**UNITED STATES BANKRUPTCY COURT**
**WESTERN DISTRICT OF OKLAHOMA**

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| In re: | ) | Chapter 11 |
| | ) | |
| | ) | Case No. 13-11456 (SAH) |
| GMX RESOURCES INC., et al. | ) | |
| | ) | Jointly Administered |
| Debtors. | ) | |
| | ) | |

**DISCLOSURE STATEMENT TO ACCOMPANY JOINT PLAN OF REORGANIZATION OF GMX RESOURCES INC. AND ITS DEBTOR SUBSIDIARIES UNDER CHAPTER 11 OF THE BANKRUPTCY CODE**

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Dated: Oklahoma City, Oklahoma
October 23, 2013

**THIS IS NOT A SOLICITATION OF ACCEPTANCES OF THE CHAPTER 11 PLAN OF GMX RESOURCES INC. AND THE OTHER DEBTORS IN THESE CHAPTER 11 CASES. ACCEPTANCES MAY NOT BE SOLICITED UNTIL A DISCLOSURE STATEMENT HAS BEEN APPROVED BY THE BANKRUPTCY COURT AS CONTAINING "ADEQUATE INFORMATION" WITHIN THE MEANING OF SECTION 1125(A) OF THE BANKRUPTCY CODE. THIS DISCLOSURE STATEMENT IS BEING SUBMITTED FOR APPROVAL BUT HAS NOT YET BEEN APPROVED BY THE BANKRUPTCY COURT AND IS SUBJECT TO AMENDMENT PRIOR TO SUCH APPROVAL BEING GRANTED.**

## DISCLAIMER

ALL HOLDERS OF ELIGIBLE CLAIMS ARE ADVISED AND ENCOURAGED TO READ THIS DISCLOSURE STATEMENT AND THE PLAN IN THEIR ENTIRETY BEFORE VOTING TO ACCEPT OR REJECT THE PLAN. ALL SUMMARIES OF THE PLAN AND OTHER STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT ARE QUALIFIED IN THEIR ENTIRETY BY REFERENCE TO THE PLAN, THE EXHIBITS ANNEXED TO THE PLAN, AND THE EXHIBITS ANNEXED TO THIS DISCLOSURE STATEMENT. THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT ARE MADE ONLY AS OF THE DATE HEREOF UNLESS OTHERWISE INDICATED, AND THERE CAN BE NO ASSURANCE THAT THE STATEMENTS CONTAINED HEREIN WILL BE CORRECT AT ANY TIME AFTER THE DATE HEREOF.

THIS DISCLOSURE STATEMENT HAS BEEN PREPARED IN ACCORDANCE WITH SECTION 1125 OF THE BANKRUPTCY CODE AND RULE 3016 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE AND NOT NECESSARILY IN ACCORDANCE WITH FEDERAL OR STATE SECURITIES LAWS OR OTHER APPLICABLE LAW. THIS DISCLOSURE STATEMENT AND THE JOINT PLAN OF REORGANIZATION DESCRIBED HEREIN HAVE NOT BEEN REVIEWED BY, AND THE NEW SECURITIES TO BE ISSUED ON OR AFTER THE EFFECTIVE DATE WILL NOT HAVE BEEN THE SUBJECT OF A REGISTRATION STATEMENT FILED WITH, THE SECURITIES AND EXCHANGE COMMISSION OR ANY SECURITIES REGULATORY AUTHORITY OF ANY STATE UNDER THE SECURITIES ACT OR UNDER ANY STATE SECURITIES OR "BLUE SKY" LAWS. THE PLAN HAS NOT BEEN REVIEWED, APPROVED OR DISAPPROVED BY THE SECURITIES AND EXCHANGE COMMISSION OR ANY STATE SECURITIES COMMISSION, AND NEITHER THE SECURITIES AND EXCHANGE COMMISSION NOR ANY STATE SECURITIES COMMISSION HAS PASSED UPON THE ACCURACY OR ADEQUACY OF THE INFORMATION CONTAINED HEREIN. 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 IN THESE CASES SHOULD EVALUATE THIS DISCLOSURE STATEMENT AND THE PLAN IN LIGHT OF THE PURPOSE FOR WHICH THEY WERE PREPARED.

AS TO CONTESTED MATTERS, ADVERSARY PROCEEDINGS, AND OTHER PENDING OR THREATENED LITIGATION OR ACTIONS, THIS DISCLOSURE STATEMENT DOES NOT CONSTITUTE AND MAY NOT BE CONSTRUED AS AN ADMISSION OF ANY FACT OR LIABILITY, STIPULATION, OR WAIVER, BUT RATHER AS A STATEMENT MADE IN SETTLEMENT NEGOTIATIONS AND SHALL BE INADMISSIBLE FOR ANY PURPOSE ABSENT THE EXPRESS WRITTEN CONSENT OF THE DEBTORS AND THE PARTY AGAINST WHOM SUCH INFORMATION IS SOUGHT TO BE ADMITTED.

THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT IS INCLUDED HEREIN FOR PURPOSES OF SOLICITING ACCEPTANCES OF THE PLAN AND MAY NOT BE RELIED UPON FOR ANY PURPOSE OTHER THAN TO DETERMINE HOW TO VOTE ON THE PLAN. THE DESCRIPTIONS SET FORTH HEREIN OF THE ACTIONS, CONCLUSIONS, OR RECOMMENDATIONS OF THE DEBTORS OR ANY OTHER PARTY IN INTEREST HAVE BEEN PASSED UPON BY SUCH PARTY, BUT NO SUCH

PARTY MAKES ANY REPRESENTATION OR WARRANTY REGARDING SUCH DESCRIPTIONS.

THIS DISCLOSURE STATEMENT WILL NOT BE ADMISSIBLE IN ANY NON-BANKRUPTCY PROCEEDING INVOLVING THE DEBTORS OR ANY OTHER PARTY, NOR WILL IT BE CONSTRUED TO CONSTITUTE CONCLUSIVE ADVICE ON THE TAX, SECURITIES, OR OTHER LEGAL EFFECTS OF THE REORGANIZATION AS TO HOLDERS OF CLAIMS AGAINST, OR INTERESTS IN, THE DEBTORS.

## DISCLOSURE REGARDING FORWARD-LOOKING STATEMENTS

This Disclosure Statement includes projected financial information regarding the Reorganized Debtors and certain other "forward-looking statements" within the meaning of Section 27A of the Securities Act and Section 21E of the Exchange Act, all of which are based upon various estimates and assumptions that the Debtors believe to be reasonable as of the date hereof. These statements involve risks and uncertainties that could cause the Debtors' and Reorganized Debtors' actual future outcomes to differ materially from those set forth in this Disclosure Statement. Such risks and uncertainties include, but are not limited to:

- the Debtors' ability to effect their proposed restructuring, or any other restructuring on terms acceptable to the Debtors;
- the Debtors' ability to preserve and utilize net operating loss carry forward and other tax attributes;
- the Debtors' ability to continue as a going concern;
- the Debtors' ability to meet debt service obligations and related financial and other covenants, and any possible resulting material default under the Debtors' debt obligations that is not waived or rectified;
- limitations on the availability of sufficient credit to fund working capital;
- the availability of appropriate surety bonds which may be required for certain projects;
- inability to reach agreements with the Debtors' surety companies to provide sufficient bonding capacity;
- general economic and capital markets conditions, including fluctuations in interest rates;
- difficulty in managing the operation of existing entities;
- loss of key personnel;
- litigation risks and uncertainties;

- distraction of management and costs associated with the Debtors' restructuring efforts, including their chapter 11 filings;
- recent adverse publicity about the Debtors, including their chapter 11 filings;
- uncertainties inherent in making estimates of our oil and natural gas data;
- oil and natural gas prices, price volatility and competition;
- discovery and development of oil and natural gas reserves;
- cost of compliance with laws and regulations
- geological, technical, drilling and processing problems;
- weather-related interference with business operations;
- unanticipated results with the drilling or completion of wells;
- the effects of delays in completion of, or shut-ins of, gas gathering systems, pipelines and processing facilities;
- the impact of derivative positions;
- production expense estimates;
- cash flow estimates;
- future financial performance;
- planned capital expenditures;
- the cost and availability of adequate insurance coverage; and
- other risks and matters discussed in GMXR's filings with the Securities and Exchange Commission.

You should understand that the foregoing as well as other risk factors discussed in this Disclosure Statement, including those listed in Section IX under the heading "Certain Factors to be Considered," could cause future outcomes to differ materially from those expressed in such forward looking statements. Given the uncertainties, you are cautioned not to place undue reliance on any forward-looking statements in determining whether to vote in favor of the Plan or to take any other action. The Debtors undertake no obligation to publicly update or revise information concerning the Debtors' restructuring efforts, borrowing availability, or their cash position or any forward-looking statements to reflect events or circumstances that may arise after the date of this Disclosure Statement, except as required by law. Forward-looking statements are provided in this Disclosure Statement pursuant to the safe harbor established under the private Securities Litigation Reform Act of 1995 and, to the extent applicable, Section 1125(e) of the

Bankruptcy Code and should be evaluated in the context of the estimates, assumptions, uncertainties, and risks described herein.

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# I. INTRODUCTION AND EXECUTIVE SUMMARY

## A. EXECUTIVE SUMMARY

GMX Resources, Inc. ("GMXR") and the Debtor Subsidiaries (together with GMXR, the "Debtors") filed voluntary petitions for relief under chapter 11 of the United States Bankruptcy Code on April 1, 2013 in the United States Bankruptcy Court for the Western District of Oklahoma. Pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code, the Debtors have and will continue to operate their businesses and to manage their properties as debtors-in-possession during the pendency of the Chapter 11 Cases.

On October 23, 2013, the Debtors filed the "Joint Plan of Reorganization of GMX Resources Inc. and Certain of its Debtor Subsidiaries under Chapter 11 of the Bankruptcy Code." The Plan was formulated after extensive negotiations with the Steering Committee, DIP Lenders, and Creditors' Committee and reflects the global settlement among the parties. This Disclosure Statement describes the Debtors' current and future business operations, certain aspects of the Plan, including, but not limited to, the proposed reorganization of the Debtors upon Consummation of the Plan, significant events occurring in their Chapter 11 Cases and related matters.

## B. CONSIDERATIONS IN PREPARATION OF THE DISCLOSURE STATEMENT AND PLAN; DISCLAIMERS

BECAUSE ACCEPTANCE OF THE PLAN WILL CONSTITUTE ACCEPTANCE OF ALL THE PROVISIONS THEREOF, HOLDERS OF ELIGIBLE CLAIMS ARE URGED TO CONSIDER CAREFULLY THE INFORMATION REGARDING TREATMENT OF THEIR CLAIMS CONTAINED IN THIS DISCLOSURE STATEMENT.

THE CONFIRMATION AND EFFECTIVENESS OF THE PLAN ARE SUBJECT TO MATERIAL CONDITIONS PRECEDENT. SEE SECTION IV.O — "SUMMARY OF THE PLAN — CONDITIONS PRECEDENT; WAIVER." THERE CAN BE NO ASSURANCE THAT THOSE CONDITIONS WILL BE SATISFIED.

THE DEBTORS PRESENTLY INTEND TO SEEK TO CONSUMMATE THE PLAN AND TO CAUSE THE EFFECTIVE DATE TO OCCUR PROMPTLY AFTER CONFIRMATION OF THE PLAN. THERE CAN BE NO ASSURANCE, HOWEVER, AS TO

WHEN AND WHETHER CONFIRMATION OF THE PLAN AND THE EFFECTIVE DATE ACTUALLY WILL OCCUR. PROCEDURES FOR DISTRIBUTIONS UNDER THE PLAN, INCLUDING MATTERS THAT ARE EXPECTED TO AFFECT THE TIMING OF THE RECEIPT OF DISTRIBUTIONS BY HOLDERS OF ALLOWED CLAIMS IN CERTAIN CLASSES AND THAT COULD AFFECT THE AMOUNT OF DISTRIBUTIONS ULTIMATELY RECEIVED BY SUCH HOLDERS, ARE DESCRIBED IN SECTION IV.K — "SUMMARY OF THE PLAN — PROVISIONS GOVERNING DISTRIBUTIONS."

THE BOARDS OF DIRECTORS, MANAGERS AND MEMBERS (AS THE CASE MAY BE) OF EACH OF THE DEBTORS HAVE APPROVED THE PLAN AND RECOMMEND THAT THE HOLDERS OF ELIGIBLE CLAIMS VOTE TO ACCEPT THE PLAN IN ACCORDANCE WITH THE VOTING INSTRUCTIONS SET FORTH IN SECTION X - "THE SOLICITATION; VOTING PROCEDURES" AND IN THE BALLOT. TO BE COUNTED, YOUR BALLOT MUST BE DULY COMPLETED, EXECUTED, AND ACTUALLY RECEIVED BY THE VOTING DEADLINE. HOLDERS OF ELIGIBLE CLAIMS ARE ENCOURAGED TO READ AND CONSIDER CAREFULLY THIS ENTIRE DISCLOSURE STATEMENT, INCLUDING THE PLAN.

THE STEERING COMMITTEE, DIP LENDERS, AND CREDITORS' COMMITTEE SUPPORT THE PLAN. THE PLAN REPRESENTS THE NEGOTIATED GLOBAL RESOLUTION OF THESE CASES BY THE DEBTORS, STEERING COMMITTEE, DIP LENDERS, AND CREDITORS' COMMITTEE, AND THE STEERING COMMITTEE AND CREDITORS' COMMITTEE ENCOURAGE THEIR CONSTITUENCIES TO VOTE FOR THE PLAN.

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THIS DISCLOSURE STATEMENT CONTAINS SUMMARIES OF CERTAIN PROVISIONS OF THE PLAN, STATUTORY PROVISIONS, DOCUMENTS RELATED TO THE PLAN, ANTICIPATED EVENTS IN THE DEBTORS' CHAPTER 11 CASES, AND FINANCIAL INFORMATION. ALTHOUGH THE DEBTORS BELIEVE THAT THE SUMMARIES ARE FAIR AND ACCURATE, SUCH SUMMARIES ARE QUALIFIED TO THE EXTENT THAT THEY DO NOT SET FORTH THE ENTIRE TEXT OF THE PLAN OR CERTAIN DOCUMENTS (AND HOLDERS OF ELIGIBLE CLAIMS SHOULD REFER TO THE PLAN AND SPECIFIED DOCUMENTS IN THEIR ENTIRETY AS ATTACHED HERETO OR IN THE PLAN SUPPLEMENT), STATUTORY PROVISIONS, EVENTS, OR INFORMATION. FACTUAL INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT HAS BEEN PROVIDED BY THE DEBTORS, EXCEPT WHERE OTHERWISE SPECIFICALLY NOTED. THE DEBTORS ARE UNABLE TO WARRANT OR REPRESENT THAT THE INFORMATION CONTAINED HEREIN, INCLUDING THE FINANCIAL PROJECTIONS AND OTHER FINANCIAL INFORMATION, IS WITHOUT ANY INACCURACY OR OMISSION.

IN DETERMINING WHETHER TO VOTE TO ACCEPT THE PLAN, HOLDERS OF ELIGIBLE CLAIMS MUST RELY UPON THEIR OWN EXAMINATION OF THE DEBTORS AND THE TERMS OF THE PLAN, INCLUDING THE MERITS AND RISKS INVOLVED. THE CONTENTS OF THIS DISCLOSURE STATEMENT SHOULD NOT BE

CONSTRUED AS PROVIDING ANY LEGAL, BUSINESS, FINANCIAL, OR TAX ADVICE. EACH SUCH HOLDER SHOULD CONSULT WITH ITS OWN LEGAL, BUSINESS, FINANCIAL, AND TAX ADVISORS WITH RESPECT TO ANY SUCH MATTERS CONCERNING THIS DISCLOSURE STATEMENT, THE SOLICITATION, THE PLAN AND THE TRANSACTIONS CONTEMPLATED THEREBY. SEE SECTION IX - "CERTAIN FACTORS TO BE CONSIDERED" FOR A DISCUSSION OF VARIOUS FACTORS THAT SHOULD BE CONSIDERED IN CONNECTION WITH THE PLAN.

*****

THE DEBTORS ARE RELYING ON SECTION 1145(a)(1) AND (2) OF THE BANKRUPTCY CODE TO EXEMPT FROM REGISTRATION UNDER THE SECURITIES LAWS THE OFFER AND ISSUANCE OF NEW SECURITIES IN CONNECTION WITH THE SOLICITATION AND THE PLAN. SEE SECTION V.A — "CAPITAL STRUCTURE OF THE REORGANIZED DEBTORS — ISSUANCE OF NEW SECURITIES AND TRUST INTERESTS" FOR A DESCRIPTION OF THE NEW SECURITIES.

EXCEPT AS SET FORTH IN SECTION X.J — "THE SOLICITATION; VOTING PROCEDURES - FURTHER INFORMATION; ADDITIONAL COPIES," NO PERSON HAS BEEN AUTHORIZED BY THE DEBTORS IN CONNECTION WITH THE PLAN OR THE SOLICITATION TO GIVE ANY INFORMATION OR TO MAKE ANY REPRESENTATION OTHER THAN AS CONTAINED IN THIS DISCLOSURE STATEMENT AND THE EXHIBITS ATTACHED HERETO OR INCORPORATED BY REFERENCE OR REFERRED TO HEREIN, AND, IF GIVEN OR MADE, SUCH INFORMATION OR REPRESENTATION MAY NOT BE RELIED UPON AS HAVING BEEN AUTHORIZED BY THE DEBTORS. THIS DISCLOSURE STATEMENT DOES NOT CONSTITUTE AN OFFER TO SELL OR THE SOLICITATION OF AN OFFER TO BUY ANY SECURITIES OTHER THAN THOSE TO WHICH IT RELATES, OR AN OFFER TO SELL OR A SOLICITATION OF AN OFFER TO BUY ANY SECURITIES IN ANY JURISDICTION IN WHICH, OR TO ANY PERSON TO WHOM, IT IS UNLAWFUL TO MAKE SUCH OFFER OR SOLICITATION.

THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT ARE MADE AS OF THE DATE HEREOF, AND NEITHER THE DELIVERY OF THIS DISCLOSURE STATEMENT NOR THE DISTRIBUTION OF ANY NEW SECURITIES PURSUANT TO THE PLAN WILL, UNDER ANY CIRCUMSTANCE, CREATE ANY IMPLICATION THAT THE INFORMATION CONTAINED HEREIN IS CORRECT AT ANY TIME SUBSEQUENT TO THE DATE HEREOF. ANY ESTIMATES OF CLAIMS SET FORTH IN THIS DISCLOSURE STATEMENT MAY VARY FROM THE AMOUNTS OF CLAIMS DETERMINED BY THE DEBTORS OR ULTIMATELY ALLOWED BY THE BANKRUPTCY COURT, AND AN ESTIMATE SHALL NOT BE CONSTRUED AS AN ADMISSION OF THE AMOUNT OF SUCH CLAIM.

