankruptcy Code or other federal law is applicable, or to the extent an exhibit to this Plan or Plan Supplements provides otherwise (in which case the governing law specified therein shall be applicable to such exhibit), the rights, duties and obligations arising under this Plan shall be governed by, and construed and enforced in accordance with, the laws of the State of New York without giving effect to the principles of conflict of laws that would require application of the laws of another jurisdiction.

12.16. ***No Admissions.*** If the Effective Date does not occur, this Plan shall be null and void in all respects, and nothing contained in this Plan shall (a) constitute a waiver or release of any Claims by or against, or any Equity Interests in, the Debtors, (b) prejudice in any manner the rights of the Debtors or any other party in interest or (c) constitute an admission of any sort by the Debtors or other party in interest.

12.17. ***Reservation of Rights.*** Except as expressly set forth herein, this Plan shall have no force and effect unless and until the Bankruptcy Court has entered the Confirmation Order and the Effective Date has occurred. The filing of this Plan, any statement or provision contained in this Plan, or the taking of any action by the Debtors or any other party with respect to this Plan shall not be and shall not be deemed to be an admission or waiver of any rights of the Debtors or any other party with respect to Claims or Equity Interests or any other matter.

12.18. ***Notices.*** All notices, requests, and demands to or upon the Debtors to be effective shall be in writing (including by facsimile transmission) and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when actually

delivered or, in the case of notice by facsimile transmission, when received and telephonically confirmed, addressed as follows:

(a) if to the Debtors, to:

Delta Petroleum Corporation
370 17th Street, Suite 4300
Denver, Colorado 80202
Facsimile: (303) 298-8251
Attention: Carl E. Lakey, Chief Executive Officer
E-mail: clakey@deltapetro.com

with copies to:

Hughes Hubbard & Reed LLP
One Battery Park Plaza
New York, New York 10004
Facsimile: (212) 422-4726
Attention: Kathryn A. Coleman, Esq.
E-mail: kcoleman@hugheshubbard.com

Morris, Nichols, Arsht & Tunnell LLP
1201 North Market Street,
Wilmington, DE 19899
Facsimile: 302-425-4664
Attention: Derek C. Abbott, Esq.
Email: dabbott@mnat.com

(b) if to the Plan Sponsor, to:

Laramie Energy II, LLC
1512 Larimer Street, Suite 1000
Denver, Colorado 80202
Facsimile: (303) 339-4399
Attn: Bruce L. Payne, President and CFO
Email: bpayne@laramie-energy.com

with copies to:

Bryan Cave HRO
1700 Lincoln, Suite 4100
Denver, CO 80203
Facsimile: (303) 866-0200
Attn: Phillip R. Clark, Esq.
Email: phillip.clark@bryancave.com

(c) if to the Supporting Noteholders, to:

Waterstone Capital Management, L.P.
2 Carlson Parkway, Suite 260
Plymouth, MN 55447
Attn: _____
Facsimile _____
Email: _____

with copies to:

_____
_____
_____
Attn: _____
Facsimile: _____
Email: _____

Whitebox Advisors, LLC
3033 Excelsior Boulevard, Suite 300
Minneapolis, MN 55416
Attention: Jake Mercer
Telephone: (612) 253-6001
Email: jmercer@whiteboxadvisors.com

with copies to:

Brown Rudnick LLP
Seven Times Square
New York, NY 10036
Attn: Robert J. Stark, Esq.
Facsimile (212) 209-4801
Email: rstark@brownrudnick.com

Brown Rudnick LLP
185 Asylum Street, 38th Floor
Hartford, CT 06103
Attn: Howard L. Siegel, Esq.
Facsimile (860) 509-6501
Email: hsiegel@brownrudnick.com

Zell Credit Opportunities Master Fund, L.P.
Two North Riverside Plaza
Suite 600
Chicago, Illinois 60606
Attn: Will Monteleone
Facsimile (312) 454-0335
Email: wmonteleone@egii.com

with copies to:

Skadden, Arps, Slate, Meagher & Flom LLP
155 North Wacker Drive, Floor 32
Chicago, IL 60606
Attn: Ron E. Meisler
Facsimile: (312) 407-8641
Email: Ron. Meisler@skadden.com

Dated: June 4, 2012
Denver, Colorado

**DELTA PETROLEUM CORPORATION**

By:_____
John T. Young, Jr.
Chief Restructuring Officer

**DPCA LLC**

By:_____
John T. Young, Jr.
Chief Restructuring Officer

**DELTA EXPLORATION COMPANY, INC.**

By:_____
John T. Young, Jr.
Chief Restructuring Officer

**DELTA PIPELINE, LLC**

By:_____
John T. Young, Jr.
Chief Restructuring Officer

**DLC, INC.**

By:_____
John T. Young, Jr.
Chief Restructuring Officer

**CEC, INC.**

By:_____
John T. Young, Jr.
Chief Restructuring Officer

**CASTLE TEXAS PRODUCTION LIMITED PARTNERSHIP**

By:_____
John T. Young, Jr.
Chief Restructuring Officer

**AMBER RESOURCES COMPANY OF COLORADO**

By:_____
John T. Young, Jr.
Chief Restructuring Officer

**CASTLE EXPLORATION COMPANY, INC.**

By:_____
John T. Young, Jr.
Chief Restructuring Officer

COUNSEL:

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(302) 658-9200

-and-

Kathryn A. Coleman, Esq.
W. Peter Beardsley, Esq.
Christopher Gartman, Esq.
Ashley J. Laurie, Esq.
Hughes Hubbard & Reed LLP
One Battery Park Plaza
New York, New York 10004
(212) 837-6000

# Exhibit 1

# Contribution Agreement

*Execution Version*

# CONTRIBUTION AGREEMENT

**among**

**LARAMIE ENERGY II, LLC**

**AND**

**DELTA PETROLEUM CORPORATION**

**AND**

**PICEANCE ENERGY, LLC**

**Dated as of June 4, 2012**

## Defined Terms

| | |
|---|---|
| AAA | 17.17(c) |
| Acquisition Proposal | 6.1(a) |
| Affected Asset | 4.4(a) |
| Aggregate Environmental Deductible | 5.5(b) |
| Aggregate Title Deductible | 4.2(j) |
| Agreement | Intro Paragraph - Preamble |
| Assignment and Bill of Sale | 4.1(a) |
| Assumed Delta Contracts | 1.5 |
| Assumed Laramie Contracts | 1.4 |
| Assumed Liabilities | 16.1 |
| Bankruptcy and Equity Exception | 9.3 |
| Bankruptcy Code | Recital B, 6.1(b) |
| Bankruptcy Court | Recital B, 6.1(c) |
| Break-up Fee | 6.1(d) |
| Break-up Fee Order | 6.1(d), 10.2(j) |
| Capital Expenditures | 7.7 |
| Carry Agreement | 1.1(d)(10) |
| Casualty Loss | 10.4(b) |
| Chapter 11 Cases | Recital B, 6.1(e) |
| Claim | 16.3(b) |
| Claim Notice | 16.3(a) |
| Closing | 14.1 |
| Closing Adjustments | 2.2 |
| Closing Amount | 2.3 |
| Closing Date | 14.1 |
| Code | 2.5 |
| Company | Preamble |
| Company Indemnified Parties | 16.2(a) |
| Company's Delta Environmental Liabilities | 5.8(a) |
| Company's Laramie Environmental Liabilities | 5.9(a) |
| Condition | 5.1(a) |
| Confidentiality Agreement | 10.1(i) |
| COPAS | 2.3(a) |
| Defect Notice Date | 3.1 |
| Defensible Title | 4.1(c) |
| Delta | Preamble |
| Delta Assets | 1.1(d) |
| Delta Contracts | 1.1(d)(8), 2.6 |
| Delta Contribution | 1.1(b) |
| Delta Equipment | 1.1(d)(5) |
| Delta Excluded Assets | 1.3(b) |
| Delta Interest | 1.1(b) |
| Delta Lands | 1.1(d)(1) |

| | |
|---|---|
| Delta Leases | 1.1(d)(1) |
| Delta Records | 1.1(d)(9) |
| Delta Wells | 1.1(d)(3) |
| Delta's Representatives | 5.8 |
| DIP Loan Agreement | 6.1(g) |
| Disputes | 17.17(b) |
| Due Diligence Review | 3.1 |
| Economic Interest Agreement | 10.3(f) |
| Effective Time | 1.2 |
| Environmental Assessment | 3.3 |
| Environmental Defect | 5.1(b) |
| Environmental Defect Adjustment | 5.5(a)(1) |
| Environmental Defect Notice | 5.3 |
| Environmental Defect Property | 5.3 |
| Environmental Defect Value | 5.3 |
| Environmental Law or Environmental Laws | 5.1(c) |
| Environmental Laws | 5.1(c) |
| Escrow Account | 10.4(d) |
| Escrow Agent | 10.4(d) |
| Escrow Agreement | 10.4(d) |
| Excluded Liabilities | 16.1 |
| Final Order | 6.1(f) |
| Forward Carry Wells | 10.3(f) |
| GAAP | 2.3(a) |
| Governmental Entity | 5.1(d) |
| Hazardous Materials | 5.1(e) |
| Hydrocarbons | 1.1(c)(2) |
| Income Taxes | 11.1(a) |
| Indemnified Party | 16.3(a) |
| Indemnifying Party | 16.3(a) |
| Individual Environmental Deductible | 5.5(b) |
| Individual Title Deductible | 4.2(j) |
| Knowledge | 17.11(a) |
| Laramie | Preamble |
| Laramie Assets | 1.1(c) |
| Laramie Contracts | 1.1(c)(8), 2.6 |
| Laramie Contribution | 1.1(a) |
| Laramie Equipment | 1.1(c)(5) |
| Laramie Excluded Assets | 1.3(a) |
| Laramie Interest | 1.1(a) |
| Laramie Lands | 1.1(c)(1) |
| Laramie Leases | 1.1(c)(1) |
| Laramie Records | 1.1(c)(9) |
| Laramie Wells | 1.1(c)(3) |
| Laramie/Delta Indemnified Parties | 16.2(c) |

| | |
|---|---|
| Losses | 16.2 |
| Management Agreement | Recital D |
| Material Adverse Effect | 17.11(b) |
| Net Casualty Loss | 10.4(b) |
| Net Revenue Interest | 4.1(c)(1) |
| Notice of Defective Interest | 4.2(c) |
| Obligations | 16.1 |
| Other Agreements | Recital D |
| Parties | Preamble |
| Party | Preamble |
| Permitted Encumbrances | 4.1(d) |
| Piceance LLC Agreement | Recital D |
| Post-Closing Cure Period | 4.2(g) |
| Plan | 6.1(g) |
| Plan Confirmation Order | 6.1(h) |
| Pre-Effective Time Environmental Claims | 5.8(b) |
| Preliminary Settlement Statement | 2.3 |
| Production Taxes | 11.1(c) |
| Property Expenses | 2.3(b) |
| Property Taxes | 11.1(b) |
| Remediation or Remediate | 5.1(f) |
| Required Consent | 4.4(a) |
| Revolving Credit Agreement | 10.3(e) |
| Severance Taxes | 11.1(d) |
| Straddle Period | 11.1(g) |
| Survival Period | 17.13 |
| Tax Return | 11.1(e) |
| Taxes | 11.1(f) |
| Title Benefit | 4.2(b) |
| Title Benefit Amount | 4.2(i) |
| Title Benefit Notice | 4.2(d) |
| Title Benefit Property | 4.2(d) |
| Title Defect | 4.2(a) |
| Title Defect Adjustment | 4.2(g) |
| Title Defect Amount | 4.2(h) |
| Title Defect Property | 4.2(c) |
| Title Disputed Matters | 4.3 |
| Transaction | Recital C |
| Transfer Taxes | 11.1(h) |
| Valuation | 5.8 |
| Working Interest | 4.1(c)(2) |

## List of Exhibits

| | |
|---|---|
| Exhibit A | Piceance LLC Agreement |
| Exhibit B | Management Agreement |
| Exhibit C-1 | Laramie Leases |
| Exhibit C-2 | Laramie Wells |
| Exhibit C-3 | Laramie Vehicles |
| Exhibit C-4 | Laramie Fee Lands |
| Exhibit C-5 | Laramie Surface Rights |
| Exhibit C-6 | Laramie Contracts |
| Exhibit D-1 | Delta Leases |
| Exhibit D-2 | Delta Wells |
| Exhibit D-3 | Delta Vehicles |
| Exhibit D-4 | Delta Fee Lands |
| Exhibit D-5 | Delta Surface Rights |
| Exhibit D-6 | Delta Contracts |
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# CONTRIBUTION AGREEMENT

This Contribution Agreement (together with the Exhibits and Schedules made a part hereof, this "Agreement"), dated as of June 4, 2012, is entered into by and among **Piceance Energy, LLC,** a Delaware limited liability company, whose address is 1512 Larimer Street, Suite 1000, Denver, CO 80202 (the "Company"), **Laramie Energy II, LLC**, a Delaware limited liability company, whose address is 1512 Larimer Street, Suite 1000, Denver, CO 80202 ("Laramie"), and **Delta Petroleum Corporation**, a Delaware corporation, whose address is 370 17th Street, Suite 4300, Denver, CO 80202 ("Delta"). The Company, Laramie and Delta are sometimes hereinafter referred to individually as a "Party" and collectively as the "Parties".

## RECITALS

**A.** Laramie and Delta each owns certain oil and gas leases and associated assets in Mesa and Garfield Counties, Colorado;

**B.** Delta and certain of its subsidiaries (collectively, the "Debtors", and each separately, a "Debtor") have filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court") on December 16, 2011, thereby commencing bankruptcy cases which are being jointly administered under Case No. 11-14006 (KJC), and such jointly-administered chapter 11 cases are hereinafter referred to collectively as the "Chapter 11 Cases");

**C.** In connection with the Chapter 11 Cases, each of Laramie and Delta desires to form the Company, to contribute certain oil and gas and real estate assets to the Company, and to receive (i) LLC membership units in the Company, (ii) certain cash payments from the Company as set forth herein, and (iii) certain covenants, representations and warranties from the other, upon the terms and conditions set forth in this Agreement, subject to one or more orders of the Bankruptcy Court and confirmation of a plan of reorganization for the Debtors in the Chapter 11 Cases and the requirements imposed by the Bankruptcy Code. The contribution of Assets to the Company contemplated by this Agreement may be referred to as the "Transaction";

**D.** In connection with the execution and delivery of this Agreement, Laramie and Delta are agreeing on the execution forms of certain agreements to be executed at the Closing of the Transaction, including (i) the Amended and Restated Limited Liability Company Agreement of the Company, between Laramie and Delta, dated as of the Closing, attached hereto as **Exhibit A** (the "Piceance LLC Agreement"), and (ii) the Management Services Agreement, dated as of the Closing, governing the management and operation of the Company, attached here to as **Exhibit B** (the "Management Agreement," and together with the Piceance LLC Agreement, the "Other Agreements");

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

## ARTICLE 1
## CONTRIBUTION

**1.1 Contribution of Assets.**

(a) Laramie Contribution. On the terms and subject to the conditions of this Agreement, Laramie hereby agrees to assign, transfer, convey and deliver to the Company, and the Company agrees to accept and acquire from Laramie, effective as of the Effective Time, all the right, title and interest of Laramie in, to and under the Laramie Assets in exchange for (i) a 66.66% LLC membership interest in the Company represented by 333,333 Units (the "Laramie Interest") and (ii) the Laramie Payment (as defined in Section 2.1). The contribution and acquisition of the Laramie Assets is referred to in this Agreement as the "Laramie Contribution."

(b) Delta Contribution. On the terms and subject to the conditions of this Agreement, Delta, subject to an approved Plan Confirmation Order of the Bankruptcy Court, hereby agrees to assign, transfer, convey and deliver to the Company, and the Company agrees to accept and acquire from Delta, effective as of the Effective Time, all the right, title and interest of Delta in, to and under the Delta Assets in exchange for (i) a 33.34% LLC membership interest in the Company represented by 166,667 Units (the "Delta Interest") and (ii) the Delta Payment (as defined in Section 2.1). The contribution and acquisition of the Delta Assets is referred to in this Agreement as the "Delta Contribution."

(c) Laramie Assets. All of Laramie's right, title and interests in and to the following shall constitute collectively, the "Laramie Assets":

(1) The oil and gas leases specifically described in **Exhibit C-1** together with all other leasehold estates, mineral rights, royalty interests, overriding royalty interests, net profits interests, mineral fee interests, other fee interests, surface use rights and similar interests held by Laramie in Garfield and Mesa Counties, Colorado (the "Laramie Leases"), and the lands covered thereby or lands pooled or unitized therewith (the "Laramie Lands");

(2) The oil, gas, casinghead gas, coalbed methane, condensate and other gaseous and liquid hydrocarbons or any combination thereof, sulphur extracted from hydrocarbons and all other lease substances under the Leases or Lands ("Hydrocarbons") that may be produced under the Laramie Leases or from the Laramie Lands;

(3) The oil and gas wells, and the water, salt water disposal or injection wells, if any, located on the Lands, whether producing, shut-in, or temporarily abandoned, including those described in **Exhibit C-2** (the "Laramie Wells");

(4) The unitization, pooling and communitization agreements, declarations, orders, and the units created thereby relating to the properties and interests described in Sections 1.1(c)(1) through (c)(3) and to the production of Hydrocarbons, if any, attributable to said properties and interests;

(5) All equipment, machinery, fixtures and other tangible personal property and improvements located on and used or held for use solely in connection with the operation, production, gathering, treating, processing, storing, sale or disposal of Hydrocarbons or produced water from the interests described in Sections 1.1(c)(1) through (c)(4), including tanks, boilers, buildings, fixtures, injection facilities, saltwater disposal facilities, compression facilities, pumping units, flow lines, pipelines, gathering systems, gas and oil treating facilities, machinery, power lines, roads and other appurtenances, improvements and facilities, and further including field-level computer, communication and telemetry equipment and vehicles (including the vehicles described on **Exhibit C-3**) (the "Laramie Equipment");

(6) All pipes, casing, tubing, tubulars, fittings, and other spare parts, supplies, tools, and materials held as inventory in connection with the interests described in Sections 1.1(c)(1) through (c)(5);

(7) All fee lands described on **Exhibit C-4** (the "Laramie Fee Lands"), and all surface leases, rights-of-way, easements and other surface rights agreements, together with all governmental permits, licenses, and authorizations and applications for the same used or held in connection with the production, gathering, treatment, processing, storing, sale or disposal of Hydrocarbons or produced water from the interests described in Sections 1.1(c)(1) through (c)(6); including those described on in **Exhibit C-5** (the "Laramie Surface Rights");

(8) All existing and effective sales and purchase contracts, operating agreements, exploration agreements, development agreements, seismic licenses that can be transferred without a fee or penalty, balancing agreements, farmout agreements, service agreements, transportation, processing, treatment and gathering agreements, compressor leases, equipment leases and other contracts, agreements and instruments, including the contracts described in **Exhibit C-6**, insofar as they directly relate to the properties and interests described in Sections 1.1(c)(1) through (c)(7) (the "Laramie Contracts") and provided that Laramie Contracts shall not include the instruments constituting the Laramie Leases;

(9) To the extent transferable without a fee or penalty, all files, records, and data relating directly to the items described in Sections 1.1(c)(1) through (c)(8) above, including filing cabinets located in Denver or Grand Junction containing such items (the "Laramie Records"), which Laramie Records shall include, without limitation: lease records, well records, division order records, contract records, well files, title records (including abstracts of title, title opinions and memoranda, and title curative documents), surveys, maps and drawings; warranties and manuals; environmental and other regulatory files and records; contracts; correspondence; geological records and information; all seismic and geophysical information, including raw data and geophysical modeling seismic lines; production records, electric logs, core data, pressure data, decline curves, graphical production curves and all related documents; computer and communications software presently used for the operation of the Assets and located on the Lands (including codes, tapes, program documentation and related technical information); and accounting records relating to the Assets as maintained by Laramie in

an appropriate electronic medium, consisting of ownership decks, well master files, division of interest files, working interest owner name and address files, and revenue and joint interest billing accounting information; and

All other assets of every kind and nature owned by Laramie and located in Garfield and Mesa Counties, Colorado, except for and excluding the Laramie Excluded Assets.

The Company shall accept and acquire the Laramie Assets free and clear of all liabilities, obligations and commitments of Laramie other than the Assumed Liabilities and free and clear of all Liens, Claims, Liabilities and encumbrances other than Permitted Encumbrances .

(d) Delta Assets. All of Delta's right, title and interests in and to the following shall constitute collectively, the "Delta Assets":

(1) The oil and gas leases specifically described in **Exhibit D-1**, together with all other leasehold estates, mineral rights, royalty interests, overriding royalty interests, net profits interests, mineral fee interests, other fee interests, surface use rights and similar interests held by Delta in Garfield and Mesa Counties, Colorado, (the "Delta Leases"), and the lands covered thereby or lands pooled or unitized therewith (the "Delta Lands");

(2) The Hydrocarbons that may be produced under the Delta Leases or from the Delta Lands;

(3) The oil, gas, water, saltwater disposal or injection wells located on the Delta Lands, whether producing, shut-in, or temporarily abandoned, including those described on **Exhibit D-2** (the "Delta Wells");

(4) The unitization, pooling and communitization agreements, declarations, orders, and the units created thereby relating to the properties and interests described in Sections 1.1(d)(1) through (d)(3) and to the production of Hydrocarbons, if any, attributable to said properties and interests;

(5) All equipment, machinery, fixtures and other tangible personal property and improvements located on and used or held for use solely in connection with the operation, production, gathering, treating, processing, storing, sale or disposal of Hydrocarbons or produced water from the interests described in Sections 1.1(d)(1) through (d)(4), including tanks, boilers, buildings, fixtures, injection facilities, saltwater disposal facilities, compression facilities, pumping units, flow lines, pipelines, gathering systems, gas and oil treating facilities, machinery, power lines, roads and other appurtenances, improvements and facilities, and further including field-level computer, communication and telemetry equipment and vehicles (including the vehicles described on **Exhibit D-3**) and further including the HP T-1100 Map Plotter Scanner located in Delta's Denver office (the "Delta Equipment");

(6) All pipes, casing, tubing, tubulars, fittings, and other spare parts, supplies, tools, and materials held as inventory in connection with the interests described in Sections 1.1(d)(1) through (d)(5);

(7) All fee lands described on **Exhibit D-4** (the "Delta Fee Lands"), and all surface leases, rights-of-way, easements and other surface rights agreements, together with all governmental permits, licenses and authorizations and applications for the same, used or held in connection with the production, gathering, treatment, processing, storing, sale or disposal of Hydrocarbons or produced water from the interests described in Sections 1.1(d)(1) through (d)(6); including those described on **Exhibit D-5** (the "Delta Surface Rights");

(8) All existing and effective sales and purchase contracts, operating agreements, exploration agreements, development agreements, seismic licenses that can be transferred without a fee or penalty, balancing agreements, farmout agreements, service agreements, two ARIES licenses and related service contracts, one Geo Graphics license and service contract, all "Production Access" software or licenses, one Petra License, one Petra Seis License, transportation, processing, treatment and gathering agreements, compressor leases, equipment leases and other contracts, agreements and instruments insofar as they directly relate to the properties and interests described in Sections 1.1(d)(1) through (d)(7), but only to the extent such contracts are specifically described in **Exhibit D-6** (the "Delta Contracts");

(9) To the extent transferable without a fee or penalty, all files, records, and data relating directly to the items described in Sections 1.1(d)(1) through (d)(8) above, including filing cabinets located in Denver or Grand Junction containing such items (the "Delta Records"), which Delta Records shall include, without limitation: lease records, well records, division order records, contract records, well files, title records (including abstracts of title, title opinions and memoranda, and title curative documents) surveys, maps and drawings; warranties and manuals; environmental and other regulatory files and records; contracts; correspondence; geological records and information; all seismic and geophysical information, including raw data and geophysical modeling seismic lines; production records, electric logs, core data, pressure data, decline curves, graphical production curves and all related documents; computer and communications software presently used for the operation of the Assets and located on the Lands (including codes, tapes, program documentation and related technical information); and accounting records relating to the Assets as maintained by Delta in an appropriate electronic medium, consisting of ownership decks, well master files, division of interest files, working interest owner name and address files, and revenue and joint interest billing accounting information, but only to the extent disclosure of any of the above to the Company is not restricted by confidentiality, licensing or other agreements with third parties;

(10) For avoidance of doubt and without limitation of any of the foregoing assets, all rights of Delta in, to and under that certain Carry and Earning Agreement between EnCana Oil & Gas (USA) Inc. and Delta dated February 27, 2008 (the "Carry Agreement"), all right, title and interest of Delta in and to (i) the Delta Properties, the Existing Agreement Wells, the EnCana Wells, and the Carry Wells (as all of the foregoing terms are defined in the Carry Agreement), (ii) all other contract rights and interests of Delta under any contracts provided for in the Carry Agreement and (iii) all other oil and gas rights and interests of every kind and nature owned by Delta, or

which Delta may in the future have the right to own or receive, under or pursuant to the Carry Agreement; and

All other assets of every kind and nature owned by Delta and located in Garfield and Mesa Counties, except for and excluding the Delta Excluded Assets.

The Company shall accept and acquire the Delta Assets free and clear of all Liens, Claims, Liabilities and interests to the fullest extent permitted under sections 363(f), 365 and 1129(b)(2)(A)(ii) of the Bankruptcy Code, including without limitation any claims based on a successor liability theory or that the Company or Laramie is a successor of Delta in any respect, and with approval of the Bankruptcy Court under the Plan and the Plan Confirmation Order, and otherwise free and clear of all liabilities, obligations and commitments of Delta other than the Assumed Liabilities and free and clear of all Liens, Claims, Liabilities and encumbrances other than Permitted Encumbrances (except for those to be released at Closing).

(e) "Assets"; Other Defined Terms. As used throughout this Agreement, the terms "Assets," "Excluded Assets," "Leases," "Lands," "Hydrocarbons," "Wells," "Equipment" and "Contracts," (i) when used with respect to or as applicable to Laramie or the Laramie Contribution, shall refer to the Laramie Assets, Laramie Excluded Assets, Laramie Leases, Laramie Lands, Laramie Hydrocarbons, Laramie Wells, Laramie Equipment and Laramie Contracts, respectively, and (ii) when used with respect to or as applicable to Delta or the Delta Contribution, shall refer to the Delta Assets, Delta Excluded Assets, Delta Leases, Delta Lands, Delta Hydrocarbons, Delta Wells, Delta Equipment and Delta Contracts, respectively.

**1.2 Effective Time**. Subject to the other terms and conditions of this Agreement, the contribution of the Assets to the Company pursuant to the Transaction shall be effective as of July 31, 2012, at 11:59 p.m. Mountain Daylight Time (the "Effective Time").

**1.3 Excluded Assets**.

(a) Laramie Excluded Assets. Notwithstanding the foregoing, the Laramie Assets shall not include, and there is excepted, reserved and excluded from the Transaction the following (the "Laramie Excluded Assets"):

(1) all company, financial, income, Tax, trademarks, and legal records of Laramie that relate to Laramie's business generally (whether or not relating to the Laramie Assets) and (ii) all books, records and files that relate to the Laramie Excluded Assets;

(2) all rights to any refunds for Taxes or other costs or expenses borne by Laramie or Laramie's predecessors in interest and title attributable to periods prior to the Effective Time;

(3) Laramie's area-wide bonds, permits and licenses or other permits, licenses or authorizations used in the conduct of Laramie's business generally;

(4) all trade credits, accounts receivable, note receivables, take or pay amounts receivable, and other receivables attributable to the Laramie Assets with respect to any period of time prior to the Effective Time;

(5) any refunds due to Laramie by a third party for any overpayment of rentals, royalties, excess royalty interests or production payments attributable to the Laramie Assets with respect to any period of time prior to the Effective Time; and

(6) all (a) assets that are not located in Mesa or Garfield Counties, Colorado, (b) Denver and Grand Junction office leases, office fixtures, and personal property located in such offices not pertaining to the Laramie Records (for the avoidance of doubt, all of Laramie's office desk or notebook computers, copiers and telephony equipment shall be Laramie Excluded Assets), and (c) all other assets not specifically described in **Exhibits C-1**, **C-2**, **C-3** and **C-4**, **C-5** and **C-6**;

(b) Delta Excluded Assets. Notwithstanding the foregoing, the Delta Assets shall not include, and there is excepted, reserved and excluded from the Transaction the following ("Delta Excluded Assets"):

(1) all corporate, financial, income, Tax, trademarks, and legal records of Delta that relate to Delta's business generally (whether or not relating to the Delta Assets) and (ii) all books, records and files that relate to the Delta Excluded Assets;

(2) all rights to any refunds for Taxes or other costs or expenses borne by Delta or Delta's predecessors in interest and title attributable to periods prior to the Effective Time;

(3) Delta's area-wide bonds, permits and licenses or other permits, licenses or authorizations used in the conduct of Delta's business generally;

(4) all trade credits, accounts receivable, note receivables, take or pay amounts receivable, and other receivables attributable to the Delta Assets with respect to any period of time prior to the Effective Time;

(5) any refunds due to Delta by a third party for any overpayment of rentals, royalties, excess royalty interests or production payments attributable to the Delta Assets with respect to any period of time prior to the Effective Time;

(6) all rights and obligations of Delta under any contracts or agreements not specifically described on **Exhibit D-6**; and

(7) all (a) assets that are not located in Mesa or Garfield Counties, Colorado, including the Point Arguello Interests, (b) all avoidance claims or causes of action arising under chapter 5 of the Bankruptcy Code or applicable state law incorporated within, or forming the basis for a valid claim under, chapter 5 of the Bankruptcy Code, (c) any documents and agreements relating to the Chapter 11 Cases, (d) those certain compressors owned by Delta that were located in the State of Wyoming as of September 30, 2011, (e) the oil and gas lease in Mesa County, CO, between Delta

and Buzzard Creek Elk Ranch and its Amendment effective August 15, 2011 (Memorandum Of Oil And Gas Lease recorded at reception # 2461811, BK 4741, PG 212; Memorandum Of Amendment Of Oil And Gas Lease recorded at reception # 2584246, BK 5197, PG 922) and all rights and obligations thereunder, (f) all frac water tanks, (g) the gathering agreement between Delta and EnCana dated September 24, 2008, (h) Delta's Denver and Grand Junction office leases, office fixtures, and personal property located in such offices not pertaining to the Delta Records, except for the HP T-1100 Map Plotter Scanner referenced in Section 1.1(d)(5), and (i) all other assets not specifically described in **Exhibits D-1, D-2, D-3, D-4, D-5 and D-6**.

**1.4 Assumption of Certain Laramie Contracts**. Upon Closing, the Company will assume any liability, obligation or commitment under the Laramie Contracts listed on Exhibit C-6 (the "Assumed Laramie Contracts"). Laramie shall take all actions necessary to effectuate an assumption and assignment, as applicable, to the Company of the Assumed Laramie Contracts. The Company shall accept assignments of and assume the Assumed Laramie Contracts free and clear of all Liens, Claims, Liabilities and interests other than Permitted Encumbrances. Notwithstanding any other provision of this Agreement or any of the other agreements and instruments executed and delivered in connection herewith and the transactions contemplated hereby, the Company does not assume any liability, obligation or commitment under the governmental permits, contracts, leases, licenses, indentures, agreements, commitments and other legally binding arrangements not listed among the Assumed Laramie Contracts.

**1.5 Assumption of Certain Delta Contracts**. Upon Closing, pursuant to the Plan Confirmation Order, the Company will assume any liability, obligation or commitment under the Delta Contracts listed on **Exhibit D-6** (including without limitation the Carry Agreement) and the Delta Leases (to the extent that such Delta Leases could be deemed executory contracts under section 365 of the Bankruptcy Code (but without any admission by any of the Parties that any of the Delta Leases is an executory contract)) that have been assumed by Delta and assigned to the Company in connection with the Plan (collectively, the "Assumed Delta Contracts"). Laramie and the Company shall have the sole and absolute right to select the Delta Contracts to be included in the Assumed Delta Contracts, and Delta shall take all actions necessary to effectuate an assumption and assignment, as applicable, to the Company of the Assumed Delta Contracts. The Company shall accept assignments of and assume the Assumed Delta Contracts free and clear of all Liens, Claims, Liabilities and interests other than Permitted Encumbrances and to the fullest extent permitted under sections 365 and 1129(b)(2)(A)(ii) of the Bankruptcy Code. All amounts necessary to cure any defaults in any of the Assumed Delta Contracts, as a prerequisite to the assumption and assignment to the Company of the Assumed Delta Contracts required hereunder, shall be paid by Delta. Delta shall use its best efforts to cause the Plan Confirmation Order to contain language approving and authorizing the assumption and assignment to the Company of the Assumed Delta Contracts. Notwithstanding any other provision of this Agreement or any of the other agreements and instruments executed and delivered in connection herewith and the transactions contemplated hereby, the Company does not assume any liability, obligation or commitment under the governmental permits, contracts, leases, licenses, indentures, agreements, commitments and other legally binding arrangements not listed among the Assumed Delta Contracts.

## ARTICLE 2
## CONTRIBUTION VALUE

2.1 **LLC membership Units; Cash Payment**. At Closing, the Company shall (i) issue the Laramie Interest and make a cash payment to Laramie in the amount of $25,000,000, subject to a Closing Adjustment in accordance with Section 2.2(a) and Section 2.3 (the "Laramie Payment"), in exchange for the contribution of the Laramie Assets, and (ii) issue the Delta Interest and make a cash payment to Delta in the amount of $75,000,000, subject to a Closing Adjustment in accordance with Section 2.2(b) and Section 2.3 (the "Delta Payment"), in exchange for the contribution of the Delta Assets.

2.2 **Adjustments to Cash Payment**. The Laramie Payment and Delta Payment shall be subject to the following adjustments at Closing (each, a "Closing Adjustment" and collectively, the "Closing Adjustments"):

(a) Laramie Payment: The Laramie Payment shall be adjusted downward by the sum of the Dollar value of the following, in accordance with the title and environmental defect procedures set forth in Sections 4.2 and 5.5:

(1) The amount by which the aggregate Title Defect Amount with respect to the Laramie Assets, less the aggregate Title Benefit Amount with respect to the Laramie Assets, exceeds the Aggregate Title Deductible; and

(2) The amount by which the aggregate Environmental Defect Value with respect to the Laramie Assets exceeds the Aggregate Environmental Deductible.

(b) Delta Payment: The Delta Payment shall be adjusted downward by the sum of the Dollar value of the following, in accordance with the title and environmental defect procedures set forth in Sections 4.2 and 5.5:

(1) The amount by which the aggregate Title Defect Amount with respect to the Delta Assets, less the aggregate Title Benefit Amount with respect to the Delta Assets, exceeds the Aggregate Title Deductible; and

(2) The amount by which the aggregate Environmental Defect Value with respect to the Delta Assets exceeds the Aggregate Environmental Deductible.

(c) The Laramie Payment and Delta Payment shall also be adjusted at Closing by estimated amounts for the following:

(1) Upward adjustments for (A) pipeline imbalances for an overdelivery imbalance as specified in Section 15.1(c)(1), (B) well imbalances as specified in Section 15.1(e);

(2) Downward adjustments for (A) pipeline imbalances for an underdelivery imbalance as specified in Section 15.1(d)(1), (B) well imbalances as specified in Section 15.1(e), and (C) revenues held in suspense for royalties, overriding royalties and similar burdens as specified in Section 15.1(d)(3).

(d) The Closing Amount, with respect to Laramie, shall mean the Laramie Payment and, with respect to Delta, the Delta Payment, each as adjusted in this Section 2.2. In no event shall any Closing Adjustment be deemed to alter the Laramie Interest or the Delta Interest, and, in particular, in no event shall Delta's membership interest in the Company be less than 33.34% of the outstanding membership interests of the Company except as otherwise permitted by the terms of the Piceance LLC Agreement.

**2.3 Allocation of Cash Payment**. For purposes of determining the value of Title Defects and Environmental Defects in order to make adjustments pursuant to Section 2.2, the Laramie Assets shall be given the Allocated Values on Schedule 2.3(a) and the Delta Assets shall be given the Allocated Values on Schedule 2.3(b).

**2.4 Allocations for Federal Income Tax Purposes**. The manager of the Company shall in good faith allocate any consideration required to be allocated among the Assets for federal income tax purposes in accordance with Section 1060 of the Internal Revenue Code of 1986, as amended (the "Code"), and the regulations promulgated thereunder. Each of the Parties shall, if applicable, report information regarding the allocation of the purchase price to the United States Secretary of Treasury by attaching Department of Treasury, Internal Revenue Service, Form 8594 to their federal income tax returns for the tax period which includes the Closing Date. The Parties shall not take any income tax position (whether in audits, on tax returns, or otherwise) that is inconsistent with such allocation (as finally determined) unless required to do so by applicable law.

## ARTICLE 3
## INSPECTION

**3.1 Due Diligence**. Upon execution of this Agreement, but subject to the other provisions of this Agreement and obtaining any required consents of third parties (which each Party shall use its commercially reasonable efforts to obtain), each of Laramie and Delta shall afford to the other Party reasonable access, during normal business hours, to the Laramie Assets, with respect to Laramie, and the Delta Assets, with respect to Delta, to perform its due diligence (the "Due Diligence Review") as hereinafter provided. All notices pertaining to the Due Diligence Review must be received by Laramie or Delta, as applicable, no later than June 8, 2012 (the "Defect Notice Date").

**3.2 Access to Records**. Subject to the receipt of any required consents of third parties (with respect to which consents each Party shall use its commercially reasonable efforts to obtain), each of Laramie and Delta shall afford to the other Party reasonable access, during normal business hours, to the Laramie and Delta Records, as applicable, but excluding the Excluded Assets, to enable the other Party to complete its Due Diligence Review.

**3.3 On-Site Inspection**. Each of Laramie and Delta shall be entitled to, prior to Closing and upon reasonable advance notice to the other Party, at such Party's sole risk and expense, conduct an on-site inspections and an ASTM Phase One Environmental Assessment (collectively, an "Environmental Assessment") of the Assets. In connection with any Environmental Assessment, each Party agrees not to interfere with the normal operation of the Assets of the other Party and agrees to comply with all requirements and safety policies of the

other Party. If either Party or its agents prepares a report relating to an Environmental Assessment, such Party will furnish a copy thereof to the other Party within three (3) business days after its receipt or creation thereof. Any Environmental Assessment conducted pursuant to this Section 3.3 shall be kept confidential and shall not be disclosed to any third party without the written consent of the other Party.

**3.4 Indemnification.**

(a) Laramie agrees to defend, indemnify and hold harmless each of the operators of the Delta Assets and Delta from and against any and all Losses arising out of, resulting from or relating to any field visit, the Environmental Assessment or other due diligence activity conducted by Laramie or any representative of Laramie with respect to the Delta Assets EVEN IF SUCH LIABILITIES ARISE OUT OF OR RESULT FROM, SOLELY OR IN PART, THE SOLE, ACTIVE, PASSIVE, CONCURRENT OR COMPARATIVE NEGLIGENCE, STRICT LIABILITY OR OTHER FAULT OR VIOLATION OF LAW OF OR BY DELTA, EXCEPTING ONLY LIABILITIES RESULTING FROM OR ARISING OUT OF THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF DELTA.

(b) Delta agrees to defend, indemnify and hold harmless each of the operators of the Laramie Assets and Laramie from and against any and all Losses arising out of, resulting from or relating to any field visit, the Environmental Assessment or other due diligence activity conducted by Delta or any representative of Delta with respect to the Laramie Assets EVEN IF SUCH LIABILITIES ARISE OUT OF OR RESULT FROM, SOLELY OR IN PART, THE SOLE, ACTIVE, PASSIVE, CONCURRENT OR COMPARATIVE NEGLIGENCE, STRICT LIABILITY OR OTHER FAULT OR VIOLATION OF LAW OF OR BY LARAMIE, EXCEPTING ONLY LIABILITIES RESULTING FROM OR ARISING OUT OF THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF LARAMIE.

**3.5 Insurance.** During all periods that Laramie or Delta representatives are present on the Assets of the other party, the Party conducting due diligence on-site inspections shall maintain, at its sole expense and with insurers reasonably satisfactory to other Party, policies of insurance covering such inspecting Party and its representatives' activities and presence on the Assets of the other, which insurance shall be of the type and in amounts consistent with sound business practices.

## ARTICLE 4
## TITLE MATTERS

**4.1 Title.**

(a) Limited Defensible Title Representation. Each of Laramie and Delta represents and warrants to the other and to the Company that, as of the Effective Time and as of the Defect Notice Date, its title to the Leases and Wells, as applicable, to the Laramie Assets and Delta Assets, respectively, is Defensible Title as defined in Section 4.1(c). Except as set forth in this Section 4.1(a) and the Assignment, Bill of Sale

and Conveyance (the "Assignment and Bill of Sale") to be delivered at Closing, by each of Laramie and Delta as to the Laramie Assets and Delta Assets, respectively, a form of which is attached hereto as **Exhibit E**, Laramie and Delta make no warranty or representation, express, implied, statutory or otherwise, with respect to such Party's title to the Leases and Wells. Notwithstanding the foregoing, Laramie and Delta each represents as to the Laramie Fee Lands and the Delta Fee Lands, respectively, that as of the date hereof and as of the Closing Date, it has marketable title to the Laramie Fee Lands described in **Exhibit C-3** and the Delta Fee Lands described in **Exhibit D-3**.

(b) Exclusive Remedy. The representation and warranty in Section 4.1(a) shall terminate as of the Defect Notice Date and shall have no further force and effect thereafter. Except with respect to the special warranty of title in each Assignment and Bill of Sale executed by Laramie and Delta as described in Section 4.1(a) and the special warranty of title in the Special Warranty Deeds conveying the portions of the Laramie Fee Lands and the Delta Fee Lands that were acquired by Laramie or Delta by warranty deeds (the remaining portions of such Fee Lands to be quitclaimed to the Company), Section 4.2 shall be the exclusive right and remedy with respect to a Party's failure to have Defensible Title with respect to the Leases and Wells as applicable to the Laramie Assets and the Delta Assets, respectively. Notwithstanding anything herein provided to the contrary, if a Title Defect under this Article 4 results from any matter which could also result in the breach of any representation or warranty of Laramie or Delta under Article 6 or Article 7, respectively, of this Agreement, then the Party asserting such breach shall only be entitled to assert such matter as a Title Defect to the extent permitted by this Article 4. Any Party asserting a Title Defect under this Article 4 shall be precluded from also asserting such matter as the basis of the breach of any such representation or warranty under Article 6 or Article 7.