C. GENERAL

This Disclosure Statement has been prepared to comply with section 1125 of the Bankruptcy Code and is hereby transmitted by the Debtors to Holders of Eligible Claims for use in the Solicitation of acceptances of the Plan, a copy of which is attached hereto as **Exhibit A.**

Unless otherwise defined in this Disclosure Statement, capitalized terms used herein have the meanings ascribed to them in the Plan.

For purposes of this Disclosure Statement, the following rules of interpretation shall apply: (i) whenever the words "include," "includes" or "including" are used, they shall be deemed to be followed by the words "without limitation," (ii) the words "hereof," "herein," "hereby" and "hereunder" and words of similar import shall refer to this Disclosure Statement as a whole and not to any particular provision, (iii) article, section and exhibit references are to this Disclosure Statement unless otherwise specified, and (iv) with respect to any Distribution under the Plan, "on" a date means on or as soon as reasonably practicable thereafter.

The purpose of this Disclosure Statement is to provide "adequate information" to Entities who hold Eligible Claims and to enable them to make an informed decision before exercising their right to vote to accept or reject the Plan.

**THE APPROVAL BY THE BANKRUPTCY COURT OF THIS DISCLOSURE STATEMENT DOES NOT CONSTITUTE AN ENDORSEMENT BY THE BANKRUPTCY COURT OF THE PLAN OR A GUARANTEE OF THE ACCURACY OR COMPLETENESS OF THE INFORMATION CONTAINED HEREIN. THE MATERIAL CONTAINED HEREIN IS INTENDED SOLELY FOR THE USE OF HOLDERS OF ELIGIBLE CLAIMS IN EVALUATING THE PLAN AND VOTING TO ACCEPT OR REJECT THE PLAN AND, ACCORDINGLY, MAY NOT BE RELIED UPON FOR ANY PURPOSE OTHER THAN THE DETERMINATION OF HOW TO VOTE ON THE PLAN. THE PLAN IS SUBJECT TO NUMEROUS CONDITIONS AND VARIABLES AND THERE CAN BE NO ABSOLUTE ASSURANCE THAT THE PLAN WILL BE EFFECTUATED.**

## D. SOLICITATION PACKAGE

Accompanying this Disclosure Statement for the purpose of soliciting votes on the Plan are copies of (i) the Plan, (ii) the notice of, among other things, the time for submitting Ballots to accept or reject the Plan, the date, time, and place of the hearing to consider the confirmation of the Plan and related matters, and the time for filing objections to the confirmation of the Plan, (iii) the Creditors' Committee's letter in support of the Plan, and (iv) a Ballot or Ballots (and return envelope(s)) that you may use in voting to accept or to reject the Plan, or a notice of non-voting status, as applicable. If you did not receive a Ballot and believe that you should have, please contact the Solicitation Agent at the address or telephone number set forth in the next subsection.

## E. VOTING PROCEDURES, BALLOTS, AND VOTING DEADLINE

After carefully reviewing the Plan and this Disclosure Statement, and the exhibits thereto, and the detailed instructions accompanying your Ballot, Holders of Eligible Claims in Classes 1 and 4 should indicate their acceptance or rejection of the Plan by voting in favor of or against the Plan on the enclosed Ballot. Each such Holder should complete and sign his, her or its Ballot and return it in the envelope provided so that it is RECEIVED by the Voting Deadline (as defined below). Please note that if you are in Class 1 or Class 4 and hold Existing Securities

evidencing a Claim through a Nominee, you may be required to return your Ballot to your Nominee sufficiently in advance of the Voting Deadline so as to permit your Nominee to fill out and return a Master Ballot by the Voting Deadline. See Section X — "THE SOLICITATION; VOTING PROCEDURES."

Each Ballot has been coded to reflect the Class of Claims it represents. Accordingly, in voting to accept or reject the Plan, you must use only the coded Ballot or Ballots sent to you with this Disclosure Statement.

If you have any questions about the procedure for voting your Eligible Claim or with respect to the packet of materials that you have received, please contact the Solicitation Agent (i) telephonically or (ii) in writing by (a) hand delivery, (b) overnight mail or (c) first class mail using the information below:

by hand delivery or overnight mail at:

GMX Resources Inc. Ballot Processing
c/o Epiq Bankruptcy Solutions, LLC
757 Third Avenue, 3rd Floor
New York, NY 10017
Telephone: (646) 282-2500

by first class mail at:

GMX Resources Inc. Ballot Processing
c/o Epiq Bankruptcy Solutions, LLC
FDR Station
P.O. Box 5014
New York, NY 10150 – 5014
Telephone: (646) 282-2500

**THE SOLICITATION AGENT MUST RECEIVE ORIGINAL BALLOTS AND ORIGINAL MASTER BALLOTS CAST ON BEHALF OF BENEFICIAL OWNERS ON OR BEFORE 5:00 P.M., PREVAILING EASTERN TIME, ON _____ __, 2013 (THE "VOTING DEADLINE") AT THE APPLICABLE ADDRESS ABOVE. EXCEPT TO THE EXTENT ALLOWED BY THE BANKRUPTCY COURT, BALLOTS RECEIVED AFTER THE VOTING DEADLINE WILL NOT BE ACCEPTED OR USED IN CONNECTION WITH THE DEBTORS' REQUEST FOR CONFIRMATION OF THE PLAN OR ANY MODIFICATION THEREOF.**

The Debtors reserve the right to amend the Plan. Amendments to the Plan that do not materially and adversely affect the treatment of Claims and are consistent with the terms of the Plan Support Agreement and Plan may be approved by the Bankruptcy Court at the Confirmation Hearing without the necessity of resoliciting votes. In the event resolicitation is required, the Debtors will furnish new solicitation packets that will include new ballots to be used to vote to accept or reject the Plan, as amended.

## F. PURPOSE OF AND SUMMARY OF THE PLAN

The primary purpose of the Plan is to effectuate the restructuring of the Debtors' capital structure (the "Restructuring") by, among other things, reducing their overall indebtedness and improving free cash flow. Presently, the Debtors have a substantial amount of indebtedness outstanding under the Senior Secured Notes, Second-Priority Notes, Convertible Notes, Old Senior Notes, and other obligations to various third parties. If the Debtors are not able to consummate the Restructuring, the Debtors will likely have to formulate an alternative plan, and the Debtors' financial condition will likely be further materially adversely affected.

The Restructuring will reduce the amount of the Debtors' outstanding indebtedness by approximately $505,000,000 under the Indentures as follows: (i) satisfaction of $338,000,000 of the Senior Secured Notes through conversion of the Senior Secured Noteholders Secured Claim into all of the issued and outstanding shares of Reorganized GMXR Common Stock and [63.7586]%[1] of the New GMXR Interests; (ii) waiver of an approximately $64,000,000 deficiency claim by the Holders of Senior Secured Notes if Class 4 votes to accept the Plan, or discharge of such deficiency claim with such claim being treated as a General Unsecured Claim if Class 4 votes to reject the Plan; (iii) discharge of the Second-Priority Notes in the approximate amount of $51,500,000, with such claims being treated as General Unsecured Claims under Class 4; (iv) discharge of the Convertible Notes in the approximate amount of $48,296,000, with such claims being treated as General Unsecured Claims under Class 4; and (v) discharge of the Old Senior Notes in the approximate amount of $1,970,000, with such claims being treated as General Unsecured Claims under Class 4.

**Without the conversion of the Senior Secured Notes as contemplated in the Plan and the discharge of the Second-Priority Notes, Convertible Notes, and Old Senior Notes, the Debtors would not have sufficient liquidity to maintain their business as a going concern.** Among other things, pursuant to the Restructuring:

- The Senior Secured Noteholder Secured Claim shall be deemed an Allowed Secured Claim in the amount of $338,000,000. On the Effective Date, the Holders of Senior Secured Noteholder Secured Claims shall receive, in full and final satisfaction, settlement, release and discharge of and in exchange for such Allowed Secured Claims (i) one hundred percent (100%) of the Reorganized GMXR Common Stock in the percentages provided for in the Plan and/or (ii) [63.7586]%[2] of the New GMXR Interests of the New GMXR Interests subject to dilution on account of the Management Interests to be issued pursuant to the Management Incentive Plan, each in accordance with a formula more fully described herein and in the Plan. If Class 4 (Holders of General Unsecured Claims) votes to accept the Plan, the Holders of Senior Secured Notes agree to waive their right to any recovery on the Senior Secured Notes Deficiency Claim.

- The sole equity interests in Reorganized GMXR would consist of Reorganized GMXR Common Stock issued to the Holders of Senior Secured Notes.

[1] Percentage to be finalized prior to hearing to approve Disclosure Statement.
[2] Percentage to be finalized prior to hearing to approve Disclosure Statement.

- New GMXR shall be formed on or before the Effective Date. GMXR shall contribute all of its Assets (except the Creditor Trust Assets) to New GMXR free and clear of all Liens, Claims, charges, or other encumbrances (except for any Liens granted to secure the Exit Facility) in exchange for units of or interests in New GMXR. New GMXR shall be the sole member of the Reorganized Debtor Subsidiaries to the extent the Debtor Subsidiaries are converted to limited liability companies, and shall own Reorganized GMXR's equity interest in Endeavor Gathering, LLC. Reorganized GMXR shall own approximately [36.2414]%[3] of the New GMXR Interests and the New GMXR Agreement will provide the identity of NeW GMXR's managing member or general partner, as applicable. The remaining [63.7586]%[4] of the New GMXR Interests shall be issued to and owned by certain Holders of the Senior Secured Noteholder Secured Claims as set forth in the Plan.

- General unsecured creditors of the Debtors are classified as Class 4 creditors and shall be limited solely to recovery pursuant to Class 4. Holders of Allowed General Unsecured Claims shall receive their Pro Rata share of Common Trust Interests in the Creditor Trust. The Creditor Trust Assets shall include (i) (x) the Cash Distribution only if Class 4 votes to accept the Plan or (y) $25,000 to initially fund the Creditor Trust if Class 4 votes to reject the Plan and (ii) certain Avoidance Actions and Causes of Action listed on Exhibit "A" to the Plan that will be transferred to the Creditor Trust on the Effective Date. If Class 4 does not vote to accept the Plan, the Cash Distribution shall not be made or included in the Creditor Trust Assets, the Senior Secured Notes Deficiency Claim will share in the Creditor Trust Assets, and the Preferred Trust Interests will be issued to Holders of DIP Facility Claims and Holders of Senior Secured Notes Adequate Protection Claims (if any) to the extent such Claims are not otherwise paid in Cash or satisfied on the Effective Date.

- GMXR Equity Interests shall be cancelled and Holders of GMXR Equity Interests shall not receive or retain any property or interest in property on account of their GMXR Equity Interests.

- Allowed Administrative Claims shall be paid in full.

- The DIP Facility Claims shall be paid in full and in Cash with the proceeds of, or converted into the Exit Facility in accordance with the terms of the Exit Facility Credit Agreement; provided that if the Class of Holders of General Unsecured Claims votes to reject the Plan, the Holders of DIP Facility Claims may elect to receive, either in whole or in part on account of such DIP Facility Claims, Preferred Series A Trust Interests.

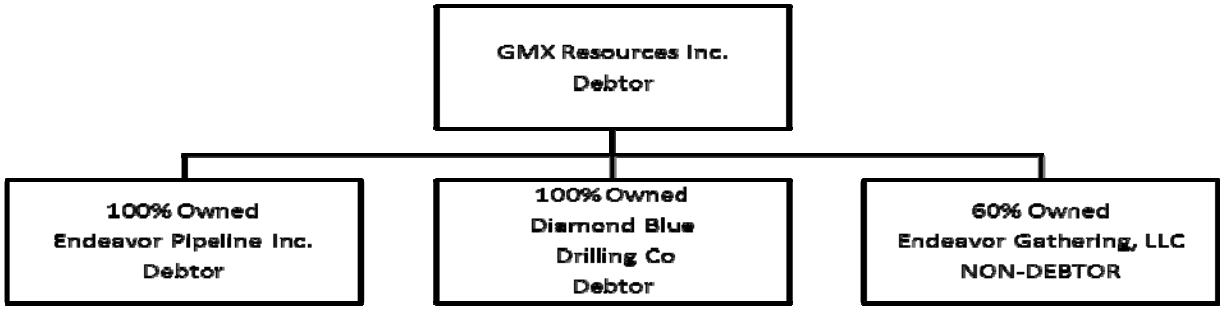
- The Holders of Equity Interests in the Debtor Subsidiaries shall receive no Distribution or recovery on account of their existing Equity Interests in the Debtor

[3] Percentage to be finalized prior to hearing to approve Disclosure Statement.
[4] Percentage to be finalized prior to hearing to approve Disclosure Statement.

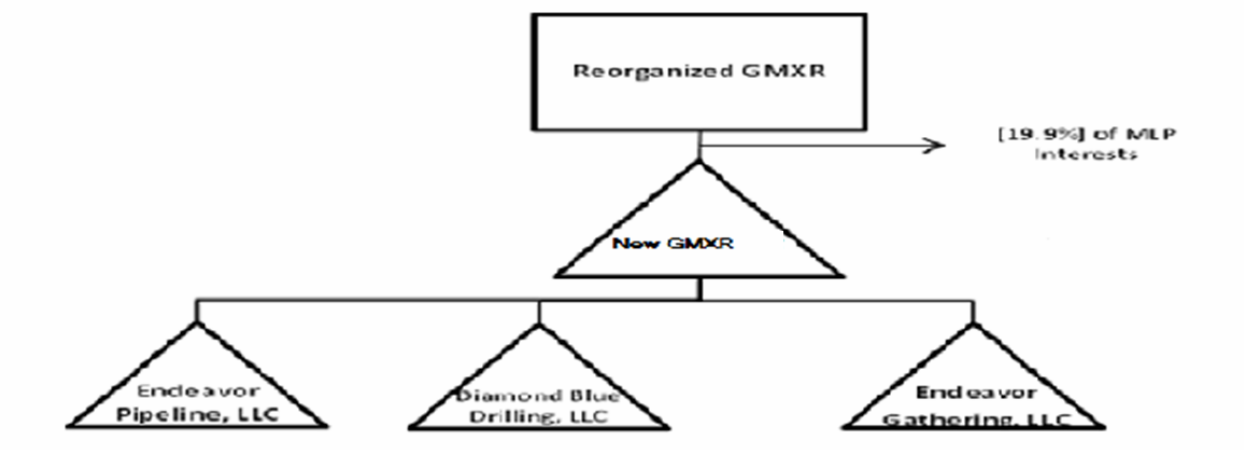
Subsidiaries. Rather, on the Effective Date, the membership interests in the Debtor Subsidiaries will be held directly by New GMXR and indirectly by Reorganized GMXR for the benefit of the Holders of Reorganized GMXR Common Stock and New GMXR Interests, respectively. It is presently anticipated that such ownership of the New Endeavor Interests and New Diamond Blue Interests may be accomplished by converting the Debtor Subsidiaries to member-managed, single member Delaware limited liability companies no later than the Business Day immediately prior to the Effective Date, with New GMXR as its sole member and manager. If any Debtor Subsidiary is not converted to a limited liability company, after the Effective Date, such Debtor Subsidiary shall contribute its assets to New GMXR in exchange for New GMXR Interests.

– Holders of Allowed Intercompany Claims shall, at the option of the Debtors and with the consent of the Steering Committee, be either Reinstated or eliminated in full or in part by offset, distribution, cancellation, assumption or contribution of such Intercompany Claim.

The current corporate organization structure is:



After the Effective Date, the corporate organization structure will be[5]:




This Disclosure Statement sets forth certain detailed information regarding the Debtors' history, their projections for future operations, and significant events expected to occur during the Chapter 11 Cases. This Disclosure Statement also describes the Plan, alternatives to the Plan, effects of Confirmation of the Plan, and the manner in which Distributions will be made under the Plan. In addition, this Disclosure Statement discusses the Confirmation process and the voting procedures that Holders of Eligible Claims must follow for their votes to be counted.

## G. SUMMARY OF PROPOSED DISTRIBUTIONS UNDER THE PLAN

Under the Plan, Claims against and Equity Interests in the Debtors are divided into Classes. Certain Claims, including Administrative Claims and Priority Tax Claims are not classified and, if not paid prior, will receive payment in full in Cash on the Distribution Date, as such Claims are liquidated, or as agreed with the Holders of such Claims. All other Claims and Equity Interests will receive the Distributions described in the table below.

The table below summarizes the classification and treatment of the prepetition Claims and Equity Interests under the Plan and provides an estimated recovery percentage. This summary is qualified in its entirety by reference to the provisions of the Plan.

[5] The ownership interests in Endeavor Gathering, LLC, a non-debtor, will remain 60% after the Effective Date and will be owned by New GMXR.

| Class | Claim/Equity Interest | Treatment of Claim/Equity Interest | Entitled to Vote | Estimated Recovery Percentage[6] |
|---|---|---|---|---|
| Class 1 | Senior Secured Notes Claim | Impaired | Yes | 83% |
| Class 2 | Other Secured Claims | Unimpaired | No | 100% |
| Class 3 | Priority Non-Tax Claims | Unimpaired | No | 100% |
| Class 4 | General Unsecured Claims | Impaired | Yes | 1% - Undetermined |
| Class 5 | Intercompany Claims | Impaired | No (deemed to reject) | 0% |
| Class 6 | Equity Interests in GMXR | Impaired | No (deemed to reject) | 0% |
| Class 7 | Equity Interests in Debtor Subsidiaries | Unimpaired | No (deemed to reject) | 100% |

H. THE CONFIRMATION HEARING AND OBJECTION DEADLINE

**THE BANKRUPTCY COURT HAS SET _____, 2013, AT 1:30 P.M., PREVAILING CENTRAL TIME, AS THE DATE AND TIME FOR THE HEARING ON CONFIRMATION OF THE PLAN AND TO CONSIDER ANY OBJECTIONS TO THE PLAN. THE CONFIRMATION HEARING WILL BE HELD AT THE UNITED STATES BANKRUPTCY COURT, NINTH FLOOR COURTROOM, OLD POST OFFICE BUILDING, 215 DEAN A. MCGEE AVENUE, OKLAHOMA CITY, OKLAHOMA. THE DEBTORS WILL REQUEST CONFIRMATION OF THE PLAN AT THE CONFIRMATION HEARING.**

**THE BANKRUPTCY COURT HAS FURTHER FIXED _____, 2013, AT 5:00 P.M., PREVAILING CENTRAL TIME, AS THE DEADLINE (THE "OBJECTION DEADLINE") FOR FILING OBJECTIONS TO CONFIRMATION OF THE PLAN WITH THE BANKRUPTCY COURT. OBJECTIONS TO CONFIRMATION OF THE PLAN MUST BE SERVED SO AS TO BE RECEIVED BY THE FOLLOWING PARTIES ON OR BEFORE THE OBJECTION DEADLINE:**

[6] In preparing their recovery analysis and the estimated recoveries, the Debtors made various estimates and assumptions based on available information, including assuming that Class 4 votes to accept the Plan. Therefore, actual results may significantly differ from estimated recovery and could have a material effect on the recovery percentages. The estimated recoveries contained herein are in no way a promise or guarantee of recovery.

- Counsel for the Debtors, Andrews Kurth LLP, 600 Travis, Suite 4200, Houston, Texas 77002, Attn: David Zdunkewicz and Timothy A. Davidson II;

- Local-Counsel for the Debtors, Crowe & Dunlevy, 20 North Broadway, Suite 1800, Oklahoma City, Oklahoma 73102, Attn: William H. Hoch;

- The Office of the United States Trustee for the Western District of Oklahoma, 215 Dean A. McGee Ave. 4th Fl., Oklahoma City, Oklahoma 73102, Attn: Charles Snyder;

- Counsel to the Creditors' Committee, Looper Reed & McGraw, P.C., 1601 Elm Street, Suite 4600, Dallas, Texas 75201, Attn: Jason Brookner;

- Counsel to the DIP Lenders and the Steering Committee, Paul, Weiss, Rifkind, Wharton & Garrison LLP, 1285 Avenue of the Americas, New York, New York 10019-6064, Attn: Brian Hermann and Sarah Harnett;

- Local Counsel to the DIP Lenders and the Steering Committee, McAfee & Taft, Two Leadership Square, 211 N. Robinson, Oklahoma City, Oklahoma 73102, Attn: Steven Bugg; and

- Counsel to the Senior Secured Notes Indenture Trustee, Faegre Baker Daniels LLP, 2200 Wells Fargo Center, 90 South Seventh Street, Minneapolis, Minnesota 55402-3901, Attn: Michael B. Fisco.

**ANY OBJECTION TO CONFIRMATION OF THE PLAN MUST BE IN WRITING AND (A) MUST STATE THE NAME AND ADDRESS OF THE OBJECTING PARTY AND THE AMOUNT OF ITS CLAIM OR THE NATURE OF ITS EQUITY INTEREST AND (B) MUST STATE WITH PARTICULARITY THE NATURE OF ITS OBJECTION. ANY CONFIRMATION OBJECTION NOT TIMELY FILED AND SERVED AS SET FORTH HEREIN SHALL BE DEEMED WAIVED AND SHALL NOT BE CONSIDERED BY THE BANKRUPTCY COURT.**

## I. SUMMARY OF POST-CONFIRMATION OPERATIONS

Attached hereto as **Exhibit C** are the Financial Projections, which project the expected financial performance of the Reorganized Debtors as of January 1, 2014 and through the period ending December 31, 2016 The Financial Projections are based upon information available as of August 31, 2013, and numerous assumptions are an integral part of the Financial Projections, many of which are beyond the control of the Reorganized Debtors and some or all of which may not materialize. See Section IX.E — "CERTAIN FACTORS TO BE CONSIDERED — INHERENT UNCERTAINTY OF FINANCIAL PROJECTIONS."

### J. RECOMMENDATION OF BOARDS OF DIRECTORS AND OTHERS TO APPROVE PLAN

The respective boards of directors of the Debtors approved the solicitation of acceptances of the Plan and all of the transactions contemplated thereby. In light of the benefits to be attained by the Holders of Eligible Claims pursuant to consummation of the transactions contemplated by the Plan, the Debtors' respective boards of directors recommend that such Holders of Eligible Claims vote to accept the Plan. The Debtors' respective boards of directors, have reached this decision after considering the alternatives to the Plan that are available to the Debtors and the possible effect on the Debtors' business operations. These alternatives include liquidation under chapter 7 of the Bankruptcy Code or a reorganization under chapter 11 of the Bankruptcy Code with an alternative plan of reorganization. The Debtors' respective boards of directors determined, after consulting with financial and legal advisors, that the Restructuring Transactions contemplated in the Plan would likely result in a distribution of greater values to creditors than would a liquidation under chapter 7. For a comparison of estimated distributions under chapter 7 of the Bankruptcy Code and under the Plan, see Section VII.C — "FEASIBILITY OF THE PLAN AND THE BEST INTERESTS OF CREDITORS TEST — LIQUIDATION ANALYSIS."

THE DEBTORS' RESPECTIVE BOARDS OF DIRECTORS EACH SUPPORT THE PLAN AND URGE ALL HOLDERS OF ELIGIBLE CLAIMS WHOSE VOTES ARE BEING SOLICITED TO TIMELY SUBMIT BALLOTS TO ACCEPT AND SUPPORT THE PLAN.

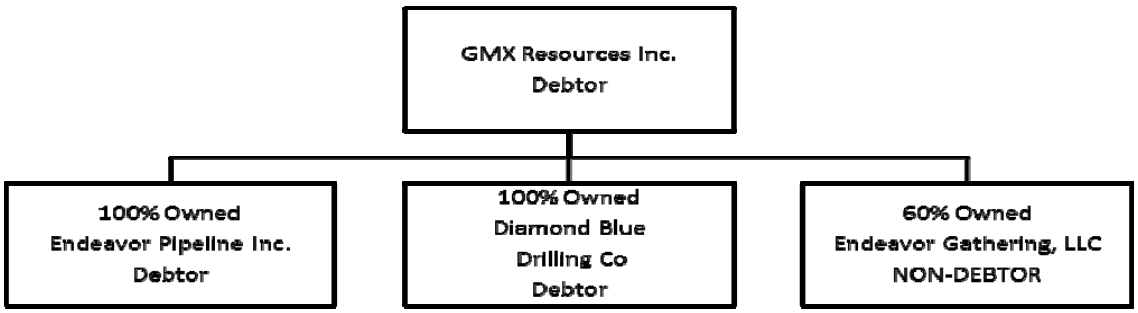
IN ADDITION, THE CREDITORS' COMMITTEE SUPPORTS CONFIRMATION OF THE PLAN AND ENCOURAGES HOLDERS OF GENERAL UNSECURED CLAIMS TO VOTE TO ACCEPT THE PLAN AS SET FORTH IN THE LETTER FROM THE CREDITORS' COMMITTEE ATTACHED HERETO AS EXHIBIT G.

## II. GENERAL INFORMATION REGARDING THE DEBTORS

### A. BACKGROUND

GMXR is an independent oil and gas exploration and production company that was founded in 1998 and publicly traded since 2001. GMXR has development acreage in two oil resource plays -- the Williston Basin (North Dakota and Montana) and the DJ Basin (Wyoming), targeting the Bakken Three Forks and Niobrara formations, respectively. The company also operates in two natural gas/liquids rich resource plays -- the Haynesville/Bossier formation and the Cotton Valley Sand formation in the East Texas Basin.

The following chart generally depicts GMXR's organizational structure:




The interests in the oil and gas leases and properties are owned by GMX Resources Inc. GMX Resources Inc. is a debtor.

Endeavor Pipeline Inc. is 100% owned by GMX Resources Inc. and operates a water delivery and salt water disposal system in East Texas. Endeavor Pipeline Inc. also handles the North Dakota oil sales activity, and the East Texas gas marketing activities. It buys natural gas in East Texas from GMXR and other parties at the wellhead, and uses its gathering, processing and transportation contracts with Endeavor Gathering LLC and third parties to ship gas from the wellhead to the ultimate sales points. Endeavor Pipeline Inc. is a Debtor.

Diamond Blue Drilling Co. is 100% owned by GMX Resources Inc. and has inconsequential assets and no current operations. Diamond Blue Drilling Co. is a Debtor.

Endeavor Gathering, LLC owns a natural gas gathering system and related equipment in East Texas which is contractually operated by Endeavor Pipeline Inc. GMXR owns a 60% membership interest in Endeavor Gathering, LLC. Kinder Morgan Endeavor LLC owns 40% a membership interest in Endeavor Gathering, LLC. Endeavor Gathering, LLC is not a Debtor.

The Debtors are including Unaudited Selected Financial Information from their consolidated financial statements as **Exhibit D** for further background information on the Debtors' financial condition as of December 31, 2012.

The Debtors hereby incorporate by reference into this Disclosure Statement the information GMXR files with the SEC. The information incorporated by reference is an important part of this Disclosure Statement, and information that is filed after the date of this Disclosure Statement with the SEC will automatically update and supersede this information. The Debtors incorporate by reference the documents listed below and any future filings made by GMXR with the SEC under Sections 13(a), 13(c), 14, or 15(d) of the Exchange Act (excluding any information furnished pursuant to Item 2.02 or 7.01 on any Current Report on Form 8-K).

- Annual Report on Form 10-K for the year ended December 31, 2011;
- Quarterly Report on Form 10-Q for the quarter ended September 30, 2012;

- Current Reports on Form 8-K filed with the SEC on (i) November 9, 2012, (ii) November 29, 2012, (iii) December 12, 2012, (iv)December 19, 2012, (v) December 31, 2012, (vi) January 4, 2013, (vii) January 14, 2013, (viii) February 1, 2013, (ix) February 19, 2013, (x) February 19, 2013, (xi) March 4, 2013, (xii) April 1, 2013, (xiii) April 5, 2013, (xiv) April 9, 2013, (xv) May 2, 2013, (xvi) May 22, 2013, (xvii) June 3, 2013, (xviii) June 17, 2013, (xix) June 18, 2013, and (xx) October 4, 2013;

- Notification of Late Filing on Form 12b-25 related to GMXR's Form 10K for the year ended December 31, 2012; and

- Notification of Late Filing on Form 12b-25, as amended by Form 12b-25/A; related to GMXR's Form 10-Q for the three months ended March 31, 2013.

Any statement contained in a document incorporated by reference herein shall be deemed to be modified or superseded for all purposes to the extent that a statement contained in this Disclosure Statement or in any other subsequently filed document which is also incorporated or deemed to be incorporated by reference, modifies or supersedes such statement. Any statement so modified or superseded shall not be deemed, except as so modified, or superseded, to constitute a part of this Disclosure Statement.

All documents incorporated by reference herein may be accessed at www.sec.gov. Pleadings filed in the Chapter 11 Cases may also be obtained from the website maintained by the Debtors' claim and noticing agent at http://dm.epiq11.com/GMX/Project#.

## 1. EXISTING CAPITAL STRUCTURE OF THE DEBTORS

Below is a chart summarizing the Debtors capital structure as of the Commencement Date. Each class is described in more detail below.

| | |
|---|---|
| Senior Secured Notes due December 2017 | $402,363,309 |
| Second-Priority Notes due 2018 | $51,500,000 |
| Convertible Notes due May 2015 | $48,296,000 |
| Old Senior Notes due February 2019 | $1,970,000 |
| Drilling Cost Financing | $1,261,000 |
| Total | $505,390,309 |

### a. Senior Secured Notes Due December 2017

In December 2011, GMX Resources Inc. completed the issuance and sale of $283.5 million of Senior Secured Notes due 2017 (the "Series A Notes"). In December 2012, GMXR completed a private placement of $30.0 million of Senior Secured Notes due 2017 (the

"Series B Notes," and together with the Series A Notes, the "Senior Secured Notes"). The Senior Secured Notes are governed by the Senior Secured Notes Indenture. The Series A and Series B Senior Secured Notes are secured by first-priority liens on substantially all right, title and interest in or to substantially all of the assets and properties owned or acquired by the Debtors.

As of February 11, 2013 GMXR had outstanding $324.3 million aggregate principal amount of the Senior Secured Notes, including $294.3 million aggregate amount of Series A Notes and $30.0 million aggregate principal amount of Series B Notes. As of April 1, 2013, there was $11.9 million in accrued unpaid interest on the Senior Secured Notes. There is also a make-whole premium, the Applicable Premium as defined in the Senior Secured Notes Indenture, that was triggered upon the automatic acceleration of the Senior Secured Notes, as a result of the commencement of these Chapter 11 Cases, which became immediately due and payable on the Commencement Date.

The Senior Secured Notes Claim has been allowed by order of the Bankruptcy Court in full in the aggregate amount of $402,363,309.00 (exclusive of post-petition interest, fees and expenses) consisting of (i) principal and accrued interest owing on the as of the Commencement Date in the amount of $336,276,571.00 and (ii) the Applicable Premium in the amount of $66,086,738.00

b. Second-Priority Notes Due 2018

In September 2012, GMX Resources Inc. issued $51.5 million of senior secured second-priority notes due 2018 through the consummation of certain exchange offers. The Second-Priority Notes are secured by second-priority perfected liens on the same collateral pledged for the Senior Secured Notes. There are no guarantors of the Second-Priority Notes. As of February 11, 2013, GMXR had outstanding $51.5 million aggregate principal amount of the Second-Priority Notes.

There is an Intercreditor Agreement among the collateral agents for the Senior Secured Notes and the Second-Priority Notes that governs the lien priorities and related rights of the Holders of the Senior Secured Notes, the Holders of the Second-Priority Notes, and EDF Trading North America, LLC, as a secured hedge counterparty.

c. 4.50% Convertible Notes Due May 2015

In October 2009, GMX Resources Inc. completed an $86.3 million public offering of 4.50% convertible senior notes due 2015 (the "Convertible Notes"). The Convertible Notes are unsecured obligations of GMX Resources Inc. and there are no guarantors of the Convertible Notes. During September 2012, GMXR consummated an exchange offer for the outstanding Convertible Notes. Pursuant to the terms of this exchange offer, the company issued $26,540,000 aggregate principal amount of Second-Priority Notes in exchange for $37,954,000 aggregate principal amount of Convertible Notes. As of February 11, 2013, GMXR had outstanding $48.3 million aggregate principal amount of the Convertible Notes.

d. 11.375% Senior Notes Due 2019

In February 2011, GMX Resources Inc. completed the issuance and sale of $200 million of 11.375% Senior Notes due 2019 (the "Old Senior Notes"). The Old Senior Notes are unsecured obligations of GMX Resources Inc. and the guarantors, Endeavor Pipeline Inc. and Diamond Blue Drilling Co. In December 2011, 99% of the Old Senior Notes were exchanged for new Senior Secured Notes. As of February 11, 2013 GMXR had outstanding $1,970,000 aggregate principal amount of the Old Senior Notes.

e. Drilling Cost Financing

In 2004, GMXR entered into an arrangement with Penn Virginia Oil & Gas L.P. ("PVOG"), in which PVOG agreed to purchase dollar denominated production payments from GMXR on certain wells drilled during a portion of 2004. Under this agreement, PVOG provided $2.8 million in funding for GMXR's share of costs of four wells drilled by PVOG which is repayable solely from 75% of GMXR's share of production revenues from these wells, without interest. The amount outstanding as of the Commencement Date was $1,261,000.00.

f. Hedging Agreements and Security Deposits

On the Commencement Date, GMXR had open hedge contracts for natural gas through 2015 and crude oil through 2014 with EDF Trading North America, LLC. Subsequent to the Commencement Date, EDF Trading North America, LLC terminated the hedge contracts. On August 13, 2013, the Court entered Order Approving Settlement Under Fed. R. Bankr. P. 9019 with EDF Trading North America, LLC pursuant to which the Debtors were authorized to pay $1,808,593.12 to EDF Trading North America in full satisfaction of all obligations under the hedging agreements. GMXR made the payment and hedging agreements have been terminated and the obligations thereunder satisfied in full.

Endeavor Pipeline Inc. has a $25,000 cash deposit with the Texas Railroad Commission for its operator's license. Additionally, the Debtors have a $100,000 cash deposit with their insurance company to collateralize the Debtors' surety bond with the Texas Railroad Commission.

g. Equity Interests of the Debtors

As of February 11, 2013, GMXR had issued and outstanding 7,405,783 shares of common stock.

GMXR's certificate of incorporation authorizes the issuance of up to 10,000,000 shares of preferred stock, par value $0.001 per share, in one or more series. GMXR has designated 25,000 of such shares as Series A Junior Participating Preferred Stock in connection with a Rights Plan. GMXR has also designated 6,000,000 of such shares as 9.25% Series B Cumulative Preferred Stock ("9.25% Preferred Stock"), of which 3,176,734 shares were issued and outstanding as of December 31, 2012.

## 2. EVENTS LEADING TO THE DEBTORS' RESTRUCTURING

On April 1, 2013, the Debtors filed their voluntary petitions for relief under chapter 11 of the Bankruptcy Code. The underlying causes leading to the bankruptcy filing stemmed from a lack of liquidity and availability of capital to develop and exploit oil and natural gas properties, including drilling, completing, and producing the company's "proved undeveloped reserves" of oil and gas assets. The Debtors had been struggling due to the substantial drop in and sustained low natural gas prices over the three years prior to the Commencement Date.

Prior to the Commencement Date, GMXR sought to raise capital through debt and equity offerings but was unsuccessful. In response to the Debtors' depressed financial performance and declining financial condition, and after thoroughly evaluating their options, the Debtors undertook the process of negotiating a potential restructuring with certain holders of the Senior Secured Notes. In February 2013, such holders of the Senior Secured Notes formed the Steering Committee, which retained its own counsel and financial advisors. As the Debtors engaged in discussions with the Steering Committee, on March 4, 2013, GMXR elected not to make an interest payment due on its Second-Priority Notes. This missed payment triggered a number of cross defaults under the Senior Secured Notes Indenture and the Convertible Notes Indenture. After good faith, arm's-length negotiations among the Debtors and the Steering Committee, the members of the Steering Committee agreed to provide debtor-in-possession financing to fund the orderly sale of substantially all of the Debtors assets, subject to a marketing and auction process, pursuant to section 363 of the Bankruptcy Code, with the Steering Committee pursuing a "stalking horse" credit bid for the Debtors' assets, subject to higher and otherwise better offers.

## 3. LITIGATION PENDING AGAINST THE DEBTORS AT THE TIME OF FILING

The Debtors are party to a variety of legal proceedings and administrative actions. The claims made in the legal proceedings and administrative actions will be treated as General Unsecured Claims. The legal actions pending against the Debtors are summarized below:

a. *In the Matter of an Arbitration Between Penn Virginia Oil & Gas, L.P., Claimant and GMX Resources Inc., Respondent.*

On September 27, 2010, PVOG initiated arbitration proceedings and asserted a claim for well costs allegedly owed by GMXR on the Timmins #3H and the Timmins #3HR in the approximate amount of $3,078,623.62, plus interest and attorney fees. No punitive damages are sought against GMXR. A pivotal issue is whether PVOG misrepresented the status of the Timmins #3H to induce GMXR to participate in the well after it had been lost so that well costs would be shared by both parties. Evidence currently available indicates that PVOG employees, in fact, did inquire as to whether GMXR intended to participate in the Timmins #3H after operations to plug and abandon the well had been initiated by PVOG.