(c) Defensible Title - Leases and Wells. The term "Defensible Title" means such ownership of record deducible from the applicable county, state and federal records such that a prudent person engaged in the business of the ownership, development and operation of oil and gas leasehold and properties and having knowledge of all of the facts and their legal bearing would be willing to accept the same, to the Leases, Lands and Wells, that, subject to and except for Permitted Encumbrances as defined in Section 4.1(d):

(1) entitles Laramie or Delta to receive a share of the Hydrocarbons produced, saved and marketed from any Lease or Well, attributable to the Laramie Assets and the Delta Assets, as applicable, throughout the duration of the productive life of such Lease or Well or such specified zone(s) therein after satisfaction of all royalties, overriding royalties, nonparticipating royalties, net profits interests, production payments or other similar burdens on or measured by production of Hydrocarbons (a "Net Revenue Interest"), of not less than the Net Revenue Interest shown in **Exhibits C-1 and C-2** and **Exhibits D-1 and D-2** for such Lease or Well except for (i) decreases in connection with those operations in which Laramie or Delta, as applicable, may, from and after the date of this Agreement, be a non-consenting co-owner (to the extent permitted pursuant to Sections 10.1(a) or 10.1(b)), (ii) decreases resulting from the establishment or amendment from and after the date of this Agreement of pools or units, and (iii) as otherwise stated in **Exhibits C-1 and C-2** and **Exhibits D-1 and D-2**, as applicable.

(2) obligates Laramie or Delta, as applicable, to bear a percentage of the costs and expenses for the maintenance, development, operation and the production relating to any Lease or Well, attributable to the Laramie Assets and the Delta Assets, as applicable, throughout the productive life of such Lease or Well ("Working Interest") not greater than the Working Interest shown in **Exhibits C-1 and C-2** and **Exhibits D-1 and D-2** for such Lease or Well without increase, except (i) increases to the extent that they are accompanied by a proportionate increase in Laramie's or Delta's, as applicable, Net Revenue Interest, (ii) increases resulting from contribution requirements with respect to defaults by co-owners from and after the date hereof under applicable joint operating agreements, and (iii) as otherwise stated in **Exhibits C-1 and C-2** and **Exhibits D-1 and D-2**, as applicable.

(3) results in Laramie or Delta, as applicable, owning at least the number of total net mineral acres as to all depths (except as specifically noted otherwise on the applicable Exhibit) and the quantum of Net Revenue Interest set forth in **Exhibit C-1 and D-1**; *provided, however,* that there shall be no duplication of Title Defects asserted under this Section 4.1(c)(3) and Sections 4.1(c)(1) and (2); and

(4) is free and clear of Liens, Claims, Liabilities and encumbrances, except for Permitted Encumbrances.

(d) Permitted Encumbrances. The term "Permitted Encumbrances" shall mean:

(1) lessors' royalties, overriding royalties, net profits interests, production payments, reversionary interests and similar burdens if the net cumulative effect of such burdens does not operate to reduce the Net Revenue Interests below those set forth on **Exhibit C-1** and **C-2** and **Exhibit D-1** and **D-2**;

(2) liens for Taxes or assessments not yet due and delinquent or if delinquent are being contested in good faith through appropriate proceedings;

(3) all rights to consent by, required notices to, filings with, or other actions by Governmental Entities, in connection with the conveyance of the applicable Asset if the same are customarily sought after such conveyance;

(4) rights of reassignment contained in any Leases, or assignments thereof, providing for reassignment upon the surrender or expiration of any Leases;

(5) easements, rights-of-way, servitudes, permits, surface leases and other rights with respect to surface operations, on, over or in respect of any of the Assets or any restrictions on access thereto that do not materially interfere with the operation of the affected Asset as currently conducted;

(6) materialmen's, mechanics', operators' or other similar liens arising in the ordinary course of business if such liens and charges (i) have not been filed pursuant to law and the time for filing such liens and charges has expired, (ii) if filed,

have not yet become due and payable or (iii) are being contested in good faith through appropriate proceedings;

(7) Title Defects waived by Laramie or Delta, as to the other Party's Assets;

(8) any defects, irregularities or deficiencies in title to easements, rights-of-way or surface use agreements that do not materially adversely affect the value of any Asset;

(9) the Contracts set forth on **Exhibit C-6 and D-6**;

(10) all other liens, charges, encumbrances, contracts, agreements, instruments, obligations, defects and irregularities affecting the Laramie or Delta Assets, as applicable, that do not (or would not upon foreclosure or other enforcement) reduce the Net Revenue Interest set forth in Exhibit C-1, or prevent the receipt of proceeds of production therefrom, increase the share of costs above the Working Interest set forth in Exhibit C-1 and C-2 and Exhibit D-1 and D-2 (unless the Net Revenue Interest is greater than the Net Revenue Interest set forth on Exhibit C-1 and C-2 and D-1 and D-2 in the same proportion as any increase in such Working Interest) or materially interfere with or detract from the ownership, operation, value or use of the Assets;

(11) existing JPMorgan Chase mortgage liens on Laramie Assets to be assigned to the lender under the bank credit facility to be obtained by the Company in connection with the Transaction; and

(12) Liens expressly permitted under the Plan or the Plan Confirmation Order, except that all such permitted Claims, Liens and Liabilities arising from or related to the DIP Loan Agreement shall be fully satisfied, released, discharged and terminated at Closing.

**4.2 Title Adjustment Procedures.**

(a) Title Defect. As used in this Agreement, the term "Title Defect" means any lien, charge, encumbrance, obligation (including contract obligation), defect, condition or other matter (including without limitation a discrepancy in Net Revenue Interest or Working Interest) that causes a breach of a Party's representation and warranty in Section 4.1(a). Notwithstanding the foregoing, the following shall not be considered Title Defects:

(1) defects based solely on a lack of information in connection with documents filed of record not contained in a Party's files;

(2) defects in the chain of title consisting of the mere failure to recite marital status in a document or omissions of successions of heirship or estate proceedings, unless the Party alleging the defect provides clear and convincing evidence that such failure or omission has resulted in another person's actual and superior claim of title to the relevant Asset;

(3) defects arising out of a lack of survey, unless a survey is expressly required by applicable laws or regulations;

(4) defects asserting a change in Working Interest or Net Revenue Interest based on a change in drilling and spacing units, tract allocation or other changes in pool or unit participation occurring after the date of this Agreement;

(5) defects arising out of lack of corporate or other entity authorization unless the Company provides a reasonable basis for the assertion that such corporate or other entity action was not authorized and results in another person's actual and superior claim of title to the relevant Asset;

(6) defects based on failure to record Leases issued by the Bureau of Land Management or other Governmental Entity in the real property records of the county in which such Lease is located; and

(7) defects that have been cured by applicable laws of limitation or prescription.

(b) Title Benefit. As used in this Agreement, the term "Title Benefit" shall mean any right, circumstance or condition that operates to (i) increase the Net Revenue Interest being assigned to the Company in any Lease or Well above that shown for such Lease or Well in **Exhibit C-1** and **C-2** and **Exhibit D-1 and D-2** to the extent the same does not cause a greater than proportionate increase in the Working Interest being assigned to the Company above that shown in **Exhibit C-1** and **C-2** and **Exhibit D-1 and D-2**, or (ii) increase the Net Acres being assigned to the Company in any Lease to greater than that shown for such Lease in **Exhibit C-1** and **D-1**.

(c) Notice of Defective Interest. On or before the Defect Notice Date, a Party alleging a Title Defect shall advise the other Party in writing of any matters that in the alleging Party's reasonable opinion constitute a Title Defect with respect to the other Party's title to all or any portion of its Leases, Wells and Fee Lands ("Notice of Defective Interest"). The Notice of Defective Interest shall be in writing and contain the following: (i) a description of the alleged Title Defect(s), (ii) the Leases or Wells and Fee Lands (and the applicable zone(s) therein) affected by the alleged Title Defect (each, a "Title Defect Property"), (iii) the Allocated Value of each Title Defect Property, (iv) supporting documents reasonably necessary (as well as any title attorney or examiner hired by Laramie or Delta, as applicable) to verify the existence of the alleged Title Defect(s), and (v) the alleging Party's good faith estimate of the relevant Title Defect Amount and the computations and information upon which such estimate is based. To give the Party against whom a Title Defect is being alleged an opportunity to commence reviewing and curing Title Defects, the alleging Party agrees to use reasonable efforts to provide, on or before the end of each calendar week prior to the Defect Notice Date, written notice of all Title Defects discovered by the alleging Party or any of its representatives during the calendar week preceding the calendar week then ending, which may be preliminary in nature and supplemented prior to the Defect Notice Date. Laramie or Delta shall also promptly furnish the other Party with written notice of any Title Benefit which is

discovered by such Party or any of its representatives while conducting title review, due diligence or investigation with respect to the Leases or Wells.

(d) Notice of Title Benefits. On or before the Defect Notice Date, Laramie or Delta, shall have the right, but not the obligation, to advise the other Party in writing of any matters that in Laramie's or Delta's, as applicable, reasonable opinion constitute a Title Benefit with respect to Laramie's or Delta's, as applicable, title to all or any portion of its Leases and Wells (a "Title Benefit Notice"). The Title Benefit Notice shall be in writing and contain the following: (i) a description of the Title Benefit, (ii) the Leases or Wells (and the applicable zone(s) therein) affected by the Title Benefit ("Title Benefit Property"), (iii) the Allocated Values of the Leases or Wells (and the applicable zone(s) therein) subject to such Title Benefit, and (iv) Laramie's or Delta's, as applicable, good faith estimate of the relevant Title Benefit Amount, and the computations and information upon which such estimate is based. Laramie or Delta shall be deemed to have waived all Title Benefits of which it has not given notice on or before the Defect Notice Date.

(e) Effect of Title Benefits. The aggregate of the Title Defect Amounts (as defined in Section 4.2(h)) shall be decreased by an amount equal to the aggregate of the Title Benefit Amounts (as defined in Section 4.2(i)).

(f) Right to Cure. Laramie or Delta, as applicable, shall have the right, but not the obligation, to attempt, at its sole cost, to cure or remove, to the other Party's reasonable satisfaction, any Title Defects contained in a Notice of Defective Interest from the other Party.

(g) Remedies for Title Defects. Subject to Laramie's or Delta's, as applicable, continuing right to dispute the existence of a Title Defect or the Title Defect Amount asserted with respect thereto, in the event that any Title Defect timely asserted by a Party in accordance with Section 4.2(c) actually exists and is not waived by other Party or cured on or before Closing, Laramie or Delta, as applicable, shall convey the Title Defect Property to the Company at Closing with a reduction to the Laramie Payment or Delta Payment, as applicable, by an amount equal to the Title Defect Amount for such Title Defect as determined pursuant to Section 4.2(h), and subject to the Aggregate Title Deductible (the "Title Defect Adjustment").

(h) Title Defect Amount. The "Title Defect Amount" means the amount determined in accordance with the following methodology, terms and conditions:

(1) if the Parties agree on the Title Defect Amount, that amount shall be the Title Defect Amount;

(2) if the Title Defect is a Lien, encumbrance or other charge which is undisputed and liquidated in amount, then the Title Defect Amount shall be the amount of the payment necessary to remove the Title Defect from the Title Defect Property; and

(3) if the Title Defect represents an obligation, encumbrance, burden or charge upon or other defect in title to the Title Defect Property of a type not described

in subsections (1) or (2) above, the Title Defect Amount shall be determined by taking into account the following factors: (i) any discrepancy between (A) the Net Revenue Interest or Working Interest for any Title Defect Property and (B) the Net Revenue Interest or Working Interest stated in **Exhibit C-1** and **C-2** and **Exhibit D-1** and **D-2**; (ii) the Allocated Value of the Title Defect Property; (iii) the portion of the Title Defect Property affected by the Title Defect; (iv) the legal effect of the Title Defect; (v) the values placed upon the Title Defect by the Parties and (vi) such other reasonable factors as are necessary to make a proper evaluation.

Notwithstanding anything to the contrary in this Article 4, the aggregate Title Defect Amounts attributable to the effects of all Title Defects upon any Title Defect Property shall not exceed the Allocated Value of the Title Defect Property.

(i) Title Benefit Amount. "Title Benefit Amount" means the amount determined in accordance with the following methodology, terms and conditions:

(1) if the Parties agree on the amount of the Title Benefit, that amount shall be the Title Benefit Amount;

(2) if the Title Benefit represents an increase between (A) the Net Acres for any Title Benefit Property and (B) the Net Acres for such Title Benefit Property stated in **Exhibit C-1** and **Exhibit D-1**, then the Title Benefit Amount shall be an amount equal to (x) a fraction, the numerator of which is the Allocated Value attributable to such Title Benefit Property and the denominator of which is number of Net Acres for such Title Benefit Property stated in **Exhibit C-1** and **Exhibit D-1** multiplied by (y) the difference between (I) the Net Acres for any Title Benefit Property and (II) the Net Acres for such Title Benefit Property stated in **Exhibit C-1** and **Exhibit D-1**; and

(3) if the Title Benefit is of a type not described above, then the applicable Title Benefit Amount shall be determined by taking into account the following factors: (i) any discrepancy between (A) the Net Revenue Interest or Working Interest for any Title Benefit Property and (B) the Net Revenue Interest or Working Interest stated in **Exhibit C-1** and **C-2** and **Exhibit D-1** and **D-2**; (ii) the Allocated Value of the Title Benefit Property; (iii) the portion of the Title Benefit Property affected by the Title Benefit; (iv) the legal effect of the Title Benefit; and (v) such other reasonable factors as are necessary to make a proper evaluation.

(j) Title Deductible. Notwithstanding anything to the contrary herein, in no event shall there be any adjustments to the Laramie Payment or Delta Payment, as applicable, or other remedies provided Laramie or Delta for any Title Defect unless the Title Defect Amounts of all such Title Defects applicable to the Laramie Assets or Delta Assets, in the aggregate, excluding any Title Defects cured by the applicable Party, exceed a deductible in an amount equal to $2,500,000 ("Aggregate Title Deductible"). Once the Aggregate Title Deductible has been reached as to the Laramie Assets or Delta Assets, the Company shall be entitled to adjustments to the Laramie Payment or Delta Payment, as applicable, only with respect to such Title Defects in excess of such Aggregate Title Deductible.

**4.3 Title Dispute Resolution**. The Parties agree to resolve disputes concerning the following matters pursuant to this Section 4.3: (i) the existence and scope of a Title Defect or Title Benefit, (ii) the Title Defect Amount or Title Benefit Amount, as the case may be, relating to the portion of the Asset affected by a Title Defect or Title Benefit and (iii) the adequacy of Laramie's or Delta's, as applicable, Title Defect curative materials and the other Party's reasonable satisfaction therewith (the "Title Disputed Matters"). The Parties agree to attempt to initially resolve all disputes through good faith negotiations. If the Parties cannot resolve disputes regarding items (i), (ii) and (iii) on or before Closing, then the Title Defect Properties affected by the Title Disputed Matter shall not be conveyed at Closing and the Laramie Payment or Delta Payment shall be reduced by the Allocated Values for such Title Defect Properties. Further, the Title Disputed Matters will be finally determined by binding arbitration pursuant to Section 17.17. Upon receipt of the arbitrator's decision, the Title Defect Properties shall be conveyed and the unpaid portions of the Delta Payment or Laramie Payment shall be paid as provided in such decision.

**4.4 Consents**. The remedies set forth in this Section 4.4 are the exclusive remedies under this Agreement for consents to assign and preferential rights to purchase.

(a) Consents. All required consents to assignment that are necessary for Laramie or Delta, as applicable, to execute, deliver and perform its obligations under this Agreement (each, a "Required Consent") are set forth on Schedule 4.4(a)(1), with respect to Laramie, and Schedule 4.4(a)(2), with respect to Delta. Laramie or Delta, as applicable, shall use reasonable efforts to obtain all Required Consents prior to Closing. Consents and approvals which are customarily obtained post-Closing shall not be considered Required Consents. If prior to Closing, Laramie or Delta, as applicable, fails to obtain a Required Consent to assign that would invalidate the conveyance of the Asset affected by the consent to assign or materially affect the value or use of the Asset ("Affected Asset"), then, unless waived by the other Party, the Affected Asset shall be excluded from the sale and the Laramie Payment or Delta Payment, as applicable, shall be reduced by the Allocated Value of the Affected Asset. If the requirement to obtain the Required Consent is waived, the Parties shall continue to use reasonable efforts to obtain such consent and shall enter into mutually acceptable arrangements between Laramie and Delta to afford the Company the benefits of the agreement containing the Required Consent. The Company shall reasonably cooperate with Laramie or Delta, as applicable, in obtaining any Required Consent, including by providing reasonable financial assurances, but the Company shall not be required to expend funds in order to obtain such consent.

(b) Preferential Purchase Rights. All preferential rights to purchase that are necessary for Laramie or Delta, as applicable, to execute, deliver and perform its obligations under this Agreement are set forth on Schedule 4.4(b)(1), with respect to Laramie, and Schedule 4.4(b)(2), with respect to Delta. Prior to Closing, Laramie or Delta, as applicable, shall use reasonable efforts to give the notices required in connection with such preferential purchase rights, together with any other preferential rights to purchase discovered by the other Party prior to Closing. If any preferential right to purchase any portion of the Assets is exercised prior to the Closing Date, then that portion of the Assets affected by such preferential purchase right shall be excluded from the Assets, and the Laramie Payment or the Delta Payment, as applicable, shall be adjusted downward by an

amount equal to the Allocated Value of such affected Assets. If by Closing, either (i) the time frame for the exercise of a preferential purchase right has not expired and a notice of an intent not to exercise or a waiver of the preferential purchase right has not been received, or (ii) a third party exercises its preferential right to purchase, but the time frame for the consummation of such right has not expired prior to the Closing, then Laramie or Delta, as applicable, shall retain the affected Assets and the Laramie Payment or the Delta Payment, as applicable, shall be adjusted downward by an amount equal to the Allocated Value of such affected Assets. As to any Assets retained by Laramie or Delta hereunder, following Closing but prior to the Final Settlement Date, if a preferential right to purchase is not consummated within the time frame specified in the preferential purchase right, or if the time frame for exercise of the preferential purchase right expires without exercise after the Closing, the owner of the affected Asset shall promptly convey the affected Asset to the Company effective as of the Effective Time (with appropriate adjustments for proceeds from the Asset following the Effective Time net of Property Expenses relating thereto), and the Company shall pay the Party conveying the affected Asset the Allocated Value thereof pursuant to the terms of this Agreement.

## ARTICLE 5
## ENVIRONMENTAL MATTERS

**5.1 Definitions**. For the purposes of the Agreement, the following terms shall have the following meanings:

(a) "Condition" means any circumstance, status or defect that requires Remediation to comply with Environmental Laws.

(b) "Environmental Defect" means a Condition in, on, under or relating to a particular Asset (including, without limitation, air, land, soil, surface and subsurface strata, surface water, groundwater, or sediments) that causes a particular Asset to be in violation of an Environmental Law; *provided, however,* that (i) no Condition relating to any matter set forth on Schedule 5.1(b)(1), with respect to Laramie, and Schedule 5.1(b)(2), with respect to Delta, shall constitute an Environmental Defect and (ii) no Environmental Defect will be deemed to exist with respect to a Condition for which the Company will not have any liability after the Closing, including as a result of Section 5.3(b).

(c) "Environmental Law" or "Environmental Laws" shall mean, as of the date of this Agreement, any federal, tribal, state, local or foreign law (including common law), statute, rule, regulation, requirement, ordinance and any writ, decree, bond, authorization, approval, license, permit, registration, binding criteria, standard, consent decree, settlement agreement, judgment, order, directive or binding policy issued by or entered into with a Governmental Entity pertaining or relating to: (a) pollution or pollution control, including, without limitation, storm water; (b) protection of human health from exposure to Hazardous Materials or protection of the environment; (c) employee safety in the workplace; or (d) the management, presence, use, generation, processing, extraction, treatment, recycling, refining, reclamation, labeling, transport, storage, collection, distribution, disposal or release or threat of release of Hazardous Materials.

"Environmental Laws" shall include, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601 *et seq.*, the Solid Waste Disposal Act (as amended by the Resource Conservation and Recovery Act), 42 U.S.C. § 6901 *et seq.*, the Hazardous Materials Transportation Act, 49 U.S.C. § 1801 *et seq.*, the Toxic Substances Control Act, 15 U.S.C. § 2601 *et seq.*, the Federal Water Pollution Control Act, 33 U.S.C. § 1251 *et seq.*, the Federal Safe Drinking Water Act, 42 U.S.C. §§ 300f-300, the Federal Air Pollution Control Act, 42 U.S.C. § 7401 *et seq.*, the Oil Pollution Act, 33 U.S.C. § 2701 *et seq.*, the Occupational Safety and Health Act, 29 U.S.C. § 651 *et seq.*, the Endangered Species Act, and the regulations and orders respectively promulgated thereunder, each as amended, or any equivalent or analogous state or local statutes, laws or ordinances, any regulation promulgated thereunder and any amendments thereto.

(d) "Governmental Entity" means any national, state, local, native or tribal government or any subdivision, agency, court, commission, department, board, bureau, regulatory authority or other division or instrumentality thereof.

(e) "Hazardous Materials" shall mean, without limitation, any waste, substance, product, or other material (whether solid, liquid, gas or mixed), which is or becomes identified, listed, published, or defined as a hazardous substance, hazardous waste, hazardous material, toxic substance, radioactive material, oil, or petroleum waste, or which is otherwise regulated or restricted under any Environmental Law.

(f) "Remediation" or "Remediate" means investigation, assessment, characterization, delineation, monitoring, sampling, analysis, removal action, remedial action, response action, corrective action, mitigation, treatment or cleanup of Hazardous Materials or other similar actions as required by any applicable Environmental Laws from soil, land surface, groundwater, sediment, surface water, or subsurface strata or otherwise for the general protection of human health and the environment.

**5.2 Environmental Representation and Warranty.** Laramie and Delta each make the following representation solely with regard to the Laramie Assets or Delta Assets, as applicable. Neither Laramie, with respect to the Laramie Assets, nor Delta, with respect to the Delta Assets, has entered into, and is not subject to, any agreement, consent, order, decree, judgment, license, permit condition or other directive of any Governmental Entity that (a) is in existence as of the date of this Agreement, (b) is based on any Environmental Laws that relate to the future use of any of the Assets and (c) requires any material change in the present conditions of any of the Assets. As of the date of this Agreement, neither Laramie nor Delta, as applicable, has received written notice from any person of any release, disposal, event, condition, circumstance, activity, practice or incident concerning any land, facility, asset or property included in the Assets that: (y) in any material respect interferes with or prevents compliance by Laramie or Delta, as applicable, with any Environmental Law or the terms of any license or permit issued pursuant thereto or (z) gives rise to or results in any common law or other liability of Laramie or Delta, as applicable, to any person that would be reasonably likely to have a Material Adverse Effect. To the Knowledge of Laramie or Delta, the Laramie Assets or the Delta Assets, as applicable, are in compliance with Environmental Laws in all material respects.

5.3 **Environmental Defect Notice**. On or before the Defect Notice Date, Laramie or Delta, as applicable, shall give written notice to the other Party of any Environmental Defects as to which each Party has knowledge prior to the Defect Notice Date (the "Environmental Defect Notice"). Laramie or Delta shall be deemed to have waived its right to assert an Environmental Defect if it does not include such Environmental Defect in an Environmental Defect Notice delivered to the other Party, as applicable, on or before the Defect Notice Date. An Environmental Defect Notice shall contain the following: (a) a description of the Condition in, on, under or relating to the Asset that causes the alleged Environmental Defect, (b) a description of the Asset affected by the alleged Environmental Defect (each, an "Environmental Defect Property"), (c) the Allocated Value of each Environmental Defect Property, (d) supporting documentation reasonably necessary for Laramie or Delta, as applicable, (as well as any consultant hired by Laramie or Delta) to verify the existence of the alleged Environmental Defect(s), and (e) the Company's estimate of the cost to Remediate the alleged Environmental Defect (the "Environmental Defect Value") and a description of the components of such estimated cost.

5.4 **Right to Remediate**. Laramie or Delta, as applicable, in each case, shall have the right, but not the obligation, to attempt, at its sole cost, to Remediate at any time prior to the Closing any Environmental Defects of which it has been advised by the other Party prior to the Defect Notice Date.

5.5 **Defect Adjustments**. Upon delivery of a timely Environmental Defect Notice, the Parties shall proceed as follows:

(a) With respect to each Environmental Defect asserted by either Party on or before the Defect Notice Date, Laramie or Delta, as applicable, may elect, on or before the date that is two (2) days prior to the Closing Date, to:

(1) reach agreement with other Party on the existence of the Environmental Defect and, subject to Section 5.6(b), adjust the Laramie Payment or Delta Payment, as applicable, by the Environmental Defect Value of the Environmental Defect Property (the "Environmental Defect Adjustment"), whereupon Laramie or Delta, as applicable, shall convey the Environmental Defect Property to the Company at Closing and the Company shall thereafter assume all liability for Remediation of the Environmental Defect Property; or

(2) challenge the existence and/or scope of the Environmental Defect and/or Environmental Defect Value asserted by the other Party pursuant to Section 5.3. If Laramie or Delta, as applicable, elects under Section 5.6 to challenge the existence of an Environmental Defect and/or Environmental Defect Value or challenges the adequacy of any Remediation by the other Party under Section 5.4, and such dispute has not been resolved as of the Closing, then the Environmental Defect Properties affected by the dispute shall not be conveyed at Closing, the Laramie Payment or Delta Payment shall be reduced by the Allocated Values of such Environmental Defect Properties, and the Dispute will be determined pursuant to Section 5.6.

(b) Notwithstanding anything herein provided to the contrary, in no event shall there be any adjustments to the Laramie Payment or Delta Payment, as applicable, or other remedies provided by Laramie or Delta, as applicable, for any Environmental Defect unless the Environmental Defect Values of all Environmental Defects applicable to the Laramie Assets or the Delta Assets, in the aggregate, excluding any Environmental Defects cured by Laramie or Delta, respectively, as applicable, exceed a deductible in an amount equal to $2,500,000 (the "Aggregate Environmental Deductible"). Once the Aggregate Environmental Deductible has been reached as to the Laramie Assets or the Delta Assets, the Company shall be entitled to adjustments to the Laramie Payment or the Delta Payment, as applicable, only with respect to such Environmental Defects in excess of the Aggregate Environmental Deductible.

**5.6 Contested Environmental Defects**. If, pursuant to Section 5.5(a)(2), Laramie or Delta, as applicable, elects to proceed under this Section 5.6 with respect to an Environmental Defect, the following matters shall be determined pursuant to this Section 5.6: (a) the existence and scope of an Environmental Defect, (b) the Environmental Defect Value and (c) the adequacy of Laramie or Delta, as applicable, Remediation of any Environmental Defect. The Parties agree to attempt to initially resolve all disputes through good faith negotiations. If the Parties cannot resolve disputes regarding items (a), (b) or (c) within fifteen (15) days after the Defect Notice Date or the Closing, as applicable, the disputed matters will be finally determined by binding arbitration in accordance with the procedures set forth in Section 17.17. Upon receipt of the arbitrator's decision, the Environmental Defect Properties shall be conveyed and the unpaid portion of the Delta Payment or Laramie Payment, as applicable, shall be paid as provided in such decision.

**5.7 Exclusive Remedies**. The right of Laramie or Delta to have the Laramie Payment or Delta Payment, as applicable, reduced to reflect one or more Environmental Defect Adjustments pursuant to this Article 5 shall be the exclusive right and remedy of Laramie, Delta and the Company with respect to environmental matters affecting the Assets. Notwithstanding anything herein to the contrary, if an Environmental Defect under this Article 5 results from any matter which could also result in the breach of any representation or warranty of Laramie or Delta, as applicable, in this Agreement, then the other Party shall only be entitled to assert such matter before the Defect Notice Date as an Environmental Defect to the extent permitted by this Article 5. The other Party shall be precluded from also asserting such matter as the basis of the breach of any such representation or warranty.

**5.8 Environmental Liabilities and Obligations; Delta Assets**.

(a) Upon Closing, the Company agrees to assume and pay, perform, fulfill and discharge all claims, costs, expenses, liabilities and obligations accruing or relating to and release Delta, its stockholders, directors, officers, employees, agents and representatives, and their respective successors and assigns (but no other third parties) from all Losses (including any costs of assessment, clean-up, removal and Remediation, and expenses for the modification, repair or replacement of facilities on the Lands brought or assessed by any and all persons, including any Governmental Entity but excluding any civil fines or penalties arising from acts or omissions of Delta before the Closing), as a result of any personal injury, illness or death, any damage to, destruction or loss of property, and

any damage to natural resources (including soil, air, surface water or groundwater) to the extent any of the foregoing directly or indirectly is caused by or otherwise involves any Condition of the Delta Assets whether created or attributable to periods either before or after the Effective Time, including, but not limited to, the presence, disposal or release of any Hazardous Material of any kind in, on or under the Delta Assets or the Delta Lands (collectively, "Company's Delta Environmental Liabilities").

(b) Notwithstanding the provisions of this Section 5.8(b) or any other provision in the Agreement, the Company's Delta Environmental Liabilities shall be limited to, and the Company shall only assume as part of the Assumed Liabilities, those claims that (i) are allowed claims in the Bankruptcy Cases, only to the extent that Delta or any of Delta's subsidiaries, as applicable, is obligated by a final court order to make any payments on or provide other consideration with respect to such claims, (ii) are not allowed claims in the Chapter 11 Cases and not discharged in the Chapter 11 Cases or (iii) are claims for indemnification by Delta's officers or directors against Delta with respect to civil claims under CERCLA or any state analog to the extent not covered by Delta's available insurance; provided, however, that in the case of each of clauses (i), (ii) and (iii) the Company shall not assume liability for Losses relating to the shipment or other transportation of Hazardous Materials for treatment, storage or disposal at any off-site location made by or on behalf of Delta (collectively, such Assumed Liabilities being the "Pre-Effective Time Delta Environmental Claims").

Promptly after its receipt of notice of the commencement of any action or filing of any proof or notice of claim relating to a Pre-Effective Time Delta Environmental Claim, Delta shall provide the Company notice in writing of the commencement or filing thereof, describing such claim, the amount thereof and the basis thereof, and including a copy of any documents, motions or pleadings filed in connection therewith; provided that any failure to so notify or any delay in notifying the Company shall not relieve the Company of its obligations hereunder except to the extent that the Company is prejudiced by such failure or delay. With respect to all Pre-Effective Time Delta Environmental Claims, (a) to the extent that the Company has standing to defend against and object to any Pre-Effective Time Delta Environmental Claims, the Company shall have the right to assert any defense or objection of Delta or any of Delta's subsidiaries or their respective estates, as applicable, at the Company's expense, (b) Delta and Delta's subsidiaries, as applicable, shall reasonably cooperate at the Company's expense in connection with such defense and objection, including, without limitation (i) providing reasonable access to documents and Delta's and its subsidiaries' employees, officers, professionals, consultants and any other agents or representatives (collectively, "Delta's Representatives") and (ii) attending and participating in or assisting with, and causing Delta's Representatives to attend and participate in or otherwise assist with, the preparation of and conduct of any discovery and other legal, judicial or administrative proceedings relating to Pre-Effective Time Delta Environmental Claims as witnesses or otherwise and (c) Delta and its subsidiaries, as applicable, shall not settle any Pre-Effective Time Delta Environmental Claims without the prior written consent of the Company, which consent may be withheld or granted in the Company's sole discretion; provided, further, that if the Company does not have standing as described herein, Delta and Delta's subsidiaries, as applicable, shall as directed by the Company and under the Company's control, use their respective reasonable best efforts to defend against such claims using counsel appointed by the Company, at the Company's expense, to (A) assert any defense against or object to Pre-Effective

Time Delta Environmental Claims, (B) reasonably cooperate and consult with the Company in, and keep the Company fully informed with respect to, all aspects of such defense and objection, including without limitation, (i) providing reasonable access to Delta's Representatives and to Delta's and Delta's Representatives' documents, whether in electronic form or otherwise, and (ii) permitting the Company to attend and participate in or assist with, and causing Delta's Representatives to permit the Company to attend, participate in or otherwise assist with, the preparation of and conduct of any discovery and other legal, judicial or administrative proceedings relating to Pre-Effective Time Delta Environmental Claims as witnesses or otherwise and (C) Delta and its subsidiaries, as applicable, shall not settle any Pre-Effective Time Delta Environmental Claims without the prior written consent of the Company, which consent may be withheld or granted in the Company's sole discretion.

**5.9 Environmental Liabilities and Obligations; Laramie Assets.**

(a) Upon Closing, the Company agrees to assume and pay, perform, fulfill and discharge all claims, costs, expenses, liabilities and obligations accruing or relating to and release Laramie, its members, managers, officers, employees, agents and representatives, and their respective successors and assigns (but no other third parties) from all Losses (including any costs of assessment, clean-up, removal and Remediation, and expenses for the modification, repair or replacement of facilities on the Lands brought or assessed by any and all persons, including any Governmental Entity) but excluding any civil fines or penalties arising from acts or omissions of Laramie before the Closing, as a result of any personal injury, illness or death, any damage to, destruction or loss of property, and any damage to natural resources (including soil, air, surface water or groundwater) to the extent any of the foregoing directly or indirectly is caused by or otherwise involves any Condition of the Laramie Assets whether created or attributable to periods either before or after the Effective Time, including, but not limited to, the presence, disposal or release of any Hazardous Material of any kind in, on or under the Laramie Assets or the Laramie Lands (collectively, "Company's Laramie Environmental Liabilities").

(b) Notwithstanding the provisions of this Section 5.9(b) or any other provision in the Agreement, the Company's Laramie Environmental Liabilities shall be limited to, and the Company shall only assume as part of the Assumed Liabilities, (i) those claims pursuant to which Laramie or any of Laramie's subsidiaries, as applicable, is obligated by a final court order to make any payments on or provide other consideration with respect to such claims, or (ii) are claims for indemnification by Laramie's officers or directors against Laramie with respect to civil claims under CERCLA or any state analog to the extent not covered by Laramie's available insurance; provided, however, that in the case of each of clauses (i) and (ii) the Company shall not assume liability for Losses relating to the shipment or other transportation of Hazardous Materials for treatment, storage or disposal at any off-site location made by or on behalf of Laramie (collectively, such Assumed Liabilities being the "Pre-Effective Time Laramie Environmental Claims").

Promptly after its receipt of notice of the commencement of any action or filing of any proof or notice of claim relating to a Pre-Effective Time Laramie Environmental Claim, Laramie shall provide the Company notice in writing of the commencement or filing thereof, describing

such claim, the amount thereof and the basis thereof, and including a copy of any documents, motions or pleadings filed in connection therewith; provided that any failure to so notify or any delay in notifying the Company shall not relieve the Company of its obligations hereunder except to the extent that the Company is prejudiced by such failure or delay. With respect to all Pre-Effective Time Laramie Environmental Claims, (a) to the extent that the Company has standing to defend against and object to any Pre-Effective Time Laramie Environmental Claims, the Company shall have the right to assert any defense or objection of Laramie or any of Laramie's subsidiaries or their respective estates, as applicable, at the Company's expense, (b) Laramie and Laramie's subsidiaries, as applicable, shall reasonably cooperate at the Company's expense in connection with such defense and objection, including, without limitation (i) providing reasonable access to documents and Laramie's and its subsidiaries' employees, officers, professionals, consultants and any other agents or representatives (collectively, "Laramie's Representatives") and (ii) attending and participating in or assisting with, and causing Laramie's Representatives to attend and participate in or otherwise assist with, the preparation of and conduct of any discovery and other legal, judicial or administrative proceedings relating to Pre-Effective Time Laramie Environmental Claims as witnesses or otherwise and (c) Laramie and its subsidiaries, as applicable, shall not settle any Pre-Effective Time Laramie Environmental Claims without the prior written consent of the Company, which consent may be withheld or granted in the Company's sole discretion; provided, further, that if the Company does not have standing as described herein, Laramie and Laramie's subsidiaries, as applicable, shall as directed by the Company and under the Company's control, use their respective reasonable best efforts to defend against such claims using counsel appointed by the Company, at the Company's expense, to (A) assert any defense against or object to Pre-Effective Time Laramie Environmental Claims, (B) reasonably cooperate and consult with the Company in, and keep the Company fully informed with respect to, all aspects of such defense and objection, including without limitation, (i) providing reasonable access to Laramie's Representatives and to Laramie's and Laramie's Representatives' documents, whether in electronic form or otherwise, and (ii) permitting the Company to attend and participate in or assist with, and causing Laramie's Representatives to permit the Company to attend, participate in or otherwise assist with, the preparation of and conduct of any discovery and other legal, judicial or administrative proceedings relating to Pre-Effective Time Laramie Environmental Claims as witnesses or otherwise and (C) Laramie and its subsidiaries, as applicable, shall not settle any Pre-Effective Time Laramie Environmental Claims without the prior written consent of the Company, which consent may be withheld or granted in the Company's sole discretion.

## ARTICLE 6
## BANKRUPTCY MATTERS

**6.1 Definitions**. For the purposes of this Agreement, the following terms shall have the following meanings:

(a) "Acquisition Proposal" means any proposal or offer for a merger, recapitalization, share exchange, debt-for-equity exchange, distribution of securities for the benefit of the stakeholders of Delta, plan sponsorship, consolidation or similar transaction involving a sale or purchase (directly or through a proposed investment in equity securities, debt securities or claims of creditors) of all or substantially all of the Delta Assets or all or

substantially all of the equity securities of Delta, other than the transactions contemplated by the terms of this Agreement.

(b) "Bankruptcy Code" means Chapter 11 of Title 11 of the United States Code.

(c) "Bankruptcy Court" means United States Bankruptcy Court for the District of Delaware.

(d) "Break–up Fee Order" means an order from the Bankruptcy Court approving the break-up fee of $1.5 million payable to Laramie (the "Break-up Fee") upon the termination conditions set forth herein and the Break-up Fee Order shall be a Final Order.

(e) "Chapter 11 Cases" means those certain voluntary petitions for relief filed by Delta and its subsidiaries under the Bankruptcy Code in the Bankruptcy Court on December 16, 2011, which are being jointly administered as Case No. 11-14006 (KJC).

(f) "Claims" means the plural or singular, as applicable, of the definition of "claim" set forth in section 101 of the Bankruptcy Code.

(g) "DIP Loan Agreement" means that certain Amended and Restated Senior Secured Debtor-in-Possession Credit Agreement dated as of December 21, 2011, between and among Whitebox Advisors, LLC, as Administrative Agent, and the Debtors, and all Claims, Liens and Liabilities arising therefrom or relating thereto.

(h) "Disclosure Statement" means the disclosure statement relating to the Plan to be filed by the Debtors with the Bankruptcy Court pursuant to section 1125 of the Bankruptcy Code (including all schedules and exhibits thereto), as such disclosure statement may be amended or modified from time to time, that, to the extent it describes this Agreement, any of the Transactions, Laramie or the Company, is in form and substance reasonably satisfactory to Laramie.

(i) "Final Order" means an order or judgment of the Bankruptcy Court or other court of competent jurisdiction that has been entered on the docket maintained by the clerk of such court and (i) has not been reversed, vacated, stayed, or amended; and (ii) as to which 14 calendar days have elapsed following such entry on the docket as to the Plan Confirmation Order only; provided, however, that no order or judgment shall fail to be a "Final Order" solely because of the possibility that a motion pursuant to section 502(j) or 1144 of the Bankruptcy Code or under Rule 60 of the Federal Rules of Civil Procedure, or Bankruptcy Rule 9024 may be filed with respect to such order or judgment.

(j) "Legal Proceeding" means any action, claim, suit, arbitration, inquiry, proceeding or investigation by or before any Governmental Entity or court, of any nature, civil, criminal, regulatory or otherwise, in law or in equity.

(k) "Liabilities" means any and all debts, losses, liabilities, claims, damages, demands, expenses, fines, costs, royalties, proceedings, deficiencies or obligations (including those arising out of any Legal Proceeding, such as any settlement or compromise thereof or judgment or award therein), of any nature, whether known or unknown, absolute, accrued, contingent or otherwise and whether due or to become due, and whether or not resulting from third-party claims, and any reasonable out-or-pocket costs and expenses (including reasonable legal counsels', accountants' or other fees and expenses incurred in defending or prosecuting any Legal Proceeding, as applicable, or in investigating any of the same or in asserting any rights thereunder or under this Agreement).

(l) "Lien" means any lien, pledge, mortgage, deed of trust, security interest, attachment, levy or encumbrance of any kind affecting title.

(m) "Plan" means the plan of reorganization prepared by Delta and filed with the Bankruptcy Court as (or intended to be) confirmed by the Plan Confirmation Order that contains terms and conditions, that, to the extent they relate to this Agreement, Laramie, the Company and the transactions contemplated hereunder, are reasonably satisfactory to Laramie. For the avoidance of doubt, when used in conjunction with Laramie at any point in this Agreement, Laramie's consent shall not be unreasonably withheld with respect to any provision of the Plan, the Disclosure Statement, the Plan Confirmation Order or any other document, that has a material effect on Laramie's or the Company's economic or other rights or interests, Laramie's economic or other rights or interests in the Company, or the Company's economic or other rights or business transactions.

(n) "Plan Confirmation Order" means an order of the Bankruptcy Court, that, to the extent the order relates to this Agreement, Laramie, the Company or the transactions contemplated hereunder is reasonably satisfactory to Laramie, and in a form reasonably acceptable to Laramie, in all respects, approving this Agreement and all of the terms and conditions hereof, and approving and authorizing Delta to consummate the transactions contemplated hereby, including the transfer of the Delta Assets to the Company, and the assumption and assignment to the Company of the Assumed Delta Contracts. The Plan Confirmation Order shall find and provide, among other things, that (i) the transfer of the Delta Assets (including without limitation all assets related to the Carry Agreement described in Section 1.1(d)(10) above) by Delta to the Company pursuant to this Agreement (A) will be legal, valid and effective transfers, or assumptions and assignments, as applicable, of the Delta Assets; (B) will vest the Company with all right, title and interest of Delta in and to the Delta Assets, free and clear of any Liens, Claims, Liabilities, interests and encumbrances (including without limitation any transfer restrictions set forth in the Carry Agreement), other than Permitted Liens and the Assumed Liabilities, pursuant to sections 365 and 1141(c) of the Bankruptcy Code (including, without limitation, any right of setoff, recoupment, netting or deduction); (C) constitutes a transfer for reasonably equivalent value and fair consideration under the Bankruptcy Code and other applicable law; and (D) qualifies for exemption under section 1146(c) of the Bankruptcy Code such that Transaction Taxes will be exempted pursuant to, and to the fullest extent allowed by, Section 1146(c) of the Bankruptcy Code; (ii) neither Laramie nor

the Company shall be, or shall be deemed to be, as successor to the Debtor or shall bear or shall be subject to any liability as a successor or alleged successor to any of the Debtors, except as expressly set forth in this Agreement, the Plan or the Plan Confirmation Order; (iii) the transactions contemplated by this Agreement are undertaken by Laramie and Delta at arm's length, without collusion and in good faith within the meaning of section 363(m) of the Bankruptcy Code; (iv) Delta has complied with the notice requirements of Rules 2002, 6004, 6006 and 9014 of the Federal Rules of Bankruptcy Procedure and any applicable rules of the Bankruptcy Court with respect to the transactions contemplated by this Agreement, the Other Agreements and by all other agreements, documents and instruments contemplated in connection with this Agreement; (v) this Agreement, the Plan and the Confirmation Order shall remain valid and binding on all Parties despite any future conversion of the Chapter 11 Cases, or any of them, to chapter 7 of the Bankruptcy Code; and (vi) Delta is authorized pursuant to Bankruptcy Court order to enter into this Agreement and to consummate the transactions contemplated hereby.

**6.2 Bankruptcy Matters.**

(a) Delta shall file the Plan and the Disclosure Statement with the Bankruptcy Court, in a form reasonably acceptable to Laramie as to matters related to Laramie, the Company, and this Agreement, on or before June 4, 2012, and such filings shall include, among other required components, a final, executed form of this Agreement.

(b) Delta shall file an executed form of this Agreement with the Bankruptcy Court as an exhibit to the Plan and Disclosure Statement (but which shall not include any of the Exhibits or Schedules hereto containing confidential information, which may only be reviewed by parties in interest upon execution of a confidentiality agreement), along with any appropriate notice.

(c) Delta shall obtain the Break-up Fee Order from the Bankruptcy Court on or before June 4, 2012, and such Break-up Fee Order shall be a Final Order.

(d) Delta shall promptly provide Laramie with final drafts of all documents, motions, orders, filings or pleadings that Delta proposes to file with the Bankruptcy Court which relate to (i) this Agreement or the transactions contemplated hereunder, (ii) the Plan, (iii) the Disclosure Statement, (iv) the Confirmation Order, (v) the Break-up Fee, and (vi) the acquisition of the Delta Assets, and will provide Laramie with a reasonable opportunity to review such documents in advance of their service and filing to the extent reasonably practicable. Delta shall consult and cooperate with Laramie, and consider in good faith the views of Laramie, with respect to all such filings. Without the prior written consent of Laramie, Delta shall not seek to amend or modify any provision in the Plan or the Plan Confirmation Order to effect a change in the terms and conditions of the transactions contemplated by the Agreement which would reasonably be expected to have a material adverse effect on Laramie or the Company or on the ability of Delta, Laramie and the Company to consummate the transactions contemplated hereby within the time periods set forth in this Agreement.

(e) Delta and the Company shall use commercially reasonable efforts to cooperate, assist and consult with each other to secure the entry of the Plan Confirmation Order following the date hereof, and to consummate the transactions contemplated by this Agreement (including (i) the assignment to and assumption by the Company of the Delta Contracts in accordance with this Agreement, (ii) obtaining any consents required in connection therewith, and (iii) furnishing affidavits or other documents or information for filing with the Bankruptcy Court for the purposes, among others, of providing any necessary assurances of performance by the Company under this Agreement. In the event that any orders of the Bankruptcy Court relating to this Agreement shall be appealed by any person (or a petition for certiorari or motion for reconsideration, amendment, clarification, modification, vacation, stay, rehearing or reargument shall be filed with respect to any such order), Delta, Laramie and the Company and will cooperate in taking such steps to diligently defend against such appeal, petition or motion and Delta, Laramie and the Company shall use their commercially reasonable efforts to obtain an expedited resolution of any such appeal, petition or motion.

## ARTICLE 7
## LARAMIE'S REPRESENTATIONS AND WARRANTIES

Laramie makes the following representations and warranties as of the date of this Agreement:

**7.1 Organization and Standing**. Laramie is a Delaware limited liability company, duly organized, validly existing and in good standing under the laws of Delaware and is duly qualified to carry on its business in the State of Colorado.

**7.2 Power**. Laramie has all requisite organizational power and authority to carry on its business as presently conducted. Laramie has all organizational power to enter into and perform its obligations under this Agreement and has taken all proper company action to authorize entering into this Agreement and performing its obligations hereunder. Neither the execution and delivery of this Agreement, nor the consummation of the transactions contemplated in this Agreement and any agreements ancillary hereto (a) will, with or without notice or lapse of time, or both, conflict with or result in a breach of the constituent documents of Laramie, and (b) does not, and the fulfillment of and compliance with the terms and conditions hereof and thereof will not, violate, or be in conflict with, any provision of Laramie's governing documents, or, except as would not reasonably be expected to have a Material Adverse Effect, on any provision of any agreement or instrument to which Laramie is a party or by which it is bound, or any judgment, decree, order, statute, rule or regulation applicable to Laramie.

**7.3 Authorization and Enforceability**. This Agreement constitutes Laramie's legal, valid and binding obligation, enforceable in accordance with its terms, subject to the Bankruptcy and Equity Exception.

**7.4 Liability for Brokers' Fees**. Laramie has not incurred any liability, contingent or otherwise, for brokers' or finders' fees relating to the Transaction or the transactions contemplated by the Other Agreements for which Delta or the Company shall have any responsibility whatsoever.

7.5 **Litigation**.

(a) There are no actions, suits, proceedings, notices of violation or claims pending or, to the Knowledge of Laramie, threatened, that would impair Laramie's ability to consummate the Transaction or the transactions contemplated by the Other Agreements.

(b) There are no actions, suits, proceedings, notices of violation or claims pending or, to the Knowledge of Laramie, threatened, against Laramie or any of the Laramie Assets, in any court or by or before any Governmental Entity involving the ownership or operation of the Laramie Assets, nor is Laramie in default under any order, writ, injunction, or decree of any Governmental Entity, in each case that would be reasonably likely to have a Material Adverse Effect. This Section 7.5 does not include any matters with respect to Environmental Laws, such matters being addressed exclusively in Article 5.

7.6 **Compliance with Law**. To Laramie's Knowledge, the Laramie Assets have been operated in compliance in all material respects with all applicable federal, state and local laws, rules, regulations and orders. Laramie has not received any written notice of a violation of any statute, law, ordinance, regulation, rule or order of any Governmental Entity, or any judgment, decree or order of any court, applicable to the Laramie Assets, in each case that would be reasonably expected to have a Material Adverse Effect. This Section 7.6 does not include any matters with respect to Environmental Laws, such matters being addressed exclusively in Article 5.

7.7 **Status and Operation of Assets**. Except for the items described on Schedule 7.7 (the "Capital Expenditures" with respect to the Laramie Assets) as of the date hereof, Laramie has made (a) no commitments to make expenditures in connection with the ownership or operation of the Laramie Assets in excess of $100,000 and (b) no contractual obligations to drill additional wells after the Effective Time.

7.8 **Taxes**. All material Taxes pertaining to the Laramie Assets that are required to have been paid or withheld have been properly paid or withheld. With respect to the Laramie Assets, there are no suits or proceedings pending, nor to Laramie's Knowledge, are any claims, investigations, audits or inquiries pending or threatened against Laramie, in respect of Taxes.

7.9 **Imbalance**. As of the date hereof, there are no gas imbalances other than those listed in Schedule 7.9.

7.10 **Leases**. Laramie has received no written notice of termination of any of the Leases.

7.11 **[Reserved]**.

7.12 **Status and Operation of Leases and Wells**.

(a) Except as set forth on Schedule 7.12, all royalties, rentals and other payments due under the Leases have been properly and timely paid in all material respects,

and there are currently pending no material written requests or demands for payments, adjustments of payments or performance pursuant to obligations under the Leases, except where the failure to pay such royalties, rentals and other payments due under the Leases, or the pendency of such requests or demands, is in the ordinary course of business.

(b) All pipelines, gathering systems, plants or other facilities owned by Laramie and comprising part of the Laramie Assets are located on surface rights, or pursuant to other authorizations, owned or leased by Laramie and constituting part of the Laramie Assets.

(c) Every well included in the Laramie Assets operated by Laramie, or to the Knowledge of Laramie, operated by third persons, has been drilled and completed in compliance with applicable Law, and within the boundaries covered by the Leases or within the limits otherwise permitted by contract, pooling or unit agreement and by Law, in each case in all material respects. The producing wells, facilities, tangible personal property, fixtures, machinery and other Equipment included in the Laramie Assets operated by Laramie, and to the Knowledge of Laramie, operated by third persons, have been maintained in all material respects in a state of repair so as to be adequate for reasonably prudent operations in the areas in which they are operated and for the continued operation of the Laramie Assets in the manner in which they are currently operated.

(d) With respect to the Laramie Assets operated by Laramie, and to the Knowledge of Laramie, with respect to the Laramie Assets operated by third persons, such Laramie Assets have been operated in accordance with reasonable, prudent oil and gas field practices and in compliance in all material respects with the applicable Leases or other applicable Laramie Contracts and applicable Law.

**7.13 Hydrocarbon Sales Contracts**. Except for the Hydrocarbon sales contracts listed on **Exhibit C-6**, no Hydrocarbons are subject to a sales contract (other than division orders or spot sales agreements terminable on no more than thirty (30) days notice) and, to Laramie's Knowledge, no person has any call upon, option to purchase or similar rights with respect to any material amounts of production from the Laramie Assets. Proceeds from the sale of oil, condensate, and gas from the Laramie Assets are being received in all material respects by Laramie in a timely manner.

**7.14 Areas of Mutual Interest**. Except as disclosed in any of the Laramie Contracts, no material Laramie Asset is subject to (or has related to it) any area of mutual interest agreement.

**7.15 Production Payments**. Except for the imbalance volumes and the contracts and arrangements listed in Schedule 7.9, Laramie is not obligated, by virtue of a production payment, prepayment arrangement under any contract for the sale of Hydrocarbons and containing a "take or pay," advance payment or similar provision, gas balancing agreement or any other arrangement, to deliver any material amounts of Hydrocarbons without then or thereafter receiving full payment therefor, or to make payment for any material amounts of Hydrocarbons already produced and sold, in each case with respect to the Laramie Assets.

7.16 **Surface Access**. No surface use or access agreements that are currently in force and effect would materially interfere with oil and gas operations on the Laramie Leases as currently conducted.

7.17 **Insurance**. As of the Effective Time, Laramie maintained, and through the Closing Date will maintain, with respect to the Laramie Assets, insurance coverage in amounts and on terms Laramie reasonably believes to be appropriate and customary in the circumstances.

7.18 **Condemnation**. To Laramie's Knowledge, there is no actual or threatened taking (whether permanent, temporary, whole or partial) of any material part of the Laramie Assets by reason of condemnation or the threat of condemnation.

7.19 **Laramie's Evaluation**.

(a) Review. Laramie is experienced and knowledgeable in the oil and gas business and is aware of its risks. Laramie acknowledges that Delta has not made any representations or warranties as to the Delta Assets except as otherwise expressly provided herein, and that Laramie has not relied on any of Delta's estimates with respect to reserves, the value of the Delta Assets, projections as to future events or other internal analyses, forward looking statements or any other information other than as set forth in Delta's representations and warranties herein.

(b) Independent Evaluation. In entering into this Agreement, Laramie acknowledges and affirms that it has relied and will rely solely on the terms of this Agreement and the Other Agreements and upon its independent analysis, evaluation and investigation of, and judgment with respect to, the business, economic, legal, tax or other consequences of the Transaction and the transactions contemplated by the Other Agreements, including without limitation its own estimate and appraisal of the extent and value of the reserves associated with the Delta Assets.

7.20 **No Other Representations or Warranties; Disclosed Materials**. Except for the representations and warranties contained in this Agreement (as qualified by the Schedules) and the documents assigning the Laramie Assets, Laramie makes no other (and Delta acknowledges that it is not relying upon any) express or implied representation or warranty with respect to Laramie (including the value, condition or use of any of the Laramie Assets), the Transaction or the transactions contemplated by the Other Agreements, and Laramie disclaims any other representations or warranties not contained in this Agreement, whether made by Laramie, or any of its respective officers, directors, shareholders, employees or agents. Except for the representations and warranties contained in this Agreement (as qualified by the Schedules), the disclosure of any matter or item in the Schedules shall not be deemed to constitute an acknowledgement that any such matter would or would reasonably be expected to be material or to result in a Material Adverse Effect.

7.21 **Well Status**. To the Knowledge of Laramie, there are no wells located on the Laramie Assets that: (a) Laramie is obligated by Law or contract to currently plug and abandon; or (b) have been plugged and abandoned but have not been plugged in accordance with all applicable requirements of each regulatory authority having jurisdiction of the Laramie Assets.

7.22 **Rentals and Royalties**. Except for those amounts held in suspense as authorized by law, all rentals and royalties payable by Laramie with respect to the Laramie Assets, have been duly and properly paid in all material respects in accordance with applicable law.

## ARTICLE 8
## LARAMIE'S REPRESENTATIONS AND WARRANTIES AS TO THE COMPANY

Laramie makes the following representations and warranties as of the date of this Agreement as to the Company:

8.1 **Organization and Standing**. The Company is a Delaware limited liability company, duly organized, validly existing and in good standing under the laws of Delaware and is duly qualified to carry on its business in the State of Colorado.

8.2 **Power**. The Company has all requisite organizational power and authority to carry on its business as presently conducted. The execution and delivery of this Agreement and the Other Agreements does not, and the fulfillment of and compliance with the terms and conditions hereof and thereof will not, as of Closing, violate, or be in conflict with, any material provision of the Company's governing documents, or any material provision of any agreement or instrument to which the Company is a party or by which it is bound, or any judgment, decree, order, statute, rule or regulation applicable to the Company.

8.3 **Authorization and Enforceability**. This Agreement constitutes the Company's legal, valid and binding obligation, enforceable in accordance with its terms, subject, however, to the Bankruptcy and Equity Exception.

8.4 **Liability for Brokers' Fees**. The Company has not incurred any liability, contingent or otherwise, for brokers' or finders' fees relating to the Transaction or the transactions contemplated by the Other Agreements for which Delta or Laramie shall have any responsibility whatsoever.

8.5 **Litigation**. There are no actions, suits, proceedings, notices of violation or claims by any person, entity or Governmental Entity pending or, to the Knowledge of the Company, threatened, that would impair the Company's ability to consummate the Transaction or the transactions contemplated by the Other Agreements.

## ARTICLE 9
## DELTA'S REPRESENTATIONS AND WARRANTIES

Delta makes the following representations and warranties as of the date of this Agreement:

9.1 **Status**. Delta is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and is qualified to carry on its business in the State of Colorado. Pursuant to sections 1107 and 1008 of the Bankruptcy Code and the orders of the Bankruptcy Court, Delta has all requisite corporate power and authority to own, lease and operate its assets and to carry on its business as a debtor-in-possession.

**9.2 Power**. Delta has all requisite corporate power and authority to carry on its business as presently conducted. Subject to approval of the Bankruptcy Court, Delta has all corporate power to enter into and perform its obligations under this Agreement and has taken all proper company action to authorize entering into this Agreement and performing its obligations hereunder. Subject to approval of the Bankruptcy Court and not subject to any stay or pending appeal at the time of Closing, neither the execution and delivery of this Agreement, nor the consummation of the transactions contemplated in this Agreement and any agreements ancillary hereto (a) will, with or without notice or lapse of time, or both, conflict with or result in a breach of the constituent documents of Delta (except if permitted or authorized by the Bankruptcy Court), and (b) does not, and the fulfillment of and compliance with the terms and conditions hereof and thereof will not, violate, or be in conflict with, any provision of Delta's governing documents, or, except as would not reasonably be expected to have a Material Adverse Effect, on any provision of any agreement or instrument to which Delta is a party or by which it is bound, or any judgment, decree, order, statute, rule or regulation applicable to Delta.

**9.3 Authorization and Enforceability**. This Agreement constitutes Delta's legal, valid and binding obligation, enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency, restructuring, moratorium and other similar legal requirements affecting creditors' rights and remedies generally and subject to general principles of equity (regardless of whether enforcement is sought in a proceeding at law or in equity) (the "Bankruptcy and Equity Exception").

**9.4 Liability for Brokers' Fees**. Delta has not incurred any liability, contingent or otherwise, for brokers' or finders' fees relating to the Transaction or the transactions contemplated by the Other Agreements for which Laramie or the Company shall have any responsibility whatsoever.

**9.5 Litigation**.

(a) There are no actions, suits, proceedings, notices of violation or claims pending or, to the Knowledge of Delta, threatened, that would impair Delta's ability to consummate the Transaction or the transactions contemplated by the Other Agreements.

(b) There are no actions, suits, proceedings, notices of violation or claims pending or, to the Knowledge of Delta, threatened, against Delta or any of the Delta Assets, in any court or by or before any Governmental Entity involving the ownership or operation of the Delta Assets, nor is Delta in default under any order, writ, injunction, or decree of any Governmental Entity, in each case that would be reasonably likely to have a Material Adverse Effect. This Section 9.5 does not include any matters with respect to Environmental Laws, such matters being addressed exclusively in Article 5.

**9.6 Compliance with Law**. To Delta's Knowledge, the Delta Assets have been operated in compliance in all material respects with all applicable federal, state and local laws, rules, regulations and orders. Delta has not received any written notice of a violation of any statute, law, ordinance, regulation, rule or order of any Governmental Entity, or any judgment, decree or order of any court, applicable to the Assets, in each case that would be reasonably

expected to have a Material Adverse Effect. This Section 9.6 does not include any matters with respect to Environmental Laws, such matters being addressed exclusively in Article 5.

**9.7 Status and Operation of Assets**. Except for the items described on Schedule 9.7 (the Capital Expenditures with respect to the Delta Assets) as of the date hereof, Delta has made (a) no commitments to make expenditures in connection with the ownership or operation of the Delta Assets in excess of $100,000, and (b) no contractual obligations to drill additional wells after the Effective Time.

**9.8 Taxes**. All material Taxes pertaining to the Delta Assets that are required to have been paid or withheld have been properly paid or withheld. With respect to the Delta Assets, there are no suits or proceedings pending, nor to Delta's Knowledge, are any claims, investigations, audits or inquiries pending or threatened against Delta, in respect of Taxes.

**9.9 Imbalance Volumes**. As of the date hereof, there are no gas imbalances other than those listed in Schedule 9.9.

**9.10 Leases**. Delta has received no written notice of termination of any of the Leases.

**9.11 [Reserved]**.

**9.12 Status and Operation of Leases and Wells**.

(a) Except as set forth on Schedule 9.12, all royalties, rentals and other payments due under the Leases have been properly and timely paid in all material respects, and there are currently pending no material written requests or demands for payments, adjustments of payments or performance pursuant to obligations under the Leases, except where the failure to pay such royalties, rentals and other payments due under the Leases, or the pendency of such requests or demands, is in the ordinary course of business.

(b) All pipelines, gathering systems, plants or other facilities owned by Delta and comprising part of the Delta Assets are located on surface rights, or pursuant to other authorizations, owned or leased by Delta and constituting part of the Delta Assets.

(c) Every well included in the Delta Assets operated by Delta, or to the Knowledge of Delta, operated by third persons, has been drilled and completed in compliance with applicable Law, and within the boundaries covered by the Leases or within the limits otherwise permitted by contract, pooling or unit agreement and by Law, in each case in all material respects. The producing wells, facilities, tangible personal property, fixtures, machinery and other Equipment included in the Delta Assets operated by Delta, and to the Knowledge of Delta, operated by third persons, have been maintained in all material respects in a state of repair so as to be adequate for reasonably prudent operations in the areas in which they are operated and for the continued operation of the Delta Assets in the manner in which they are currently operated.

(d) With respect to the Delta Assets operated by Delta, and to the Knowledge of Delta, with respect to the Delta Assets operated by third persons, such Delta Assets have been operated in accordance with reasonable, prudent oil and gas field

practices and in compliance in all material respects with the applicable Leases or other applicable Delta Contracts and applicable Law.

**9.13 Hydrocarbon Sales Contracts**. Except for the Hydrocarbon sales contracts listed on **Exhibit D-6**, no Hydrocarbons are subject to a sales contract (other than division orders or spot sales agreements terminable on no more than thirty (30) days notice) and, to Delta's Knowledge, no person has any call upon, option to purchase or similar rights with respect to any material amounts of production from the Delta Assets. Proceeds from the sale of oil, condensate, and gas from the Delta Assets are being received in all material respects by Delta in a timely manner.

**9.14 Areas of Mutual Interest**. Except as disclosed in any of the Delta Contracts, no material Delta Asset is subject to (or has related to it) any area of mutual interest agreement.

**9.15 Production Payments**. Except for the imbalance volumes listed in Schedule 9.9 and the contracts and arrangements listed in **Exhibit D-6**, Delta is not obligated, by virtue of a production payment, prepayment arrangement under any contract for the sale of Hydrocarbons and containing a "take or pay," advance payment or similar provision, gas balancing agreement or any other arrangement, to deliver any material amounts of Hydrocarbons without then or thereafter receiving full payment therefor, or to make payment for any material amounts of Hydrocarbons already produced and sold, in each case with respect to the Delta Assets.

**9.16 Surface Access**. No surface use or access agreements that are currently in force and effect would materially interfere with oil and gas operations on the Delta Leases as currently conducted.

**9.17 Insurance**. As of the Effective Time, Delta maintained, and through the Closing Date will maintain, with respect to the Delta Assets, insurance coverage in amounts and on terms Delta reasonably believes to be appropriate and customary in the circumstances.

**9.18 Condemnation**. To Delta's Knowledge, there is no actual or threatened taking (whether permanent, temporary, whole or partial) of any material part of the Delta Assets by reason of condemnation or the threat of condemnation.

**9.19 Delta's Evaluation**.

(a) Review. Delta is experienced and knowledgeable in the oil and gas business and is aware of its risks. Delta acknowledges that Laramie has not made any representations or warranties as to the Laramie Assets except as otherwise expressly provided herein, and that Delta has not relied on any of Laramie's estimates with respect to reserves, the value of the Laramie Assets, projections as to future events or other internal analyses, forward looking statements or any other information other than as set forth in Laramie's representations and warranties herein.

(b) Independent Evaluation. In entering into this Agreement, Delta acknowledges and affirms that it has relied and will rely solely on the terms of this Agreement and the Other Agreements and upon its independent analysis, evaluation and investigation of, and judgment with respect to, the business, economic, legal, tax or other

consequences of the Transaction and the transactions contemplated by the Other Agreements, including without limitation its own estimate and appraisal of the extent and value of the reserves associated with the Laramie Assets.

**9.20 Delta Bankruptcy Matters.**

(a) No Relief From Stay. The Bankruptcy Court has not entered any Order granting any person or entity relief from the automatic stay under section 362 of the Bankruptcy Code with respect to any of the Delta Assets.

(b) No Dismissal or Conversion. The Bankruptcy Court has not entered any Order with respect to any of the Chapter 11 Cases either (i) dismissing such case or (ii) converting such case to one under chapter 7 of the Bankruptcy Code.

(c) No Appointment. The Bankruptcy Court has not entered any Order appointing a chapter 11 trustee with respect to any of the Debtors or an examiner with expanded powers regarding the operation of any of the Debtors' businesses.

(d) No Preclusion. Neither the Bankruptcy Court nor any other Governmental Entity has issued any order, injunction or other decree which has become final and non-appealable, and which restrains, enjoins or otherwise prohibits in any material respect the implementation or performance of the Plan or this Agreement in a manner adverse to the interests of Delta or the Company.

**9.21 No Other Representations or Warranties; Disclosed Materials.** Except for the representations and warranties contained in this Agreement (as qualified by the Schedules) and the documents assigning the Delta Assets, Delta makes no other (and Laramie acknowledges that it is not relying upon any) express or implied representation or warranty with respect to Delta (including the value, condition or use of any of the Delta Assets), the Transaction or the transactions contemplated by the Other Agreements, and Delta disclaims any other representations or warranties not contained in this Agreement, whether made by Delta, or any of its respective officers, directors, shareholders, employees or agents. Except for the representations and warranties contained in this Agreement (as qualified by the Schedules), the disclosure of any matter or item in the Schedules shall not be deemed to constitute an acknowledgement that any such matter would or would reasonably be expected to be material or to result in a Material Adverse Effect.

**9.22 Well Status.** To the Knowledge of Delta, there are no wells located on the Delta Assets that: (a) Delta is obligated by Law or contract to currently plug and abandon; or (b) have been plugged and abandoned but have not been plugged in accordance with all applicable requirements of each regulatory authority having jurisdiction of the Delta Assets.

**9.23 Rentals and Royalties.** Except for amounts held in suspense as authorized by law, all rentals and royalties payable by Delta with respect to the Delta Assets, have been duly and properly paid in all material respects in accordance with applicable law.

## ARTICLE 10
## COVENANTS AND AGREEMENTS

**10.1 Covenants and Agreements of Laramie**. Laramie covenants and agrees with Delta and the Company as follows:

(a) Operations Prior to Closing. Except as consented to in writing by Delta or provided in this Agreement, from the date of this Agreement to the Closing, Laramie will use reasonable efforts to cause the Laramie Assets to be operated in a good and workmanlike manner consistent with past practices, and will pay or cause to be paid its proportionate share of all costs and expenses incurred in connection with such operations. Laramie will notify and obtain Delta's consent for capital expenditures anticipated to cost in excess of fifty thousand dollars ($50,000) per activity conducted on the Laramie Assets (and in excess of $250,000 in the aggregate for all such operations), exclusive of the Capital Expenditures listed on Schedule 7.7.

(b) Restriction on Operations. Subject to Section 10.1(a), unless Laramie obtains the prior written consent of Delta to act otherwise, Laramie will not (i) abandon any part of the Laramie Assets (except in the ordinary course of business or the abandonment of leases upon the expiration of their respective primary terms), (ii) except for the Capital Expenditures listed on Schedule 7.7, approve any operations on the Laramie Assets anticipated in any instance to cost more than fifty thousand dollars ($50,000) (or more than $250,000 in the aggregate for all such operations), net to Laramie's interest, per activity (excepting emergency operations required under presently existing contractual obligations, and operations undertaken to avoid a monetary penalty or forfeiture provision of any applicable agreement or order, all of which shall be deemed to be approved, provided Laramie immediately notifies Delta of any emergency operation or operation to avoid monetary penalty or forfeiture excepted herein), (iii) encumber, convey or dispose of any part of the Laramie Assets (other than replacement of equipment or sale of Hydrocarbons produced from the Laramie Assets in the regular course of business), (iv) enter into any farmout or farmin affecting the Laramie Assets, (v) consent to letting lapse any insurance now in force with respect to the Laramie Assets, (vi) materially modify, or terminate prior to its stated expiration, any Material Agreement or enter into any new agreement that would constitute a Material Agreement had it been entered into as of the Agreement Date, (vii) waive, compromise or settle any material right or claim with respect to any of the Laramie Assets, or (viii) agree in writing or otherwise to take any of the foregoing actions.

(c) Marketing. Unless Laramie obtains the prior written consent of Delta to act otherwise, Laramie will not alter any existing marketing contracts currently in existence, or enter into any new marketing contracts or agreements providing for the sale of Hydrocarbons for a term in excess of one month, in each case relating to the Laramie Assets.

(d) Consents. For the purposes of obtaining the written consents required in Sections 10.1(a) through (c), Delta designates the following contact person: Carl Lakey. Such consents may be obtained in writing by overnight courier or given by

.pdf or facsimile transmission. To the extent required by the Bankruptcy Code or the Bankruptcy Court, Laramie will give any notices to third parties, and each of the Parties will use its commercially reasonable efforts to obtain any third-party consents or sublicenses, if any, for which it is responsible or for which any responsible Party reasonably requests assistance, as are necessary to consummate the transactions contemplated in this Agreement.

(e) Status. Laramie shall use all reasonable efforts to (i) assure that Laramie will not be under any material legal or contractual restriction that would prohibit or delay the timely consummation of the Transaction and (ii) cause the Closing to occur.

(f) Compliance with Laws. During the period from the date of execution of this Agreement to the Closing Date, Laramie shall use reasonable efforts to cause the Laramie Assets to be operated in compliance in all material respects with all applicable statutes, ordinances, rules, regulations and orders, including Environmental Laws.

(g) Notification of Certain Matters. Between the date of this Agreement and the Closing Date, Laramie shall promptly notify Delta in writing if Laramie becomes aware of any fact or condition that (a) causes or constitutes a material breach of any of its representations and warranties contained in Article 7 or Article 8 or (b) constitutes a material breach of a covenant of Laramie contained in this Agreement, and shall promptly notify Delta of the status of such matters, including promptly furnishing Delta with copies of notices or other communications received by Laramie with respect thereto from any Governmental Entity or other third party. Any notice given to Delta under this Section 9.1(g) shall not adversely affect any rights of Delta under this Agreement.

(h) Access. Laramie shall afford Delta (in accordance with the provisions more particularly set forth in Article 3) reasonable access to the Laramie Assets and to counterparties to any of the Contracts for purposes of arranging for the orderly transition of the Laramie Assets from Laramie to the Company at Closing.

(i) Operatorship. Within ten (10) business days after Closing, Laramie shall send notices (in form mutually agreed to by Delta) to co-owners, if any, of those Laramie Assets that Laramie currently operates stating that Laramie is resigning as operator, effective upon the Closing Date, and recommending that the Company be elected successor operator for such Laramie Assets. Laramie makes no representations or warranties to the Company as to the transferability of operatorship of any Laramie Assets which Laramie currently operates. Rights and obligations associated with operatorship of the Laramie Assets are governed by operating agreements or similar agreements and will be decided in accordance with the terms of such agreements. Promptly after Closing, Laramie shall make such filings with all Governmental Entities as necessary to designate the Company as operator for the Laramie operated Laramie Assets from and after Closing. Laramie will use commercially reasonable efforts to assist the Company to obtain all necessary Permits in connection with the Company's designation as operator for the Laramie operated Laramie Assets as of Closing.

(j) Confidentiality. All nonpublic information provided to, or obtained by, Laramie in connection with the Transaction Agreements and the Transaction shall be "Information" for purposes of the Confidentiality Agreement, dated February 10, 2012 and April 10, 2012, between Laramie and Delta (the "Confidentiality Agreement"), and shall be maintained in confidence pursuant to the terms of such agreement.

(k) Governmental Bonds. Laramie acknowledges that none of the bonds, letters of credit and guarantees, if any, posted by Delta or its affiliates with Governmental Entities and relating to the Assets are transferable to Laramie as the Operator for the Company under the Management Agreement. At or prior to Closing, Laramie shall deliver to Delta evidence of the posting of bonds or other security with all applicable Governmental Entities meeting the requirements of such Governmental Entities to operate the Delta Assets on behalf of the Company.

(l) Bankruptcy Court Matters. Laramie agrees that it will promptly take such actions as are reasonably requested by Delta to assist in obtaining a finding of adequate assurance of future performance by the Company; *provided, however*, in no event shall Delta, Laramie or the Company be required to agree to any amendment of this Agreement.

(m) Delta Employees. Delta acknowledges and agrees that, from and after the date of this Agreement, Laramie or the Company is authorized to solicit for employment any employee or engaged independent contractor of Delta; provided, that Laramie shall provide prior written notice of such solicitation to the CEO of Delta. However, during the period of time from the date of this Agreement until the Closing Date, Laramie or the Company shall not hire for employment any employee or engage any independent contractor of Delta with a start date prior to the Closing Date without obtaining the prior written consent of Delta.

(n) Assumption and Assignment of Assumed Laramie Contracts. Laramie shall take all actions reasonably necessary to effectuate an assumption and assignment, as applicable, to the Company of the Assumed Laramie Contracts.

**10.2 Covenants and Agreements of Delta**. Delta covenants and agrees with Laramie and the Company as follows:

(a) Operations Prior to Closing.

(1) Except as (i) may be required or approved by the Bankruptcy Court or (ii) otherwise consented to in writing by Laramie and the Company or provided in this Agreement, from the Agreement Date to the Closing, Delta will use reasonable efforts to cause the Delta Assets to be operated in a good and workmanlike manner consistent with past practices and will pay or cause to be paid its proportionate share of all costs and expenses incurred in connection with such operations. Delta will notify and obtain Laramie's consent for capital expenditures anticipated to cost in excess of fifty thousand dollars ($50,000) per activity conducted on the Delta Assets (and in excess of

$250,000 in the aggregate for all such operations), exclusive of the Capital Expenditures listed on Schedule 9.7.

(2) Delta shall enter into a contract with Laramie on mutually acceptable terms to carry out such operations as are necessary to preserve the "Sheep Creek Unit". Delta shall prepay Laramie in cash for the operation described in this Section 10.2(a)(2) prior to Laramie commencing such operations, and Delta shall be responsible for obtaining a Final Order of the Bankruptcy Court granting all necessary approval of such contract, and authorization for Delta to enter into and perform the same, including the payment of all amounts thereunder.

(3) Delta shall use reasonable business efforts (not including the payment of money) to preserve its leasehold interest in Section 17, T.9S., R.92W. by assuming operatorship of the USA Federal #1-17C Well from Axia Energy, LLC if at any time prior to Closing Axia Energy, LLC elects not to make the required expenditures necessary to preserve such leasehold interest, provided that Delta shall not be required to commence any operations or make any expenditures on such well prior to Closing. The Parties expressly agree that any and all post-Closing expenditures and expenses incurred in connection with the well described in this Section 10.2(a)(3) shall be borne by the Company.

(b) Restriction on Operations. Subject to Section 10.2(a), unless Delta obtains the prior written consent of Laramie and the Company to act otherwise, Delta will not (i) abandon any part of the Delta Assets (except in the ordinary course of business or the abandonment of leases upon the expiration of their respective primary terms), (ii) except for the Capital Expenditures listed on Schedule 9.7, approve any operations on the Delta Assets anticipated in any instance to cost more than fifty thousand dollars ($50,000) (or more than $250,000 in the aggregate for all such operations), net to Delta's interest, per activity (excepting emergency operations required under presently existing contractual obligations, and operations undertaken to avoid a monetary penalty or forfeiture provision of any applicable agreement or order, all of which shall be deemed to be approved, provided Delta immediately notifies Laramie of any emergency operation or operation to avoid monetary penalty or forfeiture excepted herein), (iii) encumber, convey or dispose of any part of the Delta Assets (other than replacement of equipment or sale of Hydrocarbons produced from the Delta Assets in the regular course of business), (iv) enter into any farmout or farmin affecting the Delta Assets, (v) consent to letting lapse any insurance now in force with respect to the Delta Assets, (vi) materially modify, or terminate prior to its stated expiration, any Material Agreement or enter into any new agreement that would constitute a Material Agreement had it been entered into as of the Agreement Date, (vii) waive, compromise or settle any material right or claim with respect to any of the Delta Assets, or (viii) agree in writing or otherwise to take any of the foregoing actions.

(c) Marketing. Unless Delta obtains the prior written consent of Laramie and the Company to act otherwise, Delta will not alter any existing marketing contracts currently in existence, or enter into any new marketing contracts or agreements

providing for the sale of Hydrocarbons for a term in excess of one month, in each case relating to the Delta Assets.

(d) Consents. For the purposes of obtaining the written consents required in Sections 10.2(a) through (c), Laramie designates the following contact person: Bruce L. Payne. Such consents may be obtained in writing by overnight courier or given by .pdf or facsimile transmission. To the extent required by the Bankruptcy Code or the Bankruptcy Court, Delta will give any notices to third parties, and each of the Parties will use its commercially reasonable efforts to obtain any third-party consents or sublicenses, if any, for which it is responsible or for which any responsible Party reasonably requests assistance, as are necessary to consummate the transactions contemplated in this Agreement.

(e) Status. Delta shall use all reasonable efforts to (i) assure that Delta will not be under any material legal or contractual restriction that would prohibit or delay the timely consummation of the Transaction and (ii) cause the Closing to occur.

(f) Compliance with Laws. During the period from the date of execution of this Agreement to the Closing Date, Delta shall use reasonable efforts to cause the Delta Assets to be operated in compliance in all material respects with all applicable statutes, ordinances, rules, regulations and orders, including Environmental Laws.

(g) Notification of Certain Matters. Between the date of this Agreement and the Closing Date, Delta shall promptly notify Laramie in writing if Delta becomes aware of any fact or condition that (a) causes or constitutes a material breach of any of its representations and warranties contained in Article 9, or (b) constitutes a material breach of a covenant of Delta contained in this Agreement, and shall promptly notify Laramie of the status of such matters, including promptly furnishing Laramie with copies of notices or other communications received by Delta with respect thereto from any Governmental Entity or other third party. Any notice given to Laramie under this Section 10.1(g) shall not adversely affect any rights of Laramie under this Agreement.

(h) Access. Delta shall afford Laramie (in accordance with the provisions more particularly set forth in Article 3) reasonable access to the Delta Assets and to counterparties to any of the Delta Contracts for purposes of arranging for the orderly transition of the Delta Assets from Delta to the Company at Closing.

(i) Operatorship. Within ten (10) business days after Closing, Laramie shall prepare and send notices (in form mutually agreed to and executed by Delta) to co-owners, if any, of those Delta Assets that Delta currently operates stating that Delta is resigning as operator, effective upon the Closing Date, and recommending that the Company be elected successor operator for such Delta Assets. Delta makes no representations or warranties to the Company as to the transferability of operatorship of any Delta Assets which Delta currently operates. Rights and obligations associated with operatorship of the Delta Assets are governed by operating agreements or similar agreements and will be decided in accordance with the terms of such agreements. Promptly after Closing, the Parties shall make such filings with all Governmental Entities

as necessary to designate the Company as operator for the Delta operated Delta Assets from and after Closing. Delta will use commercially reasonable efforts to assist the Company to obtain all necessary Permits in connection with the Company's designation as operator for the Delta operated Delta Assets as of Closing.

(j) Break-up Fee Order. On or before June 4, 2012, Delta shall obtain from the Bankruptcy Court an Order approving the Break-Up Fee of $1.5 million payable to Laramie (the "Break-up Fee Order") upon the termination conditions set forth herein and the Break-up Fee Order shall be a Final Order.

(k) Filing of Plan and Disclosure Statement and Execution of this Agreement. On or before June 4, 2012, Delta shall file with the Bankruptcy Court the Plan and Disclosure Statement, containing all necessary exhibits, including an executed version of this Agreement, which shall be filed as an exhibit to the Plan and Disclosure Statement (but which shall not include any of the Exhibits or Schedules hereto containing confidential information, which may only be reviewed by parties in interest upon execution of a confidentiality agreement), accompanied by an appropriate notice of such filing.

(l) Assumption and Assignment of Assumed Delta Contracts. Delta shall take all actions reasonably necessary to effectuate an assumption and assignment, as applicable, to the Company of the Assumed Delta Contracts (including without limitation all contract rights and property interests under the Carry Agreement as described in Section 1.1(d)(10) free of any transfer restrictions set forth in the Carry Agreement). All amounts necessary to cure any defaults in any of the Assumed Delta Contracts, as a prerequisite to the assumption and assignment to the Company of the Assumed Delta Contracts required hereunder, shall be paid by Delta. Delta shall use its best efforts to include in the Plan Confirmation Order language approving and authorizing the assumption and assignment to the Company of the Assumed Delta Contracts.

(m) Final Order. Delta shall take all reasonable and necessary action to obtain entry of the Plan Confirmation Order as a Final Order on or before August 30, 2012.

(n) Payout Account Status. On or before the Closing, Delta shall update the status of all payout accounts as to the Delta Wells, effective not earlier than June 30, 2012.

**10.3 Covenants and Agreements of the Company**. The Company covenants and agrees with Laramie and Delta as follows:

(a) Status. The Company shall use all reasonable efforts to (i) assure that it will not be under any material legal or contractual restriction that would prohibit or delay the timely consummation of the Transaction and the transactions contemplated by the Other Agreements and (ii) cause the Closing to occur.

(b) Confidentiality. All nonpublic information provided to, or obtained by the Company in connection with the Agreement and the Other Agreements shall be kept confidential between the Company, Delta and Laramie and shall not be disclosed by any Party without the consent of the other Parties.

(c) Governmental Bonds. The Company acknowledges that none of the bonds, letters of credit and guarantees, if any, posted by Delta or Laramie with Governmental Entities and relating to the Delta Assets and the Laramie Assets, as applicable, are transferable to the Company. At or prior to Closing, the Company shall deliver to Delta or Laramie, as applicable, evidence of the posting of bonds or other security with all applicable Governmental Entities meeting the requirements of such Governmental Entities to own the Delta Assets and Laramie Assets, as applicable.

(d) Bankruptcy Court Matters. The Company agrees that it will promptly take such actions as are reasonably requested by Delta or Laramie to assist in obtaining the approval of the Bankruptcy Court to the Transaction, including furnishing affidavits or other documents or information for filing with the Bankruptcy Court; *provided, however*, in no event shall Delta, Laramie or the Company be required to agree to any amendment of this Agreement.

(e) Financial Resources. The Company will enter into a Credit Agreement, dated as of June 4, 2012, with JPMorgan Chase, N.A. and Wells Fargo Bank, N.A. as lenders (the "Revolving Credit Agreement"), and, as of the Closing, the Company shall have sufficient funds to pay the Laramie Payment and the Delta Payment.