On November 5, 2010, GMXR served PVOG with its Answering Statement and Amended Counterclaims. GMXR has asserted counterclaims against PVOG for

(i) fraud/concealment relating to PVOG's obtaining GMXR's participation election in the Timmins #3H well; (ii) Gross Negligence/Willful Misconduct/Refusal to Carry Out Duties as Operator relating to PVOG's operations on the Participation Agreement properties; and (iii) for breach of contract for failure to make timely lease offerings; failure to provide information, over billing, and failure to obtain consent to plugging.

On April 24, 2012, GMXR sought leave from the arbitration panel to assert an additional counterclaim against PVOG for PVOG's purported breach of a Gas Gathering and Compression Agreement. The arbitration panel has not yet granted or denied GMXR's request.

Regarding the Timmins #3HR, one of the key issues is whether the costs sought by PVOG constitute "sidetrack" operations for which PVOG was required to submit an Authority for Expenditure to GMXR and obtain GMXR's consent before GMXR could be obligated for such costs. GMXR never consented to any sidetrack operations. PVOG contends the costs were not for sidetrack operations and that, therefore, GMXR's original consent to participate in the well obligates GMXR for such costs.

For almost a year prior to GMXR filing bankruptcy, the parties were engaged in settlement dialogue. As a result of those ongoing discussions, the parties agreed to put the arbitration on hold while settlement was explored. No settlement was reached before GMXR filed bankruptcy.

b. *Penn Virginia Oil & Gas, L.P v.. GMX Resources Inc., Summit Energy (Texas), LLC, And East Texas Exploration LLC., Civil Action No. 4:12-Cv-00748 in the United States District Court for the Eastern District of Texas.*

On December 3, 2012, PVOG filed the above lawsuit alleging that it has a right of first refusal in connection with certain properties that GMXR sold to Summit Energy, LLC ("Summit") pursuant a Purchase and Sale Agreement dated October 1, 2012. The complaint seeks specific performance to sell oil & gas property to PVOG instead of a third party or damages estimated at $42,650,000. PVOG alleged that the sale and transfer of properties from GMXR to Summit violated PVOG's right of first refusal under the Participation Agreement between PVOG and GMXR effective December 5, 2003. PVOG claimed that the sale and transfer constituted a breach of the Participation Agreement and PVOG sought a declaratory judgment of its rights under the Participation Agreement. In addition, PVOG asserted a tortious interference claim against Summit and East Texas Exploration (the assignee of Summit).

On March 21, 2013, the Court compelled arbitration of PVOG's claims and stayed all further proceedings in this case pending binding arbitration. No arbitration was commenced by the time GMXR filed bankruptcy. On May 8, 2013, PVOG filed a stipulation of dismissal to dismiss this lawsuit.

c. *Alfred E. Lacy, A.K. Lacy And Robert Tiller, Plaintiffs v. GMX Resources Inc., Penn Virginia Oil & Gas LP and R. Lacy, Inc., Defendants. Case No. 07-0580 In the District Court of Harrison County, Texas, 71st Judicial District.*

Plaintiffs requested a judgment that certain of the Debtors' leases in East Texas have terminated and for payment of production proceeds from the alleged date of termination. Prior to the Commencement Date, a tentative settlement agreement was reached, but not consummated. As such, the Debtors believe that the leases at issue in the litigation remain in full force and effect.

d. *John H. Haynes, Jr., Individually and as Trustee For John H. Haynes, III, Loreeann Haynes Denny and Andrew Thomas Haynes; Stephen G. Taylor; Julie Taylor; Don Crutcher and Jeannie Crutcher, Plaintiffs, v. GMR Resources Inc. and Loutex Energy, L.L.C., Cause No. 1100104 in the District Court of Marion County, Texas*

On June 17, 2011, plaintiffs filed the action disputing the interpretation of agreements between the plaintiffs and defendants as to payments due plaintiffs based upon defendants operations. Plaintiffs seek to recover in excess of $1,800,000 from defendants for alleged unpaid lease bonuses. Plaintiffs also sought a determination that the Haynes unit should be designated as an oil well as opposed to a gas well, which would reduce the amount of acreage held by such well. Defendants have answered, denying plaintiff's claims. Plaintiffs filed a motion for partial summary judgment based on their interpretation of the agreements. Defendants responded and a hearing on the motion was held on December 16, 2011. The Court took the parties' arguments under advisement and ruled in favor of defendants.

On February 12, 2013, at a court ordered mediation, the parties agreed to the terms of a settlement, subject to completion of definitive settlement documents. The proposed settlement was not consummated. The main terms of the settlement provided that GMXR would pay the Plaintiffs $725,000, the Haynes unit would be redesignated as an 80 acre unit, and GMXR would release all acreage lying outside that 80 acre unit to plaintiffs. The plaintiffs would then dismiss all claims against GMXR. Subsequent to the mediation but before the Commencement Date, the Texas Railroad Commission issued a ruling that the Haynes unit was a gas well, thus holding approximately 704 acres of the lease.

While the parties agreed to the terms of a settlement, formal settlement documents were not executed and payment of the settlement amount was not made as of the Commencement Date, nor was the Haynes unit redesignated. As such, the Haynes Unit remains a gas well and the Debtors do not intend to consummate the settlement.

e. *Alfred E. Lacy Jr. and A.K. Lacy, Plaintiffs v. GMX Resources Inc., Defendant, Cause No. 11-0838 in the District Court of Harrison County, Texas, 71st Judicial District.*

On September 29, 2011, plaintiffs filed the action contending that GMXR's oil and gas lease expired by its own terms due to a lack of commercial production in sufficient quantities. Plaintiffs seek to terminate the lease and seek an unknown amount of proceeds from the production or sale of oil, gas, and other minerals under the lease, which plaintiffs claim have not been accounted for by GMXR. GMXR has answered, denying plaintiffs' claims.

As of the date GMXR filed bankruptcy, no scheduling order had yet been entered and discovery and investigation was still ongoing. The parties were engaged in settlement discussions prepetition.

f. *Weatherford International Inc., Plaintiff v. GMX Resources Inc., Defendant., Cause No. 201249875 in the District Court of Harris County, Texas 165th Judicial District.*

On August 29, 2012, plaintiff filed the action contending that there remains $659,971 due and owing on GMXR's open account with plaintiff for certain equipment and services provided to GMXR under a Master Services Agreement dated December 1, 2010. Plaintiff is seeking actual damages in the amount of approximately $659,971, attorney's fees and costs of litigation. Plaintiff is also seeking to foreclose a lien claimed against certain leasehold interest located in Harrison County, Texas known as the Mia Austin Gas Unit.

GMXR timely answered, denying all of plaintiff's claims, and asserted a counterclaim against plaintiff for breach of the Master Services Agreement based on plaintiff's refusal to refund and/or credit GMXR for approximately $2,187,572 in overpayments for invoiced, but unperformed, work.

As of the Commencement Date, no scheduling order had yet been entered and discovery and investigation were still ongoing.

g. *GMX Resources Inc., Plaintiff v. Poseidon Concepts Inc., Defendant, Case No. 1:13-Cv-00 in the United States District Court for the District of North Dakota, Southwestern Division, 3.*

GMXR instituted the action to collect overpayments on frac tank rentals paid to Poseidon. GMXR alleged that Poseidon Concepts Inc. ("Poseidon") overcharged GMXR both for (i) the daily rate, and (ii) the number of days. After the dispute first began, Poseidon offered to provide a "credit" that would be amortized over a period of time. The parties did not resolve the dispute, and this lawsuit was commenced. In it, GMXR seeks excess of $320,000 in overpayments. Poseidon filed a counterclaim – principally a breach of contract action – in which it alleges that GMXR owes Poseidon approximately $128,000 for amounts due and owing for frac tank rentals.

Poseidon filed its answer and counterclaims on February 13, 2013. As of the Commencement Date, no discovery had yet commenced and no scheduling order had yet been entered.

h. *Northumberland County Retirement System and Oklahoma Law Enforcement Retirement System, Individually and On Behalf of All Others Similarly Situated, v. GMX Resources, Inc., Ken L. Kenworthy, Jr., James A. Merrill, Jefferies & Company, Inc., Howard Weil Inc., Morgan Keegan & Company, Inc., Capital One Southcoast, Inc., Collins Stewart LLC, Pritchard Capital Partners, LLC, Tudor, Pickering, Holt & Co. Securities Inc., Merrill Lynch, Pierce, Fenner & Smith Incorporated, BBVA Securities Inc., Fortis Securities LLC, Wedbush Morgan Securities Inc., Credit Suisse Securities (USA) LLC and Smith Carney & Co. P.C.; Cause No. CIV-11-520-D in the United States District Court for the Western District of Oklahoma.*

Plaintiffs filed this lawsuit on May 10, 2011 asserting violations of the Securities Act of 1933 associated with stock offerings in 2008 and 2009. Plaintiffs seek to pursue the lawsuit as a class action. Subsequent to filing the lawsuit, plaintiffs dismissed all claims against GMXR. On September 16, 2013, the court denied the remaining defendants' motions to dismiss, and the case will proceed against those defendants. A trial date has not yet been set.

i. *Donald Porter, Derivatively on Behalf of Resources, Inc. v Ken L. Kenworthy, Jr., Michael J. Rohleder, James A. Merrill, Ken L. Kenworthy, Sr., T.J. Boismier, Steven Craig, and Jon W.. McHugh, and GMX Resources In., as Nominal Defendant*; *Case No. CIV-11-890-HE, In the United States District Court for the Western District of Oklahoma*

In this shareholder derivative suit, the plaintiff brings claims against the named defendants for breaches of fiduciary duty, waste of corporate assets and unjust enrichment. Such claims are based on the same facts alleged in the *Northumberland* suit discussed above and defendants' alleged failure to maintain an effective system of internal and financial control measures to ensure proper and accurate financial reporting to the SEC in 2008 and 2009.

As of the date the Debtors filed bankruptcy, this case was stayed pending a ruling on the motions to dismiss filed in the *Northumberland* case discussed above. The case is currently stayed in light of GMXR's bankruptcy proceeding.

Another GMXR shareholder, Ronald Zerr, filed an almost identical derivative lawsuit in federal court in 2012 captioned *Ronald Zerr, derivatively on behalf of GMX Resources, Inc. v. Ken Kenworthy, Jr., Michael J Rohleder, Tom Boismier, Jon McHugh, Steven Craig, and James A. Merrill, and GMX Resources, Inc. as Nominal Defendant*; Case No. 5:12-cv-00313-D; In the U.S. District Court for the Western District of Oklahoma. The *Zerr* case has been consolidated with the *Porter* case into a single action.

Further, two GMXR shareholders, Ruth Gordon and Kenneth Willis, filed separate derivative actions in state court in Oklahoma alleging claims similar to the claims asserted in the pending *Porter* derivative action described above, except that the petitions add

(1) additional claims regarding GMXR's executive and director compensation and (2) additional defendants Casso, Cook and Lucke. These cases have been consolidated into a single state court action, which is styled *In re GMX Resources Inc. Shareholder Derivative Action*; Master File No. CJ-2012-727, currently pending in the District Court of Oklahoma County. This case is also stayed in light of GMXR's bankruptcy proceedings.

B. EVENTS DURING CHAPTER 11 CASES

1. ENTRY OF "FIRST DAY" ORDERS

On the Commencement Date, the Debtors filed a number of motions (the "First Day Motions") seeking entry of so-called "first day" orders (the "First Day Orders") intended to facilitate a debtor's transition into chapter 11 by approving certain regular business conduct for which approval of the Bankruptcy Court is required. The initial hearings on the First Day Motions were held on April 3, 2013.

The First Day Orders entered by the Bankruptcy Court consisted of the following:

- *Order Granting Motion for Joint Administration [Docket No. 13] (the "Joint Administration Order).* Pursuant to the Joint Administration Order, the Bankruptcy Court authorized the Debtors' cases to be jointly administered for procedural purposes only under the lead case number 13-11456.

- *Order Granting Application to Retain Crowe & Dunlevy P.C. as Special and Local Counsel [Docket No. 65] (the "CD Retention Order"*). Pursuant to the CD Retention Order, the Bankruptcy Court authorized the retention of Crowe & Dunlevy, P.C. as special and local counsel to the Debtors.

- *Order Granting Motion to Extend Time to File Schedules and Statements [Docket No. 66] (the "Extension Order").* Pursuant to the Extension Order, the Bankruptcy Court provided the Debtors an additional 18 days to May 6, 2013 to file their schedules of assets and liabilities and statement of financial affairs.

- *Order Granting Application to Retain Andrews Kurth LLP as Lead Counsel to the Debtors [Docket No. 67] (the "AK Retention Order").* Pursuant to the AK Retention Order, the Bankruptcy Court authorized the retention of Andrews Kurth LLP as lead bankruptcy counsel to the Debtors.

- *Order Granting Application to Retain Epiq Bankruptcy Solutions LLC as Claims, Noticing, and Balloting Agent [Docket No. 69] (the "Epiq Retention Order").* Pursuant to the Epiq Retention Order, the Bankruptcy Court authorized the Debtors to retain Epiq Bankruptcy Solutions LLC as its claims, noticing, and balloting agent, and authorized Epiq to maintain the claims register and website for these cases.

- *Order Granting Application to Retain Jefferies LLC as Investment Banker and Financial Advisor to the Debtors [Docket No. 70] (the "Jefferies Retention Order").* Pursuant to the Jefferies Retention Order, the Debtors were authorized to retain Jefferies LLC as their investment banker and financial advisor for these cases.

- *Order Granting Motion to Pay Royalty Payments [Docket No. 71] (the "Royalty Order").* Pursuant to the Royalty Order, the Court authorized the Debtors to continue payments owed to royalty owners on account of the Debtors oil and gas operations in the ordinary course, including payment of prepetition royalties owed to royalty owners.

- *Order Granting Motion to Limit Notice Authorizing the Debtors to file a Consolidated Creditor Matrix and Granting Authority to Establish the Master Service List Applicable these Cases [Docket No. 72] (the "Notice Order").* Pursuant to the Notice Order, the Debtors were authorized to file one consolidated creditor matrix for these cases. These Debtors were further authorized to file a master service list for service of motions in these cases, with such service list being updated weekly.

- *Order Granting Motion to Continue Use of Bank Accounts, Business Forms, and Cash Management System; Waiving Requirements of Section 345 of the Bankruptcy Code; and Authorizing Continuance of Intercompany Transactions [Docket No. 73] (the "Bank Accounts Motion").* Pursuant to the Bank Accounts Motion, the Debtors were authorized to continue use of their existing bank accounts, business forms, and cash management system uninterrupted. Further, the Debtors were authorized to continue certain intercompany transactions in the ordinary course.

- *Order Granting Motion (i) Authorizing Payment of Prepetition Employee Obligations and Related Amounts, (ii) Confirming Rights of Debtors to Continue Employee Programs on a Postpetition Basis, (iii) Confirming Rights of Debtors to Pay Withholding and Payroll-Related Taxes and (iv) Directing Banks to Honor Pre-petition Checks for Employee Obligations [Docket No. 74] (the "Employee Order").* Pursuant to the Employee Order, the Debtors were authorized to pay all prepetition wages owed to its employees, and continue prepetition employee programs, such as 401(k) programs and healthcare programs, and honor the Debtors obligations related thereto.

- *Interim and Proposed Final Order Granting Motion for Continuation of Utility Service [Docket No. 75]* (the "Utilities Order"). Pursuant to the Utilities Order, the Court approved the Debtors proposed procedures for providing adequate assurance of payment to certain utilities identified by the Debtors.

- *Order Granting Motion Establishing Case Procedures [Docket No. 76] (the "Case Procedures Order").* Pursuant to the Case Procedures Order, the Bankruptcy Court established certain procedures for motion practice in these cases, including, but not limited to, the setting of omnibus hearing dates and negative notice language to be included in motions filed with the Bankruptcy Court.

- *Interim Order Granting Motion for Authority to Pay in the Ordinary Course: (i) Undisputed Prepetition Joint Interest Billings and other Obligations Owing Under Oil and Gas Leases; (ii) Undisputed Prepetition claims Subject to Statutory Liens; (iii) Undisputed Obligations or Taxes Owed to Governmental Authorities; and (iv) Certain Critical Vendors Relating to Oil and Gas Operations [Docket No. 78] (the "Lien Order").* Pursuant to the Lien Order, the Bankruptcy Court authorized the Debtors to pay prepetition joint interest billings and other obligations owing under oil and gas leases, and continue such payments in the ordinary course postpetition, as well as pay taxes owed to governmental authorities. The Bankruptcy Court also authorized the Debtors to use approximately $6 million on an interim basis to pay undisputed lien claimants, subject to a final hearing to consider use of additional funds to pay lien claimants as well as to consider approval of payments to certain critical vendors. The Debtors were subsequently authorized to use an additional $12 million to pay undisputed lien claimants, subject to review and approval by the Creditors' Committee. *See* Docket No. 306. The Debtors withdrew the part of the motion seeking to pay critical vendors.

- *Interim Order Granting Motion Approving Postpetition Financing, Authorizing Use of Cash Collateral, Granting Liens and Providing Superpriority Expenses Status, Granting Adequate Protection, Modifying Automatic Stay, and Scheduling Final Hearing [Docket No. 80] (the "Interim DIP Order").* Pursuant to the Interim DIP Order, the Debtors were authorized to enter into the DIP Credit Facility on an interim basis and borrow up to $20 million pending a final hearing on the motion to approve the DIP Credit Facility. A final order approving the DIP Credit Facility and Authorizing the Debtors to borrow the full $50 million was entered by the Bankruptcy Court on May 6, 2013. *See* Docket No. 323.

2. DEBTOR-IN-POSSESSION FINANCING

By Order dated May 6, 2013, the Bankruptcy Court authorized the Debtors on a final basis to obtain postpetition financing on a secured, superpriority basis pursuant to that certain $50,000,000 Superpriority Debtor In Possession Credit and Guaranty Agreement dated April 4, 2012 among GMX Resources Inc., as Borrower, Diamond Blue Drilling Co. and Endeavor Pipeline Inc., as Guarantors, the lenders from time to time, and Cantor Fitzgerald Securities, as Administrative and Collateral Agent (the "DIP Facility Agreement"). The DIP Facility Agreement included certain milestones related to the Sale Transaction.

As of October 15, 2013, the Debtors had borrowed $10,000,000 under the DIP Facility Agreement.

3. THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS

On April 2, 2013, the U.S. Trustee filed its Notice of Appointment of Creditors' Committee [Docket No. 40]. The Initial Notice appointed the following parties to the Committee: (i) Bank of New York Mellon (indenture trustee for unsecured noteholders); (ii) Penn Virginia Corporation; (iii) MBI Energy Logistics, LLC; (iv) East Texas Exploration, LLC; (v) Pyramid Tubular Products, L.P.; (vi) C&J Energy Services, Inc.; and (vii) Dual Trucking and Transport, LLC.

On April 10, 2013, the U.S. Trustee filed a Revised Notice of appointment of Creditors' Committee reconstituting the members of the Committee. The Revised Notice appointed the following parties to the Creditors' Committee: (i) Bank of New York Mellon; (ii) Penn Virginia Corporation; (iii) MBI Energy Logistics LLC; (iv) Pyramid Tubular Products, L.P.; (v) C&J Energy Services, Inc.; (vi) Dual Trucking and Transport, LLC; (vii) American Stock Transfer & Trust Company, LLC; (viii) Cudd Pumping Services; and (ix) Regency Intrastate Gas, LP. Subsequently, on April 29, 2013, the UST filed its Supplemental Notice of Additional Appointment to and Resignation from the Official Creditors' Committee. The Supplemental Notice added Brian Burr to the Creditors' Committee, and removed C&J Energy Services, Inc. from the Creditors' Committee. By Order of the Court, Mr. Burr was removed from the Creditors' Committee because he is a preferred shareholder of the Debtors and does not have any claims against the Debtors.

The Creditors' Committee counsel is Looper Reed & McGraw P.C and Hall, Estill, Hardwick, Gable, Golden & Nelson, P.C. The financial advisor to the Creditors' Committee is Conway Mackenzie, Inc.

4. COMPLIANCE WITH H BANKRUPTCY CODE, BANKRUPTCY RULES, LOCAL COURT RULES AND U.S. TRUSTEE DEADLINES

On May 3, 2013, the Debtors filed their Statement of Financial Affairs, Schedules of Assets and Liabilities, and lists of Equity Security Holders, each as amended from time to time. On May 6, 2013, the U.S. Trustee conducted a meeting of creditors pursuant to section 341 of the Bankruptcy Code. Additionally, the Debtors have timely filed all monthly operating reports and timely paid all statutory quarterly fees as required by the Office of the U.S. Trustee. To the best of the Debtors' knowledge, information and belief, the Debtors have complied with all other applicable requirements of the Bankruptcy Code and Bankruptcy Rules, as well as local Bankruptcy Court rules and deadlines of the Office of the U.S. Trustee.

5. EXTENSION OF THE DEBTORS' EXCLUSIVE PERIODS

Section 1121(b) of the Bankruptcy Code provides for an initial period of 120 days after the filing of a voluntary petition for relief under chapter 11 during which a debtor has the exclusive right to file a plan of reorganization in the reorganization proceeding. Section 1121(c)(3) of the Bankruptcy Code provides that if a debtor files a plan of reorganization within such 120 day period, the debtor has a period of 180 days from the filing of its voluntary petition

for relief to obtain acceptances of such plan, during which time competing plans may not be filed. The Debtors' exclusive periods were set to expire on July 30, 2013, and September 30, 2013, respectively.

On July 11, 2013, the Bankruptcy Court entered an order extending the period in which the Debtors have the exclusive right to file a plan or plans of reorganization until October 28, 2013, and the period to solicit acceptances of such plan to December 30, 2013. On October 18, 2013, the Bankruptcy Court entered a second order extending the period in which the Debtors have the exclusive right to file a plan or plans of reorganization until December 12, 2013, and the period to solicit acceptances of such plan to February 12, 2014,

a. Filing of the Sale Motion and Marketing Process

As contemplated in the DIP Facility Agreement, on May 16, 2013, the Debtors filed a motion to approve bidding procedures and the sale of substantially all of their assets [Docket No. 376] (the "Sale Motion") pursuant to a stalking horse asset purchase agreement. The Sale Motion contemplated the sale of substantially all of the Debtors' assets for a credit bid of $338 million of Senior Secured Notes, plus the assumption of certain liabilities, subject to higher or better offers, pursuant to the Asset Purchase Agreement dated May 15, 2013, among GMX Resources Inc., Diamond Blue Drilling Co., and Endeavor Pipeline Inc., as the Sellers, GMXR Acquisition LLC, as Purchaser (the "Purchaser"), and U.S. Bank National Association, exclusively in its capacity as Trustee and Collateral Agent for the Holders of Senior Secured Notes, as subsequently amended, including revisions to same or updates to any schedules or exhibits (the "APA"). The Debtors retained Jefferies LLC ("Jefferies") as their investment banker and financial advisor in part to identify any higher and better offers for the Debtors' assets through a robust exposure of the assets to the market of potential buyers. As part of that solicitation process, Jefferies prepared marketing materials and solicited acquisition candidates (as described below) for their interest in an acquisition transaction involving the business and assets of the Debtors.

On June 11, 2013, the Court entered the Order Under 11 U.S.C. § 105(a) and Fed. R. Bankr. P. 2002 and 9014 Approving (i) Bidding Procedures (ii) Form and Manner of Sale Notices, and (iii) Setting of a Sale Hearing and Related Deadlines (the "Bidding Procedures Order") [Docket No. 465]. The Bidding Procedures Order was agreed to by the Steering Committee and Creditors' Committee. The Bidding Procedures Order set forth the terms pursuant to which potential bidders would submit bids and the terms for conducting an auction. The Bidding Procedures Order established the following key dates and deadlines: (i) August 21, 2013 as the deadline for potential bidders to submit bids for the Debtors assets (the "Bid Deadline"); (ii) August 27, 2013 as the deadline for parties to object to the Sale Motion; (iii) August 28, 2013 as the date of the auction of the Debtors' assets (the "Auction"); and (iv) September 10, 2013 as the date of the hearing to consider and approve the winning bidder (the "Sale Hearing"). Further, as part of the bidding procedures, parties were allowed to submit bids on certain lots of the Debtors' assets without having to submit a bid to purchase all of the Debtors' assets.

As part of the Jefferies solicitation process, in total 255 potential buyers were contacted, including all of the parties identified by the Creditors' Committee. The

potential buyers included both financial and strategic parties. Of those contacted, 36 potential buyers entered into confidentiality agreements entitling them to access to an electronic data room. In addition to their ability to conduct due diligence through access to confidential information in the virtual data room, potential buyers were invited to meet with the Debtors' management team to further conduct due diligence on the Debtors' assets.

b. Bids Received and Auction

Prior to the Bid Deadline, the Debtors received five bids from four potential buyers in addition to the stalking horse bid pursuant to the APA. After reviewing the bids in consultation with counsel for the Steering Committee and counsel for the Creditors' Committee, the Debtors determined that only one of the additional bids received was also a qualified bid under the Bidding Procedures. Such bid was a lot bid to purchase the Debtors' assets in East Texas only.

The Debtors conducted the Auction on August 28, 2013. At the conclusion of the Auction, the Debtors and their advisors determined, in consultation with counsel for the Steering Committee and counsel for the Creditors' Committee, that the winning bidder was the Purchaser.

c. Objections to the Sale Motion

Kinder Morgan Endeavor, LLC ("KME") filed an objection to the Sale Motion [Docket No. 672] (the "KME Objection"). KME holds a 40% interest in Endeavor Gathering, LLC ("EGG"), a non-debtor subsidiary in which GMXR owns a 60% interest. The KME Objection related to the alleged rights of KME in relation to the sale of GMXR's ownership interest in EGG and the assumption and assignment of certain executory contracts.

Continental Resources, Inc. ("Continental") filed a Limited Objection to the Sale Motion [Docket No. 673] (the "Continental Objection"). Continental objected to the Sale Motion to the extent the Debtors sought to transfer their interests in the Pojorlie well and related assets to the winning bidder. At the time of the Objection Deadline, a pending motion under Bankruptcy Rule 9019 sought to settle certain claims between the Debtors and Continental by transferring the Debtors interest in the Pojorlie well and related assets to Continental, and such motion has since been approved by the Bankruptcy Court.

EDF Trading North America, LLC ("EDF") filed an Objection to the Sale Motion [Docket No. 675] (the "EDF Objection"). The EDF Objection related to EDF's concerns as to how the Sale Motion affects EDF's rights as it relates to its volumetric production payment (the "VPP Interest").

John H. Haynes, Jr., individually and as Trustee for certain individuals (the "Haynes Parties") filed an Objection to the Sale Motion [Docket No. 676] (the "Haynes Objection"). The Haynes Parties alleged that the Debtors are seeking to sell property that they do not own because the Debtors agreed to convey such property to the Haynes Parties as part of a settlement agreement which has not been finalized. The Haynes Objection also alleges that the Haynes Parties are owed unpaid royalties. The litigation between the Debtors and the Haynes

Parties is described in more detail in Section II.A — "Litigation Pending Against the Debtors at the Time of Filing."

GX Technology Corporation ("GXT") filed its Limited Objection to the Sale Motion [Docket No. 677] (the "GXT Objection"). GXT objected to the sale to the extent the Debtors seek to transfer or disclose seismic data or information related to the GXT license agreement and to the assumption and assignment of such license agreement absent GXT's consent.

Black Gold Logistics Corporation ("Black Gold") filed a Response and Limited Objection to the Sale Motion [Docket No. 679] (the "Black Gold Objection"). Black Gold asserts a lien in the amount of $106,168.75 for work performed on certain of the Debtors' wells in North Dakota. Black Gold asserted that its lien is senior to that of the Senior Secured Notes Indenture Trustee and, as a result, such wells cannot be transferred free and clear of Black Gold's liens.

The Creditors' Committee filed its Amended Objection to the Sale Motion [Docket No. 681] (the "Committee Objection"). The Committee alleged, among other things, that the proposed sale was a *sub rosa* plan.

d. Adjournment of the Sale Hearing

Subsequent to the Auction, the Debtors, the Creditors' Committee, and the Steering Committee engaged in settlement discussions regarding a global resolution of these Chapter 11 Cases, including the Committee Objection to the Sale Motion, and the framework for a consensual plan of reorganization. To that end, the Debtors filed a Motion to Adjourn the Sale Hearing and Set a Status Conference for September 10, 2013 [Docket No. 707] (the "Adjournment Motion"). The Court entered an Order Approving the Adjournment Motion [Docket No. 710] and setting a status conference for September 10, 2013 at 1:30 p.m. (the "Status Conference")

At the Status Conference, the Debtors informed the Court of the results of the sale process and Auction. The Debtors further informed the Court that the Parties had reached agreement in principle on the key terms of a global resolution of the Chapter 11 Cases, which would result in a consensual plan of reorganization that implements the result obtained from the agreement by providing for the Holders of the Senior Secured Notes Claims to own the Debtors, as reorganized, pursuant to a debt for equity conversion of the Senior Secured Notes Claims while also providing $1.5 million in cash for Distribution to general unsecured creditors, if the class of general unsecured creditors was to vote to accept the plan, as well as establishing the Creditor Trust. The Debtors informed the Court that the global resolution would be memorialized in a plan support agreement which was subsequently filed with the Court.

6. MOTION TO APPROVE PLAN SUPPORT AGREEMENT

On October 2, 2013, the Debtors filed their Motion for Authority to Enter into Plan Support Agreement [Docket No 786] (the "PSA Motion"), seeking authority for the Debtors to enter into the Plan Support Agreement dated as of September 30, 2013 (and as it may be further amended or modified pursuant to the terms therein, the "PSA") together with the term

sheet (the "Plan Term Sheet") attached thereto, a copy of which is attached to this Disclosure Statement as Exhibit E.

The PSA sets forth certain deadlines and requirements for the parties to pursue approval of a plan of reorganization consistent with terms of the Plan Term Sheet, rather than pursuing a sale of substantially all of the Debtors' assets pursuant to section 363 of the Bankruptcy Code as contemplated by the Sale Motion. The Plan is the proposed plan under the PSA and Plan Term Sheet. It is based on a debt-for-equity swap by the Holders of Senior Secured Notes. Specifically, the Holders of Senior Secured Notes shall exchange $338,000,000 of their $402,363,309 allowed claims for 100% of the equity in the reorganized GMX Resources Inc. and/or equity interests in New GMXR, a newly created affiliate of GMXR, subject to dilution by the Management Incentive Plan. The $338,000,000 is equal to the highest and otherwise best offer the Debtors received for substantially all of their assets at the Auction and is the allowed secured portion of the Senior Secured Notes Claim, leaving the Holders of Senior Secured Notes with a general unsecured deficiency claim in the amount of $64,363,309.

If Class 4 votes to accept the Plan, Allowed General Unsecured Claims shall receive the Cash Distribution and interests in the Creditor Trust. The Creditor Trust Assets shall include certain potential litigation claims listed on Exhibit A to the PSA and the Plan. Also, if Class 4 votes to accept the Plan, the Holders of the Senior Secured Notes Claim agree to forego any Distribution on account of the Senior Secured Notes Deficiency Claim and Holders of DIP Facility Claims and Senior Secured Notes Adequate Protection Claims (if any) will not receive any portion of the Cash Distribution and none of the Preferred Trust Interest shall be issued or distributed. If Class 4 does not vote to accept the Plan, Allowed General Unsecured Claims will not receive the Cash Distribution and the Creditor Trust will be funded with only $25,000 in Cash and the Senior Secured Notes Deficiency Claim will share in the Creditor Trust Assets along with any superpriority adequate protection administrative claims (if any) payable to the Holders of the Senior Secured Notes and any unpaid amounts under the DIP Facility Agreement. If Class 4 does not vote to accept the Plan, Holders of Senior Secured Notes Adequate Protection Claims (if any) and Holders of DIP Financing Claims that elect to receive interests in the Creditor Trust will receive the Preferred Trust Interests on the Effective Date and the interests of the Holders of General Unsecured Claims in the Creditor Trust will be junior and subordinate to the Preferred Trust Interests. The PSA Motion is set for hearing on October 29, 2013 at 9:30 a.m. before the Bankruptcy Court. The Plan being proposed with this Disclosure Statement is the Plan contemplated by the PSA.

## 7. EXTENSION OF DIP CREDIT FACILITY AND POTENTIAL EXIT FACILITY

Pursuant to the PSA, the Debtors and DIP Lenders agreed to extend the maturity date of the DIP Credit Facility to fund the confirmation process. On September 30, 2013, the Debtors and DIP Lenders entered into the First Amendment to the DIP Credit Facility (the "First Amendment"). Pursuant to the First Amendment, the maturity date for the DIP Credit Facility was extended by 90 days to December 27, 2013 so that it may continue to be used by the Debtors for the purposes set forth in, and in accordance with the terms of, the DIP Credit Facility and the Final DIP Order.

## 8. RETENTION OF OPPORTUNE LLC AS RETAINED PERSON

On May 28, 2013, pursuant to the terms of the DIP Facility Agreement, the Debtors retained Opportune LLC to serve as the Retained Person. Opportune LLC selected David Baggett to be the principal in charge for Opportune LLC's retention. Subsequent to his appointment, the Board of Directors of GMXR appointed Mr. Baggett as Chief Restructuring Officer of the Debtors with customary duties and authority for such a position. Opportune LLC is compensated based on its professionals respective hourly billing rates, with a monthly cap of $50,000.00, and Opportune LLC is reimbursed for its reasonable out-of-pocket expenses.

## 9. LIFT STAY MOTIONS FILED AGAINST THE DEBTORS

During these cases, several lift stay motions have been filed against the Debtors. On September 6, 2013, the following parties filed motions to lift the automatic stay to allow such parties to initiate foreclosure proceedings against the Debtors in North Dakota: (i) MBI Energy Rentals, Inc. to enforce an alleged lien of $285,719.75 [Docket No. 716]; (ii) Missouri Basin Well Service, Inc. d/b/a MBI Energy Services to enforce an alleged lien of $438,675 [Docket No. 718]; (iii) Yankee Fishing & Rentals, Inc. to enforce an alleged lien of $12,103.35 [Docket No. 719]; (iv) MBI Energy Logistics, Inc. to enforce an alleged lien of $665,549.25 [Docket No. 715]; and (v) Mid West Crane Services, Inc. to enforce an alleged lien of $10,075.00 [Docket No. 717] (collectively, the "ND Lift Stay Motions").

On September 23, 2013, each of the Debtors, the Steering Committee, and the First Lien Trustee filed objections to the ND Lift Stay Motions. Each of the Debtors, the Steering Committee, and the First Lien Trustee assert that the liens of the Senior Secured Notes are senior in priority to that of the various movants under applicable law. As such, because such liens are junior to the liens securing the Senior Secured Notes and such notes are substantially undersecured, the movants are not entitled to relief from the automatic stay. A hearing is set on the ND Lift Stay Motions before the Bankruptcy Court on November 5, 2013 at 1:30 p.m.

Additionally, on September 9, 2013, Ken Kenworthy, Ken Kenworthy, Jr., Tom Boismier, Thomas Casso, James Merrill, Michael Cook, Steven Craig, John W. "Tucker" McHugh, J. David Lucke, and Michael Rohleder (the "Individual Defendants") filed a motion for relief from the automatic stay (the "Insurance Lift Stay Motion") to authorize Chartis Specialty Insurance Company ("Chartis Specialty") to advance costs of defense and release to the Individual Defendants proceeds of Chartis Specialty's insurance policy number 01-565-15-34 issued to GMXR (the "D&O Policy). *See* Docket No. 729. The Individual Defendants are currently subject to securities class action and derivative actions filed against them and they seek the release of proceeds from the D&O Policy for defense costs.

The Creditors' Committee filed an objection to the Insurance Lift Stay Motion. *See* Docket No. 763. After discussions between counsel for the Individual Defendants, the Debtors, and the Creditors' Committee, the parties were able to come to a resolution of the Creditors' Committee's objection. On September 30, 2013, the Bankruptcy Court entered an agreed order granting the Insurance Lift Stay Motion. *See* Docket No. 779.

10. MOTION TO APPROVE SEVERANCE AND RETENTION PAYMENTS

On May 3, 2013, the Debtors filed their Motion for Entry of Order Authorizing Debtors to Pay Severance to Terminated Employees and Implement Key Employee Retention Plan [Docket No. 320] (the "Severance and KERP Motion"). Pursuant to the Severance and KERP Motion, the Debtors sought authority to establish the guidelines for payment of severance to employees upon termination as well as to establish a key employee retention plan ("KERP") to ensure that certain key employees remained with the Debtors through the bankruptcy and proposed sale process. The Motion sought authority to pay approximately $1,800,000 in severance and approximately $1,500,000 under the KERP.

Counsel for the United States Trustee, the Creditors' Committee, and certain members of the Creditors' Committee all filed objections to the Severance and KERP Motion, alleging that they believed the proposed payments were excessive. On June 4, 2013, the Bankruptcy Court held a hearing on the Severance and KERP Motion, but postponed ruling on such motion to allow the Debtors and objecting parties to discuss a potential resolution.

After several rounds of discussion, the parties were able to reach an agreement resolving such objections. On June 11, 2013, the Bankruptcy Court entered an Order Granting Debtors Motion for Entry of Order Authorizing the Debtors to (i) Pay Severance to Terminated Employees, and (ii) Implement Key Employee Retention Plan for Employees [Docket No. 464] (the "Severance Order"). Pursuant to the Severance Order, the Debtors were authorized to make one payment to employees, either as severance upon termination without cause, or as retention payment to employees employed by the Debtors on the date that the sale contemplated by the Sale Motion closes. The amount of such payments were provided *in camera* to the Court and not disclosed publicly.