(f) Economic Interest Agreement. The Company will enter into an "Economic Interest Agreement" (or similar title) with Delta, on mutually acceptable terms, pursuant to which the Company will agree to pay to Delta the amount of any economic benefit that the Company actually receives that is attributable to the Company's 5% carried working interest in any EnCana wells spudded (according to EnCana's records) after April 24, 2012 pursuant to the Carry Agreement (the "Forward Carry Wells"). The Economic Interest Agreement shall include, among other things, the following terms:

(1) The Company shall pay to Delta, within 30 calendar days of receipt thereof, (i) any production proceeds that the Company actually receives attributable to production from the Forward Carry Wells, less any expenses actually paid by the Company to EnCana that are directly attributable to the Forward Carry Wells, (ii) any proceeds actually received by the Company arising from a sale of the Forward Carry Wells, and (iii) any amounts paid to the Company attributable to the Forward Carry Wells either as a reimbursement pursuant to Section 3.3(b) of the Carry Agreement of amounts not expended by EnCana before May 1, 2013 or as a cash payment in exchange for termination of EnCana's Carry Well obligations under the Carry Agreement, in each case without deducting any amount for processing of payments, collection expenses, or otherwise;

(2) Any payments made to Delta under the Economic Interest Agreement shall be accompanied by a statement showing the calculation of such payment;

(3) The Company shall use reasonable business efforts to enforce any payment rights attributable to the Forward Carry Wells; and

(4) The Economic Interest Agreement shall terminate as set forth in Section 15.4 of this Agreement.

(g) The Company shall use reasonable business efforts (not including the payment of money) to engage in good faith negotiations with the lenders under the Credit Agreement to permit Delta and Laramie, as the holders of the Company's membership interests, to cure certain defaults that may arise under the Credit Agreement in the future, subject to customary terms and conditions.

**10.4 Covenants and Agreements of the Parties.**

(a) Communication Between the Parties Regarding Breach. If either Laramie or Delta develops information during its Due Diligence Review that leads it to believe that the other Party has breached a representation or warranty under this Agreement, the Party that developed such information shall inform the other Party in writing of such potential breach as soon as practicable, but in any event, prior to Closing.

(b) Casualty Loss. Prior to Closing, if a portion of the Laramie Assets or the Delta Assets is destroyed by fire or other casualty or is taken or threatened to be taken in condemnation or under the right of eminent domain ("Casualty Loss"), and the resulting loss from such Casualty Loss exceeds one hundred thousand dollars ($100,000) based on the Allocated Value of the affected Assets, the Company shall not be obligated to accept the contribution of such Asset. If the Company declines to accept the contribution of such Asset, the Laramie Payment or the Delta Payment, as applicable, shall be reduced by the Allocated Value of such Asset. If the Company elects to accept the contribution of such Asset, the Laramie Payment or the Delta Payment, as applicable, shall be reduced by the estimated cost to repair such Asset (with equipment of similar utility), less all insurance proceeds which shall be payable to the Company, up to the Allocated Value thereof (the reduction being the "Net Casualty Loss"). The Party suffering the Casualty Loss, at its sole option, may elect to cure such Casualty Loss and, in such event, such Party shall be entitled to all related insurance proceeds. If a Party suffering the Casualty Loss elects to cure such Casualty Loss, such Party may replace any personal property that is the subject of a Casualty Loss with equipment of similar grade and utility, or replace any real property with real property of similar nature and kind if such property is acceptable to the Company. If a Party suffering the Casualty Loss elects to cure such Casualty Loss, and the Casualty Loss is cured to the Company's reasonable satisfaction, the Company shall accept the contribution of the affected Asset at Closing for the Allocated Value thereof.

(c) Master Lease Agreement for Mega Vega Station Compressors. The Parties agree to use reasonable business efforts (not including the payment of money) to renegotiate, prior to Closing and on terms reasonably acceptable to all Parties, the terms of that certain Master Lease Agreement, dated July 30, 2008, between Delta and US Bankcorp Equipment Finance Inc. regarding two compressors located at the Mega Vega Station.

(d) Further Assurances. From time to time after Closing, Delta, Laramie and the Company shall each execute, acknowledge and deliver to the other such

further instruments and take such other action as may be reasonably requested in order to accomplish more effectively the purposes of the Transaction and the transactions contemplated by the Other Agreements.

## ARTICLE 11
## TAX MATTERS

**11.1 Definitions**. For the purposes of this Agreement:

(a) "Income Taxes" means all Taxes based upon, measured by, or calculated with respect to (i) gross or net income or gross or net receipts or profits (including, but not limited to, any capital gains, alternative minimum taxes, net worth and any taxes on items of Tax preference, but not including sales, use, goods and services, real or personal property transfer or other similar taxes), (ii) multiple bases (including, but not limited to, corporate franchise, doing business or occupation taxes) if one or more of the bases upon which such Tax may be based upon, measured by, or calculated with respect to, is described in clause (i) above, or (iii) withholding Taxes measured with reference to or as a substitute for any Tax described in clauses (i) or (ii) above, and (iv) and any penalties, additions to Tax, and interest levied or assessed with respect to a Tax described in (i), (ii), or (iii) above;

(b) "Production Taxes" shall mean all Severance Taxes and Property Taxes;

(c) "Property Taxes" shall mean all ad valorem, real property, personal property, and all other Taxes and similar obligations, and any penalties, additions to Tax, and interest levied or assessed thereon, assessed against the Assets or based upon or measured by the ownership of the Assets, but not including Severance Taxes, Income Taxes and Transfer Taxes;

(d) "Severance Taxes" shall mean all extraction, production, excise, net proceeds, severance, windfall profit and all other Taxes and similar obligations, and any penalties, additions to Tax, and interest with respect to the Assets that are based upon or measured by production of Hydrocarbons or the receipt of proceeds therefrom, but not including Property Taxes, Income Taxes, and Transfer Taxes;

(e) "Tax Return" means any return, declaration, report, claim for refund, or information return or statement relating to Taxes, including any schedule or attachment thereto, and including any amendment thereof;

(f) "Taxes" means (a) any taxes and assessments imposed by any Governmental Entity, including net income, gross income, profits, gross receipts, net receipts, capital gains, net worth, doing business, license, stamp, occupation, premium, alternative or add-on minimum, ad valorem, real property, personal property, transfer, real property transfer, value added, sales, use, environmental (including taxes under Code Section 59A), customs, duties, capital stock, stock, stamp, document, filing, recording, registration, authorization, franchise, excise, withholding, social security (or similar), fuel, excess profits, windfall profit, severance, extraction, production, net proceeds, estimated or

other tax, including any interest, penalty or addition thereto, whether disputed or not, and any expenses incurred in connection with the determination, settlement or litigation of the Tax liability, (b) any obligations under any agreements or arrangements with respect to Taxes described in clause (a) above, and (c) any transferee liability in respect of Taxes described in clauses (a) and (b) above or payable by reason of assumption, transferee liability, operation of Law, Treasury Regulation Section 1.1502-6(a) (or any predecessor or successor thereof or any analogous or similar provision under Law) or otherwise;

(g) "Straddle Period" means any taxable period including, but not ending on, the Effective Time; and,

(h) "Transfer Taxes" means any sales, use, excise, stock, stamp, document, filing, recording, registration, authorization and similar Taxes, fees and charges, and any penalties, additions to Tax, and interest levied or assessed thereon, but not including Production Taxes or Income Taxes.

**11.2 Apportionment of Severance Taxes.** Severance Taxes shall be deemed attributable to the period during which the Hydrocarbons with respect to such Severance Taxes are levied were produced. Laramie (with respect to the Laramie Assets) and Delta (with respect to the Delta Assets) shall be liable for the Severance Taxes attributable to 2011 and the portion of the Straddle Period prior to the Effective Time. The Company shall be liable for all Severance Taxes attributable to the portion of the Straddle Period after the Effective Time. The liability of Laramie and Delta for Severance Taxes under this Section 11.2 shall not be reduced by any credits for withholding taxes previously paid by Laramie or Delta, respectively, with respect to production for the applicable period (which withholding taxes shall be taken into account under Section 15.1), but shall be reduced by any credit for ad valorem taxes that are attributable to the properties from which production occurs and for which Laramie or Delta, respectively, is liable under Section 11.3; provided, that in each case the Company shall be entitled to claim any such credits attributable to the Straddle Period. Any Severance Taxes for which Laramie or Delta are liable under this Section 11.2 and that have not been paid prior to the Closing shall be a downward adjustment to the Laramie Payment or the Delta Payment, respectively, as provided in Section 15.1. For any purpose as may be necessary under this Agreement, State of Colorado Severance Taxes with respect to 2012 production shall be estimated based on current State of Colorado Severance Tax rates, with any adjustment to the Laramie Payment or Delta Payment, as applicable, to be considered full and final settlement of all such Taxes without regard to the actual Tax rates or assessments. Laramie or Delta, as applicable, shall timely file or cause to be filed all required Tax Returns for, related to or incident to Severance Taxes that are due on or prior to the Closing Date and shall timely pay or cause to be paid all Taxes due with respect thereto. After Closing, the Company shall timely file or cause to be filed all required reports and returns for, related to, or incident to Severance Taxes for any Straddle Period that are due after the Closing Date and shall timely pay or cause to be paid to the taxing authorities all Severance Taxes for any Severance Tax period during which the Closing Date occurs. Any penalties, additions to Tax, or interest levied or assessed with respect to any failure of the Company to comply with the previous sentence shall be allocated to, and shall be payable by, the Company.

**11.3 Apportionment of Property Taxes.** There shall be allocated to Laramie (with respect to the Laramie Assets) or Delta (with respect to the Delta Assets), as applicable, a portion

of the Property Tax for the Straddle Period determined by multiplying the Property Tax for the Straddle Period by a fraction, the numerator of which shall be the number of days in the Straddle Period prior to the Effective Time and the denominator of which shall be the number of days in the Straddle Period. The remaining portion of the Property Tax for the Straddle Period shall be allocated to the Company. The portion of the Property Taxes for the Straddle Period allocable to Laramie and Delta, respectively, shall be taken into account as provided in Section 15.1. For any purpose as may be necessary under this Agreement, Property Taxes levied for 2012 (and due and payable in 2013) shall be (a) if the actual Property Tax levy for 2012 has not been made prior to the calculation of the Laramie Payment and Delta Payment, as applicable, estimated based on the 2011 mill levy without regard to the actual 2012 mill levy or assessment and (b) otherwise shall be based on the actual 2012 mill levy. Any estimate made pursuant to clause (a) of the previous sentence shall be final, and no further adjustment to the Laramie Payment and Delta Payment, as applicable, shall be made with respect to an apportioned Property Tax based on the actual 2012 mill levy, valuation, equalization, assessment or a revised determination of 2011 production. All Property Taxes with respect to taxable periods beginning on or after the Effective Time shall be for the Company's account. Laramie or Delta, as applicable, shall timely file or cause to be filed all required Tax Returns for, related to or incident to Property Taxes that are due on or prior to the Closing Date and shall timely pay or cause to be paid all Taxes due with respect thereto. The Company shall timely file or cause to be filed all required reports and returns for, related to, or incident to Property Taxes for any Straddle Period that are due after the Closing Date and shall timely pay or cause to be paid to the taxing authorities all Property Taxes for any taxable period including the Closing Date. Any penalties, additions to Tax, or interest levied or assessed with respect to any failure of the Company to comply with the previous sentence shall be allocated to, and shall be payable by, the Company.

**11.4 Transfer Taxes**. The Company shall be liable for, any Transfer Taxes required to be paid in connection with the transactions contemplated by this Agreement that are not eliminated through the application of section 1146(a) of the Bankruptcy Code. The Company shall timely file or cause to be filed all required reports and returns for, related to, or incident to such Transfer Taxes and shall timely pay or cause to be paid to the taxing authorities all Transfer Taxes for any such Transfer Tax period during which the Effective Time occurs. Any penalties, additions to Tax, or interest levied or assessed with respect to any failure of the Company to comply with the previous sentence shall be allocated to, and shall be payable by, the Company.

**11.5 Post-Closing Tax Matters**. After the Closing Date, each of the Company and Laramie or Delta, as applicable, shall:

(a) reasonably assist the other in preparing any Tax returns with respect to any Tax incurred or imposed, or required to be filed, in connection with the Transaction and the transactions contemplated by the Other Agreements, and in qualifying for any exemption or reduction in Tax that may be available;

(b) reasonably cooperate in preparing for any audits or examinations by, or disputes with, taxing authorities regarding any Tax incurred or imposed in connection with the Transaction and the transactions contemplated by the Other Agreements;

(c) make available to the other, and to any taxing authority as reasonably requested, any information, records, and documents relating to a Tax incurred or imposed in connection with the Transaction and the transactions contemplated by the Other Agreements; and

(d) provide timely notice to the other in writing of any pending or threatened Tax audit, examination, or assessment that could reasonably be expected to affect the other's Tax liability under applicable law, this Agreement or the Other Agreements, and to promptly furnish the other with copies of all correspondence with respect to any such Tax audit, examination, or assessment.

## ARTICLE 12
## CONDITIONS PRECEDENT TO CLOSING

**12.1 Laramie's and Delta's Conditions**. The obligations of each of Laramie and Delta at the Closing are subject, at the option of Laramie and the Company, with respect to the conditions as applicable to Delta, and Delta, with respect to the conditions as applicable to Laramie and the Company, to the satisfaction or waiver at or prior to the Closing of the following conditions precedent:

(a) the representations and warranties of each of Laramie, Delta and the Company, respectively, contained in this Agreement shall be true and correct in all material respects as of Closing as though such representations and warranties were made at and as of the Closing;

(b) each of Laramie, Delta and the Company shall have complied in all material respects with all covenants and obligations contained in this Agreement to be performed or complied with by each such Party at or prior to Closing, and any material breach of any covenants and obligations contained in this Agreement by any Party, if any, shall have been cured within 5 days after a delivery of notice of breach to the other Parties;

(c) Since the date hereof, there shall have been no event or occurrence that (i) would reasonably be expected to result in a Material Adverse Effect or (ii) that did result in a Material Adverse Effect;

(d) each of Laramie, Delta and the Company shall have delivered to the other Parties a duly executed counterpart to each of the Other Agreements;

(e) No Law exists or Order has been entered that prohibits the contemplated Transaction;

(f) the Plan shall be in a form reasonably acceptable to Laramie;

(g) the Court shall have entered the Break-up Fee Order on or before June 4, 2012, and the Break-up Fee Order shall be a Final Order;

(h) the Closing shall occur not later than August 31, 2012;

(i) the Plan Confirmation Order shall have been entered by the Bankruptcy Court and shall be a Final Order on or before August 30, 2012;

(j) there shall be no conversion of Delta's bankruptcy case to Chapter 7 before Closing;

(k) there shall be no order granting relief from stay with respect to any of the Delta Assets before Closing; and

(l) Laramie and Delta's obligations are subject to the condition that (i) Title Defect Adjustments and Environmental Defect Adjustments with regard to the Delta Assets, after application of the Title Deductibles in Section 4.2(j) and Environmental Deductibles in Section 5.5 shall not have resulted in aggregate downward adjustments in the Delta Payment of more than $40,000,000 nor shall such aggregate downward adjustments in the Delta Payment have been more than $15,000,000 as to proved developed producing reserves in the Delta Assets, and (ii) that Title Defect Adjustments and Environmental Defect Adjustments with regard to the Laramie Assets, after application of the Title Deductibles in Section 4.2(j) and Environmental Deductibles in Section 5.5 shall not have resulted in aggregate downward adjustments in the Laramie Payment of more than $40,000,000 nor shall aggregate downward adjustments in the Laramie Payment have been more than $15,000,000 as to proved developed producing reserves in the Laramie Assets.

(m) In addition to the foregoing, Delta shall have an additional condition precedent to its obligations under this Agreement that, on or before Closing, (i) the Company and Delta shall have entered into the Economic Interest Agreement, and (ii) Laramie shall have provided to Delta the written agreement of the lenders under the Credit Agreement, in form and substance acceptable to Delta in its sole discretion, that any payments made by the Company to Delta pursuant to the Economic Interest Agreement shall be expressly permitted under the provisions of, and shall not be subject to the lenders' liens under, the Credit Agreement.

(n) Further in addition to the foregoing, the conditions precedent in Section 12.1(h) and Section 12.1(i) above and the provisions of Sections 13.1 and 13.2 and Section 14.1 below shall be subject in all respects to the following provisions:

(i) At the end of the 14-day appeal period specified in the definition of a Final Order, if an appeal has been filed with regard to the Confirmation Order and not stayed by the Bankruptcy Court, and the Parties are otherwise not able to close, then the rights of the Parties under Sections 13.1 and 13.2 to terminate this Agreement shall be suspended for a 30-day period during which neither Delta, Laramie nor the Company shall have the right to terminate this Agreement;

(ii) During the 30-day period specified in clause (i) above, Delta, Laramie and the Company each shall use reasonable business efforts to obtain a mutually agreeable resolution to the appeal that will allow Closing to occur;

(iii) If at the end of the 30-day period specified in clause (i) above, no mutually agreeable resolution to the appeal has been reached and a written agreement

reflecting such resolution has not been executed and delivered by Delta, Laramie and the Company, then the suspension of rights under Sections 13.1 and 13.2 provided in clause (i) shall automatically terminate, and thereafter either Delta (on the one hand) or Laramie and the Company (on the other hand) shall have the right to terminate this Agreement upon written notice to the other. Upon any such notice this Agreement shall be terminated, but notwithstanding the provisions of Sections 13.1 and 13.2, upon a termination pursuant to this clause (iii) none of the costs, fees or payments that might otherwise be due to the Parties under Section 13.2 shall be due or payable in any respect. For avoidance of doubt, the Parties agree that upon such a termination, Delta shall not be entitled to the liquidated damages specified in Section 13.2(a) and Laramie shall not be entitled to the Break-up Fee specified in Section 13.2(b).

## ARTICLE 13
## RIGHT OF TERMINATION

**13.1 Termination**. This Agreement may be terminated in accordance with the following provisions:

(a) by mutual consent of Laramie and Delta;

(b) by Laramie or Delta if any of the conditions in Section 12.1 is not satisfied and the Party seeking termination is not in material breach of this Agreement such that the other Party would not be required to close;

(c) by Delta, at any time prior to the Closing Date, if Delta's board of directors determines that its duties under applicable Law require it to terminate this Agreement in order to enter into an alternative transaction;

(d) by Laramie, if Delta files with the Bankruptcy Court any document, or otherwise states in any press release, SEC filing or similar publicly available and disseminated document, that Delta has decided to pursue, or to seek the Court's approval of, any Acquisition Proposal (including any alternative plan) between or involving Delta, or any of the Debtors, and any entity other than Laramie, the Company or one of their affiliates;

(e) by Laramie or the Company upon any breach by Delta of any covenant, representation or warranty that is not cured by the earlier of 5 days after notice of breach or Closing;

(f) by Delta upon any breach by Laramie or the Company of any covenant, representation or warranty that is not cured by the earlier of 5 days after notice of breach or Closing; and

(g) by any Party if the Transaction contemplated hereunder is not approved by the Bankruptcy Court in a Plan Confirmation Order that shall have been entered by the Bankruptcy Court and shall be a Final Order on or before August 30, 2012.

**13.2 Liabilities Upon Termination.**

(a) Laramie's Default. If Closing has not occurred (i) because Delta has terminated this Agreement under Section 13.1(f), or (ii) if Laramie and Delta have consented to termination under Section 13.1(a) under terms of consent that provide for payment of liquidated damages to Delta, then Delta shall be entitled to immediate payment by Laramie of liquidated damages of $5,000,000. In the event of a default by Laramie or the Company (caused by Laramie's failure to perform) as a result of which the Closing and consummation of the Transaction herein contemplated do not occur, the Parties agree that it would be impractical and extremely difficult to estimate the damages which Delta may suffer. Therefore, the Parties do hereby agree that a reasonable estimate of the total net detriment that Delta would suffer in the event that Laramie or the Company defaults (as a result of Laramie's failure to perform) and fails to complete the Transaction is and shall be, as Delta's sole and exclusive remedy (whether at law or in equity), the right to receive payment of the sum of $5,000,000. The payment and performance of the above as liquidated damages is not intended as a forfeiture or penalty within the meaning of applicable law. Upon default by Laramie or the Company (caused by Laramie's failure to perform) hereunder, this Agreement shall be terminated, and neither party shall have any further rights or obligations hereunder (except for indemnification obligations which specifically survive the termination of this Agreement), except the right of Delta to be paid the amount of liquidated damages set forth in this subsection 13.2(a).

(b) Delta's Default. If Closing has not occurred because (i) Laramie has terminated this Agreement under Section 13.1 (d), (e) or (g), (ii) Delta has terminated this Agreement under Section 13.1(c) or (g), (iii) the Company has terminated this Agreement under Section 13.1(e) or (g), (iv) Laramie and Delta have consented to termination under Section 13.1(a) under terms of consent that provide for payment of the Break-up Fee to Laramie, (v) Laramie has terminated this Agreement under Section 13.1 (b) for non-satisfaction of any of the conditions set forth in Section 12.1(d) (but only if Laramie has used good faith efforts to effect the Closing), (f) (but only if the Plan has been amended in a public filing and such amendment is materially adverse to Laramie), (h) (but only if Laramie has used good faith efforts to effect the Closing), (j), or (k), then Laramie shall be entitled to immediate payment by Delta of the $1,500,000 Break-up Fee, and the Break-up Fee Order shall so provide.

## ARTICLE 14
## CLOSING

**14.1 Date of Closing.** The "Closing" shall occur upon satisfaction of the conditions to effectiveness of the Plan and not later than August 31, 2012 (subject to the provisions of Section 12.1(n)). The date the Closing actually occurs is called the "Closing Date."

**14.2 Place of Closing.** The Closing shall be held at the Denver, Colorado offices of Delta at 9:00 a.m. local time or at such other time and place as Delta and Laramie may agree in writing.

**14.3 Closing Obligations**. At Closing, the following events shall occur, each being a condition precedent to the others and each being deemed to have occurred simultaneously with the others:

(a) Laramie and Delta, as applicable, shall have executed and delivered (i) a separate Assignment and Bill of Sale for all of the Laramie Assets or the Delta Assets, respectively, each substantially in the form provided in **Exhibit E-1** for the Laramie Assets and **Exhibit E-2** for the Delta Assets; (ii) as to the Laramie Fee Lands or Delta Fee Lands acquired by Laramie or Delta, respectively, by use of a warranty deed, a separate Special Warranty Deed, each substantially in the form provided in **Exhibit F**; and (iii) as to the remainder of the Laramie Fee Lands or Delta Fee Lands acquired by Laramie or Delta, respectively, by use of a quitclaim deed, a separate Quitclaim Deed, each substantially in the form provided in **Exhibit G**;

(b) the Company shall have executed and delivered the Revolving Credit Agreement and any required mortgages on the Laramie Assets and Delta Assets, all Claims, Liabilities and Liens arising from or relating to the DIP Loan Agreement shall have been fully satisfied, released, discharged and terminated, and Delta shall have obtained full releases of all Liens on the Delta Assets related to the DIP Loan Agreement;

(c) the Company shall have delivered the Laramie Payment and the Delta Payment, as adjusted pursuant to Article 2, by wire transfer to accounts designated by Laramie and Delta 3 business days before Closing;

(d) Laramie and Delta shall execute letters in lieu of transfer orders to all purchasers of production from the Laramie Assets and the Delta Assets;

(e) Laramie and Delta shall execute and deliver to the Company all required change of operator forms;

(f) Laramie and Delta shall each deliver an Affidavit of non-foreign status in the form provided in **Exhibit H**;

(g) Delta shall deliver a certified copy of all orders of the Bankruptcy Court pertaining to the Transaction, including the Plan Confirmation Order; and

(h) Laramie, Delta and the Company shall deliver executed counterparts of the Other Agreements;

## ARTICLE 15
## POST-CLOSING OBLIGATIONS

**15.1 Final Settlement**. Each of the Laramie Payment and the Delta Payment shall be further adjusted according to this Section 15.1 without duplication, as applicable to the Laramie Assets and Delta Assets respectively. Laramie and Delta, as applicable, shall deliver to the other Party and the Company as soon as practicable after the Closing, but in no event later than 30 days after Closing, a draft settlement statement (the "Final Settlement Statement") that shall set forth the adjusted Laramie Payment and Delta Payment, respectively, reflecting each

adjustment in accordance with Sections 2.2 and 15.1. The Laramie Payment shall be adjusted, with respect to the Laramie Assets, and the Delta Payment shall be adjusted, with respect to the Delta Assets, by the following:

(a) Proration of Costs and Revenues. The Company shall be entitled to all production of Hydrocarbons from or attributable to the Laramie Assets and the Delta Assets at and after the Effective Time (and all products and proceeds attributable thereto), and to all other income, proceeds, receipts and credits earned with respect to the Assets at or after the Effective Time, and shall be responsible for (and entitled to any refunds with respect to) all Property Expenses (as defined in Section 15.1(b) below) incurred at and after the Effective Time. Laramie and Delta, as applicable, shall be entitled to all Hydrocarbon production from or attributable to the Laramie Assets or the Delta Assets prior to the Effective Time (and all products and proceeds attributable thereto), and to all other income, proceeds, receipts and credits earned with respect to the Assets prior to the Effective Time, and shall be responsible for (and entitled to any refunds with respect to) all Property Expenses incurred prior to the Effective Time. The terms "earned" and "incurred", as used in this Agreement, shall be interpreted in accordance with generally accepted accounting principles ("GAAP") and Council of Petroleum Accountants Society ("COPAS") standards, and utilizing the "sales method" of revenue accounting, except as otherwise specified herein. For purposes of allocating production (and accounts receivable with respect thereto), under this Section 15.1(a), (i) liquid Hydrocarbons, including natural gas liquids, shall be deemed to be "from or attributable to" the Leases, Lands, and Wells when they pass through the pipeline connecting into the storage facilities into which they are run or into tanks connected to the Wells and (ii) gaseous Hydrocarbons shall be deemed to be "from or attributable to" the Leases, Lands, and Wells when they pass through the royalty measurement meters, delivery point sales meters or custody transfer meters on the gathering lines or pipelines through which they are transported (whichever meter is closest to the well). Laramie and Delta, as applicable, shall utilize reasonable interpolative procedures, consistent with industry practice, to arrive at an allocation of production when exact meter readings or gauging and strapping data are not available. As part of the Final Settlement Statement, Laramie and Delta, as applicable, shall provide to the Company all data necessary to support any estimated allocation for purposes of establishing the Final Payment.

(b) Property Expenses. The term "Property Expenses" means (i) all capital expenses and operating expenses incurred in the ownership, development and operation of the Assets in the ordinary course of business and, where applicable, in accordance with any relevant operating agreement, if any, and (ii) all Lease rental and maintenance costs, net profit payments, royalties, overriding royalties and other similar burdens incurred in connection with the Leases or the production and sale of Hydrocarbons therefrom (collectively, "Royalty Liabilities"), but excluding Production Taxes. Property Expenses shall include overhead for the period between the Effective Time and the Closing Date based upon the applicable joint operating agreement.

(c) Upward Adjustments. The Laramie Payment and the Delta Payment each shall be adjusted upward by the following:

(1) To the extent that there are any pipeline imbalances, if the net of such imbalances is an overdelivery imbalance (that is, at the Effective Time, Laramie or Delta has delivered more gas to the pipeline than the pipeline has redelivered for such Party), the Laramie Payment or Delta Payment, as applicable, shall be adjusted upward by the first-of-the-month price of spot gas delivered to pipelines for Colorado Interstate Gas Company (Rocky Mountains) as reported in Inside F.E.R.C.'s Gas Market Report for the month in which the Effective Time occurs (the "Imbalance Spot Price") times the net overdelivery imbalance in MMbtus. In the event such publication shall cease to be published, the Parties shall select a comparable publication; and

(2) An amount equal to the aggregate Severance Taxes (including related withholding taxes) and Property Taxes, in each case for the portion of the Straddle Period at and after the Effective Time and paid by Laramie or Delta prior to the Closing, to such Party is liable for such Taxes pursuant to Article 11.

(d) Downward Adjustments. The Laramie Payment or the Delta Payment each shall be adjusted downward by the following:

(1) To the extent that there are any pipeline imbalances, if the net of such imbalances is an underdelivery imbalance (that is, at the Effective Time, Laramie or Delta has delivered less gas to the pipeline than the pipeline has redelivered for such Party), the Laramie Payment or Delta Payment, as applicable, shall be adjusted downward by the Imbalance Spot Price times the net underdelivery imbalance in MMbtus. In the event such publication shall cease to be published, the Parties shall select a comparable publication;

(2) The value of any Casualty Loss pursuant to Section 10.4(b);

(3) An amount equal to the revenue held in suspense by Laramie or Delta, as applicable, for royalties, overriding royalties and similar leasehold burdens and handled in accordance with Section 15.3; and

(4) An amount equal to the aggregate unpaid Severance Taxes and Property Taxes, in each case for taxable periods ending prior to the Effective Time or for the portion of the Straddle Period prior to the Effective Time, to the extent allocable to Laramie or Delta, as applicable, pursuant to Article 11.

(e) Well Imbalance Adjustments. Laramie and Delta agree that the Laramie Payment and the Delta Payment will be adjusted downward or upward, as appropriate, by an amount equal to the well imbalances existing as of the Effective Time multiplied by the Imbalance Spot Price.

(f) The Final Settlement Statement shall show the calculation of all adjustments and the final amounts of each such Payment (the "Final Payments"). As soon as practicable after receipt of the Final Settlement Statement, but in no event later than on or before 15 days after receipt of each Party's proposed Final Settlement Statement, each Party shall deliver to the other Party a written report containing any changes that it proposes to make to the other Party's Final Settlement Statement. A Party's failure to

deliver to the other Party a written report detailing proposed changes to the Final Settlement Statement by that date shall be deemed an acceptance by such Party of the Final Settlement Statement as submitted by the other Party. The Parties shall agree with respect to the changes proposed by the Parties, if any, no later than 30 days after receipt of each Party's proposed Final Settlement Statement. The date upon which such agreement is reached or upon which each Final Payment is established shall be herein called the "Final Settlement Date." If the Final Payment is more than the Closing Amount received by Laramie or Delta, then the Company shall pay Laramie or Delta, as applicable, the amount of such difference. If the Final Payment is less than the Closing Amount, then Laramie or Delta, as applicable, shall pay to the Company the amount of such difference. In either event, payment shall be made by wire transfer in immediately available funds. Payment by Laramie, Delta or the Company, as the case may be, shall be within 5 days of the Final Settlement Date.

**15.2 Records.**

(a) As soon as is reasonably practicable after the Closing Date (and in no case later than five (5) days after Closing), Laramie and Delta shall deliver to the Company, at the Company's expense, the Laramie Records and the Delta Records, as applicable. The Company shall preserve such Records until the earlier of (A) seven years after the Closing Date; (B) the required retention period required by any United States or foreign legal requirement; (C) the conclusion of all bankruptcy proceedings relating to the Chapter 11 Cases and (D) in the case of Records relating to Taxes, the expiration of the statute of limitations applicable to such Taxes.

(b) After the Closing Date, the Company shall provide to Laramie and Delta and their Representatives (after reasonable notice and during normal business hours and without charge) access to, including electronic and computer access and the right to make copies (at such requesting Party's sole cost and expense) of, all Records included in the Assets to the extent that such Records relate to any period prior to the Closing Date and are not already in the possession of such requesting Party. the Company shall preserve such Records until the later of (A) seven years after the Closing Date; (B) the required retention period required by any United States or foreign legal requirement; (C) the conclusion of all bankruptcy proceedings relating to the Chapter 11 Cases or (D) in the case of Records relating to Taxes, the expiration of the statute of limitations applicable to such Taxes. Such access shall include access to any information in electronic form to the extent reasonably available. Prior to destroying any Records included in the Assets for periods prior to the Closing, the Company shall notify Laramie and Delta at least 30 days in advance of any such proposed destruction of its intent to destroy such Records, and the company will permit the Party that provided the such Records to retain such Records. With respect to any litigation and claims that are Excluded Assets, the Company shall render reasonable assistance that Laramie or Delta, as applicable, may request in defending such litigation or claim and shall make available employees who are most knowledgeable about the matter in question, in each case, at the requesting Party's sole cost and expense and only at such time, and in such manner, so as not to interfere with the normal operations of the Company or its affiliates following the Closing Date.

**15.3 Suspense Accounts and Division of Interest**. At the Closing, each of Laramie and Delta will provide to the Company (a) information regarding all of Laramie's or Delta's, as applicable, accounts holding moneys in suspense together with a written explanation (as contained in Laramie or Delta, as applicable, files) of why such moneys are held in suspense or other information identifying the proper disposition of such moneys and (b) Laramie's or Delta's, as applicable, division of interest and all supporting documentation regarding those royalty owners and working interest owners in the Leases for whom Laramie's or Delta's, as applicable, disburses proceeds of production. The Company agrees to take and apply such moneys in a manner consistent with prudent oil and gas business practices and the information supplied by Laramie's or Delta's, as applicable, and to indemnify Laramie's or Delta's, as applicable, against any claim relating to the failure to pay such funds after the Closing.

**15.4 Carry Agreement Wells**. As soon as reasonably practicable after the Closing, the Company and Delta each shall use reasonable business efforts (which shall not include any obligation to pay money) to obtain EnCana's consent to the assignment to Delta of the Forward Carry Wells. In the event EnCana agrees and consents to the assignment to Delta of the Forward Carry Wells, the Economic Interest Agreement shall terminate and be of no further force and effect upon the effectiveness of the assignment to Delta of the Forward Carry Wells.

## ARTICLE 16
## ASSUMPTION AND RETENTION OF OBLIGATIONS AND INDEMNIFICATION; DISCLAIMERS

**16.1 Company's Assumption of Liabilities and Obligations**. Upon Closing, and subject to the terms of this Agreement, the Company shall assume and pay, perform, fulfill and discharge all claims, costs, expenses, liabilities and obligations ("Obligations"), (a) relating to the ownership and operation of the Laramie Assets and the Delta Assets after the Effective Time including the owning, developing, exploring, operating or maintaining of the Laramie Assets and the Delta Assets or the producing, transporting and marketing of Hydrocarbons from the Laramie Assets and the Delta Assets (including the payment of Property Expenses), (b) the obligation to plug and abandon all Wells located on the Lands and reclaim all well sites located on the Lands, (c) the Company's own Environmental Liabilities, and (d) all Obligations accruing or relating to the ownership or operation of the Laramie Assets and Delta Assets before the Effective Time for which claims have not been asserted pursuant to Section 16.2 before the expiration of the applicable Survival Period (collectively, the "Assumed Liabilities"); *provided, however,* that the Company does not assume any Obligations of Laramie or Delta, as applicable, attributable to the Laramie Assets and the Delta Assets, as applicable, to the extent that such Obligations are the following "Excluded Liabilities":

(a) attributable to or arise out of the ownership, use or operation of the Excluded Assets;

(b) relating to or arising from any claim or allegation that the Company is a successor to Delta to any extent (except to the extent of specifically assumed Liabilities);

(c) any liability, obligation or commitment under the governmental permits, contracts, leases, licenses, indentures, agreements, commitments and other legally binding arrangements not listed on **Exhibit C-6** or **Exhibit D-6**;

(d) attributable to any Obligation of Laramie or Delta, as applicable, attributable to any Income Tax measured by or imposed on the net income of Laramie or Delta, as applicable, that was or is attributable to Laramie's or Delta's, as applicable, ownership of an interest in or the operation of the Laramie Assets or Delta Assets, as applicable, or attributable to any Tax allocated to Laramie or Delta, as applicable, pursuant to Article 11; and

(e) attributable to any matter for which Laramie or Delta indemnifies the Company under Section 16.2(a).

**16.2 Indemnification**. "Losses" shall mean any actual losses, costs, expenses (including court costs, reasonable fees and expenses of attorneys, technical experts and expert witnesses and the cost of investigation), damages, claims, and sanctions of every kind and character (including civil fines) arising from, related to or reasonably incident to matters indemnified against; excluding however any special, consequential, punitive or exemplary damages, diminution of value of an Asset, loss of profits incurred by a Party hereto or Loss incurred as a result of the Indemnified Party indemnifying a third party.

After the Closing, Laramie, Delta and the Company shall indemnify each other as follows:

(a) Laramie's Indemnification of the Company. Laramie assumes all risk, liability, obligation and Losses in connection with, and shall defend, indemnify, and save and hold harmless the Company and its officers, directors, employees and agents (the "Company Indemnified Parties"), from and against all Losses which arise directly or indirectly from or in connection with (i) all Obligations for third party claims for Property Expenses (including Royalty Liabilities) accruing or relating to the ownership or operation of the Laramie Assets prior to the Effective Time, subject to the Survival Period set forth in Section 17.13, (ii) any act or omission by Laramie involving or relating to the Excluded Assets, (iii) any breach by Laramie of any of Laramie's representations or warranties contained in Article 7 subject to the Survival Period set forth in Section 17.13, (iv) any breach by Laramie of its covenants and agreements contained in this Agreement other than this Section 16.2(a), or (v) except as set forth in Sections 16.2(a)(i) through (iv) above, any of the Excluded Liabilities.

(b) Delta's Indemnification of the Company. Delta assumes all risk, liability, obligation and Losses in connection with, and shall defend, indemnify, and save and hold harmless the Company Indemnified Parties, from and against all Losses which arise directly or indirectly from or in connection with (i) all Obligations for third party claims for Property Expenses (including Royalty Liabilities) accruing or relating to the ownership or operation of the Delta Assets prior to the Effective Time, subject to the Survival Period set forth in Section 17.13, (ii) any act or omission by Delta involving or relating to the Excluded Assets, (iii) any breach by Delta of any of Delta's representations

or warranties contained in Article 9 subject to the Survival Period set forth in Section 17.13, (iv) any breach by Delta of its covenants and agreements contained in this Agreement other than this Section 16.2(b), or (v) except as set forth in Sections 16.2(b)(i) through (iv) above, any of the Excluded Liabilities.

(c) The Company's Indemnification of Laramie/Delta. The Company assumes all risk, liability, obligation and Losses in connection with, and shall defend, indemnify, and save and hold harmless Laramie or Delta, as applicable, and their officers, directors, employees and agents (the "Laramie/Delta Indemnified Parties"), from and against all Losses which arise directly or indirectly from or in connection with (i) the Assumed Liabilities, (ii) any breach by the Company of any of the Company's representations or warranties contained in Article 8 that survive Closing, or (iii) any breach by the Company of its covenants and agreements contained in this Agreement.

(d) Limitations on Indemnity.

(1) Notwithstanding anything to the contrary set forth herein, except for any breach of the representations and warranties of Laramie set forth in Section 7.8 (Taxes) and the matters described in Sections 16.2(a)(ii) or Section 16.2(a)(v), for which Laramie's liability for indemnification hereunder shall be without limit, Laramie shall have no liability for indemnification hereunder until (i) the individual amount of any Loss exceeds $50,000 and (ii) the total of all Losses with respect to such matters exceeds $2,500,000 and then only for the amount by which such Losses exceeds $2,500,000. Except for any breach of the representations and warranties set forth in Section 7.8 (Taxes) and the matters described in Sections 16.2(a)(ii) or Section 16.2(a)(v), for which Laramie's liability for indemnification hereunder shall be without limit, Laramie shall not have any liability for indemnification with respect to Losses suffered by the Company in excess of $5,000,000.

(2) Notwithstanding anything to the contrary set forth herein, except for any breach of the representations and warranties of Delta set forth in Section 9.8 (Taxes) and the matters described in Sections 16.2(b)(ii) or Section 16.2(b)(v), for which Delta's liability for indemnification hereunder shall be without limit, Delta shall have no liability for indemnification hereunder until (i) the individual amount of any Loss exceeds $50,000 and (ii) the total of all Losses with respect to such matters exceeds $2,500,000 and then only for the amount by which such Losses exceeds $2,500,000. Except for any breach of the representations and warranties set forth in Section 9.8 (Taxes) and the matters described in Sections 16.2(b)(ii) or Section 16.2(b)(v), for which Delta's liability for indemnification hereunder shall be without limit, Delta shall not have any liability for indemnification with respect to Losses suffered by the Company in excess of $5,000,000.

(3) From and after the Closing, indemnification under Section 16.2 shall be the sole and exclusive remedy available to any Party hereto against any other Party hereto for any claims arising out of or based upon the matters set forth in this Agreement and the transactions contemplated hereby, and no Party shall seek relief against any other Party to this Agreement other than through indemnification provided in

Section 16.2, subject to the limitations provided for in Section 16.2(d)(1) or (2), as applicable.

**16.3 Procedure**. The indemnifications contained in Section 16.2 shall be implemented as follows:

(a) Claim Notice. The Party seeking indemnification under the terms of this Agreement ("Indemnified Party") shall submit a written "Claim Notice" to the other Party ("Indemnifying Party") which, to be effective, must be delivered prior to the end of the Survival Period and must state: (i) the amount of each payment claimed by an Indemnified Party to be owing, (ii) the basis for such claim, with reasonably available supporting documentation, and (iii) a list identifying to the extent reasonably possible each separate item of Loss for which payment is so claimed. The amount claimed shall be paid by the Indemnifying Party to the extent required herein within twenty (20) days after receipt of the Claim Notice, or after the amount of such payment has been finally established as provided in Section 16.3(c), whichever last occurs.

(b) Information. Within twenty (20) days after the Indemnified Party receives notice of a claim or legal action by a third party that may result in a Loss for which indemnification may be sought under this Article 16 (a "Claim"), the Indemnified Party shall give written notice of such Claim to the Indemnifying Party; *provided, however,* that the failure to give such notice shall not relieve the Indemnifying Party of its obligations hereunder except to the extent such failure is prejudicial to the Indemnifying Party. If the Indemnifying Party or its counsel so requests, the Indemnified Party shall furnish the Indemnifying Party with copies of all pleadings and other information with respect to such Claim. At the election of the Indemnifying Party, which must be made within twenty (20) days after receipt of such notice and not thereafter, the Indemnified Party shall permit the Indemnifying Party to assume control of such Claim (to the extent only that such Claim, legal action or other matter relates to a Loss for which the Indemnifying Party is liable), including the determination of all appropriate actions, the negotiation of settlements on behalf of the Indemnified Party, and the conduct of litigation through attorneys of the Indemnifying Party's choice; *provided, however,* that no such settlement can result in any liability or cost to the Indemnified Party for which it is entitled to be indemnified hereunder without its consent, which consent shall not be unreasonably withheld or delayed. If the Indemnifying Party elects to assume control, (i) all reasonable expenses incurred by the Indemnified Party in connection with the investigation or defense of the Claim, legal action or other matter prior to the time the Indemnifying Party assumes control shall be reimbursed and paid by the Indemnifying Party, (ii) any expenses incurred by the Indemnified Party thereafter for investigation or defense of the matter shall be borne by the Indemnified Party except for reasonable expenses incurred in connection with providing information or assistance to the Indemnifying Party as required by subsection (iii), and (iii) the Indemnified Party shall give all reasonable information and assistance, other than pecuniary, that the Indemnifying Party shall deem necessary to the proper defense of such Claim, legal action, or other matter but shall be reimbursed and paid for such expenses as provided for in subsection (ii). Before such election is made or in the absence of such an election, the Indemnified Party shall defend any claim, legal action or other matter and shall be reimbursed and paid by the Indemnifying Party for all reasonable expenses

incurred in such defense. Before such election is made or in the absence of such election, the Indemnified Party may settle any Claim, legal action or other matter for which notice has been provided as required by Section 16.3(a), but only with the consent of the Indemnifying Party, which consent may not be unreasonably withheld. If such a Claim requires immediate action, both the Indemnified Party and the Indemnifying Party will cooperate in good faith to take appropriate action so as not to jeopardize the defense of such Claim or either Party's position with respect to such Claim.

(c) Dispute. If the existence of a valid Claim or amount to be paid by an Indemnifying Party is in dispute, the Parties agree to submit determination of the existence of a valid Claim or the amount to be paid pursuant to the Claim Notice to binding arbitration pursuant to the provisions of Section 16.16 except as otherwise provided in this Section 16.3. Any payment due pursuant to the arbitration shall be made within ten (10) days of the arbitrators' decision.

**16.4 No Insurance; Subrogation**. The indemnification provided in this Article 16 shall not be construed as a form of insurance. The Company and Laramie or Delta, as applicable, hereby waive for themselves, their successors or assigns, including, without limitation, any insurers, any rights to subrogation for Losses for which each of them is respectively liable or against which each respectively indemnifies the other, and, if required by applicable policies, the Company and Laramie or Delta, as applicable, shall obtain a waiver of such subrogation from their respective insurers.

**16.5 Reductions in Losses**. Each Indemnified Party shall use commercially reasonable efforts to mitigate any Losses, including by maintaining insurance coverage with respect to the Assets and making claims relating to the Assets thereunder. The amount of any Losses for which an Indemnified Person is entitled to indemnity under this Article 16 shall be reduced by (a) the amount of insurance proceeds realized by the Indemnified Person or its affiliates with respect to such Losses, and (b) any Tax reductions or other benefits actually or likely to be received by the Indemnified Party in connection with the Losses, after giving effect to any related Tax detriment.

**16.6 Reservation as to Non-Parties**. Nothing herein is intended to limit or otherwise waive any recourse the Company or Laramie or Delta, as applicable, may have against any third party for any obligations or liabilities that may be incurred with respect to the Assets.

**16.7 Disclaimers**.

(a) EXCEPT FOR LARAMIE'S EXPRESS REPRESENTATIONS AND WARRANTIES CONTAINED IN ARTICLE 7 ABOVE, AND LARAMIE'S SPECIAL WARRANTY OF TITLE IN THE ASSIGNMENT (AND SPECIAL WARRANTY OF TITLE IN THE SPECIAL WARRANTY DEED) EXECUTED AND DELIVERED TO THE COMPANY AT CLOSING, THE LARAMIE ASSETS ARE BEING CONVEYED BY LARAMIE TO THE COMPANY WITHOUT WARRANTY OF ANY KIND, EXPRESS, IMPLIED, STATUTORY, COMMON LAW OR OTHERWISE, AND THE PARTIES HEREBY EXPRESSLY DISCLAIM, WAIVE AND RELEASE ANY EXPRESS WARRANTY OF MERCHANTABILITY, CONDITION OR SAFETY

AND ANY EXPRESSED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; AND THE COMPANY ACCEPTS THE LARAMIE ASSETS, "AS IS, WHERE IS, WITH ALL FAULTS, WITHOUT RECOURSE." ALL DESCRIPTIONS OF THE WELLS, EQUIPMENT, FACILITIES, PERSONAL PROPERTY, FIXTURES AND STRUCTURES HERETOFORE OR HEREAFTER FURNISHED TO THE COMPANY BY LARAMIE HAVE BEEN AND SHALL BE FURNISHED SOLELY FOR THE COMPANY'S CONVENIENCE, AND HAVE NOT CONSTITUTED AND SHALL NOT CONSTITUTE A REPRESENTATION OR WARRANTY OF ANY KIND BY LARAMIE. LARAMIE SHALL HAVE NO LIABILITY TO THE COMPANY FOR ANY CLAIMS, LOSS OR DAMAGE CAUSED OR ALLEGED TO BE CAUSED DIRECTLY OR INDIRECTLY, INCIDENTALLY OR CONSEQUENTIALLY, BY SUCH WELLS, EQUIPMENT, FACILITIES, PERSONAL PROPERTY, FIXTURES AND STRUCTURES BY ANY INADEQUACY THEREOF OR THEREWITH, ARISING IN STRICT LIABILITY OR OTHERWISE, OR IN ANY WAY ARISING OUT OF THE COMPANY'S PURCHASE THEREOF. THE COMPANY EXPRESSLY WAIVES THE WARRANTY OF FITNESS AND THE WARRANTY AGAINST VICES AND DEFECTS, WHETHER APPARENT OR LATENT, IMPOSED BY ANY APPLICABLE STATE OR FEDERAL LAW. THE PARTIES HEREBY ACKNOWLEDGE AND AGREE THAT, TO THE EXTENT REQUIRED BY APPLICABLE LAW, THE DISCLAIMERS CONTAINED IN THIS AGREEMENT ARE "CONSPICUOUS" FOR THE PURPOSES OF SUCH APPLICABLE LAW.

(b) LARAMIE HEREBY EXPRESSLY DISCLAIMS AND NEGATES ANY IMPLIED OR EXPRESS WARRANTY AT COMMON LAW, BY STATUTE OR OTHERWISE RELATING TO THE ACCURACY OF ANY OF THE INFORMATION FURNISHED WITH RESPECT TO THE EXISTENCE OR EXTENT OF RESERVES OR THE VALUE OF THE LARAMIE ASSETS BASED THEREON OR THE CONDITION OR STATE OF REPAIR OF ANY OF THE LARAMIE ASSETS; THIS DISCLAIMER AND DENIAL OF WARRANTY ALSO EXTENDS TO ANY EXPRESS OR IMPLIED REPRESENTATION OR WARRANTY AS TO THE PRICES THE COMPANY AND LARAMIE ARE OR WILL BE ENTITLED TO RECEIVE FROM PRODUCTION OF OIL, GAS OR OTHER SUBSTANCES FROM THE LARAMIE ASSETS, IT BEING ACKNOWLEDGED, AGREED AND EXPRESSLY UNDERSTOOD THAT ALL RESERVE, PRICE AND VALUE ESTIMATES UPON WHICH THE COMPANY HAS RELIED OR IS RELYING HAVE BEEN DERIVED BY THE INDIVIDUAL EVALUATION OF THE COMPANY. THE COMPANY ALSO STIPULATES, ACKNOWLEDGES AND AGREES THAT RESERVE REPORTS ARE ONLY ESTIMATES OF PROJECTED FUTURE OIL AND/OR GAS VOLUMES, FUTURE FINDING COSTS AND FUTURE OIL AND/OR GAS SALES PRICES, ALL OF WHICH FACTORS ARE INHERENTLY IMPOSSIBLE TO PREDICT ACCURATELY EVEN WITH ALL AVAILABLE DATA AND INFORMATION.

(c) EXCEPT FOR DELTA'S EXPRESS REPRESENTATIONS AND WARRANTIES CONTAINED IN ARTICLE 9 ABOVE, AND DELTA'S SPECIAL WARRANTY OF TITLE IN THE ASSIGNMENT (AND SPECIAL WARRANTY OF TITLE IN THE SPECIAL WARRANTY DEED) EXECUTED AND DELIVERED TO THE COMPANY AT CLOSING, THE DELTA ASSETS ARE BEING CONVEYED BY

DELTA TO THE COMPANY WITHOUT WARRANTY OF ANY KIND, EXPRESS, IMPLIED, STATUTORY, COMMON LAW OR OTHERWISE, AND THE PARTIES HEREBY EXPRESSLY DISCLAIM, WAIVE AND RELEASE ANY EXPRESS WARRANTY OF MERCHANTABILITY, CONDITION OR SAFETY AND ANY EXPRESSED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; AND THE COMPANY ACCEPTS THE DELTA ASSETS, "AS IS, WHERE IS, WITH ALL FAULTS, WITHOUT RECOURSE." ALL DESCRIPTIONS OF THE WELLS, EQUIPMENT, FACILITIES, PERSONAL PROPERTY, FIXTURES AND STRUCTURES HERETOFORE OR HEREAFTER FURNISHED TO THE COMPANY BY DELTA HAVE BEEN AND SHALL BE FURNISHED SOLELY FOR THE COMPANY'S CONVENIENCE, AND HAVE NOT CONSTITUTED AND SHALL NOT CONSTITUTE A REPRESENTATION OR WARRANTY OF ANY KIND BY DELTA. DELTA SHALL HAVE NO LIABILITY TO THE COMPANY FOR ANY CLAIMS, LOSS OR DAMAGE CAUSED OR ALLEGED TO BE CAUSED DIRECTLY OR INDIRECTLY, INCIDENTALLY OR CONSEQUENTIALLY, BY SUCH WELLS, EQUIPMENT, FACILITIES, PERSONAL PROPERTY, FIXTURES AND STRUCTURES BY ANY INADEQUACY THEREOF OR THEREWITH, ARISING IN STRICT LIABILITY OR OTHERWISE, OR IN ANY WAY ARISING OUT OF THE COMPANY'S PURCHASE THEREOF. THE COMPANY EXPRESSLY WAIVES THE WARRANTY OF FITNESS AND THE WARRANTY AGAINST VICES AND DEFECTS, WHETHER APPARENT OR LATENT, IMPOSED BY ANY APPLICABLE STATE OR FEDERAL LAW. THE PARTIES HEREBY ACKNOWLEDGE AND AGREE THAT, TO THE EXTENT REQUIRED BY APPLICABLE LAW, THE DISCLAIMERS CONTAINED IN THIS AGREEMENT ARE "CONSPICUOUS" FOR THE PURPOSES OF SUCH APPLICABLE LAW.

(d) DELTA HEREBY EXPRESSLY DISCLAIMS AND NEGATES ANY IMPLIED OR EXPRESS WARRANTY AT COMMON LAW, BY STATUTE OR OTHERWISE RELATING TO THE ACCURACY OF ANY OF THE INFORMATION FURNISHED WITH RESPECT TO THE EXISTENCE OR EXTENT OF RESERVES OR THE VALUE OF THE DELTA ASSETS BASED THEREON OR THE CONDITION OR STATE OF REPAIR OF ANY OF THE DELTA ASSETS; THIS DISCLAIMER AND DENIAL OF WARRANTY ALSO EXTENDS TO ANY EXPRESS OR IMPLIED REPRESENTATION OR WARRANTY AS TO THE PRICES THE COMPANY AND DELTA ARE OR WILL BE ENTITLED TO RECEIVE FROM PRODUCTION OF OIL, GAS OR OTHER SUBSTANCES FROM THE DELTA ASSETS, IT BEING ACKNOWLEDGED, AGREED AND EXPRESSLY UNDERSTOOD THAT ALL RESERVE, PRICE AND VALUE ESTIMATES UPON WHICH THE COMPANY HAS RELIED OR IS RELYING HAVE BEEN DERIVED BY THE INDIVIDUAL EVALUATION OF THE COMPANY. THE COMPANY ALSO STIPULATES, ACKNOWLEDGES AND AGREES THAT RESERVE REPORTS ARE ONLY ESTIMATES OF PROJECTED FUTURE OIL AND/OR GAS VOLUMES, FUTURE FINDING COSTS AND FUTURE OIL AND/OR GAS SALES PRICES, ALL OF WHICH FACTORS ARE INHERENTLY IMPOSSIBLE TO PREDICT ACCURATELY EVEN WITH ALL AVAILABLE DATA AND INFORMATION.

**16.8 Covenant Not to Sue.**

(a) On and after the Closing Date, the Company, Laramie and Delta each covenants and agrees not to sue or otherwise bring any action against another Party and each of the current and former directors, officers, employees, agents, managers, advisors, attorneys and representatives (solely in their capacity as such and in no other capacity) of another Party with respect to any and all claims based in whole or in part upon any act, omission, or transaction, taking place at any time on or before the Closing Date in connection with this Agreement or the transactions contemplated hereby, with the exception of (A) acts, omissions, transactions, events or occurrences resulting from or involving any fraud of any such persons or (B) to enforce any obligations pursuant to this Agreement that survive the Closing Date.

(b) Notwithstanding any other term in this Agreement to the contrary, the waivers, covenants and agreements contained in this Section 16.8 shall survive the Closing and shall bind and inure to the benefit of, as the case may be, each of each of Laramie and the Company and their successors and assigns and Delta, its affiliates and their estates, creditors, successors and assigns, including any trustee in any case under chapter 7 of the Bankruptcy Code.

## ARTICLE 17
## MISCELLANEOUS

**17.1 Schedules.** The Schedules and Exhibits to in this Agreement are hereby incorporated in this Agreement by reference and constitute a part of this Agreement.

**17.2 Expenses.** Except as otherwise specifically provided, all fees, costs and expenses incurred by the Company or Laramie or Delta, as applicable, in negotiating this Agreement or the Other Agreements, or in consummating the transactions contemplated hereby and thereby, shall be paid by the Party incurring the same, including, without limitation, engineering, land, title, legal and accounting fees, costs and expenses.

**17.3 Notices.** All notices and communications required or permitted under this Agreement shall be in writing and addressed as set forth below. Any communication or delivery hereunder shall be deemed to have been duly made and the receiving Party charged with notice, whether personally delivered, sent by facsimile transmission, mail or overnight courier, when received. All notices shall be addressed as follows:

If to Delta:

Delta Petroleum Corporation
370 17th Street, Suite 4200
Denver, Colorado 80202
Attn: Carl E. Lakey
Telephone: (303) 293-9133
Facsimile: (303) 298-8251
Email: clakey@deltapetro.com

If to Laramie:

Laramie Energy II, LLC
1512 Larimer Street, Suite 1000
Denver, Colorado 80202
Attn: Bruce Payne
Telephone: 303-339-4403
Facsimile: 303-339-4399
Email: BPayne@laramie-energy.com

If to the Company:

Piceance Energy, LLC
1512 Larimer Street, Suite 1000
Denver, Colorado 80202
Attn: Bruce Payne
Telephone: 303-339-4403
Facsimile: 303-339-4399
Email: BPayne@laramie-energy.com

Any Party may, by written notice so delivered to the other Party, change the address or individual to which delivery shall thereafter be made.

**17.4 Amendments**. Except for waivers specifically provided for in this Agreement, this Agreement may not be amended nor any rights hereunder waived except by an instrument in writing signed by the Party to be charged with such amendment or waiver and delivered by such Party to the Party claiming the benefit of such amendment or waiver.

**17.5 Assignment**. Neither Laramie, Delta nor the Company shall assign all or any portion of its respective rights or delegate all or any portion of its respective duties under this Agreement without the written consent of the other Parties, which consent shall not be unreasonably withheld.

**17.6 Headings**. The headings of the Articles and Sections of this Agreement are for guidance and convenience of reference only and shall not limit or otherwise affect any of the terms or provisions of this Agreement.

**17.7 Counterparts/Electronic and Fax Signatures**. This Agreement may be executed by Laramie, Delta and the Company in any number of counterparts, each of which shall be deemed an original instrument, but all of which together shall constitute one and the same instrument. Electronic, including .pdf, and fax signatures shall be considered binding.

**17.8 References**. References made in this Agreement, including use of a pronoun, shall be deemed to include where applicable, masculine, feminine, singular or plural, individuals or entities. As used in this Agreement, "person" shall mean any natural person, corporation, partnership, trust, limited liability company or Governmental Entity. Use of the word "include" or "including", or any variation thereof, shall mean "including, without limitation".

**17.9 Governing Law**. This Agreement and the Transaction and any arbitration or dispute resolution conducted pursuant hereto shall be construed in accordance with, and governed by, the laws of the State of Colorado, without reference to choice of law provisions thereof, except to the extent that the laws are superseded by the Bankruptcy Code, and the obligations, rights and remedies of the Parties shall be determined in accordance with such laws.

**17.10 Entire Agreement**. This Agreement, the Other Agreements and the Confidentiality Agreement constitute the entire understanding among the Parties, their respective partners, members, trustees, shareholders, officers, directors and employees with respect to the subject matter hereof and thereof, and supersede all negotiations, prior discussions and prior agreements and understandings relating to such subject matter.

**17.11 Knowledge; Material Adverse Effect**.

(a) "Knowledge," with respect to Delta, means the actual knowledge of Delta's representatives listed on Schedule 17.11(a) hereto, and with respect to Laramie and the Company, means the actual knowledge of Laramie's representatives listed on Schedule 17.11(b) hereto.

(b) "Material Adverse Effect" means any change, inaccuracy, effect, event, result, occurrence, condition or fact (for the purposes of this definition, each, an "event") (whether foreseeable or not and whether covered by insurance or not) that has had or would be reasonably likely to have, individually or in the aggregate with any other event or events, a material adverse effect on the ownership, operation or financial condition of the Laramie Assets or the Delta Assets, as applicable, taken as a whole; *provided* that a Material Adverse Effect shall include any claim made by a Governmental Entity between the Defect Notice Date and the Closing Date that could have constituted an Environmental Defect if it had occurred before the Defect Notice Date, and which involves Remediation costing more than $10,000,000; *provided, however,* that Material Adverse Effect shall not include such material adverse effects resulting from (a) general changes in oil and gas prices, (b) general changes in industry, economic or political conditions or markets, (c) changes in conditions or developments generally applicable to the oil and gas industry in the State of Colorado, (d) acts of God, including hurricanes and storms, (e) acts or failures to act of Governmental Entities, (f) civil unrest or similar disorder, terrorist acts or changes in laws, (g) effects or changes that are cured or no longer exist by the earlier of Closing and the termination of this Agreement, without cost to the Company, (h) changes in generally accepted accounting principles and (i) changes resulting from the announcement of this Agreement, the Other Agreements, the Transaction and the transactions contemplated by the Other Agreements; *provided, however,* that, in each case, the changes and effects described in clauses (a), (b) and (c) of this definition do not disproportionately affect the Laramie Assets or the Delta Assets, as applicable, taken as a whole.

**17.12 Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the Parties named herein and their respective successors and permitted assigns, including any chapter 7 of the Bankruptcy Code or other trustee, responsible person or similar representative for Delta appointed in connection with the Chapter 11 Cases.

**17.13 Survival of Warranties, Representations and Covenants**. The representations and warranties contained in Sections 4.1(a) and 5.2 shall terminate on the Defect Notice Date; the representations and warranties contained in Sections 7.1 through 7.5(a), with respect to Laramie, Sections 9.1 through 9.5(a), with respect to Delta, and Sections 8.1 through 8.5 with respect to the Company shall survive for a period of sixty (60) days following Closing. All other representations and warranties contained in the Agreement shall terminate on the Closing Date. The indemnification obligations of Laramie pursuant to Section 16.2(a)(i),(iii) and (iv) and Delta pursuant to Section 16.2(b)(i), (iii) and (iv) shall survive for 60 days after the Closing Date as to Property Expense obligations (other than Royalty Liabilities) and shall survive for two years after the Closing Date as to Royalty Liabilities. Each applicable survival period is referred to herein as a "Survival Period." Except as otherwise provided herein, the covenants, indemnities and agreements contained in the Agreement shall survive the Closing and continue in accordance with their respective terms.

**17.14 Consents of Third Parties**. This Agreement shall not constitute an agreement to assign any asset or claim without the consent of third parties that would breach an existing agreement with a third party.

**17.15 No Third-Party Beneficiaries**. This Agreement is intended only to benefit the Parties hereto and their respective permitted successors and assigns.

**17.16 Publicity**. No Party nor any of their respective affiliates or representatives shall issue or cause the publication of any press release or other announcement with respect to this Agreement, the Other Agreements or the Transaction without the prior approval of the other party, except as may be required by applicable law, and each Party shall use its reasonable efforts to provide copies of such release or other announcement to the other Party hereto, and give due consideration to such comments as each such other Party may have, prior to such release or other announcement.

**17.17 Jurisdiction, Arbitration**.

(a) For so long as Delta is subject to the jurisdiction of the Bankruptcy Court, the Parties irrevocably elect as the sole judicial forum for the adjudication of any matters arising under or in connection with this Agreement, the Other Agreements or the transactions contemplated hereby or thereby, and consent to the exclusive jurisdiction of, the Bankruptcy Court.

(b) After Delta is no longer subject to the jurisdiction of the Bankruptcy Court or if the Bankruptcy Court is unwilling or unable to hear any matter arising under or in connection with this Agreement, any and all claims, counterclaims, demands, causes of action, disputes, controversies, and other matters in question arising out of or relating to this Agreement, or the Other Agreements, any provision thereof, the alleged breach of any such provision or in any way relating to the subject matter of this Agreement, the Other Agreements, or the relationship between the parties created by this Agreement or the Other Agreements, involving the Parties and/or their respective representatives (all of which are referred to herein as "Disputes"), even though some or all of such Disputes allegedly are extra contractual in nature, whether such Disputes sound in

contract, tort, or otherwise, at law or in equity, under state, federal or foreign law, whether provided by statute or the common law, for damages or any other relief, shall be resolved by binding arbitration in accordance with this Section 17.17.

(c) The validity, construction, and interpretation of this Section 17.17, and all procedural aspects of the arbitration conducted pursuant to this Section 17.17, including but not limited to, the determination of the issues that are subject to arbitration (i.e., arbitrability), the scope of the arbitrable issues, allegations of "fraud in the inducement" to enter into any this Agreement, the Other Agreements , or this arbitration provision, allegations of waiver, laches, delay or other defenses to arbitrability, and the rules governing the conduct of the arbitration shall be decided by the arbitrators. The arbitration shall be administered by the American Arbitration Association (the "AAA"), and shall be conducted pursuant to the Commercial Arbitration Rules of the AAA, as modified by the Agreement. In deciding the substance of the parties' Disputes, the arbitrators shall refer to the substantive laws of the State of Colorado for guidance (excluding Colorado choice of law principles that might call for the application of some other state's law). Notwithstanding any other provision in this Section 17.17 to the contrary, and except in connection with any damages incurred by third parties for which indemnification is sought under the terms of this Agreement, the parties expressly agree that the arbitrators shall have absolutely no authority to award consequential, incidental, special, treble, exemplary or punitive damages of any type under any circumstances regardless of whether such damages may be available under Colorado law, the law of any other state, or federal or foreign law, or under the Commercial Arbitration Rules of the AAA, the Parties hereby waiving their right, if any, to recover consequential, incidental, special, treble, exemplary or punitive damages in connection with any such Disputes.

(d) The arbitration proceeding shall be conducted in Denver, Colorado, before a panel of three arbitrators appointed in accordance with the Commercial Arbitration Rules of the AAA consisting of persons from any of the following categories: (i) attorneys having practiced in the area of oil and gas law for at least ten years, (ii) engineers with at least ten years of experience in the oil and gas industry or (iii) certified public accountants with at least ten years of experience in the oil and gas industry dealing with joint interest billings; *provided, however,* that (A) if the dispute relates solely to an issue that predominantly relates to accounting matters, all three arbitrators chosen shall be accountants, and (B) if the dispute relates solely to title issues, all three arbitrators chosen shall be attorneys experienced in title examination. The arbitrators shall conduct a hearing as soon as reasonably practicable after appointment of the third arbitrator, and a final decision completely disposing of all Disputes that are the subject of the arbitration proceedings shall be rendered by the arbitrators within twenty (20) days after the hearing, to the extent reasonably practicable. The arbitrators' ultimate decision after the final hearing shall be in writing. In case the arbitrators award monetary damages to either party, the arbitrators shall certify in their award that, except in connection with any damages incurred by third parties for which indemnification is sought under the terms of this Agreement, they have not included any consequential, incidental, special, treble, exemplary or punitive damages.

(e) The arbitrators shall designate a prevailing party in their final award. Pursuant to this determination, the arbitrators shall award to the prevailing party its attorneys' fees, costs and expenses of the arbitration (including the arbitrators' fees and expenses) in full.

(f) To the fullest extent permitted by law, the arbitration proceeding and the arbitrators' award shall be maintained in confidence by the parties.

(g) The award of the arbitrators shall be binding upon the parties and final and non-appealable to the maximum extent permitted by law, and judgment thereon may be entered in a court of competent jurisdiction and enforced by any party as a final judgment of such court.

[*Signature page follows.*]

IN WITNESS WHEREOF, the Parties have duly executed this Agreement as of the day and year first above written.

**LARAMIE**

LARAMIE ENERGY II, LLC

By: _____
Robert S. Boswell
Chairman & Chief Executive Officer

**DELTA**

DELTA PETROLEUM CORPORATION

By: _____
Carl E. Lakey
Chief Executive Officer

**THE COMPANY**

PICEANCE ENERGY, LLC

By: _____
Bruce L. Payne
President & Chief Financial Officer

IN WITNESS WHEREOF, the Parties have duly executed this Agreement as of the day and year first above written.

**LARAMIE**

LARAMIE ENERGY II, LLC

By: _____
Robert S. Boswell
Chairman & Chief Executive Officer

**DELTA**

DELTA PETROLEUM CORPORATION

By: _____
Carl E. Lakey
Chief Executive Officer

**THE COMPANY**

PICEANCE ENERGY, LLC

By: _____
Bruce L. Payne
President & Chief Financial Officer

# EXHIBIT A

# EXECUTION FORM OF

# PICEANCE ENERGY AMENDED AND RESTATED

# LIMITED LIABILITY COMPANY AGREEMENT

Please see attached Plan Exhibit 2

# EXHIBIT B

# EXECUTION FORM OF

# MANAGEMENT SERVICES AGREEMENT

Please see attached Plan Exhibit 3

# Exhibit 2

## Joint Venture Company LLC Agreement

*Execution Version*

# AMENDED AND RESTATED
# LIMITED LIABILITY COMPANY AGREEMENT

# FOR

# PICEANCE ENERGY, LLC

Dated as of [August ___], 2012

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List of Exhibits and Schedules

# AMENDED AND RESTATED
# LIMITED LIABILITY COMPANY AGREEMENT
# FOR
# PICEANCE ENERGY, LLC

This Amended and Restated Limited Liability Company Agreement (this "Agreement") of Piceance Energy, LLC, a Delaware limited liability company (the "Company"), dated as of [August ___], 2012 (the "Effective Date") **[TO BE EXECUTED AT CLOSING]**, is among the Members.

## RECITALS

A. On May 10, 2012, Laramie filed a Certificate of Formation (the "Certificate") forming the Company as a limited liability company under the Delaware Limited Liability Company Act (as amended from time to time, the "Act");

B. Laramie was the sole member of the Company and entered into the Company's Limited Liability Company Agreement dated as of May 10, 2012 (the "Original Agreement"); and

C. The Parties hereto desire to amend and restate in its entirety the Original Agreement in all respects and enter into this Agreement in order to delineate their rights and obligations as Members, to provide for the Company's management, and to provide for certain other matters, all as permitted under the Act.

In consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Members agree as follows:

## ARTICLE I
## DEFINITIONS

In addition to the terms defined elsewhere in this Agreement, the following terms shall have the indicated meaning:

"Act" is defined in Recital A.

"Adjusted Capital Account Deficit" means, with respect to any Member, a deficit balance in such Member's Capital Account as of the end of the fiscal year after giving effect to the following adjustments: (a) Credit to such Capital Account the additions, if any, permitted by Treasury Regulations §§ 1.704-1(b)(2)(ii)(*c*) (referring to obligations to restore a capital account deficit), 1.704-2(g)(1) (referring to "partnership minimum gain") and 1.704-2(i)(5) (referring to a partner's share of "partner nonrecourse debt minimum gain"), and (b) Debit to such Capital Account the items described in §§ 1.704-1(b)(2)(ii)(*d*)(*4*), (*5*) and (*6*) of the Treasury Regulations. This definition of Adjusted Capital Account Deficit is intended to comply with the provisions of Treasury Regulation § 1.704-1(b)(2)(ii)(*d*).

"Adjusted Properties" is defined in Section 9.2.

"Affiliate" means with respect to a Person, any other Person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such Person. As used in this definition, the word "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through ownership of voting securities, by contract or otherwise.

"Agreement" is defined in the introductory paragraph.

"AMI" is defined in Section 2.5.

"Area of Mutual Interest" is defined in Section 2.5.

"Assets" is defined in Section 2.5.

"Available Cash" means, for a period of time, the excess of all cash receipts of the Company (including reductions in any reserves previously established by the Sole Manager acting reasonably to meet the business needs of the Company) over all cash disbursements of the Company (including operating expenses, fees payable under the Management Services Agreement, repayment of all principal and interest, and additions to any reserves for twelve months of working capital and capital expenditures established by the Sole Manager acting reasonably to meet the business needs of the Company).

"Bank Revolving Credit Facility" is defined in 5.4(b).

"Bankruptcy" means, with respect to a Person, any of the following acts or events: (a) making an assignment for the benefit of creditors, (b) filing a voluntary petition in bankruptcy, (c) becoming the subject of an order for relief or being declared insolvent or bankrupt in any federal or state bankruptcy or insolvency proceeding, (d) filing a petition or answer seeking a reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law or regulation, (e) filing an answer or other pleading admitting or failing to contest the material allegations of a petition filed against it in a proceeding of the type described in clause (c) or (d) of this definition, (f) making an admission in writing of an inability to pay debts as they mature, (g) giving notice to any governmental authority that insolvency has occurred, that insolvency is pending, or that operations have been suspended, (h) seeking, consenting to, or acquiescing in the appointment of a trustee, receiver, or liquidator of all or any substantial part of its properties, or (i) the expiration of 90 days after the date of the commencement of a proceeding against such Person seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation if the proceeding has not been previously dismissed, or the expiration of 60 days after the date of the appointment, without such Person's consent or acquiescence, of a trustee, receiver, or liquidator of such Person or of all or any substantial part of such Person's properties, if the appointment has not previously been vacated or stayed, or the expiration of 60 days after the date of expiration of a stay, if the appointment has not been previously vacated.

"Board" or "Board of Managers" is defined in Section 5.5(a).

"Board Member" is defined in Section 5.5(a).

"Business" is defined in Section 2.5.

"Business Day" means any day other than a Saturday or Sunday or other day upon which banks are authorized or required to close in the State of Delaware.

"Capital Account" is defined in Section 10.2(a).

"Capital Contribution" means for any Member at the particular time in question the aggregate of the dollar amounts of any cash and cash equivalents contributed by such Member to the capital of the Company, plus the value, as reasonably determined by the Sole Manager and the Board, of any property contributed by such Member to the capital of the Company.

"Carrying Value" The initial "Carrying Value" of property contributed to the Company by a Member means the value of such property at the time of contribution as agreed to in good faith by the Members. The initial Carrying Value of any other property shall be the adjusted basis of such property for federal income tax purposes at the time it is acquired by the Company. The initial Carrying Value of a property shall be reduced (but not below zero) by all subsequent depreciation, cost recovery, depletion and amortization deductions with respect to such property as taken into account in determining profit and loss; provided that, with respect to Oil and Gas Property, Simulated Depletion shall be used in lieu of depletion for purposes of determining the Carrying Value of such Oil and Gas Property. The Carrying Value of any property shall be adjusted from time to time in accordance with Section 10.2(b) and Treasury Regulation § 1.704 1(b)(2)(iv)(m), and to reflect changes, additions or other adjustments to the Carrying Value for dispositions, acquisitions or improvements of Company properties, as deemed appropriate by the Sole Manager in its reasonable discretion.

"Code" means the Internal Revenue Code of 1986, as amended from time to time. Any reference herein to a specific section or sections of the Code shall be deemed to include a reference to any corresponding provision of future Law.

"Company" is defined in the introductory paragraph.

"Company Opportunity" is defined in Section 5.17.

"Confidential Information" means information concerning the properties, operations, business, trade secrets, technical know-how and other non-public information and data of or relating to the Company, its properties and any technical information with respect to any project of the Company.

"Contribution Agreement" means the Contribution Agreement in the form attached hereto as Exhibit B.

"Controlled Affiliate" means, with respect to a Member, a privately-held entity in which such Member owns 50% or more of the equity securities.

"Delta" means Delta Petroleum Corporation, a Delaware corporation.

"Development Program" is defined in Section 5.7(a).

"Drag-Along Notice" is defined in Section 11.4.

"Dragged Member" means any Member, other than a Dragging Member, that receives a Drag-Along Notice pursuant to Section 11.4.

"Dragging Member" means, in connection with a Transfer of Units subject to Section 11.4, Laramie or any successor to Laramie's interests.

"Effective Date" is defined in the introductory paragraph.

"Independent Accountant" means Ehrhardt Keefe Steiner & Hottman, or another reputable independent public accounting firm retained by the Company pursuant to this Agreement.

"Independent Petroleum Engineer" means Netherland, Sewell and Associates, Inc., or another reputable independent petroleum engineer retained by the Company pursuant to this Agreement.

"Investor Parties" is defined in Section 5.18(a)

"Laramie" means Laramie Energy II, LLC, a Delaware limited liability company.

"Law" or "Laws" means all applicable federal, state, tribal and local laws (statutory or common), rules, ordinances, regulations, grants, concessions, franchises, licenses, orders, directives, judgments, decrees, restrictions and other similar requirements, whether legislative, municipal, administrative or judicial in nature.

"Lien" means any mortgage, deed of trust, lien (statutory or otherwise), pledge, hypothecation, charge, deposit arrangement, preference, priority, security interest, option, right of first refusal or other transfer restriction or encumbrance of any kind (including preferential purchase rights, conditional sales agreements or other title retention agreements, and the filing of or agreement to give any financing statement under the Uniform Commercial Code or comparable Law of any jurisdiction to evidence any of the foregoing).

"Major Decision" is defined in Section 5.6.

"Management Services Agreement" means the Management Services Agreement in the form attached hereto as Exhibit C.

"Member" means a Person designated as an initial Member of the Company on Exhibit A attached hereto, a Person admitted as an additional Member pursuant to Section 2.7 and a Person admitted as a substituted Member pursuant to Section 11.5.

"Membership Interest" means, with respect to any Member, (a) that Member's status as a Member, (b) that Member's Capital Account and share of the Profits, Losses and other items of income, gain, loss, deduction and credits of, and the right to receive distributions (liquidating or

otherwise) from, the Company under the terms of this Agreement, (c) all other rights, benefits and privileges enjoyed by that Member (under the Act or this Agreement) in its capacity as a Member, including that Member's rights to vote, consent and approve those matters described in this Agreement, and (d) all obligations, duties and liabilities imposed on that Member under the Act or this Agreement in its capacity as a Member. Membership Interests shall be denominated in Units.

"Notice of Additional Capital Contributions" means, with respect to any call for additional Capital Contributions from the Members, a written notice from the Sole Manager setting forth (a) the additional Capital Contribution required from each Member, and (b) the date on which such additional Capital Contributions are required to be made to the Company.

"Offered Interest" is defined in Section 11.3.

"Offered Price" is defined in Section 11.3.

"Offered Terms" is defined in Section 11.3.

"Oil and Gas Property" means any asset which constitutes "property" within the meaning of Code section 614.

"Person" means a natural person, corporation, joint venture, partnership, limited liability partnership, limited partnership, limited liability limited partnership, limited liability company, trust, estate, business trust, association, governmental authority or any other entity.

"Profit" or "Loss" means the income or loss of the Company as determined under the capital accounting rules of Treasury Regulation § 1.704-1(b)(2)(iv) for purposes of adjusting the Capital Accounts of Members including, without limitation, the provisions of paragraphs 1.704-1(b)(2)(iv)(g) and 1.704-1(b)(4) of those regulations relating to the computation of items of income, gain, deduction and loss; *provided, however*, that the items allocated pursuant to Section 8.2 and Section 12.3(e) shall be excluded from the computation of Profits and Losses.

"Proposed Purchaser" means a Person or group of Persons that a Member proposes as a purchaser of all or a portion of the Units of such Member.

"Proposing Member" is defined in Section 5.17(c).

"Regulatory Allocations" is defined in Section 8.2(i).

"Required Interest" means Members holding 51% of the issued and outstanding Units.

"Securities Act" means the Securities Act of 1933, as amended from time to time. Any reference herein to a specific section or sections of the Securities Act shall be deemed to include a reference to any corresponding provision of future law.

"Sharing Ratio" means, with respect to a Member, a percentage, the numerator of which is the number of issued and outstanding Units held by such Member, and the denominator of which is the total number of issued and outstanding Units.

"Simulated Basis" means the Carrying Value of any Oil and Gas Property.

"Simulated Depletion" means the simulated depletion allowance computed by the Company with respect to its Oil and Gas Properties pursuant to Treasury Regulations § 1.704 1(b)(2)(iv)(k)(2) using any method allowed by such Treasury Regulations selected by the Sole Manager.

"Sole Manager" is defined in Section 5.1.

"Tag-Along Notice" is defined in Section 11.3.

"Tagged Member" is defined in Section 11.3.

"Transfer" means, with respect to any asset, including Units or any portion thereof, including any right to receive distributions from the Company or any other economic interest in the Company, a sale, assignment, transfer, distribution, conveyance, gift, exchange or other disposition of such asset, whether such disposition be voluntary, involuntary or by merger, exchange, consolidation or other operation of Law, including the following: (a) in the case of an asset owned by a natural person, a transfer of such asset upon the death of its owner, whether by will, intestate succession or otherwise, (b) in the case of an asset owned by a Person which is not a natural person, a distribution of such asset, including in connection with the dissolution, liquidation, winding up or termination of such Person (other than a liquidation under a deemed termination solely for tax purposes), and (c) a disposition in connection with, or in lieu of, a foreclosure of a Lien; *provided, however,* a Transfer shall not include the creation of a Lien.

"Treasury Regulations" means regulations issued by the Department of Treasury under the Code. Any reference herein to a specific section or sections of the Treasury Regulations shall be deemed to include a reference to any corresponding provision of future regulations under the Code.

"Unit" is defined in Section 2.7.

## ARTICLE II
## THE LIMITED LIABILITY COMPANY

### 2.1 Formation.

(a) The Company was formed pursuant to the filing of the Certificate on May 10, 2012. The Members hereby unanimously adopt and approve the Certificate and all actions taken in connection with the filing of the Certificate.

(b) Laramie represents and warrants to the other Members that (i) the sole activity conducted prior to the date hereof of the Company has been the execution of the Credit Agreement pursuant to the Bank Revolving Credit Facility and the transactions related thereto, and (ii) the Company has incurred no liabilities as of the date hereof other than any liabilities incurred in connection with such agreement and the transactions related thereto. Laramie shall have no further rights or obligations with respect to the Company that arise because of its having

formed the Company. The consent of Laramie shall be required for any amendment to this Section 2.1(b).

(c) This Agreement amends and restates in its entirety the Original Agreement.

(d) The Members agree that the Company shall be governed by the terms and conditions set forth in this Agreement. To the fullest extent permitted by the Act, this Agreement shall control as to any conflict between this Agreement and the Act or as to any matter provided for in this Agreement that is also provided for in the Act.

**2.2 Name**. The name of the Company shall be Piceance Energy, LLC.

**2.3 Certificate of Formation**. As recited in Section 2.1(a), Laramie caused a certificate of formation that complies with the requirements of the Act to be properly filed with the Delaware Secretary of State. The Sole Manager shall execute such further documents (including amendments to the certificate of formation) and take such further action as shall be appropriate or necessary to comply with the requirements of Law for the formation, qualification or operation of a limited liability company in all states and counties where the Company may conduct its business.

**2.4 Registered Office and Agent; Principal Place of Business**. The location of the registered office of the Company and the Company's registered agent at such address shall initially be 1512 Larimer Street, Suite 1000, Denver, Colorado 80202, and shall be subject to change as determined by the Sole Manager. The location of the principal place of business of the Company shall be 1512 Larimer Street, Suite 1000, Denver, Colorado 80202 or at such other location as the Sole Manager may from time to time select.

**2.5 Purpose**. The business of the Company shall be to (a) own the oil and gas, surface real estate, and related assets formerly owned by each of Laramie and Delta in Garfield and Mesa Counties, Colorado (the "Area of Mutual Interest" or "AMI") or subsequently acquired by the Company (collectively, the "Assets"), (b) operate the Assets, including the maintenance, operation, development and sale of the Assets, and (c) take such other actions and engage in such other activities as may be reasonably necessary or desirable to pursue or accomplish the foregoing (collectively, the "Business").

**2.6 The Members**. The name, business address and number of Units of each initial Member are set forth on Exhibit A attached hereto. Upon the admission of additional or substituted Members in accordance with this Agreement, the Sole Manager shall update Exhibit A attached hereto to reflect the then current ownership of Units. Notwithstanding anything to the contrary herein, the update by the Sole Manager of Exhibit A pursuant to this Section 2.6 shall not be considered an amendment to this Agreement. Each Member will have one vote for each Unit held by such Member with respect to any vote of the Members. Except as otherwise required by applicable Law or this Agreement, the affirmative vote of 51% of the then-outstanding Units shall constitute approval of any matter submitted to a vote of the Members.