On September 18, 2013, the Debtors filed their Motion to Amend the Severance Order [Docket No. 739] (the "Severance Amendment Motion"). The Severance Amendment Motion sought to alter the timing for payments of retention payments to employees. Because the Sale Motion has been adjourned indefinitely and the Debtors are instead moving forward with the Plan, the date for payment of retention payments approved in the Severance Order is no longer applicable. As such, pursuant to the Severance Amendment Motion, the Debtors sought authority to pay employees 50% of their retention payment upon approval of the Severance Amendment Motion, with the remaining 50% payable upon the Effective Date. The Severance Amendment Motion did not seek to alter the timing of payment for severance to terminated employees. Any retention payment received by an employee upon approval of the Severance Amendment Motion that is subsequently terminated will be credited against such employee's severance. On October 3, 2013, the Court entered an Order approving the Severance Amendment Motion [Docket No. 788] and amending the Severance Order as requested by the Severance Amendment Motion.

## III. MANAGEMENT AND CORPORATE STRUCTURE OF THE REORGANIZED DEBTORS

### A. THE BOARDS OF DIRECTORS AND EXECUTIVE OFFICERS OF THE REORGANIZED DEBTORS AND NEW GMXR

On the Effective Date, the term of each member of GMXR's current board of directors will automatically expire. The identities of the individuals who will serve as officers for the Reorganized Debtors will be disclosed in the Plan Supplement. Pursuant to section 1129(a)(5) of the Bankruptcy Code, the number of members on the Reorganized GMXR Board and the identities of the individuals appointed to such board will be disclosed in the Plan Supplement. To the extent any such director or officer of the Reorganized Debtors is an "insider" under the Bankruptcy Code, the Debtors also will disclose the nature of any compensation to be paid to such director or officer. Each such director and officer shall serve from and after the Effective Date pursuant to the terms of the New Organizational Documents and other constituent documents of the Reorganized Debtors. The board of directors of Reorganized GMXR will have the responsibility for the management, control, and operation of the Reorganized Debtors on and after the Effective Date.

The current senior management group of GMXR is as follows:

| Name | Position |
|---|---|
| Michael J. Rohleder | President |
| Harry C. Stahel, Jr. | Executive Vice President of Finance |
| Gary D. Jackson | Executive Vice President Land |
| James A. Merrill | Chief Financial Officer |
| David Baggett | Chief Restructuring Officer |
| G. Keith Leffel | President of Endeavor Pipeline Inc. |

The current members of the board of directors of GMXR are Michael J. Rohleder, Steven C. Craig, and John Tucker McHugh.

On or prior to the Effective Date, New GMXR shall be formed. The New GMXR Agreement will provide the identity of New GMXR's managing member or general partner, as applicable.

### B. MANAGEMENT INCENTIVE PLAN

The Confirmation Order shall provide that on, or as soon as practicable after, the Effective Date, the New GMXR shall implement the Management Incentive Plan which shall

provide for grants of options, profits interests and/or restricted units/equity reserved for management, directors and employees in an aggregate amount of 5-10% of the new equity interests to be issued by New GMXR, as determined by New GMXR. The primary participants of the Management Incentive Plan, including the amount, form, exercise price, allocation and vesting of such equity-based awards with respect to such primary participants, shall be decided upon by New GMXR, unless earlier agreed to by the Consenting Senior Secured Noteholders and the Debtors.

## IV. SUMMARY OF THE PLAN

### A. INTRODUCTION

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 itself, its creditors and shareholders. In addition to permitting rehabilitation of the debtor, chapter 11 promotes equality of treatment of creditors and equity security holders who hold substantially similar claims against or interests in the debtor and its assets. In furtherance of these two goals, 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 chapter 11 case.

The consummation of a plan of reorganization is typically the principal objective of a chapter 11 case. A plan of reorganization sets forth the means for satisfying claims against and equity interests in a debtor. Confirmation of a plan of reorganization by the bankruptcy court makes the plan binding upon the debtor, any issuer of securities under the plan, any entity 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 therefor the obligations specified under the confirmed plan, and terminates all rights and interests of equity security holders.

THE REMAINDER OF THIS SECTION PROVIDES A SUMMARY OF THE STRUCTURE AND MEANS FOR IMPLEMENTATION OF THE PLAN, AND OF THE CLASSIFICATION AND TREATMENT OF CLAIMS AND EQUITY INTERESTS UNDER THE PLAN, AND IS QUALIFIED IN ITS ENTIRETY BY REFERENCE TO THE PLAN (AS WELL AS THE EXHIBITS ATTACHED THERETO AND DEFINITIONS THEREIN), WHICH IS ATTACHED HERETO AS **EXHIBIT A**.

THE PLAN ITSELF AND THE DOCUMENTS REFERRED TO THEREIN CONTROL THE ACTUAL TREATMENT OF CLAIMS AGAINST AND EQUITY INTERESTS IN THE DEBTORS UNDER THE PLAN AND WILL, UPON OCCURRENCE OF THE EFFECTIVE DATE, BE BINDING UPON ALL HOLDERS OF CLAIMS AGAINST AND EQUITY INTERESTS IN THE DEBTORS, THEIR ESTATES, THE REORGANIZED DEBTORS, ALL PARTIES RECEIVING PROPERTY UNDER THE PLAN, AND OTHER PARTIES IN

INTEREST. IN THE EVENT OF ANY CONFLICT BETWEEN THIS DISCLOSURE STATEMENT, ON THE ONE HAND, AND THE PLAN OR ANY OTHER OPERATIVE DOCUMENT, ON THE OTHER HAND, THE TERMS OF THE PLAN AND/OR SUCH OTHER OPERATIVE DOCUMENT WILL CONTROL.

## B. SCHEDULE OF TREATMENT OF CLAIMS AND EQUITY INTERESTS

| Class | Designation | Impairment | Entitled to Vote |
|---|---|---|---|
| Class 1 | Senior Secured Noteholder Secured Claim | Impaired | Yes |
| Class 2 | Other Secured Claims | Unimpaired | No |
| Class 3 | Priority Non-Tax Claims | Unimpaired | No |
| Class 4 | General Unsecured Claims | Impaired | Yes |
| Class 5 | Intercompany Claims | Impaired | No (deemed to reject) |
| Class 6 | Equity Interests in GMXR | Impaired | No (deemed to reject) |
| Class 7 | Equity Interests in Debtor Subsidiaries | Unimpaired | No |

## C. TREATMENT OF UNCLASSIFIED CLAIMS

In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Claims, including DIP Facility Claims and Priority Tax Claims are not classified and are not entitled to vote on the Plan.

### 1. ADMINISTRATIVE CLAIMS

a. Administrative Claims (Excluding DIP Facility Claims). Except to the extent that any Entity entitled to payment of any Allowed Administrative Claim agrees to a less favorable or different treatment or as otherwise expressly provided elsewhere in Article II of the Plan, each Holder of an Allowed Administrative Claim against any Debtor shall receive Cash equal to the unpaid portion of its Allowed Administrative Claim, on the latest of (a) the Effective Date, (b) the date on which its Administrative Claim becomes an Allowed Administrative Claim, or (c) the date on which its Administrative Claim becomes payable under any agreement relating thereto, or as soon thereafter as is reasonably practicable. Notwithstanding the foregoing, any Allowed Administrative Claim based on a liability incurred by the Debtors in the ordinary course of business during the Chapter 11 Cases shall be paid by the Debtors or the Reorganized Debtors as Administrative Claims in the ordinary course of the Debtors' businesses, in accordance with the terms and conditions of any agreement relating thereto or upon such other terms as may be agreed upon between the Holder of such Claim and the Debtors, without application by or on behalf of any such parties to the Bankruptcy Court, and without notice and a hearing, unless specifically required by the Bankruptcy Court.

b. DIP Facility Claims. In full and final satisfaction, settlement, release, and discharge of and in exchange for release of all DIP Facility Claims, on the Effective Date, the DIP Facility Claims shall be paid in full and in Cash or refinanced by or converted into the Exit Facility in accordance with the terms of the Exit Facility Credit Agreement; provided that if the Class of Holders of General Unsecured Claims votes to reject the Plan, the Holders of DIP Facility Claims may elect to receive, either in whole or in part on account of such DIP Facility Claims, Preferred Series A Trust Interests.

c. Professional Compensation.

i. *Deadlines*. All final requests for compensation or reimbursement of Professional Fee Claims pursuant to sections 327, 328, 330, 331, 503(b), or 1103 of the Bankruptcy Code for services rendered to the Debtors, the Creditors' Committee, or to such other Entities as to which the foregoing sections apply, prior to the Effective Date must be filed with the Bankruptcy Court and served on the Reorganized Debtors and their counsel and counsel to the Steering Committee no later than sixty (60) days after the Effective Date, unless otherwise ordered by the Bankruptcy Court. Objections to applications of such Professionals or other Entities for compensation or reimbursement of expenses must be filed and served on the Reorganized Debtors and their counsel and counsel to the Steering Committee and the requesting Professional or other Entity, no later than twenty one (21) days (or such other period as may be allowed by order of the Bankruptcy Court or as otherwise agreed to between the parties) after the date on which the applicable application for compensation or reimbursement was served. For the avoidance of doubt, Section 2.01(c) of the Plan shall not apply to any fees and expenses (including attorneys' fees and fees for other retained professionals, advisors and consultants) of the Steering Committee, the Senior Secured Notes Indenture Trustee, the DIP Facility Agent and the Exit Facility Agent incurred in connection with these Chapter 11 Cases, the negotiation and formulation of the Plan, DIP Facility Agreement, Exit Facility and related documents and all transactions set forth in the Plan or necessary to implement and consummate the Plan (whether incurred before or after the Commencement Date).

ii. *Treatment*. Except as set forth in Section 2.01(c)(iii) of the Plan, Professional Fee Claims shall be paid in full in Cash by the Reorganized Debtors in such amount as is Allowed by the Bankruptcy Court on the date such Professional Fee Claim becomes an Allowed Professional Fee Claim, or as soon as reasonably practicable thereafter. Except as otherwise specifically provided in the Plan, from and after the Effective Date, the Reorganized Debtors shall, in the ordinary course of business and without any further notice to or action, order, or approval of the Bankruptcy Court, pay in Cash the reasonable legal, professional, or other fees and expenses related to implementation of the Plan and Consummation incurred by the Reorganized Debtors. Upon the Effective Date, any requirement that Professionals comply with sections 327 through 331, 363, and 1103 of the Bankruptcy Code in seeking retention or compensation for services rendered after such date shall terminate, and the Reorganized Debtors may employ and pay any Professional in the ordinary course of business without any further notice to or action, order, or approval of the Bankruptcy Court.

iii. *Creditors' Committee Professionals*. Upon the Confirmation Date, notwithstanding the provisions of the Final DIP Order to the contrary, and notwithstanding whether the Class of Holders of General Unsecured Claims votes to accept or

reject the Plan, the fees and expenses incurred by the Creditors' Committee's Professionals through September 20, 2013 in these Chapter 11 Cases and Allowed by the Bankruptcy Court shall be paid in full by the Debtors. The Debtors and DIP Lenders shall be deemed to withdraw any previous objections to the fees and expenses incurred by the Creditors' Committee's Professionals prior to September 20, 2013. The Allowed fees and expenses incurred by the Committee Professionals in these Chapter 11 Cases after September 20, 2013 shall be paid by the Reorganized Debtors in the ordinary course pursuant to the Amended Order Establishing Procedures for the Interim Compensation of Professionals [Docket No. 302], but subject to a cap that has been mutually agreed to among the Debtors, the Steering Committee and the Creditors' Committee, and the Debtors shall not pay the Creditors' Committee's Professionals for any fees or expenses in excess of this cap unless otherwise agreed to by the Debtors and the Steering Committee.

d. Administrative Claim Bar Date; Objections. Holders of asserted Administrative Claims (other than Administrative Claims paid in the ordinary course of business pursuant to Section 2.01(a) of the Plan, Professional Fee Claims, or Claims for U.S. Trustee fees) must file an application for payment of administrative expense claim with the Bankruptcy Court and serve it on the Reorganized Debtors and their counsel no later than forty-five (45) days after the Effective Date (the "Administrative Claims Bar Date") or forever be barred from doing so. The notice of Confirmation to be delivered pursuant to Bankruptcy Rules 3020(c) and 2002(1) shall set forth such date and constitute notice of the Administrative Claims Bar Date, and the Debtors or the Reorganized Debtors, as the case may be, shall have ninety (90) days (or such longer period as may be allowed by order of the Bankruptcy Court) following the Administrative Claims Bar Date to review and object to such Administrative Claims. All such objections shall be litigated to Final Order; *provided, however*, that the Debtors or the Reorganized Debtors, as the case may be, may compromise and settle, withdraw or resolve by any other method, without requirement of Bankruptcy Court approval, any objections to Administrative Claims.

e. U.S. Trustee Fees. All fees payable under section 1930 of title 28 of the United States Code shall be paid on or before the Effective Date. All such fees that arise after the Effective Date but before the closing of the Chapter 11 Cases shall be paid by the Reorganized Debtors.

f. SENIOR SECURED NOTES ADEQUATE PROTECTION CLAIMS OTHER THAN WITH RESPECT TO THE PAYMENT OF THE REASONABLE FEES AND EXPENSES (INCLUDING ATTORNEY'S FEES AND FEES FOR ANY OTHER PROFESSIONAL, ADVISORS AND CONSULTANTS) OF THE STEERING COMMITTEE, THE MEMBERS OF THE STEERING COMMITTEE AND THE SENIOR SECURED INDENTURE TRUSTEE, THE SENIOR SECURED NOTES ADEQUATE PROTECTION CLAIMS (IF ANY) NEED NOT BE ASSERTED AGAINST THE DEBTORS OR THE REORGANIZED DEBTORS PRIOR TO THE CONFIRMATION DATE; PROVIDED THAT IF THE CLASS OF HOLDERS OF GENERAL UNSECURED CLAIMS VOTES TO REJECT THE PLAN, THE HOLDERS OF THE SENIOR SECURED NOTES ADEQUATE PROTECTION CLAIMS (IF ANY) SHALL ASSERT SUCH CLAIM WITHIN THIRTY (30) DAYS OF THE EFFECTIVE DATE, AND RECEIVE THEIR PRO RATA SHARE OF PREFERRED SERIES B TRUST INTERESTS TO THE EXTENT SUCH SENIOR SECURED

NOTES ADEQUATE PROTECTION CLAIMS ARE ALLOWED AND NOT OTHERWISE PAID IN FULL IN CASH ON THE EFFECTIVE DATE.

2. PRIORITY TAX CLAIMS

Except to the extent that a Holder of a Priority Tax Claim agrees to a less favorable or different treatment, pursuant to section 1129(a)(9)(C) of the Bankruptcy Code, on the later of (a) the Effective Date or (b) the date such Priority Tax Claim becomes an Allowed Priority Tax Claim, each Holder of an Allowed Priority Tax Claim against any Debtor shall receive in full satisfaction, settlement, release, and discharge of and in exchange for such Allowed Priority Tax Claim, at the option of the Debtors, with the consent of the Consenting Senior Secured Noteholders, (x) Cash equal to the unpaid portion of such Allowed Priority Tax Claim, (y) Cash in an aggregate amount of such Allowed Priority Tax Claim payable in installment payments over a period of time not to exceed five years after the Commencement Date, or (y) such other treatment as to which the Reorganized Debtors and such Holder shall have agreed upon in writing.

The Holder of an Allowed Priority Tax Claim will not be entitled to receive any payment on account of any penalty arising with respect to or in connection with the Allowed Priority Tax Claim. Any such Claim or demand for any such penalty will be treated as a General Unsecured Claim in Class 4.

D. CLASSIFICATION AND TREATMENT OF CLAIMS AND EQUITY INTERESTS

1. CLASS 1 - SENIOR SECURED NOTEHOLDER SECURED CLAIMS

Class 1 consists of Senior Secured Noteholder Secured Claims. The Senior Secured Noteholder Secured Claims shall be deemed Allowed Claims in the amount of $338,000,000.00.

Except to the extent that a Holder of a Senior Secured Noteholder Secured Claim shall have agreed in writing to a less favorable or different treatment, on or as soon as reasonably practicable after the Effective Date, each Holder of an Allowed Senior Secured Noteholder Secured Claim shall receive, in full and final satisfaction, settlement, release and discharge of and in exchange for such Allowed Senior Secured Noteholder Secured Claim a number of shares of Reorganized GMXR Common Stock with a Value equal to the lesser of (A) 100% of the Face Amount of such Holder's Allowed Senior Secured Noteholder Secured Claim and (B) the greater of either (i) [27]%[7] of the Face Amount such Holder's Allowed Senior Secured Noteholder Secured Claim or (ii) 4.9% of the outstanding Reorganized GMXR Common Stock as of the Effective Date. If the Value of the Reorganized GMXR Common Stock received by a Holder of an Allowed Senior Secured Noteholder Secured Claim pursuant to subsection (B) of the preceding sentence is less than the Face Amount of such Holder's Allowed Senior Secured Noteholder Secured Claim, such Holder will receive a number of New GMXR Interests with a

[7] Percentage to be finalized prior to hearing to approve Disclosure Statement.

Value equal to the Face Amount of such Holder's Allowed Senior Secured Noteholder Secured Claim in excess of the Value of the Reorganized GMXR Common Stock received by a Holder of an Allowed Senior Secured Noteholder Secured Claim pursuant to subsection (B) of the preceding sentence. The Reorganized GMXR Common Stock and the New GMXR Interests issued pursuant to Section 4.01 of the Plan shall be subject to dilution, directly and indirectly, on account of the Management Interests to be issued pursuant to the Management Incentive Plan.

Each Holder of an Allowed Senior Secured Noteholder Secured Claim, as a condition precedent to receiving its respective share of such distribution of Reorganized GMXR Common Stock and New GMXR Interests, as applicable, shall be required to execute the New Shareholders Agreement and the New GMXR Agreement, as applicable, by delivering to Reorganized GMXR and New GMXR, as applicable, an executed counterpart signature page to the New Shareholders Agreement and/or the New GMXR Agreement. The terms and rights of the Reorganized GMXR Common Stock and the New GMXR Interests will be more fully described in the Plan Supplement.

Class 1 is Impaired by the Plan. Each Holder of the Senior Secured Noteholder Secured Claim in Class 1 is entitled to vote to accept or reject the Plan.

For the avoidance of doubt, the Senior Secured Notes Deficiency Claim shall be treated as provided in Section 4.04 of the Plan.

2. CLASS 2 - OTHER SECURED CLAIMS

Except to the extent a Holder of an Allowed Other Secured Claim agrees to a less favorable or different treatment, on the latest of (x) the Effective Date, (y) the date on which an Other Secured Claim becomes an Allowed Other Secured Claim, and (z) such other date as may be ordered by the Bankruptcy Court, or, in each case, as soon as reasonably practicable thereafter, each Allowed Other Secured Claim shall be, at the election of the Debtors, with the consent of the Consenting Senior Secured Noteholders: (i) Reinstated, (ii) paid in Cash, in full satisfaction, settlement, release and discharge of such Allowed Other Secured Claim, (iii) satisfied by the Debtors' surrender of the collateral securing such Allowed Other Secured Claim, or (iv) offset against, and to the extent of, Debtors' claims against the Holder of such Allowed Other Secured Claim.

Class 2 is Unimpaired by the Plan. Pursuant to Section 1126(f) of the Bankruptcy Code, each Holder of an Allowed Other Secured Claim in Class 2 is conclusively presumed to have accepted the Plan and is not entitled to vote to accept or reject the Plan.

3. CLASS 3 - PRIORITY NON-TAX CLAIMS

Except to the extent that a Holder of an Priority Non-Tax Claim agrees to a less favorable or different treatment, each Holder of an unpaid 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 full amount of its Allowed Priority Non-Tax Claim on the Distribution Date or such later date as agreed by the Holder and the Debtors or Reorganized Debtors.

Class 3 is Unimpaired by the Plan. Pursuant to Section 1126(f) of the Bankruptcy Code, each Holder of an Allowed Priority Non-Tax Claim in Class 3 is conclusively presumed to have accepted the Plan and is not entitled to vote to accept or reject the Plan.

4. CLASS 4 - GENERAL UNSECURED CLAIMS

Class 4 consists of General Unsecured Claims, including, but not limited to, the Senior Secured Notes Deficiency Claim, the Convertible Notes Claims, the Old Senior Notes Claims, the Old Senior Notes Guaranty Claims, the Second-Priority Notes Claims and any other Claims secured by a Lien that is junior in priority to the Liens securing the Senior Secured Notes Claims.

Except to the extent a Holder of an Allowed General Unsecured Claim agrees to a less favorable or different treatment, on or as soon as reasonably practicable after the Effective Date, the Holders of Allowed General Unsecured Claims shall receive their Pro Rata share of the (i) Common Trust Interests and (ii) Cash Distribution, in accordance with the terms of the Trust Agreement; provided that the Holders of General Unsecured Claims shall only receive the Cash Distribution if the Class of Holders of General Unsecured Claims votes to accept the Plan. The Holders of the Senior Secured Notes Claims shall receive no recovery on account of the Senior Secured Notes Deficiency Claim or the Senior Secured Notes Adequate Protection Claims, which Claims shall be deemed to be waived, if the Class of Holders of General Unsecured Claims votes to accept the Plan. On the Effective Date, or as soon as reasonably practicable thereafter, if the Class of Holders of General Unsecured Claims votes to accept the Plan, the Trustee shall distribute a portion of the Cash Distribution in an amount not less than $[__][8] Pro Rata to Holders of Allowed General Unsecured Claims, other than the Senior Secured Notes Deficiency Claim and the Senior Secured Notes Adequate Protection Claims, in accordance with the Trust Agreement. For the avoidance of doubt, if the Class of Holders of General Unsecured Claims votes to accept the Plan, neither the Steering Committee nor its professionals, the Holders of DIP Facility Claims, nor the Holders of Senior Secured Notes Adequate Protection Claims (if any) shall receive any portion of the Cash Distribution and none of the Preferred Trust Interests shall be issued or distributed.

If the Class of Holders of General Unsecured Claims votes to reject the Plan, on or as soon as reasonably practicable after the Effective Date, the Holders of Allowed General Unsecured Claims (including Holders of the Senior Secured Notes Deficiency Claim) shall receive their Pro Rata share of Common Trust Interests; provided that the Holders of DIP Facility Claims shall receive the Preferred Series A Trust Interests and Holders of Senior Secured Notes Adequate Protection Claims shall receive the Preferred Series B Trust Interests.

Class 4 is Impaired by the Plan. Each Holder of an Allowed General Unsecured Claim in Class 4 is entitled to vote to accept or reject the Plan.

5. CLASS 5 – INTERCOMPANY CLAIM

At the option of the Debtors, with the consent of the Consenting Senior Secured Noteholders, or the Reorganized Debtors, as applicable, or as otherwise required by the

[8] Amount to be finalized prior to hearing to approve Disclosure Statement

Bankruptcy Court in connection with confirmation of the Plan, each Intercompany Claim shall be, either (i) Reinstated, in full or in part, and treated in the ordinary course of business, or (ii) eliminated in full or in part by offset, distribution, cancellation, assumption or contribution of such Intercompany Claim or otherwise; provided, however, that any election by the Debtors, with the consent of the Consenting Senior Secured Noteholders, or the Reorganized Debtors hereunder shall not impact any recoveries under the Plan. The holders of Intercompany Claims shall not receive or retain any property on account of such Intercompany Claims to the extent such claim is cancelled and discharged as provided in the Plan.

Class 5 is Impaired by the Plan. Pursuant to Section 1126(g) of the Bankruptcy Code, each Holder of an Intercompany Claim in Class 5 is conclusively presumed to have rejected the Plan and is not entitled to vote to accept or reject the Plan.

6. CLASS 6 - EQUITY INTERESTS IN GMXR

On the Effective Date, all GMXR Equity Interests shall be cancelled and rendered null and void, and the Holders of GMXR Equity Interests shall not receive or retain any property or interest in property on account of their GMXR Equity Interests. On or promptly after the Effective Date, the Debtors on behalf of GMXR will file with the United States Securities and Exchange Commission a Form 15 for the purpose of terminating the registration of its publicly traded securities under the Exchange Act.

Class 6 is Impaired by the Plan. Pursuant to Section 1126(g) of the Bankruptcy Code, each Holder of an Equity Interest in GMXR in Class 6 is conclusively presumed to have rejected the Plan and is not entitled to vote to accept or reject the Plan.

7. CLASS 7 - EQUITY INTERESTS IN DEBTOR SUBSIDIARIES

The Holders of Equity Interests in the Debtor Subsidiaries shall receive no Distribution or recovery on account of their existing Equity Interests in the Debtor Subsidiaries. Rather, on the Effective Date, the stock or membership interests in the Debtor Subsidiaries will be held directly by New GMXR and indirectly by Reorganized GMXR for the benefit of the Holders of Reorganized GMXR Common Stock and New GMXR Interests, respectively. It is presently anticipated that such ownership of the New Endeavor Interests and New Diamond Blue Interests may be accomplished by converting the Debtor Subsidiaries into member-managed, single member Delaware limited liability companies on the Effective Date in accordance with Section 18-214 of the Delaware Limited Liability Company Act and any other applicable law, with New GMXR as its sole member and manager. If any Debtor Subsidiary is not converted to a limited liability company, after the Effective Date, such Debtor Subsidiary shall contribute its assets to New GMXR in exchange for New GMXR Interests.

Class 7 is Unimpaired by the Plan. Pursuant to Section 1126(f) of the Bankruptcy Code, each Holder of an Equity Interest in Debtor Subsidiaries in Class 7 is conclusively presumed to have accepted the Plan and is not entitled to vote to accept or reject the Plan.

E. ALLOWED CLAIMS AND EQUITY INTERESTS

Notwithstanding any provision of the Plan to the contrary, the Debtors, Reorganized Debtors or Trustee shall only make Distributions on account of Allowed Claims. A Claim that is Disputed by the Debtors as to its amount only shall be deemed Allowed in the amount the Debtors admit owing and Disputed as to the remainder.

F. POST-PETITION INTEREST

Except as otherwise explicitly provided in the Plan, in section 506(b) of the Bankruptcy Code, or by Final Order, no Holder of a prepetition Claim shall be entitled to or receive postpetition interest or fees relating to such Claim.

G. ALLOCATION

The value of any Reorganized GMXR Common Stock or New GMXR Interests received by Holders of Claims in satisfaction of interest-bearing obligations shall be allocated first to the full satisfaction of the principal amount of such interest-bearing obligations and second in satisfaction of any accrued and unpaid interest.

The Confirmation Order shall provide that any Reorganized GMXR Common Stock received by any Holder of an Allowed Senior Secured Noteholder Secured Claim will be received in exchange for its earliest acquired Series A Notes (treating for this purpose, the acquisition date of any Series A Notes acquired in the December 2011 exchange offer as the acquisition date of any Old Senior Notes that were exchanged for Series A Notes therefor in the exchange offer in December 2011) and any New GMXR Interests received by any Holder of an Allowed Senior Secured Noteholder Secured Claim as received in exchange for the most recently acquired Senior Secured Notes held by such Holder. Reorganized GMXR and each Holder of an Allowed Senior Secured Noteholder Secured Claim shall report consistently with such treatment for all tax purposes, unless otherwise required by a change in applicable tax law.

H. SPECIAL PROVISION GOVERNING UNIMPAIRED CLAIMSExcept as otherwise provided in the Plan, nothing under the Plan shall affect the Debtors' rights in respect of any Unimpaired Claims, including, all rights in respect of legal and equitable defenses to or setoffs or recoupments against any such Unimpaired Claims.

I. CONTROVERSY CONCERNING IMPAIRMENTIf a controversy arises as to whether any Claims or Equity Interests, or any Class of Claims or Equity Interests, are Impaired, the Bankruptcy Court shall, after notice and a hearing, determine such controversy on or before the Confirmation Date.

J. MEANS FOR IMPLEMENTATION OF THE PLAN

1. SUBSTANTIVE CONSOLIDATION

Entry of the Confirmation Order shall constitute approval of a motion requesting the substantive consolidation of the Debtors into a single entity for Distribution and voting purposes only. On and after the Effective Date, (i) no Distributions shall be made under the

Plan on account of Intercompany Claims, and (ii) all guarantees by the Debtors of the obligations of any other Debtor, including the Senior Secured Notes Guaranty and the Old Senior Notes Guaranty, shall be eliminated so that any claim against any Debtor and any guarantee thereof executed by any other Debtor and any joint or several liability of the Debtors shall be one obligation.

2. THE CREDITOR TRUST

a. Establishment of the Creditor Trust. The Creditor Trust shall be established for the benefit of the Holders of Allowed General Unsecured Claims (not including the Senior Secured Notes Deficiency Claim); provided that if the Class of Holders of General Unsecured Claims votes to reject the Plan, then for the benefit of (a) the Holders of DIP Facility Claims that elect to receive Preferred Series A Trust Interests, (b) the Holders of Allowed Senior Secured Notes Adequate Protection Claims (if any) that receive Preferred Series B Trust Interests, and (c) Holders of Allowed General Unsecured Claims (including the Senior Secured Notes Deficiency Claims). Section 5.02 of the Plan sets forth certain of the rights, duties, and obligations of the Trustee. In the event of any conflict between the terms of Section 5.02 of the Plan and the terms of the Trust Agreement, the terms of the Trust Agreement shall govern.

b. Execution of Trust Agreement. On the Effective Date, the Trust Agreement shall be executed, and all other necessary steps shall be taken to establish the Creditor Trust and the beneficial interests therein, which shall be for the benefit of the Holders of Claims described in Section 5.02(a) of the Plan. If the Class of Holders of General Unsecured Claims votes to accept the Plan, the form of the Trust Agreement and related ancillary documents shall be acceptable solely to the Creditors' Committee, subject only to Bankruptcy Court approval at the Confirmation Hearing; provided that, if the Class of Holders of General Unsecured Claims votes to reject the Plan, such documents must be mutually acceptable to the Debtors, the Consenting Senior Secured Noteholders and the Creditors' Committee.

c. Purpose of the Creditor Trust. The Creditor Trust shall be established for the sole purpose of liquidating and distributing its assets to the Holders of interests in the Creditor Trust, in accordance with Treasury Regulation section 301.7701-4(d), with no objective to continue or to engage in the conduct of a trade or business. The Creditor Trust, through the Trustee, shall (i) collect and reduce the assets of the Creditor Trust to Cash, (ii) prosecute, settle and otherwise administer the Causes of Action and Avoidance Actions listed on Exhibit A as more fully set forth in Section 5.02(f) of the Plan, (iii) make Distributions to the beneficiaries of the Creditors Trust in accordance with the Plan and Trust Agreement and (iv) take all such actions as are reasonably necessary to accomplish the purpose hereof, as more fully provided in the Trust Agreement.

d. Creditor Trust Assets. The Creditor Trust shall consist of the Creditor Trust Assets. Any Cash or other property received from third parties from the prosecution, settlement, or compromise of any Cause of Action or Avoidance Action listed on Exhibit A shall constitute Creditor Trust Assets for purposes of Distributions under the Creditor Trust. On the Effective Date, the Creditor Trust Assets shall automatically vest in the Creditor Trust, free and clear of all Liens, Claims and encumbrances, except to the extent otherwise provided in the Plan.

e. Governance of Creditor Trust. The Creditor Trust shall be governed by the Trustee in accordance with the Trust Agreement and consistent with the Plan.

f. The Trustee. If the Class of Holders of General Unsecured Claims votes to accept the Plan, the Creditors' Committee shall select the Trustee, subject only to Court approval at the Confirmation Hearing. If the Class of Holders of General Unsecured Claims votes to reject the Plan, the Trustee shall be selected jointly by the Debtors, the Steering Committee and the Creditors' Committee. With respect to the Creditor Trust Assets, the Trustee shall be a representative of the estates pursuant to section 1123(a)(5)(B) and 1123(b)(3)(B) of the Bankruptcy Code. The Trustee may prosecute, settle and otherwise administer the Causes of Action and Avoidance Actions listed on Exhibit A on behalf of the Creditor Trust and shall also be responsible for objecting to (i) the amount of any Senior Secured Notes Adequate Protection Claims, but only if the Class of Holders of General Unsecured Claims votes to reject the Plan and (ii) Claims filed against the Debtors' Estates that purport to qualify as General Unsecured Claims under the terms of the Plan (other than the Senior Secured Notes Deficiency Claim), including, without limitation, pursuant to section 502(d) of the Bankruptcy Code; provided however, that notwithstanding any section 502(d) objection, the Trustee shall not bring any Claim or Cause of Action against any Protected Person or Released Party for an Avoidance Action. The Trustee shall be exempt from giving any bond or other security in any jurisdiction.

g. Nontransferability of Creditor Trust Interests. The beneficial interests in the Creditor Trust shall not be transferable (except as otherwise provided in the Trust Agreement).

h. Cash. Pending distribution, the Trustee may invest Creditor Trust Assets only in Cash and Government securities (as defined in section 2(a)(16) of the Investment Company Act of 1940, as amended); provided, however, that such investments are investments permitted to be made by a liquidating trust within the meaning of Treasury Regulation section 301.7701-4(d), as reflected therein, or under applicable Internal Revenue Service guidelines, rulings, or other controlling authorities.

i. Costs and Expenses of the Trustee. The costs and expenses of the Creditor Trust, including the fees and expenses of the Trustee and his, her or its retained professionals, shall be paid only out of the Creditor Trust Assets.

j. Compensation of the Trustee. The Trustee shall be entitled to reasonable compensation paid exclusively from the Creditor Trust Assets.

k. Distribution of Creditor Trust Assets. The Trustee shall distribute Cash to the Creditor Trust beneficiaries in accordance with the Trust Agreement, beginning on the Effective Date or as soon thereafter as is practicable, from the liquidated Creditor Trust Assets on hand (i) if the Class of Holders of General Unsecured Claims votes to accept the Plan, to the Holders of Allowed General Unsecured Claims (not including the Senior Secured Notes Deficiency Claim) on account of the Common Trust Interests on a Pro Rata basis or (ii) if the Class of Holders of General Unsecured Claims votes to reject the Plan, then any Distributions shall be distributed as follows, (A) first, to be Holders of DIP Facility Claims that elect to receive Preferred Series A Trust Interests on a Pro Rata basis until the amount of DIP Facility Claims

converted to Preferred Series A Trust Interests are paid in full, (B) second, to the Holders of Senior Secured Notes Adequate Protection Claims (if any) on account of the Preferred Series B Trust Interests on a Pro Rata basis until the amount of Senior Secured Notes Adequate Protection Claims are determined and paid in full and (C) last, on a Pro Rata basis to the Holders of Allowed General Unsecured Claims (including the Senior Secured Notes Deficiency Claim) on account of the Common Trust Interests to the extent there are is any remaining Cash available for Distribution. For the avoidance of doubt, Holders of Common Trust Interests shall not receive any Distributions from the Creditor Trust unless and until (i) the Holders of Preferred Series A Trust Interests receive payment in full in an amount equal to the DIP Facility Claims that the Holders thereof elected to receive in Preferred Series A Trust Interests and (ii) the amount of the Senior Secured Notes Adequate Protection Claims is determined and Allowed and and Holders of Preferred Series B Trust Interests receive payment in full in an amount equal to the Allowed amount of the Senior Secured Notes Adequate Protection Claims.

The Trustee shall not distribute any amounts that would be distributable to a Holder of a Disputed Claim if such Disputed Claim had been Allowed, prior to the time of such Distribution (but only until such Claim is resolved). The Trustee shall be allowed to distribute amounts that (i) are reasonably necessary to meet contingent liabilities and to maintain the value of the Creditor Trust Assets, (ii) are necessary to pay reasonable expenses (including, but not limited to, any taxes imposed on the Creditor Trust or in respect of the Creditor Trust Assets), and (iii) are required to satisfy other liabilities incurred by the Creditor Trust in accordance with the Plan or the Trust Agreement. Distributions to Holders of the Senior Secured Notes Deficiency Claim (if any), Second-Priority Notes, the Old Senior Notes and the Convertible Notes shall be subject to any charging lien asserted by the applicable Indenture Trustee.

l. Trust Certificates. The Trust Interests shall not be represented by certificates, receipts, or in any other form or manner, except as maintained on the books and records of the Creditor Trust by the Trustee, as set forth in the Trust Agreement.

m. Retention of Professionals by the Trustee. The Trustee may retain and reasonably compensate counsel and other professionals out of the Creditor Trust Assets to assist in its duties as Trustee on such terms as the Trustee deems appropriate without Bankruptcy Court approval. The Trustee may retain any professional who represented parties in interest (including the Debtors or the Creditors' Committee) in the Chapter 11 Cases.

n. Federal Income Tax Treatment of the Creditor Trust.

i. *Creditor Trust Assets Treated as Owned by General Unsecured Creditors.* For all federal income tax purposes, all parties (including, without limitation, the Debtors, the Trustee, and the holders of beneficial interests in the Creditor Trust) shall treat the transfer of the Creditor Trust Assets to the Creditor Trust for the benefit of the beneficiaries thereof, whether Allowed on or after the Effective Date, as (A) a transfer of the Creditor Trust Assets directly to the holders in satisfaction of such DIP Facility Claims, Senior Secured Notes Adequate Protection Claims (if any) and/or General Unsecured Claims (other than to the extent allocable to Disputed General Unsecured Claims), as applicable, followed by (B) the transfer by such holders to the Creditor Trust of the Creditor Trust Assets in exchange for, beneficial interests in the Creditor Trust. Accordingly, the Holders of such DIP Facility Claims,

Senior Secured Notes Adequate Protection Claims (if any) and/or General Unsecured Claims, as applicable, shall be treated for federal income tax purposes as the grantors and owners of their respective shares of the Creditor Trust Assets; provided that if Preferred Trust Interests are issued, the Creditor Trust may be required to be treated as a partnership for federal income tax purposes and the Holders of Common Trust Interests and Holders of Preferred Trust Interests will be treated as its partners.

ii. *Tax Reporting*

(A) If the Creditor Trust does not issue any Preferred Trust Interests, (i) the Trustee shall file income tax returns for the Creditor Trust as a grantor trust pursuant to Treasury Regulation section 1.671-4(a) and in accordance with this Section; (ii) the Trustee shall annually send to each record holder of a beneficial interest a separate statement setting forth the holder's share of items of income, gain, loss, deduction, or credit and will instruct all such holders to report such items on their federal income tax returns or to forward the appropriate information to the beneficial holders with instructions to report such items on their federal income tax returns; and (iii) the Creditor Trust's taxable income, gain, loss, deduction, or credit will be allocated among the beneficial holders of the interests in the Creditor Trust in accordance with each holder's relative beneficial interests in the Creditor Trust.