**2.7 Authorized Units; Issuance of Additional Membership Interests**. The Membership Interests authorized to be issued by the Company shall be denominated in units

(each, a "Unit"). As of the Effective Date, the Company is authorized to issue 1,000,000 Units. Subject to the provisions of Sections 5.6(c) and 5.17 the Sole Manager may from time to time (a) increase or decrease (but not below the total number of then outstanding Units) the total number of Units that the Company is authorized to issue and the number of Units constituting any class or series of Units, (b) authorize the issuance of additional classes or series of Units and fix and determine the designation and the relative rights, preferences, privileges and restrictions granted to or imposed on such additional classes and series of Units (including the rights, preferences and privileges that are senior to or have preference over the rights, preferences or privileges of any then outstanding or authorized class or series of Units) and (c) amend or restate this Agreement as necessary to effect any or all of the foregoing. Additional Units may be issued for such Capital Contributions as shall be approved in accordance with Article III and Sections 5.6(c) and 5.17. If the issuance of additional Units has been properly approved in accordance with this Agreement, the Persons to whom such additional Units have been issued shall automatically be admitted to the Company as Members with respect to such additional Units, subject to the satisfaction or waiver of the requirements set forth in Sections 11.6 and 11.7.

**2.8 Term**. The Company shall have perpetual existence; *provided*, that the Company shall be dissolved upon the occurrence of an event set forth in Section 12.2.

## ARTICLE III
## CAPITAL CONTRIBUTIONS

**3.1 Initial Capital Contributions**. Concurrently with the execution and delivery of this Agreement, each of the initial Members is making the initial Capital Contribution to the Company, and receiving the Units, described opposite its respective name on Exhibit A attached hereto. Initial Capital Contributions of additional Members shall be governed by Section 2.7.

**3.2 Additional Capital Contributions.**

(a) Upon a written capital call by the Sole Manager provided at least 30 days' prior to the Capital Contribution being due, each Member shall make additional Capital Contributions (i) up to aggregate combined Capital Contributions after the Effective Date of $60,000,000, if approved by a majority of the Board, (ii) in connection with additional Capital Contributions unanimously approved by the Board as provided in Section 5.6(c), or (iii) in connection with a Company Opportunity unanimously approved by the Board as provided in Section 5.17. Except as provided in this Section 3.2 and subject to the provisions of Section 5.6 (insofar as not limiting the express provisions of the first sentence of this Section 3.2(a)) and Section 5.17, or in connection with the issuance of additional Membership Interests as provided in this Agreement, no Member shall have any right or obligation to make additional Capital Contributions or loans to the Company. Obligations to make additional Capital Contributions shall be borne by the Members pro rata in accordance with their respective Sharing Ratios.

(b) The Sole Manager is obligated to offer Units to the Members on a pro rata basis, based on the Members' Sharing Ratios, before offering Units to or accepting an offer to purchase Units from any other Person. Upon determination to seek additional Capital Contributions or upon a third party's offer to purchase Units from the Company, the Sole Manager shall deliver to the Members a Notice of Additional Capital Contributions at least thirty

days in advance of the time such additional Capital Contributions are required to be made to the Company. The Notice of Additional Capital Contributions shall set forth the amount of additional Capital Contributions sought, each Member's pro rata portion of such amount, and the date by which such Capital Contribution is to be made. Each Member shall notify the Sole Manager within 10 days after delivery of the Notice of Additional Capital Contributions whether such Member elects to make its applicable Capital Contribution. If a Member delivers notice to the Sole Manager that it will not make the additional Capital Contribution or if the Member has not indicated an intent to make the additional Capital Contribution by expiration of the initial 10-day period from the delivery of the Notice of Additional Contributions, the Sole Manager shall give the other Member written notice of the uncommitted portion of the additional Capital Contribution sought and permit such other Member an additional ten days to commit to pay the uncommitted portion of the additional Capital Contributions. If the other Member declines or fails to respond during the ten-day period, then the Sole Manager may, for the 90-day period following such other Member's determination or failure to respond, offer to other Persons the opportunity to make the remaining uncommitted Capital Contribution, on the same terms as were available to the Members.

(c) Any additional Capital Contribution that a Member is required or elects to make shall be made to the Company in immediately available funds on or before the date specified in the applicable notice (which date shall not be less than 30 days prior to the delivery of such notice).

(d) The provisions of this Section 3.2 shall not apply in the context of the sale of the Company or other comparable transaction.

**3.3 No Third Party Right to Enforce**. No Person other than a Member shall have the right to enforce any obligation of a Member to contribute capital hereunder and specifically no lender or other third party shall have any such rights.

**3.4 Return of Contributions**. No Member shall be entitled to the return of any part of its Capital Contributions or to be paid interest in respect of either its Capital Account or its Capital Contributions. No unrepaid Capital Contribution shall constitute a liability of the Company, the Sole Manager or any Member. A Member is not required to contribute or to lend cash or property to the Company to enable the Company to return any Member's Capital Contributions. The provisions of this Section 3.4 shall not limit a Member's rights under Article XII.

## ARTICLE IV
## REPRESENTATIONS, WARRANTIES AND COVENANTS

**4.1 General Representations and Warranties**. Each Member represents and warrants to the Sole Manager, the other Members and the Company as follows:

(a) It is the type of legal entity specified in Exhibit A of this Agreement, duly organized and in good standing under the laws of the jurisdiction of its organization and is qualified to do business and is in good standing in those jurisdictions where necessary to carry out the purposes of this Agreement;

(b) The execution, delivery and performance by it of this Agreement and all transactions contemplated herein are within its entity powers and have been duly authorized by all necessary entity actions;

(c) This Agreement constitutes its valid and binding obligation, enforceable against it in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, moratorium and similar laws affecting the enforcement of creditors' rights generally and by general principles of equity; and

(d) The execution, delivery and performance by it of this Agreement will not conflict with, result in a breach of or constitute a default under any of the terms, conditions or provisions of (i) any applicable Law, (ii) its governing documents, or (iii) any agreement or arrangement to which it or any of its Affiliates is a party or which is binding upon it or any of its Affiliates or any of its or their assets.

**4.2 Conflict and Tax Representations**. Each Member represents and warrants to the Sole Manager, the other Members and the Company as follows:

(a) Such Member has been advised that (i) a conflict of interest exists among the Members' individual interests, (ii) this Agreement has tax consequences and (iii) it should seek independent counsel in connection with the execution of this Agreement;

(b) Such Member has had the opportunity to seek independent counsel and independent tax advice prior to the execution of this Agreement and no Person has made any representation of any kind to it regarding the tax consequences of this Agreement; and

(c) This Agreement and the language used in this Agreement are the product of all parties' efforts and each party hereby irrevocably waives the benefit of any rule of contract construction which disfavors the drafter of an agreement.

**4.3 Investment Representations and Warranties**. In acquiring an interest in the Company, each Member represents and warrants to the Sole Manager, the other Members and the Company that it is acquiring such interest for its own account for investment and not with a view to its sale or distribution. Each Member recognizes that investments such as those contemplated by this Agreement are speculative and involve substantial risk. Each Member further represents and warrants that the Sole Manager and the other Members have not made any guaranty or representation upon which it has relied concerning the possibility or probability of profit or loss as a result of its acquisition of an interest in the Company (it being understood and agreed that the foregoing shall not affect any representations or warranties made in the Contribution Agreement).

**4.4 Survival**. The representations and warranties set forth in this Article IV shall survive the execution and delivery of this Agreement and any documents of Transfer provided under this Agreement.

## ARTICLE V
## COMPANY MANAGEMENT

5.1 **Sole Manager**. The Company shall be managed by one manager (the "Sole Manager"). The initial Sole Manager shall be Laramie. The Sole Manager shall serve at the pleasure of the Board, as set forth in Section 5.6(n).

5.2 **Management Authority**. Except for Major Decisions, which shall require the approval of the Board, any other action requiring Board approval hereunder and subject to the authority of the Board as set forth in Section 5.5, the Sole Manager shall have the authority on behalf of the Company to (i) direct the business, affairs and day-to-day operations of the Company, including final approval of all capital and operating budgets (following Board approval of such budgets), (ii) supervise all employees of the Sole Manager and the Company in Company affairs, (iii) bind the Company (subject to obtaining the necessary approvals of the Board), (iv) direct the financing, treasury management, and hedging activities of the Company and (v) with Board approval, raise additional capital from third parties for the Company (subject to the provisions of Section 3.2), and (vi) take other actions incidental to the foregoing. The Sole Manager's duties are set forth in the Management Services Agreement.

5.3 **Sole Manager Delegation and Personnel. The Sole Manager may delegate to officers, employees, agents or representatives of the Sole Manager any or all of the foregoing powers by written authorization identifying specifically or generally the powers delegated or acts authorized. The Sole Manager shall make available its executive, administrative and operating personnel to manage the Company pursuant to the Management Services Agreement. All oil and gas field operating personnel engaged in the operation of the Assets shall be employed or engaged as independent contractors by the Company.**

5.4 **Bank Accounts and Bank Revolving Credit Facility**. The Sole Manager shall:

(a) maintain one or more bank accounts in the name of the Company with either JP Morgan Chase Bank, N.A. or Wells Fargo Bank, N.A. or their successors, or such other financial institution as approved by the Board. All Company funds shall be deposited in such accounts and shall not be commingled with funds of the Sole Manager or another entity.

(b) direct the Company's maintenance of a senior secured revolving credit facility pursuant to that certain Credit Agreement dated June 4, 2012 with JP Morgan Chase Bank, N.A. as Agent (the "Bank Revolving Credit Facility") or any successor credit facility approved by the Board pursuant to Section 5.6(a). Promptly after the Effective Date, the Company will pay or reimburse the Sole Manager for all up-front fees charged in connection with the Bank Revolving Credit Facility and the bank's legal fees, including the $50,000 up-front bank administrative fee and the bank legal fees involved in the negotiation and documentation of the above described credit agreement, in each case that were incurred on the Company's behalf and paid by the Sole Manager prior to Closing.

**5.5 Board of Managers.**

(a) Establishment; Powers. A committee of individuals shall, unless otherwise restricted by Law or this Agreement, be delegated with responsibility for Member actions, shall approve all Major Decisions of the Company and other actions requiring Board approval hereunder and shall generally direct the management of the Company subject to the authority granted to the Sole Manager hereunder (this committee is referred to as the "Board" or the "Board of Managers" and the individuals appointed to the Board are referred to as the "Board Members"). The Board Members shall not be considered managers of the Company under the Act. Except for situations in which the approval of the Members is required by this Agreement or by nonwaivable provisions of applicable law, decisions on behalf of the Members shall be made by the Board.

(b) Designation.

(i) The number of Board Members shall be six (6). Laramie shall be entitled to appoint four (4) Board Members, one of whom shall be the Chief Executive Officer of Laramie, and Delta shall be entitled to appoint two (2) Board Members. Members can remove and replace their Board Member designees at any time, in their sole discretion.

(ii) Board Members shall be natural persons, but Board Members need not be residents of Delaware or Members of the Company.

(c) Vacancies. If a Member fails to appoint a Board Member within thirty days of a vacancy arising, a successor shall be elected to hold office by a majority of Board Members then in office, regardless of whether a quorum exists, or at a special meeting of the Members if there are no Board Members remaining.

(d) Resignation. A Board Member may resign at any time by giving written notice to that effect to the Board. Any such resignation shall take effect at the time of the receipt of that notice or any later effective time specified in that notice; and, unless otherwise specified in that notice, the acceptance of the resignation shall not be necessary to make it effective.

(e) Meetings of the Board. The Board shall meet at such time as the Board may designate at the principal office of the Company or such other place as may be unanimously approved by the Board. Meetings of the Board shall be held on the call of any Member holding at least 10% of all Units on a fully diluted basis. All meetings of the Board shall be held upon at least three Business Days' written notice to the Board Members, or upon such shorter notice as may be approved by all of the Board Members. Any Board Member may waive such notice. A record shall be maintained of each meeting of the Board. The initial Board meeting shall be held within 15 days after the Effective Date to review and approve the Development Program described in Section 5.7 and the Operating Budget for September – December, 2012.

(i) Conduct of Meetings. Any meeting of the Board Members may be held in person and by means of a conference, telephone or similar communication equipment by means of which all Board Members and other individuals participating in

the meeting can hear each other, and such telephone or similar participation in a meeting shall constitute presence in person at the meeting.

(ii) Quorum. Four of the Board Members then in office shall constitute a quorum of the Board for purposes of conducting business. At all times when the Board is conducting business at a meeting of the Board, a quorum of the Board must be present at such meeting. If a quorum shall not be present at any meeting of the Board, then the Board Members present at the meeting may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present.

(iii) Voting. Any decisions to be made by the Board must be approved by the affirmative vote of a majority of the Board Members then serving on the Board, subject to any requirement of a greater vote under the Act or pursuant to this Agreement. Board Members may vote in person or by proxy executed in writing before the time of the meeting.

(iv) Attendance and Waiver of Notice. Attendance of a Board Member at any meeting shall constitute a waiver of notice of such meeting, except where a Board Member attends a meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any meeting of the Board need be specified in the notice or waiver of notice of such meeting.

(v) Actions Without a Meeting. Notwithstanding any provision contained in this Agreement, any action of the Board may be taken by written consent without a meeting if (A) the action is evidenced by written consent signed by a sufficient number of Board Members to approve the action at a meeting, and (ii) the Board Members are given three (3) Business Days advance written notice prior to such action being taken by written consent. Any such action taken by the Board without a meeting shall be promptly provided to the Sole Manager, the Board Members and all Members.

(f) Compensation of Board Members. No Board Member shall be entitled to receive compensation or expense reimbursement from the Company for his or her services as a Board Member. Nothing contained in this Agreement shall be construed to preclude a Board Member from serving the Company in any other capacity.

(g) Chairman of the Board. Laramie's Chief Executive Officer shall serve as the initial Chairman of the Board. The chairman, in his or her capacity as the chairman of the Board, shall not have any of the rights or powers of an officer of the Company or any special voting rights.

(h) Minutes. Minutes of all meetings of the Board shall be kept and distributed to the Sole Manager, each Member and each Board Member as soon as reasonably practicable following each meeting. If no objection is raised in writing following receipt of minutes or in any event at the next meeting of the Board, then such minutes shall be deemed to

be accurate and shall be binding on the Board Members and the Company with respect to the matters dealt with therein.

**5.6 Major Decisions**. Neither the Sole Manager, nor any Member, Board Member, officer, employee, agent or representative of the Company shall have any authority to bind or take any action on behalf of the Company with respect to any Major Decision unless such Major Decision has been unanimously approved by the Board. Each of the following matters or actions by the Company shall constitute a "Major Decision":

(a) incurring any borrowings of any kind, including capital leases, or the issuance or restructuring of any debt of the Company or causing the Company to guaranty indebtedness, other than (i) the Bank Revolving Credit Facility, (ii) purchase money indebtedness up to $5,000,000 and (iii) unsecured trade indebtedness in an aggregate not to exceed $15,000,000;

(b) assuming or guaranteeing the performance of any obligation outside the ordinary course of business greater than $1,000,000;

(c) adding a new class of securities or increase or decrease the outstanding ownership of the Company, except pursuant to Capital Contributions after the Effective Date of up to $60,000,000 in the aggregate, or otherwise requiring additional Capital Contributions in excess of $60,000,000 in the aggregate;

(d) admitting additional Members except pursuant to a Capital Contribution as described in Article III;

(e) abandoning or selling assets with a value of $10,000,000 or greater in one transaction or a series of related transactions; except that a sale for cash of substantially all of the Company's assets to an unaffiliated third party that occurs two years or more after the Effective Date, and where no additional material benefits are received by Laramie in connection therewith, shall not require unanimous approval and may be completed by the Sole Manager with majority Board approval;

(f) acquiring new assets with a value in excess of $25,000,000;

(g) committing to a Company Opportunity as described in Section 5.17;

(h) forming or joining a joint venture (excepting customary oil and gas industry exploration and development agreements, to the extent not otherwise prohibited by this Section 5.6) or subsidiary, or merging or consolidating with another entity;

(i) compromising or settling a lawsuit brought by or against the Company or confess judgment against the Company for amounts in excess of $1,000,000;

(j) entering into a material contract with, making any loan to, advancing payments to, redeeming or repurchasing Units from or authorizing any dividend or distributions to, Members, except for distributions as provided in Article VII or distributions to Members for the payment of taxes, and except as provided for in the Management Services Agreement;

(k) the liquidation, dissolution, or winding up of the Company; or reorganizing or recapitalizing the Company;

(l) amending or repealing this Agreement, the Management Services Agreement, or the Contribution Agreement;

(m) filing a voluntary petition for bankruptcy, seeking a receiver, making an assignment for the benefit of its creditors, making an admission in writing of Company's inability to pay its debts;

(n) changing the Sole Manager, including upon sale of Laramie's Units unless the successor Sole Manager is an experienced oil and gas operator with a minimum net worth of $500 million;

(o) requiring the Members to make any Capital Contributions in addition to those required under Article III;

(p) increasing the amount of the Management Fee;

(q) changing the Company's principal outside accounting firm;

(r) making any loans to any person outside the ordinary course of business;

(s) within two years of the Closing, taking any action that would reasonably be expected to affect Delta's tax attributes (NOLS), as reasonably determined by the Sole Manager and the Board (which actions prohibited by this Section 5.6(s) shall include the actions set forth on Schedule 5.6(s) hereto);

(t) taking, or refraining from taking, any action that would result in the Company not being a partnership for federal or state tax purposes; and

(u) transactions, agreements, contracts and undertakings with any Member's Affiliates.

**5.7 Additional Board Activities.**

(a) The Board shall direct the Sole Manager to manage a development drilling and completion program (the "Development Program") that shall be subject to review and approval at each regularly-scheduled quarterly Board meeting commencing with the initial Board meeting. The Development Program will be funded from the Company's cash flow and the Bank Revolving Credit Facility and could be funded from Additional Contributions. The Board, with majority approval, will have full discretion at any time to direct the Sole Manager to slow, accelerate, or temporarily suspend the drilling and completion activity under any or all components of the Development Program based on the Sole Manager's forecast of the Company's cash flow and revolving credit availability and taking into consideration the outlook for natural gas prices.

(b) The Company's quarterly budgets and any quarterly capital expenses for individual or a group of related items not included in the quarterly budget in excess of $1,000,000 shall be approved by the Board at a meeting of the Board, and not by written consent.

(c) Any hedging activities beyond those expressly required by the Bank Revolving Credit Facility shall be approved by the Board at a meeting by the Board, and not by written consent.

**5.8 Duties.**

(a) The Sole Manager, each Board Member and each officer of the Company shall carry out his or its duties in good faith in a manner reasonably believed to be in the best interests of the Company. The Sole Manager and each Board Member shall devote such time to the business and affairs of the Company as he or it may determine, in his or its reasonable discretion, is necessary for the efficient carrying on of the Company's business. To the extent permitted by the Act, neither the Sole Manager, any Board Member nor any Company officer shall have any fiduciary duties to the Company, and, subject to the preceding sentence, the Sole Manager's, Board Members' and officers' duties and liabilities are restricted by the provisions of this Agreement to the extent that any such provisions restrict the duties and liabilities of the Sole Manager and officers otherwise existing at law or in equity.

(b) Notwithstanding anything in this Agreement or in the Act to the contrary, but subject to Section 5.8(a), a person, in performing his duties and obligations as a Board Member under this Agreement, shall be entitled to act or omit to act at the direction of the Member(s) that designated such person to serve on the Board of Managers, considering only such factors, including the separate interests of the designating Member(s), as such Board Member or Member(s) choose to consider, and any action of a Board Member or failure to act, taken or omitted in good faith reliance on the foregoing provisions shall not, as between the Company and the other Member(s), on the one hand, and the Board Member or Member(s) designating such Board Member, on the other hand, constitute a breach of any duty (including any fiduciary or other similar duty, to the extent such exists under the Act or any other applicable law, rule or regulation) on the part of such Board Member or Member(s) to the Company or any other Board Member or Member of the Company.

(c) The Members (and the Members on behalf of the Company) hereby:

(i) agree that (A) the terms of this Section 5.8, to the extent that they modify or limit a duty or other obligation, if any, that a Board Member may have to the Company or any another Member under the Act or other applicable law, rule or regulation, are reasonable in form, scope and content; and (B) the terms of this Section shall control to the fullest extent possible if it is in conflict with a duty, if any, that a Board Member may have to the Company or another Member, under the Act or any other applicable law, rule or regulation; and

(ii) waive any duty or other obligation, if any, that a Member may have to the Company or another Member, pursuant to the Act or any other applicable

law, rule or regulation, to the extent necessary to give effect to the terms of this Section 5.8.

(d) The Members, on behalf of the Company, acknowledge, affirm and agree that (i) the Members would not be willing to make an investment in the Company, and no person designated by any of the Members to serve on the Board of Managers would be willing to so serve, in the absence of this Section 5.8, and (ii) they have reviewed and understand the provisions of §§18-1101(b) and (c) of the Act.

**5.9 Reliance by Third Parties**. No third party dealing with the Company shall be required to ascertain whether the Sole Manager or any Company officer or any person expressly authorized by the Sole Manager is acting in accordance with the provisions of this Agreement. All third parties may rely on a document executed by the Sole Manager or by any Company officer or by any person authorized in writing by the Sole Manager as binding on the Company. The foregoing provisions shall not apply to third parties who are Affiliates or family members of any such Person executing any such document. If the Sole Manager or any Member, officer or other Person acts without authority, such action shall not be binding on the Company and such Person shall be liable to the Members for any damages arising out of its unauthorized actions.

**5.10 Resignation**. The Sole Manager may resign, in its sole discretion, at any time. In addition, the Sole Manager shall be deemed to have resigned as the Sole Manager upon his or its Bankruptcy.

**5.11 Removal**. The Sole Manager may not be removed as the Sole Manager except as set forth in the Management Services Agreement.

**5.12 Vacancies**. Vacancies in the position of Sole Manager occurring for any reason shall be filled by the affirmative vote of all of the Members, notwithstanding any lesser voting requirement set forth in this Agreement. If a Person that is both a Sole Manager and a Member resigns as the Sole Manager, such Person shall continue to be a Member in the Company notwithstanding ceasing service as the Sole Manager.

**5.13 Information Relating to the Company**. Upon request, the Sole Manager shall supply to a Member any information required to be available to the Members under the Act.

**5.14 Exculpation and Indemnification; Litigation**.

(a) In carrying out their respective duties hereunder, the Sole Manager, the Board Members and the Company officers shall not be liable to the Company nor to any Member for their good faith actions, or failure to act, nor for any errors of judgment, nor for any act or omission believed in good faith to be within the scope of authority conferred by this Agreement, but shall be liable for fraud, willful misconduct or gross negligence in the performance of their respective duties under this Agreement.

(b) To the extent the Sole Manager, Board Members or the Company officers have duties (including fiduciary duties) and liabilities relating thereto to the Company or to any Member, the Sole Manager, Board Members or the officers acting under this Agreement shall not be liable to the Company or to any Member for such Person's good faith reliance on the

provisions of this Agreement, the records of the Company, and such information, opinions, reports or statements presented to the Company by any of the Company's other officers or employees, or by any other Person as to matters such Sole Manager or any such officer reasonably believes are within such other Person's professional or expert competence and who has been selected with reasonable care by or on behalf of the Company. The preceding sentence shall in no way limit any Person's right to rely on information to the extent provided in Section 18-406 of the Act. No Sole Manager, Board Member or officer of the Company, or any combination of the foregoing, shall be personally liable under any judgment of a court, or in any other manner, for any debt, obligation or liability of the Company, whether that liability or obligation arises in contract, tort or otherwise, solely by reason of being a Sole Manager or officer of the Company or any combination of the foregoing.

(c) Subject to the limitations of the Act, the Company shall indemnify, defend, save and hold harmless the Sole Manager, the Board Members and the Company officers from and against third party claims arising as a result of any act or omission of the Sole Manager, such Board Members or any such officer believed in good faith to be within the scope of authority conferred in accordance with this Agreement, except for fraud, willful misconduct, gross negligence or a finding of liability to the Company. In all cases, indemnification shall be provided only out of and to the extent of the net assets of the Company and no Member shall have any personal liability whatsoever on account thereof. Notwithstanding the foregoing, the Company's indemnification of the Sole Manager, Board members and Company officers as to third party claims shall be only with respect to such loss, liability or damage that is not otherwise compensated by insurance carried for the benefit of the Company.

(d) The Sole Manager has the right to control the defense of any litigation or other government proceeding in which the Company is involved. The Sole Manager shall promptly provide to either Member any information regarding any such litigation or proceeding such Member may reasonably request, at the expense of such Member, and shall reasonably cooperate with the Members in connection with the defense of any such litigation or proceeding.

(e) The Company shall reimburse the reasonable expenses of any Member, Sole Manager, Board Member, officer or any of their officers or employees that are required to appear as a witness in litigation or any other government proceeding because of or relating to their service to or relationship with the Company.

(f) The Company shall purchase and maintain (i) a directors' and officers' insurance policy covering the Board Members and others serving at the request of the Company, its Sole Manager or its Board; (ii) property and casualty insurance for the Company's assets; and (iii) liability insurance at coverage levels as set forth in Schedule 5.14(f).

(g) If any provision of this Section 5.14 (or any portion thereof) or the application of any such provision (or any portion thereof) to any Person or circumstance shall be held invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect the Company's indemnification and exculpation to all other Persons and circumstances to the greatest extent permissible by Law or the enforceability of such provision in any other jurisdiction.

**5.15 Officers.**

(a) The Sole Manager may, from time to time, designate two individuals to be officers of the Company, (i) the Chairman and Chief Executive Officer, and (ii) the President and Chief Financial Officer. Any officers designated pursuant to this Section 5.15 shall have such titles and authority and perform such duties as the Sole Manager may, from time to time, delegate to them.

(b) Any officer may resign at any time by giving written notice thereof to the Sole Manager. Any officer may be removed, either with or without cause, by the Sole Manager whenever in its judgment the best interests of the Company will be served thereby; *provided, however*, that such removal shall be without prejudice to the contract rights, if any, of the Person so removed. Designation of an officer shall not, by itself, create contract rights.

**5.16 Management Fee.** The services of the Sole Manager shall be compensated from Available Cash prior to the making of any distributions to the Members hereunder, and shall consist of the payments, compensation and reimbursements set forth in the Management Services Agreement, dated as of the Effective Date, between the Company and the Sole Manager, including the Management Fee (as defined in the Management Services Agreement). The Company shall pay directly its employees and contractors and all invoices when due for lease operating expenses, capital expenditures, royalties, ad valorem taxes, severance payments, sales taxes, and other operational expenses as set forth in the Management Services Agreement.

**5.17 Company Opportunities; Conflicts.**

(a) No Member shall have any ownership in Company property in such Member's individual name.

(b) No Member, and no Controlled Affiliate of a Member, shall separately own any oil and gas or real estate assets within the AMI, except as provided in this Section 5.17.

(c) The Sole Manager, Board Members or any Member, on behalf of the Company (a "Proposing Member"), may analyze, review and investigate any opportunity for the acquisition of (i) interests in acquisition, leasing, exploration or development of oil and gas assets within the AMI, and (ii) equity interests in any Person that, directly or indirectly, owns or engages in any of the foregoing (any such opportunities, a "Company Opportunity"); *provided, however*, that except as provided in this Section 5.17, no Member nor any Affiliate of a Member shall directly or indirectly through any other Person acquire or undertake, or compete with the Company for the acquisition of (or assist any third party in any such acquisition, undertaking or competition), any Company Opportunity until such Company Opportunity has been voted upon and rejected by the Board. The Proposing Member shall present relevant details regarding the Company Opportunity (including a narrative description, financial projections to the extent available, a financing plan and other information deemed necessary to allow a diligent review), and the Board shall promptly vote about the Company Opportunity, with a unanimous vote of the Board (other than Board Members representing the Proposing Member) determining whether the Company will take the Company Opportunity. Failure of the Board to take action on a Company Opportunity within 20 days after presentation of the relevant details to the Board shall be

deemed rejection of such Company Opportunity. By the end of such 20-day period, the non-Proposing Member shall notify the Proposing Member and the Company in writing as to whether or not it desires the Company to pursue the Company Opportunity. If the non-Proposing Member indicates in such notice that it desires the Company to pursue the Company Opportunity, such Company Opportunity will be deemed to be accepted by the Board. Any failure to provide such notice shall be deemed to be a rejection of such Company Opportunity. Upon rejection of a Company Opportunity, the Proposing Member shall be permitted to pursue such Company Opportunity for its own account.

(d) The Board will consider the related Capital Contributions associated with the Company Opportunity, and the Members shall be required to make the associated Capital Contributions for any Company Opportunity approved by the Board. Notwithstanding the foregoing, nothing in this Section 5.17 shall prevent any Member from pursuing opportunities outside the AMI, or (ii) is intended to restrict any Board Member or, subject to Sections 5.17(b) and (c), the Board Member's Affiliates (other than the Members) from pursuing an opportunity.

**5.18 Other Investments of Investor Parties; Waiver of Conflicts of Interest.**

(a) Subject to the provisions of Section 5.17, each Member acknowledges and affirms that the members of Laramie and the stockholders of Delta (the "Investor Parties"):

(i) (A) have participated (directly or indirectly) and will continue to participate (directly or indirectly) in venture capital and other direct investments in corporations, joint ventures, limited liability companies and other entities ("Other Investments"), including Other Investments engaged in various aspects of the U.S. and Canadian "upstream" and "midstream" oil and gas business that may, are or will be competitive with the Company's business or that could be suitable for the Company, (B) have interests in, participate with, aid and maintain seats on the board of directors or similar governing bodies of, Other Investments, and (C) may develop or become aware of business opportunities for Other Investments; and

(ii) may or will, as a result of or arising from the matters referenced in clause (i) above, the nature of the Investor Parties' businesses and other factors, have conflicts of interest or potential conflicts of interest.

(b) Subject to the provisions of Section 5.17, the Members, and the Members on behalf of the Company expressly (x) waive any such conflicts of interest or potential conflicts of interest and agree that no Investor Party shall have any liability to any Member or any Affiliate thereof, or the Company with respect to such conflicts of interest or potential conflicts of interest and (y) acknowledge and agree that the Investor Parties and their respective representatives will not have any duty to disclose to the Company, any other Member, the Sole Manager or the Board of Managers any such business opportunities, whether or not competitive with the Company's business and whether or not the Company might be interested in such business opportunity for itself; provided, however, that the foregoing shall not be construed to permit any breach of Section 14.3. The Members (and the Members on behalf of the Company) also acknowledge that the Investor Parties and their representatives have duties not to disclose confidential information of or related to the Other Investments.

(c) The Members (and the Members on behalf of the Company) hereby:

(i) agree that (A) the terms of this Section 5.18, to the extent that they modify or limit any duty of loyalty or other similar obligation, if any, that an Investor Party may have to the Company or another Member under the Act or other applicable law, rule or regulation, are reasonable in form, scope and content; and (B) the terms of this Section 5.18 shall control to the fullest extent possible if it is in conflict with any duty of loyalty or similar obligation, if any, that an Investor Party may have to the Company or another Member, the Act or any other applicable law, rule or regulation; and

(ii) waive any duty of loyalty or other similar obligation, if any, that an Investor Party may have to the Company or another Member, pursuant to the Act or any other applicable law, rule or regulation, to the extent necessary to give effect to the terms of this Section 5.18.

(d) Whenever in this Agreement a Member or any representative thereof is permitted or required to make a decision (a) in its "sole discretion" or "discretion" or under a grant of similar authority or latitude, the Member shall be entitled to consider only such interests and factors as it desires, including its own interests, and shall have no duty or obligation to give any consideration to any interests of or factors affecting the Company or any other Member, or (b) in its "good faith" or under another expressed standard, a Member shall act under such express standard and shall not be subject to any other or different standard imposed by this Agreement or any other agreement contemplated herein or by relevant provisions of law or in equity or otherwise. Nothing in this Section 5.18(d) shall limit the duties provided for in Section 5.8(a).

(e) The Members, individually and on behalf of the Company, acknowledge, affirm and agree that (i) the approval of Laramie or Delta entering into this Agreement by the applicable Investor Parties is of material benefit to the Company and the Members, and that the Investor Parties would not be willing to approve Laramie and Delta's Capital Contributions to the Company, without the benefit of this Section 5.18 and the agreement of the Members thereto; and (ii) they have reviewed and understand the provisions of §§18-1101(b) and (c) of the Act.

**5.19 Employees**. The Company shall at all times maintain employees that perform substantial management and operational functions apart from those activities performed by any independent contractors hired by the Company. Without limiting the foregoing, the Company shall at all times employ (as employees and not as independent contractors), not less than two production managers, two field superintendents and two field pumpers (to be increased to four field pumpers within 120 days of Closing), and employees of the Company shall perform and/or supervise the performance of, the following services: (a) all labor and associated costs of field employees and contractors engaged in 100% of the Company's hydrocarbon production, well workovers, well equipment maintenance, road, pad and pipeline construction, and operations, (b) all third party provided well workover services and procurement of equipment and materials, (c) all day-to-day oil and gas field operations, (d) all direct supervision of field employees, contract labor, or third party contractors engaged in well workovers, well equipment maintenance, road, pad, pipeline construction and day-to-day oil and gas field operations, (e) direct supervision of surface ranch managers, (e) all on-site procurement services, and (f) other incidental services.

## ARTICLE VI
## MEMBERS

**6.1 Limited Liability**. The liability of each Member shall be limited as provided by the Act. Except as permitted under this Agreement, a Member shall take no part in the control, management, direction or operation of the affairs of the Company, and shall have no power to bind the Company in their capacity as Members.

**6.2 No State-Law Partnership**. The Members intend that the Company not be a partnership (including, without limitation, a limited partnership) or joint venture, and that no Member, member of the Board or Sole Manager be a partner or joint venturer of any other Member or the Sole Manager, for any purposes other than federal and state tax purposes, and this Agreement may not be construed to suggest otherwise. Except as otherwise required by the Act, other applicable Law, and this Agreement, no Member shall have any fiduciary duty to any other Member.

**6.3 Tax Matters Partner.**

(a) The Sole Manager is hereby designated as the initial "tax matters partner" as such term is defined in section 6231(a)(7) of the Code. The appointment of any successor tax matters partner shall be approved by the Members. Subject to the provisions hereof, the tax matters partner is authorized and required to represent the Company in connection with all examinations of the Company's affairs by tax authorities, including resulting administrative and judicial proceedings, and to expend Company funds for professional services and costs associated therewith. Notwithstanding the foregoing, the tax matters partner shall promptly notify all Members of the commencement of any audit, investigation or other proceeding concerning the tax treatment of Company tax items and shall keep all Members promptly and completely informed of such proceedings. The Sole Manager shall not enter into any settlement agreement of a tax controversy that adversely affects a Member without that Member's prior written consent.

(b) The Sole Manager, as the tax matters partner, shall make or cause to be made all available elections as required by the Code and the Treasury Regulations to cause the Company to be classified as a partnership for federal income tax purposes.

## ARTICLE VII
## DISTRIBUTIONS TO THE MEMBERS

**7.1 Non-Liquidating Distributions**. The Company shall distribute Available Cash to the Members in proportion to their respective Sharing Ratios on a periodic (which shall be not less than annual) basis and in amounts approved by the Board.

**7.2 Liquidating Distributions**. Subject to Section 10.2(b), all distributions made in connection with the sale or exchange of all or substantially all of the Company's assets and all distributions made in connection with the liquidation of the Company shall be made to the Members in accordance with their respective Capital Account balances at the time of distribution after taking into account all allocations of Profit and Loss pursuant to Article VIII. The Management Services Agreement will terminate upon the dissolution of the Company, and

during the winding up of the Company's Business, the Sole Manager as liquidator of the Company (or any other party acting as liquidator) shall be reimbursed for its actual accounting, legal and supervisory costs related to the winding up and liquidation of the Company's Business and assets in lieu of receiving the Management Fee (as defined in the Management Services Agreement).

**7.3 Distributions in Kind**. During the existence of the Company, no Member shall be entitled or required to receive as distributions from the Company any Company asset other than money. In-kind distributions of assets in connection with the dissolution and winding-up of the Company shall be governed by Article XII.

## ARTICLE VIII
## ALLOCATION OF PROFITS AND LOSSES

**8.1 In General**.

(a) This Article provides for the allocation among the Members of Profit and Loss for purposes of crediting and debiting the Capital Accounts of the Members. Article IX provides for the allocation among the Members of taxable income and tax losses.

(b) Except as provided in Section 8.2, all Profits and Losses shall be allocated among the Members in accordance with their respective Sharing Ratios.

**8.2 Regulatory Allocations and Other Allocation Rules**. Notwithstanding Sections 8.1 and 8.3:

(a) Loss Limitation. The Losses allocated pursuant to Section 8.1 shall not exceed the maximum amount of Losses that can be so allocated without causing such Member to have an Adjusted Capital Account Deficit at the end of any fiscal year. In the event some but not all of the Members would have Adjusted Capital Account Deficits as a consequence of an allocation of Losses pursuant to Section 8.1, the limitation set forth in this Section 8.2(a) shall be applied on a Member by Member basis so as to allocate the maximum permissible Losses to each Member under section 1.704-1(b)(2)(ii)(d) of the Treasury Regulations. All Losses in excess of the limitations set forth in this Section 8.2(a) shall be allocated to the Members in proportion to their Sharing Ratios. This Section 8.2(a) shall be interpreted consistently with the loss limitation provisions of Treasury Regulations § 1.704-1(b)(2)(ii)(d).

(b) Minimum Gain Chargeback. Except as otherwise provided in Treasury Regulations § 1.704-2(f), if there is a net decrease in partnership minimum gain (as defined in Treasury Regulations §§ 1.704-2(b)(2) and 1.704-2(d)(1)) during any fiscal year, each Member shall be specially allocated items of Company income and gain for such fiscal year (and, if necessary, subsequent fiscal years) in an amount and in the manner required by Treasury Regulations §§ 1.704-2(f) and 1.704-2(j)(2). This Section 8.2(b) shall be interpreted consistently with the "minimum gain" provisions of Treasury Regulations § 1.704-2 related to nonrecourse liabilities (as defined in Treasury Regulations § 1.704-2(b)(3)).

(c) Member Minimum Gain Chargeback. Except as otherwise provided in Treasury Regulation § 1.704-2(i)(4), if there is a net decrease in partner nonrecourse debt

minimum gain (as defined in Treasury Regulations §§ 1.704-2(i)(2) and 1.704-2(i)(3)) attributable to partner nonrecourse debt (as defined in Treasury Regulations § 1.704-2(b)(4)) during any fiscal year, each Member who has a share of the partner nonrecourse debt minimum gain attributable to such Member's partner nonrecourse debt, determined in accordance with Treasury Regulations § 1.704-2(i)(5), shall be specially allocated items of Company income and gain for such fiscal year (and, if necessary, subsequent fiscal years) in an amount and in the manner required by Treasury Regulations §§ 1.704-2(i)(4) and 1.704-2(j)(2). This Section 8.2(c) shall be interpreted consistently with the "minimum gain" provisions of Treasury Regulations § 1.704-2 related to partner nonrecourse liabilities (as defined in Treasury Regulations § 1.704-2(b)(4)).

(d) Qualified Income Offset. In the event any Member unexpectedly receives any adjustments, allocations, or distributions described in Treasury Regulations §§ 1.704-1(b)(2)(ii)(*d*)(*4*), 1.704-1(b)(2)(ii)(*d*)(*5*) or 1.704-1(b)(2)(ii)(*d*)(*6*), items of Company income and gain shall be specially allocated to such Member in an amount and manner sufficient to eliminate, to the extent required by the Treasury Regulations, the Adjusted Capital Account Deficit, if any, of such Member as quickly as possible. This Section 8.2(d) shall be interpreted consistently with the "qualified income offset" provisions of Treasury Regulations § 1.704-1(b)(2)(ii)(*d*).

(e) Nonrecourse Deductions. Any non-recourse deduction (as defined in Treasury Regulations § 1.704-2(b)(1)) for any fiscal year shall be allocated to the Members in proportion to their respective Sharing Ratios.

(f) Member Nonrecourse Deductions. Any partner nonrecourse deductions (as defined in Treasury Regulations §§ 1.704-2(i)(1) and 1.704-2(i)(2)) for any fiscal year shall be specially allocated to the Member who bears the economic risk of loss with respect to the partner nonrecourse debt (as defined in Treasury Regulations § 1.704-2(b)(4)) to which such Member nonrecourse deductions are attributable in accordance with Treasury Regulations § 1.704-2(i)(1).

(g) Section 754 Adjustments. To the extent an adjustment to the adjusted tax basis of any Company asset is required pursuant to Code section 732(d), Code section 734(b) or Code section 743(b), the Capital Accounts of the Members shall be adjusted pursuant to Treasury Regulations § 1.704-1(b)(2)(iv)(*m*).

(h) Other. Any other allocation required by Treasury Regulations under Section 704(b) that is not in accordance with the parties' Sharing Ratios shall be treated as a Regulatory Allocation under this Section 8.2.

(i) Curative Allocations. The allocations under Sections 8.2(a) through 8.2(h) (the "Regulatory Allocations") are intended to comply with certain requirements of the Treasury Regulations. It is the intent of the Members that, to the extent possible, all Regulatory Allocations shall be offset either with other Regulatory Allocations or with special allocations of other items of Company income, gain, loss or deduction pursuant to this Article VIII. Therefore, notwithstanding any other provision this Article VIII (other than the Regulatory Allocations), the Company shall make such offsetting special allocations of Company income, gain, loss or

deduction in whatever manner it determines appropriate so that, after such offsetting allocations are made, each Member's Capital Account balance is, to the extent possible, equal to the Capital Account balance such Member would have had if the Regulatory Allocations were not part of this Agreement and all Company items were allocated pursuant to Section 8.1. In exercising its reasonable discretion under this Section 8.2(i), the Sole Manager shall take into account future Regulatory Allocations under Sections 8.2(a) through 8.2(h) that are likely to offset other Regulatory Allocations previously made.

(j) Allocations With Respect to Oil and Gas Properties.

(i) The Simulated Basis of each Oil and Gas Property shall be allocated to the Members in accordance with their respective Sharing Ratios. Adjusted tax basis shall, subject to any allocations made in connection with Code section 704(c), be allocated in the same manner.

(ii) Pursuant to Treasury Regulation Section 1.704-1(b)(4)(v), the amount realized for federal income tax purposes on the disposition of any Oil and Gas Property of the Company shall, except to the extent such allocation is made in connection with Code section 704(c), be allocated (i) first to the Members in an amount equal to the remaining Simulated Basis of such property in the same proportions as the Simulated Basis of such property was allocated to the Members, and (ii) any remaining amount realized shall be allocated to the Members in a manner consistent with the manner in which Profits are allocated pursuant to Section 8.1.

(iii) Simulated Depletion shall be allocated to the Members pro rata in proportion to their share of Simulated Basis.

(iv) The provisions of this Section 8.2(i) and the other provisions of this Article VIII relating to allocations under Code section 613A(c)(7)(D) are intended to comply with Treasury Regulations §§ 1.704-1(b)(2)(iv)(k) and 1.704-1(b)(4)(v) and shall be interpreted and applied in a manner consistent with such Treasury Regulations.

**8.3 Other Allocation Rules.**

(a) Subject to Section 10.3, Profits, Losses, and any other items allocable to any period shall be determined on a daily, monthly, or other basis, as reasonably determined by the Sole Manager using any permissible method under Code section 706 and the Regulations thereunder.

(b) Solely for purposes of determining a Member's proportionate share of the "excess nonrecourse liabilities" of the Company within the meaning of Treasury Regulations § 1.752 3(a)(3), the Members' interests in Profits shall be their Sharing Ratios.

(c) To the extent permitted by Treasury Regulations § 1.704-2(h)(3), the Company shall treat distributions of Available Cash as having been made from the proceeds of a nonrecourse liability (as defined in Treasury Regulations § 1.704-2(b)(3)) or a partner nonrecourse debt (as defined in Treasury Regulations § 1.704-2(b)(4)) only to the extent that

such distributions would not cause or increase an Adjusted Capital Account Deficit for any Member.

## ARTICLE IX
## ALLOCATION OF TAXABLE INCOME AND TAX LOSSES

**9.1 Allocation of Taxable Income and Tax Losses**. Except as provided in Sections 9.2 and 9.3, each item of income, gain, loss and deduction of the Company for federal income tax purposes shall be allocated among the Members in the same manner as such item is allocated for book purposes under Article VIII.

**9.2 Allocation of Section 704(c) Items**. The Members recognize that with respect to property contributed to the Company by a Member and with respect to property revalued in accordance with Treasury Regulations § 1.704-1(b)(2)(iv)(f) (referred to as "Adjusted Properties"), there will be a difference between the agreed values or Carrying Values, as the case may be, of such property at the time of contribution or revaluation, as the case may be, and the adjusted tax basis of such property at that time. All items of tax depreciation, cost recovery, depletion, amortization and gain or loss with respect to such contributed properties and Adjusted Properties shall be allocated among the Members to take into account the book tax disparities with respect to such properties in accordance with the method selected by the Sole Manager and the provisions of sections 704(b) and 704(c) of the Code and Treasury Regulations § 1.704-3. Any gain or loss attributable to a contributed property or an Adjusted Property (exclusive of gain or loss allocated to eliminate such book tax disparities under the immediately preceding sentence) shall be allocated in the same manner as such gain or loss would be allocated for book purposes under Article VIII.

**9.3 Integration with Section 754 Election**. All items of income, gain, loss, deduction and credits recognized by the Company for federal income tax purposes and allocated to the Members in accordance with the provisions hereof and all basis allocations to the Members shall be determined without regard to any election under section 754 of the Code that may be made by the Company; provided, however, such allocations, once made, shall be adjusted as necessary or appropriate to take into account the adjustments permitted by sections 734 and 743 of the Code.

**9.4 Allocation of Tax Credits**. The tax credits, if any, with respect to the Company's property or operations shall be allocated among the Members in accordance with Treasury Regulations § 1.704-1(b)(4)(ii).

## ARTICLE X
## ACCOUNTING AND REPORTING

**10.1 Books**. The Sole Manager shall cause the Company to maintain complete and accurate books of account of the Company's affairs at the principal office of the Company. The Company's books shall be kept in accordance with generally accepted accounting principles, consistently applied, and on an accrual basis method of accounting. Subject to the requirements of applicable Law, the fiscal year of the Company shall end on December 31 of each year.

**10.2 Capital Accounts; Tax Elections**.

(a) The Sole Manager shall cause the Company to maintain a separate capital account for each Member for income tax purposes and such other Member accounts as may be necessary or desirable to comply with the requirements of applicable Law ("Capital Accounts"). Each Member's Capital Account shall be maintained in accordance with the provisions of Treasury Regulations § 1.704-1(b)(2)(iv).

(b) Consistent with and as permitted in the provisions of Treasury Regulations § 1.704-1(b)(2)(iv)(*f*), the Capital Accounts of all Members and the Carrying Values of all Company properties may (as reasonably determined by the Sole Manager) be adjusted upwards or downwards to reflect any unrealized gain or unrealized loss with respect to such Company property (as if such unrealized gain or unrealized loss had been recognized upon an actual sale of such property for the amount of its fair market value immediately prior to the event giving rise to revaluation under this Section 10.2(b), and had been allocated among the Members pursuant to Article VIII). In determining such unrealized gain or unrealized loss, the fair market value of Company properties as of the date of determination shall be reasonably determined by the Sole Manager.

(c) A transferee of a Company interest shall succeed to the Capital Account attributable to the Company interest Transferred, except that if the Transfer causes a termination of the Company under section 708(b)(1)(B) of the Code, Treasury Regulations § 1.708-1(b) shall apply.

(d) The Sole Manager may make such tax elections on behalf of the Company and the Members as the Sole Manager shall determine in its reasonable discretion.

**10.3 Transfers During Year**. The allocation of Profits and Losses under Article VIII between a Member who Transfers part or all of its interest in the Company during the Company's accounting year and his transferee, or to a Member whose Sharing Ratio varies during the course of the Company's accounting year, shall be based on an interim closing of the Company's books pursuant to Treasury Regulation § 1.706-1(c) to the extent consistent with the Code.

**10.4 Reports**. The Sole Manager shall cause the Company to deliver to the Members the following financial statements and reports at the times indicated below:

(a) Monthly, within 30 days after the end of each calendar month, a written report to each Member which shall include (i) a balance sheet as of the last day of such calendar month, (ii) a statement of income and a statement of cash flows for such calendar month, and (iii) a report of drilling and completion activities for the prior calendar month;

(b) Monthly, within 30 days after the end of each calendar month, a comparison of budgeted amounts for such prior calendar month to the actual results of operations for such prior calendar month, with a written explanation of any material variances;

(c) Quarterly, within 30 days after the end of each calendar quarter, a written report to each Member which shall include (i) a balance sheet as of the last day of such calendar quarter, (ii) a statement of income and a statement of cash flows for such calendar quarter, and (iii) a report of drilling and completion activities for the prior calendar quarter;

(d) Quarterly, within 30 days after the end of each calendar quarter, a comparison of budgeted amounts for such prior calendar quarter to the actual results of operations for such calendar quarter, with a written explanation of any material variances;

(e) Within 60 days after the end of each fiscal year of the Company, a copy of financial statements of the Company prepared in accordance with generally acceptable accounting principles and audited by the Independent Accountant, together with an audit report prepared by the Independent Accountant with respect to such financial statements;

(f) Within 60 days after the end of each fiscal year of the Company, a third party engineering report regarding the proved reserves of the Company prepared by the Independent Petroleum Engineer; and

(g) Within 75 days after the end of each fiscal year of the Company, the applicable Member's K-1, necessary to allow such Member to file its own income tax return for the preceding year.

Except as otherwise required by the Act or this Agreement, the Sole Manager shall not be required to deliver to any Member any other reports, audits or financial statements. The Sole Manager shall file all required state and federal tax returns when due.

**10.5 Section 754 Election**. If requested by a Member, the Company shall make the election provided for under section 754 of the Code. Any cost incurred by the Company in implementing such election at the request of any Member shall be promptly reimbursed to the Company by the requesting Member.

## ARTICLE XI.
## TRANSFER OF MEMBER'S INTEREST

**11.1 Restrictions on Transfers and Liens**. No Member shall Transfer or create a Lien on all or any portion of its Units except as permitted by this Article XI. Any attempted Transfer of, or creation of a Lien on, any portion of Units not in accordance with the terms of this Article XI shall be null and void and of no legal effect.

**11.2 Permitted Transfers and Liens**. Any Transfers and Liens permitted under this Section 11.2 shall also be subject to the other provisions of this Article XI. Only the following Transfers and Liens shall be permitted:

(a) A Member may Transfer (i) all, but not less than all, of its Units, so long as all Units are transferred to one Person or (ii) any of its Units if unanimous consent of the non-transferring Members is obtained; and

(b) A Member shall be entitled to create a Lien on all or any portion of its Units only as required by the Bank Revolving Credit Facility; *provided however,* that any Transfer of a Membership Interest or any interest therein (whether voluntary or involuntary (including any Transfer in foreclosure)) to or by the beneficiary of such Lien shall be subject to the provisions of this Article XI.

**11.3 Sale Participation Rights.**

(a) Except as provided in Section 11.2(b), no Member (a "Tagged Member") may Transfer all or a majority of its Units to any Proposed Purchaser, unless the Tagged Member has received a bona fide written offer from the Proposed Purchaser, and the Tagged Member first provides a written offer notice (a "Tag-Along Notice") to the other Members (the "Tagging Members") stating that the Tagged Member desires to Transfer all or a majority of its Units, designating the specific portion of the Units (the "Offered Interest") that the Tagged Member desires to Transfer and specifying the proposed purchase price (the "Offered Price") and all of the other material terms and conditions of the proposed Transfer of the Offered Interest to the Proposed Purchaser (the "Offered Terms"), and attaching a copy of the offer.

(b) Each Tagging Member shall have the right, but not the obligation, for a period of 20 Business Days after receipt of the Offer Notice, to elect to participate in the sale of the Offered Interest. Any such election shall be made by providing written notice of such election to the Tagged Member within such 20-Business Day period. If one or more Tagging Members elect to participate in the proposed sale of the Offered Interest under this Section 11.3, the Tagged Member shall allocate the Units included in the proposed sale among the Units of the Tagged Member and the electing Tagging Members, pro rata in proportion to their respective Sharing Ratios, with such sale otherwise on the Offered Terms. Any such sale shall be consummated within 90 days following the expiration of the 20-Business Day election period described above. The Tagged Member shall keep the electing Tagging Members advised regarding the timing of any such sale. The electing Tagging Member shall not be required to accept any terms, conditions, agreements or undertakings in connection with any such sale other than those described in the Offer Notice. If the Tagged Member does not sell the Offered Interest to the Proposed Purchaser within such 90-day period, the Tagged Member shall again afford the Tagging Members the participation rights set forth in this Section 11.3 with respect to any offer to sell, assign or dispose of all or any portion of the Offered Interest or any other Units held by the Tagged Member.

(c) In the event the holders ("Equity Owners") of equity interests in a Member ("Member Equity Interests") seek to Transfer all or substantially all of the Member Equity Interests in such Member, the foregoing Sections 11.3(a) and (b) shall apply, *mutatis mutandis*, as if such Equity Owners were the Tagged Member seeking to Transfer Units, and the Equity Owners in the other Member were the Tagging Members. Any Transfer by an Equity Owner in violation of the foregoing shall be deemed a breach of this Agreement by the Member in which such Equity Owner holds Member Equity Interests.

**11.4 Forced Sale Right.** Except as otherwise provided in Section 11.2, if a Dragging Member desires to Transfer all, but not less than all, of the Units of the Dragging Member in connection with a Transfer for cash not less than two years after the Effective Date to an unaffiliated third party Proposed Purchaser in a transaction where no additional material benefits are received by the Dragging Member in connection therewith and that is contingent on the Transfer of all of the Membership Interests held by any Dragged Members, the Dragging Member may deliver a notice (a "Drag-Along Notice") to the Dragged Members setting forth the Units to be Transferred, the proposed purchase price for such Units and the other material terms of the Transfer to the Proposed Purchaser, and attaching a copy of any agreements or written

offers from the Proposed Purchaser setting forth the terms of the Transfer. After the receipt of a Drag-Along Notice, the Dragged Members shall be obligated to Transfer all of its Units to the Proposed Purchaser upon the terms and conditions set forth in the Drag-Along Notice; provided, however, that (a) the terms and conditions set forth in the Drag-Along Notice shall apply to the Units to be Transferred by the Dragging Member, (b) the purchase price for all Units sold to the Proposed Purchaser shall be allocated among all of the Members selling their Units pro rata in accordance with the number of Units included in the sale, and (c) the closing of the purchase and sale occurs shall occur within 180 days after the delivery of the Drag-Along Notice. In the event the Equity Owners in Laramie or any successor to Laramie's interests ("Laramie Equity Owners") desire to Transfer all, but not less than all, of their Member Equity Interests in a Transfer for cash not less than two years after the Effective Date to an unaffiliated third party Proposed Purchaser that is contingent on the Transfer of all of the Member Equity Interests held by the Equity Owners in the other Member, the foregoing shall apply, *mutatis mutandis,* as if such Laramie Equity Owners were the Dragging Member seeking to Transfer Units, and the Equity Owners in the other Member were the Dragged Members. Any violation of the foregoing by an Equity Owner shall be deemed a breach of this Agreement by the Member in which such Equity Owner holds Membership Equity Interests.

**11.5 Substitution of a Member.**

(a) A transferee of Units who satisfies the requirements of Sections 11.6 and 11.7 to become a Member shall succeed to all of the rights and interest of its transferor in the Company. A transferee of a Member who does not satisfy such conditions shall not have any right to vote, shall be entitled only to the distributions to which its transferor otherwise would have been entitled and shall have no other right to participate in the management of the business and affairs of the Company or to become a Member, and the approval of such transferee shall not be required for any Major Decision.

(b) If a Member shall be dissolved, merged or consolidated, its successor in interest shall have the same obligations and rights to profits or other compensation that such Member would have had if it had not been dissolved, merged or consolidated, except that the representative or successor shall not become a substituted Member without satisfying the conditions of Sections 11.6 and 11.7. Such a successor in interest who satisfies those conditions shall succeed to all of the rights and interests of its predecessor. A successor in interest who does not satisfy those conditions shall not have any right to vote, shall be entitled only to the distributions to which its predecessor otherwise would have been entitled and shall have no right to participate in the management of the business and affairs of the Company or to become a Member, and the approval of such transferee shall not be required for any Major Decision.

(c) No Transfer of any interest in the Company otherwise permitted under this Agreement shall be effective for any purpose whatsoever until the transferee shall have assumed the transferor's obligations to the extent of the interest Transferred, and shall have agreed to be bound by all the terms and conditions hereof, by written instrument, duly acknowledged, in form and substance reasonably satisfactory to the Sole Manager. Without limiting the foregoing, any transferee that has not become a substituted Member shall nonetheless be bound by the provisions of this Article XI with respect to any subsequent Transfer. Upon admission of the transferee as a substituted Member, the transferor shall have no further obligations under this

Agreement with respect to that portion of its interest Transferred to the transferee; *provided, however,* no Member or former Member shall be released, either in whole or in part, from any liability of such Member to the Company pursuant to this Agreement or otherwise which has accrued through the date of such Transfer (whether as the result of a voluntary or involuntary Transfer) of all or part of such Member's interest in the Company unless the Sole Manager and the other Member agrees to any such release.

**11.6 Conditions to Substitution**. As conditions to its admission as a Member, such assignee, transferee or successor shall pay all reasonable expenses in connection with its admission as a substituted Member.

**11.7 Admission as a Member**. No Person shall be admitted to the Company as a Member until such Person (a) has assumed the obligations of this Agreement and (b) unless either (i) the Units or part thereof acquired by such Person have been registered under the Securities Act, and any applicable state securities laws or (ii) the Sole Manager has received a favorable opinion of the transferor's legal counsel or of other legal counsel reasonably acceptable to the Sole Manager to the effect that the Transfer of the Units to such Person is exempt from registration under those Laws.

## ARTICLE XII
## RESIGNATION, DISSOLUTION AND TERMINATION

**12.1 Resignation**. No Member shall have any right to voluntarily resign from the Company. Notwithstanding the foregoing, a Member shall be deemed to resign from the Company upon the Bankruptcy of such Member. When a transferee of all or any portion of Units becomes a substituted Member pursuant to Section 11.5, the transferring Member shall cease to be a Member with respect to the portion of the Units so Transferred.

**12.2 Dissolution**. The Company shall be dissolved upon the occurrence of any of the following:

(a) An event that causes dissolution under this Agreement

(b) The unanimous approval of the Members; or

(c) A decree of judicial dissolution.

A court may declare judicial dissolution if the Company cannot carry out its business in conformity with its Articles of Organization and this Agreement.

**12.3 Liquidation**. Upon dissolution of the Company, the Sole Manager shall appoint in writing one or more liquidators (who may be Members or the Sole Manager) who shall have full authority to wind up the affairs of the Company and to make a final distribution as provided herein. The liquidator shall continue to operate the Company properties with all of the power and authority of the Sole Manager. The steps to be accomplished by the liquidator are as follows:

(a) The liquidator shall pay all of the debts and liabilities of the Company or otherwise make adequate provision therefor (including, without limitation, the establishment of a cash escrow fund for contingent liabilities in such amount and for such term as the liquidator may reasonably determine). The liquidator shall then, by payment of cash or property (in the case of property, valued as of the date of termination of the Company at its agreed value, as determined by unanimous consent of the Members using a reasonable method of valuation), distribute to the Members such amounts as are required to distribute all remaining amounts to the Members in accordance with Article VII. For purposes of this Article XII, a distribution of an asset or an undivided interest in an asset in-kind to a Member shall be considered a distribution of an amount equal to the fair market value of such asset or undivided interest. Each Member shall have the right to designate another Person to receive any property that otherwise would be distributed in kind to that Member pursuant to this Section 12.3.

(b) Any real property distributed to the Members shall be conveyed by special warranty deed and shall be subject to the operating agreements and all Liens, contracts and commitments then in effect with respect to such property, which shall be assumed by the Members receiving such real property.

(c) Except as expressly provided herein, the liquidator shall comply with any applicable requirements of the Act and all other applicable Laws pertaining to the winding up of the affairs of the Company and the final distribution of its assets. Liquidation of the Company shall be completed within the time limits imposed by Treasury Regulations § 1.704-1(b)(2)(ii) and (g).

(d) The distribution of cash or property to the Members in accordance with the provisions of this Section 12.3 shall constitute a complete return to the Members of their respective Capital Contributions and a complete distribution to the Members of their respective interests in the Company and all Company property. Notwithstanding any other provision of this Agreement, no Member shall have any obligation to contribute to the Company, pay to any other Member or pay to any other Person any deficit balance in such Member's Capital Account.

(e) To the extent that the allocation provisions of this Agreement do not result in final Capital Account balances that are in proportion to the Members' respective Sharing Ratios, then, beginning in the taxable year that the dissolution of the Company occurs (or the immediately prior taxable year if the dissolution occurs no later than the unextended due date for the Company's federal income tax return for such prior taxable year) all or a portion of the Company's gross income and deductions recognized in such year (regardless of source and including but not limited to profit or loss or items thereof derived from Company operations or sales) shall be allocated (to the maximum extent possible) in a manner that produces such final Capital Accounts.

**12.4 Certificate of Cancellation**. Upon the completion of the distribution of the Company's assets as provided in this Article XII, the Company shall be terminated and the Person acting as liquidator shall file a certificate of cancellation and shall take such other actions as may be necessary to terminate the Company.

## ARTICLE XIII
## NOTICES

**13.1 Method of Notices**. All notices required or permitted by this Agreement shall be in writing and shall be hand delivered or sent by registered or certified mail, or by facsimile if confirmed by return facsimile, and shall be effective when personally delivered, or, if mailed, on the date set forth on the receipt of registered or certified mail, or if sent by facsimile, upon receipt of confirmation, if to the Members, at their respective addresses set forth on Exhibit A attached hereto, and if to the Sole Manager, to the following:

Laramie Energy II, LLC
1512 Larimer Street, Suite 1000
Denver, Colorado 80202
Attn: Bruce L. Payne
Fax #: 303-339-4399
Email: bpayne@laramie-energy.com

Any Member or Sole Manager may give notice from time to time changing its respective address for that purpose.

**13.2 Computation of Time**. In computing any period of time under this Agreement, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or legal holiday, in which event the period shall run until the end of the next day which is not a Saturday, Sunday or legal holiday.

## ARTICLE XIV
## GENERAL PROVISIONS

**14.1 Amendment**. This Agreement may not be amended except by an instrument in writing signed by all of the Members.

**14.2 Waiver**. Except as otherwise provided herein, rights hereunder may not be waived except by an instrument in writing signed by the party sought to be charged with the waiver.

**14.3 Confidentiality**. Each Member, Board Member and the Sole Manager will keep confidential and not use, reveal, provide or transfer to any third party any Confidential Information it obtains or has obtained concerning the Company, except (a) to the extent that disclosure to a third party is required by applicable Law; (b) information which, at the time of disclosure, is generally available to the public (other than as a result of a breach of this Agreement or any other confidentiality agreement to which such Person is a party or of which it has knowledge), as evidenced by generally available documents or publications; (c) information that was in its possession prior to disclosure (as evidenced by appropriate written materials) and was not acquired directly or indirectly from the Company; (d) to the extent disclosure is necessary or advisable, to its or the Company's employees, consultants or advisors for the purpose of carrying out their duties hereunder; (e) to banks or other financial institutions or agencies or any independent accountants or legal counsel or investment advisors employed by

the Sole Manager (in carrying out its duties on behalf of the Board or the Company), or any Member, to the extent disclosure is necessary or advisable: (i) in the case of the Sole Manager, to obtain financing for the Company or in connection with a sale of the Company's Assets; and (ii) in the case of any Member, in connection with a sale of such Member's Units in the Company; (f) to the extent necessary, disclosure to third parties to enforce this Agreement, (g) to a Member or Sole Manager or to their respective Affiliates; provided, however, that in each case of disclosure pursuant to (d), (e) or (g), the Persons to whom disclosure is made agree to be bound by this confidentiality provision, or (h) to direct and indirect investors in a Member in substantially the same manner as information regarding the disclosing person's other portfolio investments are shared with such investors. The obligation of each Member and Sole Manager not to disclose Confidential Information except as provided herein shall not be affected by the termination of this Agreement or the replacement of the Sole Manager or any Member. Notwithstanding the foregoing or anything to the contrary in this Agreement, any Member or Sole Manager (and any employee, representative or agent of such Person) may disclose to any and all Persons, without limitation of any kind, the tax treatment and tax structure of the transactions provided for by this Agreement, and all materials of any kind (including opinions or other tax analysis) that are provided to it relating to such tax treatment and tax structure, except that (1) tax treatment and tax structure shall not include the identity of any existing or future Member or Sole Manager, or any of their respective Affiliates, other than the disclosing party, and (2) this sentence shall not permit disclosure to the extent that nondisclosure is necessary in order to comply with applicable Laws, including, without limitation, federal and state securities Laws.

**14.4 Public Announcements**. Except as required by Law, no Member shall make any press release or other public announcement or public disclosure relating to this Agreement, the subject matter of this Agreement or the activities of the Company without the consent of the Sole Manager and the Members.

**14.5 Applicable Law**. This Agreement shall be construed in accordance with and governed by the laws of the State of Delaware, excluding its conflicts of laws rules.

**14.6 Dispute Resolution; Arbitration.**

(a) Each Member and the Sole Manager agree to attempt in good faith to resolve disputes prior to submitting such disputes to determination by arbitration. Within five days following delivery of written notice by one party to the other of a perceived breach or other dispute subject to arbitration, a senior executive of each Member and the Sole Manager, as applicable, will meet together in person (or if agreed by both parties, via telephone) to discuss ways to correct the dispute prior to taking further action.

(b) Each Member and Sole Manager, on its own behalf and on behalf of the Company, hereby submits all controversies, claims and matters of difference arising under or relating to this Agreement or the Company to arbitration in accordance with the provisions and procedures set forth in Schedule 14.6 attached hereto. Without limiting the generality of the foregoing, the following shall be considered controversies for this purpose: (i) all questions relating to the interpretation or breach of this Agreement, (ii) all questions relating to any representations, negotiations and other proceedings leading to the execution of this Agreement,

the formation of the Company, or the issuance of Units, and (iii) all questions as to whether the right to arbitrate any such question exists. Notwithstanding the foregoing, each Member and Sole Manager shall have the right to seek and obtain such temporary or preliminary injunctive relief from a court of competent jurisdiction to which it may be entitled pending a final determination by arbitration of the dispute to which such relief relates.

(c) Any dispute and related dispute resolution shall be subject to the provisions of Section 14.3 or such other provisions regarding confidentiality as the Members and the Company may agree.

**14.7 Severability**. If any provision of this Agreement (or any portion thereof) or the application of any such provision (or any portion thereof) to any Person or circumstance shall be held invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect the validity, legality or enforceability of the remaining provisions of this Agreement or the validity, legality or enforceability of the offending provision as to any other Person or circumstance or in any other jurisdiction.

**14.8 Specific Performance**. The Members expressly agree that the remedies available at Law for the breach of any of the obligations of the Parties under this Agreement are inadequate in view of the complexities and uncertainties in measuring the actual damages that would be sustained by reason of the failure of a Party to comply fully with such obligations, and the uniqueness of business arrangement between the Parties. Accordingly, each of the obligations specified herein shall be, and is hereby expressly made, enforceable by specific performance.

**14.9 Headings**. Article, Section and other subdivision headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.

**14.10 Entire Agreement; Conflicts**. This Agreement, with the Management Services Agreement and the Contribution Agreement, embodies the entire understanding and agreement among the parties concerning the Company and supersedes any and all prior negotiations, understandings or agreements in regard thereto. In the event of any conflict between this Agreement and the Management Services Agreement or the Contribution Agreement, the Management Services Agreement or the Contribution Agreement, as applicable, shall govern.

**14.11 Transaction Costs**. Except as specifically provided in this Agreement, the Management Service Agreement and the Contribution Agreement, each Member and the Sole Manager shall bear its own costs and expenses, including costs and expenses of its agents, representatives, attorneys and accountants, incurred in connection with the negotiation, drafting, execution, delivery and performance of this Agreement and the transactions contemplated hereby, including transactions pursuant to Article XI hereof.

**14.12 References**. References to a Member, Sole Manager, Board Member or Company officer, including by use of a pronoun, shall be deemed to include masculine, feminine, singular, plural, individuals, partnerships or corporations where applicable. References in this Agreement to terms in the singular shall include the plural and vice versa. The

words "include," "includes" and "including" are deemed to be followed by "without limitation" whether or not they are in fact followed by such words or words of similar import.

**14.13 U.S. Dollars**. References herein to "Dollars" or "$" shall refer to U.S. dollars and all payments and all calculations of amount hereunder shall be made in Dollars.

**14.14 Counterparts**. This instrument may be executed in any number of counterparts each of which shall be considered an original.

**14.15 Additional Documents**. The Members hereto covenant and agree to execute such additional documents and to perform additional acts as are or may become necessary or convenient to carry out the purposes of this Agreement.

**14.16 No Third Party Beneficiaries**. This Agreement is for the sole benefit of the Members, Board Members and the Sole Manager, and no other Person is intended to be a beneficiary of this Agreement or shall have any rights hereunder, except that Company officers shall also have the rights of indemnification and exculpation under Section 5.14.

**[Signatures on next page.]**

The parties have executed this Agreement to be effective as of the Effective Date.

**MEMBERS:**

LARAMIE ENERGY II, LLC,
a Delaware limited liability company

By:_____
Robert S. Boswell
Chairman and Chief Executive Officer

DELTA PETROLEUM CORPORATION,
a Delaware corporation

By:_____
Name: _____
Title: _____

**SOLE MANAGER**:

LARAMIE ENERGY II, LLC,
a Delaware limited liability company

By:_____
Robert S. Boswell
Chairman and Chief Executive Officer

**Exhibit A**

**Members, Addresses, Units**

| **MEMBERS:** | **Initial Capital Contribution** | **Units** |
|---|---|---|
| Laramie Energy II, LLC, a Delaware limited liability company<br>1512 Larimer Street, Suite 1000<br>Denver, Colorado 80202<br>Attn: Bruce L. Payne<br>Fax #: _____<br>Email: _____ | Laramie Assets | 333,333 |
| Delta Petroleum Corporation, a Delaware corporation<br>Address: _____<br>_____, __ _____<br>Attn: _____<br>Fax #: _____<br>Email: _____ | Delta Assets | 166,667 |
| | | |
| | | 500,000 |

**Exhibit B**

**Contribution Agreement**

(see attached)

**Exhibit C**

**Form of Management Services Agreement**

(see attached)

## Schedule 5.6(s)

NOL Prohibited Actions

- Cease engaging in more than an insignificant amount of the Business; provided, however, the foregoing shall not limit the Board's and Sole Manager's authority pursuant to Section 5.7 to slow, accelerate, or temporarily suspend the drilling and completion activity under any or all of the components of the Development Program nor shall the foregoing require the Company to maintain employees other than those provided for in Section 5.19;

- Selling, transferring or otherwise disposing of any assets that would render the Company unable to continue more than an insignificant amount of the Business;

- Cease using the historic Delta assets in the Business; or

- Eliminating the Company's employee positions essential to the conduct of the Business or otherwise cease using the Company's employees in the conduct of the Business (e.g., by transferring the activities conducted by the Company's employees to the Manager or any third party).

**Schedule 5.14(f)**

**Insurance**

1. Directors & Officers Liability Insurance with limits of not less than $5,000,000, and including Executive Defense, Employment Practices Liability, Fiduciary Liability and Crime coverage – each with limits of not less than $1,000,000.

2. Oilfield Equipment Insurance with total limits of not less than $30,000,000.

3. Workers' Compensation Insurance to cover full liability under Colorado's Workers' Compensation laws either directly or by requiring contractor's to provide said insurance.

4. Employer's Liability Insurance with limits as required by State Statutes for the accidental injury or death of one or more employees.

5. Comprehensive General Public Liability Bodily Injury and Property Insurance with limits of liability of not less than $2,000,000.00 for the accidental injury or death of persons or for property damage resulting of one accident or occurrence.

6. Automobile Bodily Injury and Property Damage Liability Insurance combined with limits of not less than $1,000,000.00 for injuries to or death of persons or property damage as the result of one accident or occurrence.

7. Umbrella Liability with limits of $15,000,000.00.

8. Losses, except for those caused by gross negligence or willful misconduct by the Operator, for which no insurance is required to be carried, or in excess of the limits set forth above.

9. Operators Extra Expense Insurance in the amounts shown below for each occurrence providing for the cost of well control including the cost for clean-up, containment, seepage and pollution and redrilling expense; coverage for this insurance shall be subject to a deductable of between $75,000.00 and $400,000.000 depending upon the type and location of the well.

    a) $ 7,000,000 Producing and Shut-In wells
    b) $10,000,000 Drilling – Mesa Verde wells
    c) $15,000,000 Drilling – Mancos and Horizontal wells

## Schedule 14.6

## Arbitration

1. **Initiation of Arbitration and Selection of Arbitrators**. The party desiring arbitration shall so notify the other party, identifying in reasonable detail the matters to be arbitrated and the relief sought. Arbitration hereunder shall be before one neutral arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association (the "AAA"). The AAA shall submit a list of potential arbitrators and the parties shall select an arbitrator in the manner established by the AAA. In the event that the parties fail to select an arbitrator as required above, the AAA shall select such arbitrator. The arbitrator shall be entitled to a fee commensurate with his or her fees for professional services requiring similar time and effort. If the arbitrator so desires, he or she shall have the authority to retain the services of a neutral judge or attorney (whose fees shall be treated as the arbitrator's fees) to assist him or her in administering the arbitration and conducting any hearings and taking evidence at such hearings or otherwise.

2. **Arbitration Procedures**. All matters arbitrated hereunder shall be arbitrated in Denver, Colorado, pursuant to the substantive Laws of the State of Delaware, and shall be conducted in accordance with the Commercial Arbitration Rules of the AAA, except to the extent such Rules conflict with the express provisions of this Schedule 14.6 (which shall prevail in the event of such conflict). The arbitrator shall use reasonable efforts to conduct a hearing no later than 75 days after submission of the matter to arbitration, and a decision shall be rendered by the arbitrator within 10 days of the hearing. The arbitrator shall permit discovery to the extent he or she believes, in his or her discretion, that discovery is necessary. At the hearing, the parties shall present such evidence and witnesses as they may choose, with or without counsel. Adherence to formal rules of evidence shall not be required but the arbitrator shall consider any evidence and testimony that he or she determines to be relevant, in accordance with procedures that he or she determines to be appropriate. No award of punitive or consequential damages shall be made. Any award entered in an arbitration shall be made by a written opinion stating the reasons for the award made.

3. **Enforcement**. This submission and agreement to arbitrate shall be specifically enforceable. Arbitration may proceed in the absence of any party if notice of the proceedings has been given to such party. The parties agree to abide by all awards rendered in such proceedings. Such awards shall be final and binding on all parties to the extent and in the manner provided by Delaware law. All awards may be filed with the clerk of one or more courts, state, federal or foreign, having jurisdiction over the party against whom such award is rendered or its property, as a basis of judgment and of the issuance of execution for its collection. No party shall be considered in default hereunder during the pendency of arbitration proceedings specifically relating to such default.

4. **Fees and Costs**. The arbitrator's fees and other costs of the arbitration and the reasonable attorney fees, expert witness fees and costs of the prevailing party shall be borne by the non-prevailing party. In its written opinion, the arbitrator shall, after comparing the respective positions asserted in the arbitration claim and answer thereto, declare as the prevailing

party the party whose position was closest to the arbitration award (not necessarily the party in favor of which the award on the arbitration claim is rendered) and declare the other party to be the non-prevailing party. The arbitration award shall include an award of the fees and costs provided by this paragraph 4 against the non-prevailing party.

**5. Consolidation**. Any party to the arbitration shall have the right, but not the obligation, to consolidate the arbitration proceedings under this Agreement with the arbitration of any other disputed issues between the parties to the arbitration.

# Exhibit 3

## Management Services Agreement

*Execution Version*

# MANAGEMENT SERVICES AGREEMENT

**By and Between**

**PICEANCE ENERGY, LLC**
**(COMPANY)**

**And**

**LARAMIE ENERGY II, LLC**
**(MANAGER)**

**August [_], 2012**

# MANAGEMENT SERVICES AGREEMENT

THIS MANAGEMENT SERVICES AGREEMENT (this "**Agreement**") dated [August __], 2012, is between LARAMIE ENERGY II, LLC, a Delaware limited liability company with offices at 1512 Larimer Street, Suite 1000, Denver, CO 80202 ("**Manager**") and PICEANCE ENERGY, LLC ("**Company**"), a Delaware limited liability company, with offices at 1512 Larimer Street, Suite 1000, Denver, CO 80202. Manager and the Company are hereinafter referred to as a "**Party**" or the "**Parties**" as applicable.

**Recitals:**

**A.** The Company has been organized by the Manager and Delta Petroleum Corporation, a Delaware corporation ("**Delta**"), (Laramie and Delta each being Members of the Company), for the purpose of engaging in the Business, including but not limited to the owning and operating certain oil and gas assets in Mesa and Garfield Counties, Colorado (the "**Assets**").

**B.** Pursuant to that certain Amended and Restated Limited Liability Company Agreement of the Company, between Laramie and Delta, dated [August __], 2012 (the "**Piceance LLC Agreement**"), the Company has determined that effective operation of the business and affairs of the Company and development of its Assets requires the expertise of Manager.

**C.** The Company desires to engage Manager, and Manager is willing to provide or cause to be provided certain services to the Company as described below and in accordance with the terms set forth in this Agreement.

**D.** The capitalized terms contained in this Agreement and not otherwise defined herein shall have the meaning attributed to such term in the Piceance LLC Agreement.

In consideration of Ten Dollars ($10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

## 1. APPOINTMENT OF MANAGEMENT COMPANY

**1.1 Appointment.** The Company hereby appoints the Manager, and the Manager hereby accepts such appointment, to manage and administer the Assets and to provide and/or supervise the provision of the Services (as defined below) described in this Agreement by and on behalf of, and for the account of, the Company, pursuant to and as set forth in this Agreement in accordance with the Piceance LLC Agreement.

**1.2 Scope of Authority.**

(a) Subject to the Piceance LLC Agreement and Section 1.2(b) below, the Manager shall have sole and exclusive right, responsibility and duty to operate the Company's Assets. Manager shall perform the duties and obligations herein imposed and conduct all Services in a good, workmanlike, and efficient manner in good faith and in accordance with sound industry practices and standards, subject

to the standard of care and limitation on liability set forth in the Piceance LLC Agreement. Subject to the Piceance LLC Agreement, Manager shall be responsible for all of the existing and future Assets, development of the Assets by drilling new wells and acquiring new oil and gas leases within the AMI, and the future sale or other disposition of the Assets.

(b) As set forth in Section 5.6 of the Piceance LLC Agreement, neither the Manager nor the Company shall have any authority to bind or take any action on behalf of the Company with respect to (i) any Major Decision unless such Major Decision has been unanimously approved by the Board of Managers, or (ii) any other action requiring approval of the Board of Managers or the Members without such approval.

**1.3 Relationship of the Parties.** The Services rendered by the Manager shall be as an independent contractor. Nothing in this Agreement shall be construed to create a joint venture, partnership, mining partnership, or any other similar arrangement between the Company and the Manager, nor to authorize either Party to act as agent for the other Party, except as expressly set forth in this Agreement.

**1.4 Legal Ownership.** Neither Manager nor its Affiliates shall take title to any Assets owned of record or beneficially by Company during the term of this Agreement. Any addition to the Assets by purchase, lease or otherwise on behalf of Company shall be acquired in the name of Company.

## 2. SERVICES

**2.1 Services to be rendered by Manager to the Company.** Subject to the provisions of the Piceance LLC Agreement regarding Major Decisions and other actions requiring the approval of the Board of Managers, Manager shall use commercially reasonable efforts to provide the Company with services for managing and administering the Assets, including but not limited to the following (collectively, the "**Services**"):

(a) Executive Level Services: all actions necessary to implement decisions of the Company, supervision, oversight, management and control of Manager's personnel and independent contractors;

(b) Asset Administration and Operating Level Management Services: manage the Assets including (i) marketing of natural gas, oil, condensate, and natural gas liquids, (ii) financing, hedging, and treasury matters, (iii) collection of accounts receivables and payment of accounts payable, (iv) accounting, budgeting, financial reporting, tax preparation and compliance, (v) legal oversight of business operations and contractual matters, (vi) management of lease and land records, (vii) administration and payment of rentals, royalties and other similar costs relating to the administration and maintenance of leases, (viii) acquisition of new leases within the AMI and payment of all bonus monies and other lease acquisition costs, (ix) management of oil and gas reserve and geologic data systems, (x) providing off-site engineering and geoscience technical services (xi)

maintenance of insurance, (xii) providing off-site equipment and service procurement (xiii) preparation of written health and safety compliance procedures, (xiv) preparing and monitoring permits, environmental assessments and other regulatory compliance, and (xv) such other services incidental to the foregoing;

(c) Supervision of Company Personnel and Contractors: supervise, manage, and control the following oil and gas field development expenditures which shall be performed by field level personnel employed and/or contracted and paid directly by the Company but supervised by Manager: (i) all labor and associated costs of field employees and contractors engaged in drilling, completion, workovers, maintenance, permitting, regulatory compliance, road, pad and pipeline construction, and operations, (ii) all third party provided drilling, completion, and well workover services, equipment, and materials, (iii) day-to-day oil and gas field operations, (iv) all direct supervision of field employees, contract labor, or third party contractors engaged in drilling, completion, workovers, maintenance, permitting, regulatory compliance, road, pad, and pipeline construction and operations, (v) all on-site engineering, geosciences, regulatory, and permitting technical and procurement services, (vi) environmental compliance, (vii) all procuring of abstracts, title examinations and curative activities, and (viii) other incidental services;

(d) Contract for Services: contract for the services required by Manager, in its reasonable discretion, to assist Manager in the performance of any of its duties and responsibilities under this Agreement, as Manager deems advisable, in its reasonable discretion;

(e) Agreement Compliance: cause the Company to comply with the terms and provisions of all agreements relating to the Assets to which Company is a party or to which the Assets are subject, including the Third Party Agreements (as defined below), and including managing and advising the Company regarding the Company's rights, obligations and elections with respect to any Joint Operating Agreements;

(f) Permitting/Reporting: cause the Company to obtain and maintain all licenses, permits, environmental assessments, and other necessary governmental authorizations and to file with appropriate governmental entities all required reports or other information necessary with respect to the ownership of the Assets and the conduct of Company's business and operations with respect thereto;

(g) Claims Management: act as an advocate on behalf of the Company in connection with the investigation, evaluation, appraisement, demand, response, negotiation, resolution and settlement of claims related to the Assets; and, at the Company's expense, assume the defense of, handle, investigate or settle all claims, demands, causes of action, lawsuits and other proceedings which relate in any way to the Assets or the duties performed pursuant to this Agreement; *provided, however*, that Manager shall obtain the approval of the Board of

Managers (including pursuant to Section 5.6 of the Piceance LLC Agreement where applicable) to enter into a settlement of any claim or action which will have a net cost to the Company exceeding $250,000 in any single case or $1,000,000 in the aggregate in any twelve-month period;

(h) Compliance with Laws: (i) comply in all material respects with all applicable leases, (ii) secure in the name of the Manager or the Company, where appropriate, all permits and nongovernmental approvals necessary to perform the Services, (iii) initiate and maintain procedures necessary to comply with applicable provisions of all laws, (iv) prepare and deliver to the applicable government authority all reports required for the Assets;

(i) Insurance: coordinate with the Company to cause the Company to maintain or cause to be maintained insurance and performance bonds with respect to the Assets as is specified in the Piceance LLC Agreement, or as otherwise reasonable and customary in the industry; and

(j) Other: such other duties and services reasonably incidental to the foregoing which Manager deems to be necessary to comply with this Agreement.

**2.2 Sales of Production**. Manager shall have the right and authority to negotiate sales contracts with third party purchasers for any oil, condensate, natural gas liquids, or natural gas produced by or for the account of Company on such terms and conditions as Manager reasonably deems appropriate in the best interests of Company. Manager shall cause the Company to execute and deliver any and all sales contracts, transfer orders, division orders and other instruments that may, at any time, be required by any purchasers of production from the applicable Assets, or by the Manager for the purposes of effectuating the payment of the proceeds from sales of production.

**2.3 Third Party Agreements**. The Parties acknowledge that the Assets were contributed to the Company subject to applicable unit agreements, lease agreements, surface use agreements, operating agreements, gas gathering, gas processing, and gas sales and other agreements (the "**Third Party Agreements**"). Manager agrees that all actions and decisions made by Manager regarding the Assets shall be in accordance with the Third Party Agreements. Manager shall negotiate and cause the Company to execute all amendments to existing Third Party Agreements and additional agreements (which additional agreements shall be part of the Third Party Agreements) affecting the Assets which the Manager reasonably believes are necessary or desirable in connection with the ownership, operation, production and maintenance of the Assets or to perform any of its duties hereunder.

**2.4 Personnel Matters.** Manager throughout the term hereof shall employ or engage, adequate professional, supervisory, and managerial employees or independent contractors necessary to perform the Services described in Section 2.1(a) and 2.1(b) and shall cause the Company to employ or engage adequate field level employees or independent contractors necessary to perform all field level and operational activities contemplated hereunder, including the Services described in Section 2.1(c). It is expected that such existing field level and operational employees of the Manager as are required to maintain the Assets as contemplated

under this Agreement shall be assigned by the Manager to the Company and shall be employees of the Company as of the Effective Date and all future field operating personnel engaged in such activities shall be employed or contracted directly by the Company. Manager shall comply in all material respects with all applicable laws relating to employment or health and safety of workers, including OSHA and similar state and local laws.

**2.5 Receipt of Proceeds of Production and Payment of Expenses.** All revenues and income of the Company shall be and remain the property of the Company and no such revenues or income shall be retained by Manager. Manager shall deposit or cause to be deposited all proceeds which the Company is entitled to receive under Third Party Agreements or otherwise into an account in the name of the Company specified by the Company. To the extent received by Manager, Manager shall promptly provide to the Company all invoices or bills for debt service, taxes payable by the Company, royalties, overriding royalties and other burdens on production, lease acquisition costs, goods, services, amounts payable under operating agreements, the Management Fee, and expenditures related to the business of the Company to allow the Company to timely pay such costs and expenses.

**2.6 Compliance and Safety Audit Rights.** All Members shall have the right to audit the Manager's records, procedures, and performance relating to compliance with all regulations and Manager's safety policies; provided that such right shall be at a requesting Member's sole cost and expense and shall be exercised no more than once per calendar year. Manager shall make all records relating to such compliance and safety policies available for inspection, during normal business hours, upon five business days' prior notice.

**2.7 Other Activities.** The Manager's primary activity shall be to provide the services contemplated herein to the Company. It is understood and agreed that Manager may provide similar services for its own account outside of the AMI and that Manager owns oil and gas assets outside of the AMI. The Company agrees that Manager shall be free to pursue other activities outside of the AMI, or new opportunities within the AMI that Company's Board of Managers has rejected, and that the Company shall have no interest therein, so long as such activities do not detract from the Manager's delivery of the services provided hereunder.

**2.8 Reimbursements.** In connection with providing the Services, if and to the extent that Manager pays or advances reasonable expenses on behalf of the Company which are not otherwise taken into account for payment under Section 4.1, the Company agrees to reimburse Manager for such expenses; provided that such expenses shall not relate to payments for services the Manager is obligated to provide hereunder. The Parties acknowledge and agree that Manager shall have no duty or obligation to advance expenses or any funds to, or on behalf of, the Company. Each invoice delivered by Manager to the Company pursuant to Section 4.1 shall include the calculation of the expenses which are the subject thereof, together with supporting documentation.

## 3. RECORDS, FINANCIAL REPORTING AND BANK ACCOUNTS

**3.1 Books and Records.** Manager agrees to prepare and to cause the Company to maintain complete and accurate books and records with respect to the Services and to cause the Company to retain the same for a period of not less than seven (7) years after completion of the

Services. The Company and its Members and duly authorized representatives shall have access at all reasonable times to such books and records.

**3.2 Financial Reports.** Manager shall maintain complete and accurate books of account of the Company's affairs at the principal office of the Company in accordance with GAAP and shall deliver to the Company's Members the financial statements and reports listed in Section 10.4 of the Piceance LLC Agreement. .

**3.3 Bank Accounts.** Manager shall establish and maintain for and in the name of the Company one or more bank and/or investment accounts or arrangements as determined by the Company. All Company funds shall be deposited in such account(s) and shall not be commingled with funds of the Manager or any other person or entity. All deposits to and disbursements from such account(s) shall be made only for proper Company purposes and shall be signed or authorized by Manager's Chief Financial Officer or Chief Executive Officer. Copies of all monthly statements for all such accounts shall be available at the request of a Member.

## 4. COMPENSATION

**4.1** Manager shall be compensated for its Services under the terms of this Agreement in an amount equal to $650,000 per month (the "**Management Fee**") due on the first day of each month and commencing with the month that this Agreement becomes effective.

The Management Fee shall reimburse the Manager for its general and administrative overhead expenses incurred in providing the Services, including:

(a) salaries and employee benefits for Manager's Denver and Grand Junction employees or contractors engaged in the Services outlined in Sections 2.1(a) and 2.1(b) (i.e. Manager's executives, engineers and technicians, geologists, land administration staff, accountants and accounting staff, regulatory and compliance staff, office administration staff, and professional level consultants or contractors, but not to include the Company's field operations level staff or contractors);

(b) Manager's Denver and Grand Junction office rent;

(c) third party costs for the Manager's own accounting, legal services, IT, audit and tax preparation, including outside contract costs for the Services described in this Section 4.1(c) and 4.1(a);

(d) communication costs of the Manager's Denver and Grand Junction offices or Manager's employees;

(e) Manager's Directors & Officers insurance and office property insurance; and

(f) Manager's office expenses, dues, subscriptions, supervisory employee travel expenses, and miscellaneous expenses.

**4.2** For the avoidance of doubt, the following lease operating expenses, capital expenditures, royalties, taxes, and other charges shall be borne directly by the Company and are not included in Manager's general and administrative expenses that are intended to be compensated by the Management Fee:

(a) salaries and employee benefits and customary allowances for oil and gas field supervisors and field employees directly engaged in field operations, maintenance, construction, surveying, well remedial work, equipment movement and drilling, oversight of drilling operations, oversight of completion operations, safety, permitting, regulatory compliance and environmental activities;

(b) fees of any consultants or contractors engaged in the activities outlined in 4.2(a);

(c) transportation costs of Manager's employees, consultants, and contractors engaged in field level operations;

(d) costs of contractors, equipment, and materials to maintain the Company's surface lands;

(e) costs and expenses necessary for the repair or replacement of the Assets resulting from damages or losses incurred, provided that damages or losses due to the Manager's gross negligence shall not be reimbursed hereunder;

(f) all legal services for the Company's affairs including without limitation contract preparation, recording fees and legal costs of handling, settling, or otherwise discharging litigation, claims, and liens incurred or resulting from operations of the Assets;

(g) costs for procuring abstracts and fees paid to attorneys for title examinations, and curative work;

(h) all ad valorem, severance, sales, and other taxes and permitting fees assessed or levied upon the Assets or the production therefrom (including the costs of any tax consultations required for matters regarding ad valorem, severance, or sales taxes);

(i) premiums paid for insurance required to conduct operations and for the protection of the Company including (i) worker's compensation, (ii) comprehensive general public liability, bodily injury, and property insurance, (iii) automobile bodily injury and property damage liability insurance, (iv) umbrella liability, (v) operator's extra expense insurance, and (vi) control of well insurance;

(j) costs of acquiring, leasing, installing, operating, and maintaining communication facilities or systems including field telemetry systems, between the well equipment and the Manager's field offices directly and its Denver office;

(k) costs incurred for technical services for permits, environmental assessments, and other regulatory matters to comply with ecological, environmental, and safety laws or standards required by regulatory authorities including OSHA, EPA, BLM, U.S. Forest Service, Colorado Oil and Gas Conservation Commission, the Colorado Dept. of Wildlife, and local municipalities and counties;

(l) costs incurred for abandonment and reclamation of the Assets;

(m) expenditures for drilling and completion of the Company's oil and gas and disposal wells;

(n) expenditures for any well undergoing any type of workover, recompletion, and/or abandonment of the Company's wells;

(o) expenditures for constructing, repairing, and maintaining roads, pads, gathering lines, facilities, buildings, compressors, and production equipment;

(p) lease rentals, shut-in well payments, royalties, burdens, minimum royalties, surface use and related payments;

(q) lease bonuses and renewals or extensions thereof;

(r) cost of the Company's audit, independent reserve report, and Federal and state tax preparation services;

(s) legal and third party technical fees relating to the evaluation and documentation of a Company Opportunity; and

(t) such additional amounts as may be required for the transition costs of taking over the administration of the Delta Assets (as defined in that certain Contribution Agreement dated as of June 4, 2012 among Manager, Company and Delta) and any unforeseen legal, environmental, or regulatory matters relating to the Delta Assets that Manager may be required to incur.

## 5. DURATION AND TERMINATION

**5.1 Term.** This Agreement shall be effective from the date first written above and shall continue until the removal or resignation of Manager, or until the dissolution of the Company or a merger, sale of substantially all equity interests in or assets of the Company or similar business combination transaction.

**5.2 Removal of the Manager.** The Company may remove Manager without cause only with unanimous approval of the Board of Managers or in the event that Laramie sells all of its Units to an unrelated entity (where Delta had tag along rights but declined to exercise them), provided, that any party to become successor manager must satisfy the requirements of Section 5.6(n) of the Piceance LLC Agreement. The non-managing Member may remove Manager for cause, where cause shall mean gross negligence or willful misconduct, bankruptcy, or Manager's

material breach of this Agreement that remains uncured for 30 days after notice of such breach has been provided.

**5.3 Effect of Termination.** Any termination hereunder shall not affect Manager's obligation to complete the Services previously undertaken prior to the notice of termination or the Company's obligation to compensate for such Services. All funds in the possession of Manager belonging to the Company which have not been expended or previously contractually committed shall be returned to the Company upon termination of this Agreement.

## 6. OWNERSHIP OF WORK PRODUCT AND CONFIDENTIALITY

**6.1 Work Product.** The work produced by Manager under the terms of this Agreement, including, without limitation, all work papers, drafts, notes, reports, extracts and other written or electronic recordings, developed in connection with the performance of the Services hereunder ("**Work Product**") shall be the property of the Company. Manager shall have no right or interest in any such Work Product, and may only use such Work Product to perform Services hereunder, all in accordance with the limitations, duties and obligations imposed by this Agreement, including this Article 6.

**6.2 Confidentiality.** Manager, its employees, agents and representatives agree to maintain the confidentiality of all Confidential Information in accordance with the provisions of Section 14.3 of the Piceance LLC Agreement.

## 7. LIABILITY AND INDEMNIFICATION

**7.1 Indemnification by Company.** Manager shall not be liable to the Company, and the Company shall defend, indemnify, and save and hold harmless the Manager and its shareholders, directors, members, managers, partners, officers, employees, agents, and contractors ("**Manager Indemnified Parties**"), from and against, and shall promptly reimburse each Manager Indemnified Party with respect to any act or omission of Manager arising out of or relating to the provision of Services hereunder made in good faith and in the belief that such act or omission is in or is not opposed to the best interests of the Company; provided that such act or omission does not violate the standard of care required under Section 5.14 of the Piceance LLC Agreement for the Sole Manager to be indemnified by the Company under that Agreement. Notwithstanding the foregoing, the Company shall not be liable for any consequential loss or damage, including loss of profits.

**7.2 Indemnification by the Manager.** The Manager shall defend, indemnify, and save and hold harmless the Company and its Members and their respective shareholders, directors, members, managers, partners, officers, employees, agents, and contractors (the "**Non-Manager Indemnified Parties**") from and against, and shall promptly reimburse each Non-Manager Indemnified Party with respect to, any and all actual loss, cost, expense, liability, fine, obligation or damage paid, incurred, or suffered by such Non-Manager Indemnified Party arising out of or relating to the provision of Services hereunder, but only to the extent that the same arise from or are attributable to (i) the material breach of any representation, warranty, covenant, or agreement of the Manager contained in this Agreement (excluding any covenant or agreement relating to the performance of the Services); or (ii) the Manager's gross negligence, fraud, willful

misconduct or willful violation of law in performing the Services under this Agreement. Notwithstanding the foregoing, Manager shall not be liable for any consequential loss or damage, including lost production or loss of profits.

## 8. MISCELLANEOUS

**8.1 Covenants**. The Parties agree to reasonably cooperate with one another and provide necessary support services as reasonably required in order to facilitate the performance of the Services set forth in this Agreement.

**8.2 Entire Agreement.** The Parties acknowledge that this Agreement, with the Contribution Agreement and the Piceance LLC Agreement, embodies the entire understanding and agreement among the Parties and supersedes any and all prior negotiations, understandings, or agreements in regard thereto. This Agreement may not be modified or amended except in writing, duly signed by the authorized representatives of the Parties hereto.

**8.3 Interpretation and Conflict.** This Agreement shall be interpreted and construed under the laws of the State of Colorado, without regard to its conflicts of law provisions.

**8.4 Modification and Waiver Agreement.** No waiver, amendment or modification, including those by custom, usage or trade or course of dealing, of any provision of this Agreement will be effective unless in writing signed by the Party against whom such waiver, amendment or modification is sought to be enforced. Performance of any obligation required of a Party under this Agreement may be waived only by a written waiver signed by a duly authorized officer or Company of the other Party and such waiver shall be effective only with respect to the specific obligations described in that waiver. Any amendment of this Agreement is subject to the requirements of the Piceance LLC Agreement.

**8.5 Notices.** All notices, payments and other requirements and communications under this Agreement shall be writing and addressed to the respective addresses of each Party as set forth in the first paragraph of this Agreement. All notices shall be given (i) by personal delivery; or (ii) by electronic communication, with a conformation simultaneously signed by registered or certified mail, return receipt requested, or (iii) by registered or certified mail, return receipt requested. All notices shall be effective and shall be deemed delivered (i) if by personal delivery on the date of delivery, if delivered during normal business hours, and if not delivered during normal business hours, on the next business day following receipt; (ii) if by electronic communication on the next day following receipt of the electronic communication; and (iii) if solely by mail, on the next business day after actual receipt. The Parties may change their respective addresses by notice as provided in this Section.

**8.6 Assignment.** This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors and permitted assigns; provided, however, that this Agreement may not be assigned by Manager without the unanimous consent of the Company's Board of Managers, unless Manager is selling all of its Units in the Company to a purchaser that satisfies the requirements of Section 5.6(n) of the Piceance LLC Agreement. Any assignment in violation of the foregoing shall be void.

**8.7 Representations.** Each of the Parties represents, warrants and covenants to the other Party that it is fully authorized to enter into this Agreement and that the person that is appearing on its behalf is duly authorized to represent such Party in the terms of this Agreement.

[Signature Page to Follow]

Executed by the Parties as of the day and year first written above.

**COMPANY:**

PICEANCE ENERGY, LLC

By: _____
Its: Bruce L. Payne
President & Chief Financial Officer

**MANAGER:**

LARAMIE ENERGY II, LLC

By: _____
Its: Robert S. Boswell
Chief Executive Officer

# Exhibit 4

# General Trust Agreement

# Exhibit 5

# Wapiti Trust Agreement

# Exhibit 6

## JV Company Credit Facility Term Sheet

**CONFIDENTIAL**

# SUMMARY OF INDICATIVE TERMS AND CONDITIONS

## Piceance Energy LLC

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**May 25, 2012**

| | |
|---|---|
| **BORROWER:** | Piceance Energy LLC ("Borrower"). |
| **GUARANTORS:** | (i) Laramie Energy II, LLC and Delta Petroleum Corporation on a several basis and with recourse limited to the pledge of such entities' equity interests in Borrower (collectively, the "Parent Guarantors") and (ii) all direct and indirect subsidiaries of Borrower now or hereafter created or acquired designated by Borrower (collectively, the "Subsidiary Guarantors" and together with the Parent Guarantors, the "Guarantors"). |
| **JOINT LEAD ARRANGERS AND BOOK RUNNERS:** | J. P. Morgan Securities LLC ("JPMS") and Wells Fargo Securities, LLC ("WFS", and together with JPMS, each an "Arranger" and collectively, the "Arrangers"). |
| **ADMINISTRATIVE AGENT:** | JPMorgan Chase Bank, N.A. (in its individual capacity and not as administrative agent, "JPMorgan") will act as sole and exclusive administrative and collateral agent (in such capacity, "Administrative Agent"). As such, Administrative Agent will negotiate with Borrower, act as the primary contact for Borrower and perform all other duties associated with the role of exclusive administrative agent. |
| **SYNDICATION AGENT:** | Wells Fargo Bank, National Association ("Wells Fargo"). |
| **LC ISSUER:** | JPMorgan. |
| **LENDERS:** | A group of lenders selected in consultation with Borrower (collectively, together with JPMorgan and Wells Fargo, the "Lenders"). It is anticipated that JPMorgan and Wells Fargo will be the sole Lenders at closing. |
| **CREDIT FACILITY:** | A $400,000,000 senior secured revolving credit facility (the "Credit Facility") under which availability will be limited to the lesser (i) $400,000,000 (the "Maximum Credit Amount"), or (ii) the Borrowing Base (as hereinafter described) as in effect from time to |



J.P.Morgan

time. The initial aggregate commitments and the initial Borrowing Base shall be Zero Dollars ($0) until such time as all conditions precedent for the initial redetermination of the Borrowing Base and initial funding under the Credit Facility have been satisfied (the "Initial Loans Effective Date"), at which time the Borrowing Base shall be set as $140,000,000 (as so redetermined, such amount being referred to herein as the "Transaction Borrowing Base"). The Maximum Credit Amount may be reduced by Borrower, in multiples of $5,000,000, upon three business days' prior notice. At no time will the Borrowing Base exceed the Maximum Credit Amount.

**LETTERS OF CREDIT:** The Credit Facility shall include a $15,000,000 sublimit for letters of credit issued by LC Issuer which may be used for general corporate purposes of Borrower and the Subsidiary Guarantors.

**SYNDICATION MANAGEMENT:** JPMorgan, in its capacity as Arranger, will manage all aspects of the syndication in consultation with Borrower.

**INTEREST RATES:** At Borrower's option:

- Alternate Base Rate plus the Applicable Margin determined in accordance with the Pricing Grid attached hereto as Addendum I.
- Adjusted Eurodollar Rate plus the Applicable Margin determined in accordance with the Pricing Grid attached hereto as Addendum I.

"Adjusted Eurodollar Rate" means the Eurodollar Rate, as adjusted for statutory reserve requirements for eurocurrency liabilities.

"Alternate Base Rate" means a fluctuating rate of interest equal to the greatest of (i) the prime rate of interest announced from time to time by JPMorgan or its parent (which is not necessarily the lowest rate charged to any customer), changing when and as said prime rate changes, (ii) the sum of the Federal Funds Effective Rate most recently determined by Administrative Agent plus 0.5% per annum and (iii) the Adjusted Eurodollar Rate for a one-month interest period plus 1.0% per annum.

"Eurodollar Rate" means the applicable British Bankers' Association LIBOR rate for deposits in U.S. dollars, as reported by any generally recognized financial information service as of 11:00 a.m. (London time) two business days prior to the first day of the applicable interest period, and having a maturity equal to such interest period; provided

that, if no such British Bankers' Association LIBOR rate is available to Administrative Agent, the applicable Eurodollar Rate for the applicable interest period shall instead be the rate determined by Administrative Agent to be the rate at which JPMorgan or one of its affiliate banks offers to place deposits in U.S. dollars with first-class banks in the London interbank market at approximately 11:00 a.m. (London time) two business days prior to the first day of such interest period, in the approximate amount of JPMorgan's relevant eurodollar loan and having a maturity equal to such interest period.

"Federal Funds Effective Rate" means, for any day, an interest rate per annum equal to the weighted average of the rates on overnight Federal Funds transaction with members of the Federal Reserve System arranged by Federal funds brokers, as published for such day by the Federal Reserve Bank of New York, or if such rate is not so published for such day, the average of the quotations for such day on such transactions received by Administrative Agent from three Federal funds brokers of recognized standing selected by it.

Adjusted Eurodollar Rate interest periods shall be one, two or three months. Interest on Alternate Base Rate loans shall be payable on the last day of each quarter, upon any prepayment (whether due to acceleration or otherwise) and at final maturity. Interest on Adjusted Eurodollar Rate loans shall be payable in arrears on the last day of each interest period, in the case of an interest period longer than three months, quarterly, upon any prepayment (whether due to acceleration or otherwise) and at final maturity. Interest on all Adjusted Eurodollar Rate loans shall be calculated for actual days elapsed on the basis of a 360-day year. Interest on all Alternate Base Rate loans and all fees shall be calculated for actual days elapsed on the basis of a 365, or when appropriate 366, day year.

The Loan Documents (as hereinafter defined) will include customary provisions (i) protecting the Lenders against increased costs or loss of yield resulting from changes in reserve, tax, capital adequacy and other requirements of law and (ii) indemnifying the Lenders for breakage costs incurred in connection with among other things, any prepayment of an Adjusted Eurodollar Rate loan on a day other than the last day of an interest period with respect thereto. After default, the interest rate will be equal to the applicable interest rate, plus the Applicable Margin, plus 2% per annum.

**BORROWING BASE:** The Borrowing Base will be determined by Administrative Agent and the Lenders in their sole discretion, based on customary lending practices, review of the oil and gas properties included in the

Borrowing Base (the "Borrowing Base Properties"), financial review of Borrower, and such other factors as may be deemed relevant by Administrative Agent and Lenders. Following the establishment of a Borrowing Base in the amount of the Transaction Borrowing Base on the Initial Loans Effective Date, the Borrowing Base shall be redetermined (i) on or about March 15 of each year based on the previous December 31 reserve report prepared by an independent engineering firm acceptable to Administrative Agent, and (ii) on or about September 15 of each year based on the previous June 30 reserve report prepared by Borrower's internal engineers, with the first such scheduled redetermination occurring on or about March 15, 2013. Required Lenders (as hereinafter defined) and Borrower shall each have the right to request one additional Borrowing Base determination in each period between scheduled Borrowing Base determinations. Any increase in the Borrowing Base from a redetermination (including any unscheduled redetermination) shall require approval of all Lenders. Any decrease or reaffirmation of an existing Borrowing Base shall require approval of Required Lenders.

**PURPOSE:** The Credit Facility is available to provide funds for (i) consummation of the Transactions (as defined in the Commitment Letter to which this Summary of Indicative Terms and Conditions is attached), (ii) the exploration, development and/or acquisition of oil and gas properties, and (iii) working capital and other general corporate purposes.

**MATURITY:** Four years from closing.

**REPAYMENT:** Quarterly interest payments, only, on Alternate Base Rate borrowings and at maturity of each Eurodollar tranche; provided that interest on Eurodollar tranches having an interest period longer than 90 days shall be payable quarterly.

**MANDATORY REPAYMENT:** To the extent that outstandings exceed the Borrowing Base, a "Loan Excess" shall exist. If a Loan Excess arises, Borrower shall, within 10 days after being notified of the deficiency, indicate by written notice to Administrative Agent, its decision and plan to do one or a combination of the following: (a) within 90 days of delivering such election notice, include additional oil and gas properties in the Borrowing Base (and as collateral) that are sufficient in value, as determined by Administrative Agent and the Lenders in accordance with their customary Borrowing Base determination procedures, to eliminate the Loan Excess, (b) within 30 days of delivering such election notice, repay the outstanding balance under the Credit Facility in one lump sum necessary to eliminate the Loan Excess,

(c) within 90 days of delivering such election notice, repay the Loan Excess in three equal monthly payments, or (d) within 90 days of delivering such election notice, eliminate the Loan Excess through a combination of the addition of collateral as provided above and repayment of a part of the Loan Excess**.**

**COLLATERAL:** Perfected, first and prior (subject to customary exceptions and permitted liens to be set forth in the Loan Documents (as hereinafter defined)) liens and security interests on oil and gas properties and related assets and interests (including, without limitation, operating equipment, accounts, inventory, contract rights, general intangibles and all products, proceeds and other interests relating to ownership, operation and/or production of such properties) of Borrower and the Subsidiary Guarantors. As a condition to the Initial Loans Effective Date, and additionally as necessary from time to time thereafter, Borrower and the Subsidiary Guarantors shall deliver to Administrative Agent mortgages granting to Administrative Agent perfected, first and prior liens with acceptable evidence of title on not less than 80% of the PV-9 value of Borrower's and the Subsidiary Guarantors proved oil and gas reserves, as determined by Administrative Agent, currently owned or hereafter acquired ("Mortgaged Properties").

Perfected, first and prior liens on the issued and outstanding equity interests of all existing or future acquired or created subsidiaries of Borrower and Subsidiary Guarantors designated by Borrower. Perfected, first and prior liens on 100% of the issued and outstanding LLC interests in Borrower by Parent Guarantors.

**DOCUMENTATION:** The Credit Facility will be subject to the negotiation and execution of mutually acceptable and definitive loan documentation (the "Loan Documents"). The Loan Documents will include, without limitation, a Credit Agreement which will be in a form substantially similar to that certain Credit Agreement dated as of June 14, 2007, as amended through the date hereof, among Laramie Energy II, LLC, JPMorgan, as administrative agent, and the lenders party thereto (the "Prior Credit Agreement"), with such changes as may be required to reflect that the initial Borrowing Base under the Credit Facility will be Zero Dollars ($0), and will contain certain conditions precedent, representations and warranties, financial covenants, affirmative covenants, negative covenants and events of default that are customary for transactions of this type. It is anticipated that such conditions precedent, representations and warranties, financial covenants, affirmative covenants, negative covenants and events of default will include, but not necessarily be limited to, those set forth herein.

**CONDITIONS PRECEDENT TO EFFECTIVE DATE:**

The closing of the Credit Facility with an initial Borrowing Base of Zero Dollars ($0) shall be subject to the conditions precedent contained in the Commitment Letter and other usual and customary conditions precedent including, but not limited to, the following:

- A reserve engineering report covering the oil and gas properties of Borrower and the Subsidiary Guarantors after giving effect to the Transactions (the "Combined Business") prepared by Borrower's and/or Laramie Energy II, LLC's internal engineers using such reasonable assumptions as Administrative Agent shall specify (including discount rates and projected hydrocarbon price assumptions) and such other reserve, engineering, geological and title information as may be requested by Administrative Agent or its counsel.
- Negotiation and execution of comprehensive Loan Documents satisfactory to the Lenders, Administrative Agent, Borrower and their respective counsel.
- Satisfactory review of usual documentation relating to Borrower including, without limitation, organizational documents, borrowing authority, ordinary and customary certificates, and legal opinions (including, without limitation, local counsel opinions), as well as other documents required by Administrative Agent's counsel.
- Payment of all fees and expenses due and payable to Arrangers and Administrative Agent on or prior to the closing date, including, but not limited to, out-of-pocket expenses and reasonable attorneys' fees to the extent invoiced.
- All governmental and third party approvals necessary in connection with the entering into of the Credit Facility shall have been obtained in form and substance satisfactory to the Administrative Agent in all material respects and shall be in full force and effect, and all applicable waiting periods shall have expired without any action being taken or threatened by any competent authority that would restrain, prevent or otherwise impose adverse conditions on the financing or any other transactions contemplated hereby.
- Satisfactory completion of a due diligence investigation of the Combined Business, Borrower and the Subsidiary Guarantors.
- Accuracy of representations and warranties of Borrower contained in the Credit Agreement.

**CONDITIONS PRECEDENT**

**TO ESTABLISHMENT OF TRANSACTION BORROWING BASE AND INITIAL FUNDING:** The increase of the Borrowing Base to the Transaction Borrowing Base and the initial funding under the Credit Facility shall be subject to the conditions precedent contained in the Commitment Letter and other usual and customary conditions precedent including, but not limited to, the following, each of which shall have been met on or prior to August 31, 2012:

- Receipt of required mortgages, security agreements, guaranties, notes and acceptable evidence of title.
- Satisfactory completion of a due diligence investigation of the Combined Business, Borrower and the Subsidiary Guarantors including, without limitation, an environmental review of their properties and operations.
- In addition to such documents delivered in connection with the closing of the Credit Facility, satisfactory review of usual documentation relating to Borrower and the Guarantors including, without limitation, organizational documents, borrowing authority, ordinary and customary certificates, and legal opinions (including, without limitation, local counsel opinions), as well as other documents required by Administrative Agent's counsel.
- Payment of all fees and expenses due to Arrangers and Administrative Agent on or prior to the initial funding under the Credit Facility, including, but not limited to, out-of-pocket expenses and reasonable attorneys' fees to the extent invoiced.
- All governmental and third party approvals necessary in connection with the Transactions (including, without limitation, the entry of an order by the United States Bankruptcy Court having jurisdiction over Delta Petroleum Corporation's currently pending chapter 11 bankruptcy case (the "Bankruptcy Court") authorizing and approving the Transactions, which order shall not be subject to an unexpired stay arising under applicable law or entered by the Bankruptcy Court or any other court having jurisdiction to enter such stay), the financing thereof and the continued operations of the Combined Business shall have been obtained in form and substance satisfactory to the Administrative Agent in all material respects and shall be in full force and effect, and all applicable waiting periods shall have expired without any action being taken or threatened by any competent authority that would restrain, prevent or otherwise impose adverse conditions on the Transactions or the financing thereof, or any transactions contemplated hereby.
- The absence of any action, suit, investigation or proceeding pending or threatened in any court or before any arbitrator or

governmental authority that purports to affect the Transactions, any transaction contemplated hereby, or that could have a material adverse effect on the Combined Business, Borrower, the Subsidiary Guarantors, the Transactions or any transaction contemplated hereby or on the ability of Borrower or the Guarantors to perform their obligations under the Loan Documents.

- The Transactions shall have been (or substantially concurrently with the initial funding under the Credit Facility shall be) consummated in accordance with applicable law, any orders of the Bankruptcy Court and the terms of the acquisition and other agreements related thereto with no amendments or modifications thereto, or waivers of any provisions thereof, which would be materially adverse to the interests of the Lenders. The Agreements evidencing the Transactions and related documentation shall have terms and conditions (including, without limitation, the amount and forms of the consideration to be paid in connection with the Transactions) satisfactory to the Administrative Agent. The capitalization, structure and equity ownership of Borrower and each Guarantor after giving effect to the Transactions shall be satisfactory to the Administrative Agent in all respects.
- The Administrative Agent shall have received a *pro forma* consolidated balance sheet, income statement and cash flow statement ("Pro Forma Opening Statements") giving effect to the Transactions and projections ("Updated Projections") updating the projections ("Earlier Projections") previously provided to the Lenders, together with such information as the Administrative Agent may reasonably request to confirm the tax, legal and business assumptions made in such Pro Forma Opening Statements and Updated Projections. The Pro Forma Opening Statements and Updated Projections must demonstrate, in the reasonable judgment of the Administrative Agent, together with all other information then available to the Administrative Agent, that the ability of Borrower and its subsidiaries to repay their debts and satisfy respective other obligations as and when due and to comply with the financial covenants has not changed in any material respect from the Earlier Projections.
- Borrower shall be in compliance with all existing financial obligations.
- Receipt and review, with results satisfactory to Administrative Agent and its counsel, of information regarding litigation, tax, accounting, labor, insurance, pension liabilities (actual or contingent), real estate leases, material contracts, debt

agreements, property ownership, and contingent liabilities of Borrower and the Guarantors.

- Accuracy of representations and warranties of Borrower and the Guarantors contained in the Loan Documents.

**REPRESENTATIONS AND WARRANTIES:** Usual and customary representations and warranties for transactions of this nature (and substantially similar to those set forth in the Prior Credit Agreement) to be made as of the closing and in connection with each loan, including, without limitation, representations regarding existence and good standing, authorization and validity, no conflict, governmental consent, financial statements, absence of material adverse change, absence of litigation and contingent obligations, taxes, subsidiaries, ERISA, compliance with laws and environmental regulations, potential environmental liabilities, ownership of properties, insurance absence of default or unmatured default, and gas balancing agreements and advance payment contracts.

**FINANCIAL COVENANTS:** Usual and customary financial covenants including, but not limited to, the following with respect to Borrower:

1. The Current Ratio (defined as current assets (excluding current assets resulting from the requirements of ASC Topic 815 and ASC Topic 410) plus unused availability under the Borrowing Base (but only to the extent that the conditions to borrowing are able to be met at such time) divided by current liabilities (excluding the current portion of the outstanding loans under the Credit Facility and current liabilities resulting from the requirements of ASC Topic 815 and ASC Topic 410), determined at the end of the quarter ending December 31, 2012 and each quarter thereafter, shall not be less than or equal to 1.00 to 1.00; and

2. Debt to EBITDAX, determined at the end of the quarter ending December 31, 2012 and each quarter thereafter, shall not be greater than or equal to 4.00 to 1.00. EBITDAX (which shall be defined to take into account the requirements of ASC Topic 815 and ASC Topic 410) to be measured at the end of each quarter on a building annualized basis through the fiscal quarter ending September 30, 2013 and on a rolling four quarter basis commencing with the fiscal quarter ending December 31, 2013.

All calculations of EBITDAX (which calculations shall, in all respects, be acceptable to, and approved by, Administrative Agent) for any applicable period during which a permitted acquisition or disposition is consummated shall be determined on a pro forma basis as if such acquisition or disposition was consummated on the first day of such applicable period.

**AFFIRMATIVE COVENANTS:** Usual and customary affirmative covenants (and substantially similar to those set forth in the Prior Credit Agreement) including, but not limited to, the following:

- Receipt of unaudited quarterly and audited annual financial statements within 60 days of quarter-end and 120 days of fiscal-year end, as applicable.
- With the delivery of each quarterly and annual financial statement, a statement signed by the chief financial officer of Borrower setting forth the calculations of quarterly Debt to EBITDAX and the quarterly Current Ratio and certifying compliance with other covenants found in the Loan Documents.
- Annual reserve report prepared by a nationally recognized petroleum engineering firm or other firm otherwise acceptable to Administrative Agent, delivered no later than February 15 of each year.
- Semi-annual report prepared by Borrower's internal engineers including a reconciliation from the previous independent report to the most current semi-annual report delivered no later than August 15 of each year. Additional engineering reports prepared by Borrower's internal engineers shall be delivered upon any request by Required Lenders or Borrower to redetermine the Borrowing Base on an interim basis.
- Delivery of notices of default, material litigation and material governmental and environmental proceedings.
- Delivery of title data.
- Rights of inspection.
- Compliance with laws.
- Payment of taxes and claims.
- Maintenance of insurance.
- Compliance with ERISA.
- Within 10 days after the Initial Loans Effective Date, Borrower will hedge at least 50% of the reasonably anticipated projected gas production on a forward basis from its and the Subsidiary Guarantor's total proved developed producing gas reserves (as such production is projected on the initial reserve report) from September 1, 2012 to September 1, 2014 on terms reasonably acceptable Administrative Agent.

**NEGATIVE COVENANTS:**

Usual and customary negative covenants (and substantially similar to those set forth in the Prior Credit Agreement) including, but not limited to, the following with respect to Borrower and the Subsidiary Guarantors:

- Limitation on other debt.
- Limitation on liens.
- Limitation on sale or pledge of assets.
- Limitation on use of proceeds.
- Limitation on changes to material agreements.
- No change in the line of business.
- Limitation on distributions and dividends.
- Limitation on hedging.
- Limitation on investments.
- Limitation on mergers and consolidations.
- Limitation on transactions with affiliates.

**EVENTS OF DEFAULT:**

Events of Default (including customary notice and cure periods where appropriate) typical for a facility of this nature (and substantially similar to those set forth in the Prior Credit Agreement), including, but not limited to, the following:

- Failure to pay any required principal, interest, fees or other amounts when due.
- Failure to comply with any covenant or condition of the Loan Documents.
- Bankruptcy or insolvency.
- Any representation or warranty shall prove to be false, incorrect or misleading in any material respect when made.
- Unsatisfied material judgment.
- Failure to timely cure any Loan Excess.
- No Change of Control.
- Cross-default to other indebtedness.
- Material ERISA events.

**GOVERNING LAW:**

The Loan Documents and the Credit Facility shall be governed by the laws of the State of Texas.

**REQUIRED LENDERS:**

66 2/3%, except that approval of all of the Lenders will be required to increase the Borrowing Base, extend the final maturity of any Loan, postpone any regularly scheduled payment of principal of any Loan, forgive all or any portion of the principal amount thereof, or reduce the rate or extend the time of payment of interest or fees thereon; reduce the percentage specified in the definition of

Required Lenders; extend the maturity date; reduce the amount or extend the payment date for the elimination of any Loan Excess; increase the commitment amount of any Lender hereunder; permit Borrower to assign its rights under the Credit Facility; release any guarantor, release all or substantially all of the collateral except as expressly authorized under the Loan Documents, or amend the matters that are included among those that require the approval of all Lenders.

**ASSIGNMENTS AND PARTICIPATIONS:** Each Lender may, in its sole discretion, sell participations and may, in a manner acceptable to Administrative Agent, sell assignments in the loans, letters of credit and its commitment and confidentially disclose information to prospective participants and assignees, and share, at its option, any fees with such participants and assignees. Except in the case of an assignment to another Lender or an assignment of the entire portion of the Loans at the time owing to the assigning Lender, no assignee shall be permitted to have an initial commitment of less than $5,000,000, although such minimum commitment may consist of an aggregate amount acquired by such assignee from two or more Lenders. No assignments shall be made without the consent of Borrower, Administrative Agent and LC Issuer, which consents shall not be unreasonably withheld (provided that no such consent of Borrower shall be required either after a default or if an assignment is made to another Lender). The assignor shall pay an assignment fee of $3,500 to Administrative Agent upon the effectiveness of any assignment (including, but not limited to, an assignment by a Lender to another Lender).

**EXPENSES:** The expenses of Administrative Agent and the Arrangers, whether incurred prior to or subsequent to closing of the Credit Facility, in investigation, preparation, negotiation, documentation, syndication, administration, and collection will be for the account of Borrower and Laramie Energy II, LLC, including expenses of and fees for attorneys for Administrative Agent and the Arrangers (who may or may not be employees of Administrative Agent or the Arrangers) and other advisors and professionals engaged by Administrative Agent or the Arrangers regardless of whether or not the Credit Facility is closed.

**INDEMNIFICATION:** Borrower and its subsidiaries shall indemnify the Lenders from and against all losses, liabilities, claims, damages or expenses relating to their loans and Borrower's use of loan proceeds or the commitments, including, but not limited to, reasonable attorneys' fees and settlements costs. The indemnification obligations contained in the Commitment Letter shall survive and continue for the benefit of the Lenders at all times after Borrower's acceptance

of such Lenders' commitment for the Credit Facility, notwithstanding any failure of the Credit Facility to close.

**DEFAULTING LENDERS:** The Loan Documents shall include customary market provisions relating to defaulting lenders.

**GENERAL:** The Loan Documents will be appropriately limited to insure compliance with all applicable usury laws.

The Loan Documents as ultimately executed will constitute the complete agreement of the parties thereto, without clarification or modification by this term sheet or any discussions among representatives of Borrower, Laramie Energy II, LLC, Lenders or any other party.

The Loan Documents will provide customary waiver provisions including, without limitation, that the parties thereto waive to the maximum extent permitted by law any right to a trial by jury or to claim or recover special, exemplary, punitive or consequential damages, under or in connection with the Loan Documents as and if ultimately executed, or any negotiations, transactions, or events associated herewith or therewith or contemplated hereby or thereby.

**COUNSEL FOR ADMINISTRATIVE AGENT:** Vinson & Elkins L.L.P.

**PRICING:** As outlined in Addendum I.

# ADDENDUM I

**PRICING GRID:**

The Applicable Margin and Applicable Commitment Fee will be determined in accordance with the following table:

| BORROWING BASE USAGE | EURODOLLAR MARGIN | ABR MARGIN | COMMITMENT FEE |
|---|---|---|---|
| > 90% | 275 b.p. | 175 b.p. | 50 b.p. |
| > 75% and ≤ 90% | 250 b.p. | 150 b.p. | 50 b.p. |
| > 50% and ≤ 75% | 225 b.p. | 125 b.p. | 50 b.p. |
| > 25% and ≤ 50% | 200 b.p. | 100 b.p. | 50 b.p. |
| ≤ 25% | 175 b.p. | 75 b.p. | 50 b.p. |

Borrowing Base Usage at any time is based on outstanding loans and letters of credit under the Credit Facility as a percentage of the total Borrowing Base, regardless of the Maximum Credit Amount.

Commitment fees are payable quarterly in arrears.

Letter of Credit fees are due upfront and are to be shared proportionately by the Lenders. Fees will be equal to the Applicable Margin for Eurodollar tranches on a per annum basis plus a fronting fee of 12.5 b.p. per annum to be paid to LC Issuer for its own account. Fees will be calculated on the aggregate stated amount of each letter of credit for the stated duration thereof.

Customary administrative fees in connection with the issuance of, and drawings under, letters of credit will be payable to LC Issuer.

If an event of default exists, all loans shall bear interest at a default rate equal to the applicable interest rate, plus the Applicable Margin, plus 2%.

**COST AND YIELD PROTECTION**

The usual for transactions and facilities of this type, including, without limitation, in respect of prepayments, changes in capital adequacy and capital requirements or their interpretation, illegality, unavailability, reserves without proration or offset.

# Exhibit 7

## New Stockholders' Agreement

# Exhibit 8

## Restated Certificates of Incorporation

# Exhibit 9

# Restated Bylaws

# Exhibit 2

Disclosure Statement Order

# Exhibit 3

Liquidation Analysis

# Exhibit 4

Financial Projections

# Exhibit 5

Valuation Analysis