(B) If the Creditor Trust issues any Preferred Trust Interests (i) unless the Trustee receives an opinion of counsel or private letter ruling from the IRS that the Creditor Trust should be treated as a grantor trust, the Trustee shall file income tax returns for the Creditor Trust as a partnership, (ii) the Trustee shall also annually send to each record holder of a beneficial interest a Schedule K-1 setting forth the holder's share of items of income, gain, loss, deduction, or credit and will instruct all such holders to report such items on their federal income tax returns or to forward the appropriate information to the beneficial holders with instructions to report such items on their federal income tax returns and (iii) the Creditor Trust's taxable income, gain, loss, deduction, or credit will be allocated among the beneficial holders of the interests in the Creditor Trust in accordance with each holder's relative beneficial interests in the Creditor Trust.

(C) As soon as possible after the Effective Date, but in no event later than ninety (90) days after the Effective Date, the Trustee shall make a good faith valuation of the Creditor Trust Assets. Such valuation shall be made available from time to time, to the extent relevant, and used consistently by all parties (including, without limitation the, Debtors, the Trustee, and the Holders of DIP Facility Claims, Senior Secured Notes Adequate Protection Claims (if any) and/or Allowed General Unsecured Claims, as applicable) for all federal income tax purposes. The Trustee shall also file (or cause to be filed) any other statements, returns, or disclosures relating to the Creditor Trust that are required by any governmental unit.

(D) Subject to definitive guidance from the Internal Revenue Service or a court of competent jurisdiction to the contrary (including the receipt by the Trustee of a private letter ruling if the Trustee so requests one, or the receipt of an adverse determination by the Internal Revenue Service upon audit if not contested by the Trustee), the Trustee shall (i) treat any Creditor Trust Assets allocable to, or retained on account of, Disputed

General Unsecured Claims as held by one or more discrete trusts for federal income tax purposes (the "Trust Claims Reserve"), consisting of separate and independent shares to be established in respect of each Disputed General Unsecured Claim, in accordance with the trust provisions of the Tax Code (section 641 et seq.), (ii) treat as taxable income or loss of the Trust Claims Reserve, with respect to any given taxable year, the portion of the taxable income or loss of the Creditor Trust that would have been allocated to the Holders of Disputed General Unsecured Claims had such Claims been Allowed on the Effective Date (but only for the portion of the taxable year with respect to which such Claims are unresolved), (iii) treat as a Distribution from the Trust Claims Reserve any increased amounts distributed by the Creditor Trust as a result of any Disputed General Unsecured Claims resolved earlier in the taxable year, to the extent such Distributions relate to taxable income or loss of the Trust Claims Reserve determined in accordance with the provisions of the Plan and (iv) to the extent permitted by applicable laws report consistent with the foregoing for state and local income tax purposes. All Creditor Trust beneficiaries shall report, for tax purposes, consistent with the foregoing.

(E) The Trustee shall be responsible for payments, out of the Creditor Trust Assets, of any taxes imposed on the Creditor Trust or the Creditor Trust Assets, including the Trust Claims Reserve. In the event, and to the extent, any Cash retained on account of Disputed General Unsecured Claims in the Trust Claims Reserve is insufficient to pay the portion of any such taxes attributable to the taxable income arising from the assets allocable to, or retained on account of, Disputed General Unsecured Claims, such taxes shall be (i) reimbursed from any subsequent Cash amounts retained on account of Disputed General Unsecured Claims, or (ii) to the extent such Disputed General Unsecured Claims have subsequently been resolved, deducted from any amounts distributable by the Trustee as a result of the resolutions of such Disputed General Unsecured Claims.

(F) The Trustee may request an expedited determination of taxes of the Creditor Trust, including the Trust Claims Reserve, under section 505(b) of the Bankruptcy Code for all returns filed for, or on behalf of, the Creditor Trust for all taxable periods through the dissolution of the Creditor Trust.

o. Dissolution. The Creditor Trust and the Trustee shall be discharged or dissolved, as the case may be, no later than the fifth anniversary of the Effective Date; provided, however, that, on or prior to the date that is ninety (90) days prior to such termination, the Bankruptcy Court, upon motion by a party in interest, may extend the term of the Creditor Trust if it is necessary to the liquidation of the Creditor Trust Assets. Notwithstanding the foregoing, multiple extensions may be obtained so long as Bankruptcy Court approval is obtained not less than ninety (90) days prior to the expiration of each extended term; provided, however, that in no event shall the term of the Creditor Trust extend past the tenth ($10^{th}$) anniversary of the Effective Date; provided further that neither the Trust Agreement nor the continued existence of the Creditor Trust shall prevent the Debtors from closing the Chapter 11 Cases pursuant to section 350 of the Bankruptcy Code and obtaining a final decree pursuant to Bankruptcy Rule 3022. The Creditor Trust may be terminated earlier than its scheduled termination if (i) the Bankruptcy Court has entered a Final Order closing all of or the last of the Chapter 11 Cases pursuant to section 350(a) of the Bankruptcy Code and (ii) the Trustee has administered all Creditor Trust Assets and performed all other duties required by the Plan, the Confirmation Order, the Trust Agreement and the Creditor Trust. The Trustee shall not

unduly prolong the duration of the Creditor Trust and shall at all times endeavor to resolve, settle or otherwise dispose of all claims that constitute Creditor Trust Assets and to effect the Distribution of the Creditor Trust Assets in accordance with the terms hereof and terminate the Creditor Trust as soon as practicable. Prior to and upon termination of the Creditor Trust, the Creditor Trust Assets will be distributed to the beneficiaries of Creditor Trust, pursuant to the provisions set forth in the Trust Agreement.

If at any time the Trustee determines that the expense of administering the Creditor Trust is likely to exceed the value of the Creditor Trust Assets, the Trustee shall have the authority to (i) donate any balance to a non-religious charitable organization exempt from federal income tax under section 501(c)(3) of the Tax Code that is unrelated to the Debtors and any insider of the Debtors and (ii) dissolve the Creditor Trust. If the aims or purposes of any charities satisfying the conditions of clause (i) above relate to benefiting the residents of Oklahoma City or surrounding areas affected by the 2013 tornadoes, then the Trustee shall choose any recipients of any donations from among such charities.

p. INDEMNIFICATION OF TRUSTEE. THE TRUSTEE OR THE INDIVIDUALS COMPRISING THE TRUSTEE, AS THE CASE MAY BE, AND THE TRUSTEE'S AGENTS AND PROFESSIONALS, SHALL NOT BE LIABLE FOR ACTIONS TAKEN OR OMITTED IN ITS CAPACITY AS, OR ON BEHALF OF, THE TRUSTEE, EXCEPT THOSE ACTS ARISING OUT OF ITS OR THEIR OWN WILLFUL MISCONDUCT, GROSS NEGLIGENCE, BAD FAITH, SELF-DEALING, BREACH OF FIDUCIARY DUTY, OR ULTRA VIRES ACTS, AND EACH SHALL BE ENTITLED TO INDEMNIFICATION AND REIMBURSEMENT FOR FEES AND EXPENSES IN DEFENDING ANY AND ALL OF ITS ACTIONS OR INACTIONS IN ITS CAPACITY AS, OR ON BEHALF OF, THE TRUSTEE, EXCEPT FOR ANY ACTIONS OR INACTIONS INVOLVING WILLFUL MISCONDUCT, GROSS NEGLIGENCE, BAD FAITH, SELF-DEALING, BREACH OF FIDUCIARY DUTY, OR ULTRA VIRES ACTS. ANY INDEMNIFICATION CLAIM OF THE TRUSTEE SHALL BE SATISFIED EXCLUSIVELY FROM THE CREDITOR TRUST ASSETS. THE TRUSTEE SHALL BE ENTITLED TO RELY, IN GOOD FAITH, ON THE ADVICE OF ITS RETAINED PROFESSIONALS.

3. GENERAL SETTLEMENT OF CLAIMS AND EQUITY INTERESTS

As discussed in detail in the Disclosure Statement and as otherwise provided in the Plan, pursuant to section 1123 of the Bankruptcy Code and Bankruptcy Rule 9019, and in consideration for the classification, Distributions, releases, and other benefits provided under the Plan, upon the Effective Date, the provisions of the Plan shall constitute a good faith compromise and settlement of all Claims and Equity Interests and controversies resolved pursuant to the Plan. Subject to Article V of the Plan, all Distributions made to Holders of Allowed Claims in any Class are intended to be and shall be final.

4. SOURCES OF CONSIDERATION FOR PLAN DISTRIBUTIONS

All Cash consideration necessary for the Debtors or the Reorganized Debtors, as applicable, to make payments or Distributions on the Effective Date pursuant hereto shall be

obtained from Cash on hand, including Cash derived from business operations, and proceeds under the DIP Facility Agreement and Exit Facility Credit Agreement.

All Distributions made by the Trustee to beneficiaries of the Creditor Trust shall be obtained only from the Creditor Trust Assets.

5. SECTION 1145 EXEMPTION

Section 1145 of the Bankruptcy Code shall be applicable to the issuance of the New Equity Securities issued pursuant to the Plan, and, if appropriate, the Trust Interests. To the maximum extent permitted by section 1145 of the Bankruptcy Code and applicable non-bankruptcy law, the New Equity Securities, and, if appropriate, the Trust Interests, issued pursuant to the Plan and their transfer will be exempt from registration under the Securities Act and all rules and regulations promulgated thereunder, and any and all applicable state and local laws, rules, and regulations. In addition, under section 1145 of the Bankruptcy Code, the New Equity Securities contemplated by the Plan and any and all agreements incorporated therein will be freely tradable in the United States of America by the recipients thereof, subject to: (1) the provisions of section 1145(b)(l) of the Bankruptcy Code relating to the definition of an underwriter in section 2(a)(11) of the Securities Act; (2) compliance with applicable securities laws and any rules and regulations of the Securities and Exchange Commission, if any, applicable at the time of any future transfer of the New Equity Securities; (3) the restrictions, if any, on the transferability of such securities and instruments, including those set forth in the New Shareholders Agreement, the New GMXR Agreement and the New Organizational Documents; and (4) applicable regulatory approval, if necessary.

6. LISTING OF THE REORGANIZED GMXR COMMON STOCK AND TRANSFER RESTRICTIONS

On the Effective Date, the Reorganized Debtors and the New GMXR shall be private companies. On the Effective Date, neither the Reorganized GMXR Common Stock nor the New GMXR Interests will be registered under the Exchange Act or listed on any national securities exchange and the Reorganized Debtors and New GMXR shall not be obligated to list the Reorganized GMXR Common Stock or the New GMXR Interests on a national securities exchange. The Reorganized GMXR Common Stock and New GMXR Interests will be subject to certain transfer and other restrictions pursuant to, among other things, the New Shareholders Agreement, the New GMXR Agreement and the New Organizational Documents, including restrictions intended to avoid Reorganized GMXR or New GMXR becoming subject to registration and reporting requirements under the Exchange Act without the consent of either the board of directors or the shareholders of Reorganized GMXR. The New Shareholders Agreement and/or the New Organizational Documents will include customary transfer restrictions related to Section 382 of the Tax Code. The New GMXR Agreement may include certain tax-related transfer restrictions, including restrictions based on the publicly-traded partnership rules.

7. CONTINUED CORPORATE EXISTENCE

Subject to any Restructuring Transaction and except as otherwise provided in the Plan or in the New Organizational Documents or elsewhere in the Plan Supplement, each Debtor, as a Reorganized Debtor, shall continue to exist after the Effective Date as a separate corporate Entity, limited partnership or limited liability company, as applicable, with all the powers of a corporation, limited partnership or limited liability company, as applicable, pursuant to the applicable law in the jurisdiction in which each applicable Debtor is organized and, as applicable, the jurisdiction in which each Reorganized Debtor is organized or formed. In accordance with Section 18-214 of the Delaware Limited Liability Company Act, each of the Debtor Subsidiaries, if and when converted to a Delaware limited liability company, shall be deemed the same entity as such Debtor, and the conversion shall constitute a continuation of the existence of such Debtor in the form of a Delaware limited liability company for all purposes of the laws of the State of Delaware and to the extent permitted under other applicable law.

8. NEW ORGANIZATIONAL DOCUMENTS

On or immediately before the Effective Date, each of the Reorganized Debtors shall file their respective New Organizational Documents with the applicable authorities in their respective states of organization of the Debtors and, as applicable, the Reorganized Debtors, in accordance with the laws of the respective states of organization. Pursuant to Bankruptcy Code section 1123(a)(6), the New Organizational Documents will prohibit the issuance of non-voting equity securities. On the Effective Date, each Reorganized Debtor shall be deemed to have adopted its New Organizational Documents, without the need for any corporate, limited partnership, limited liability company or similar action. After the Effective Date, each of the Reorganized Debtors may amend and restate its respective New Organizational Documents as permitted by such New Organizational Documents and applicable law, and, in the case of Reorganized GMXR, the New Shareholders Agreement.

9. RESTRUCTURING TRANSACTIONS

a. On the Effective Date, and pursuant to the Plan or the applicable Plan Supplement documents, the applicable Debtors or Reorganized Debtors and New GMXR shall enter into the Restructuring Transactions contemplated in Article V of the Plan, and shall take any actions as may be reasonably necessary or appropriate to effect a restructuring of their respective businesses or the overall organizational structure of the Reorganized Debtors. The Restructuring Transactions may include one or more mergers, consolidations, restructurings, conversions, dissolutions, transfers or liquidations as may be determined by the Debtors or the Reorganized Debtors to be necessary or appropriate.

b. The actions to effect the Restructuring Transactions may include: (i) the execution and delivery of appropriate agreements or other documents of merger, consolidation, restructuring, conversion, disposition, transfer, dissolution, name change or liquidation containing terms that are consistent with the terms of the Plan and that satisfy the applicable requirements of applicable state law and any other terms to which the applicable Entities may agree; (ii) the execution and delivery of appropriate instruments of transfer, assignment, assumption, or delegation of any asset, property, right, liability, debt, or obligation

on terms consistent with the terms of the Plan and having other terms for which the applicable parties agree; (iii) the filing of appropriate certificates or articles of incorporation or reincorporation, limited partnership, limited liability company or formation, merger, consolidation, conversion, or dissolution pursuant to applicable state law; and (iv) all other actions that the applicable Entities determine to be reasonably necessary or appropriate, including making filings or recordings that may be required by applicable state law in connection with the Restructuring Transactions. The chairman of the board of directors, president, Retained Person (as defined in the DIP Facility Agreement), chief financial officer, chief restructuring officer, any executive vice president or senior vice president, or any other appropriate officer, manager or managing partner of each Debtor or Reorganized Debtor, as appropriate, shall be authorized to execute, deliver, file, or record such contracts, instruments, releases, indentures, and other agreements or documents, and take such other actions, as may be reasonably necessary or appropriate, to effectuate and further evidence the terms and conditions of the Plan. The secretary or assistant secretary of the appropriate Debtor or Reorganized Debtor, as appropriate, shall be authorized to certify or attest to any of the foregoing actions.

c. The Restructuring Transactions shall include, without limitation, the following actions:

i. On or prior to the Effective Date, New GMXR shall be formed as either (A) a single member limited liability company, with GMXR or Reorganized GMXR, as applicable, as its sole member or (B) a limited general partnership, with its general partner to be identified in the New GMXR Agreement.

ii. No later than the Business Day immediately prior to the Effective Date, any or all of the Debtor Subsidiaries may be converted into single member Delaware limited liability companies, with New GMXR as the sole member and manager. If any Debtor Subsidiary is not converted to a limited liability company, after the Effective Date, such Debtor Subsidiary shall contribute its assets to New GMXR in exchange for New GMXR Interests.

iii. On the Effective Date, GMXR shall contribute all of its Assets (except the Creditor Trust Assets) to New GMXR free and clear of all Liens, Claims, charges, or other encumbrances (except for any Liens granted to secure the Exit Facility) in exchange for [36.2414]%[9] of the New GMXR Interests. All Assets of GMXR (except the Creditor Trust Assets) shall be deemed automatically transferred to New GMXR without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order or rule or any requirement of further action, vote or other approval or authorization by any Person. New GMXR will own the New Endeavor Interests, New Diamond Blue Interests and GMXR's equity interests in Endeavor Gathering, LLC.

iv. On the Effective Date, in accordance with Section 4.06 of the Plan, the GMXR Equity Interests shall be cancelled and the Reorganized GMXR Common Stock and [63.7586]%[10] of the New GMXR Interests shall be issued to the Senior Secured Notes

[9] Percentage to be finalized prior to hearing to approve Disclosure Statement.
[10] Percentage to be finalized prior to hearing to approve Disclosure Statement.

Indenture Trustee on behalf of Holders of Allowed Senior Secured Noteholder Secured Claims in accordance with Section 4.01 of the Plan.

v. The Senior Secured Notes Indenture Trustee shall then distribute 100% of the Reorganized GMXR Common Stock and [63.7586]%[11] of the New GMXR Interests to the Holders of Allowed Senior Secured Noteholder Secured Claims in accordance with Section 4.01 of the Plan. Reorganized GMXR will retain [36.2414]%[12] of the New GMXR Interests.

vi. Simultaneously with the distribution of New Equity Securities by the Senior Secured Notes Indenture Trustee in Section 5.11(c)(v) of the Plan, Reorganized GMXR shall enter into the New GMXR Agreement with the other Holders of New GMXR Interests. The New GMXR Agreement shall provide the identity of its managing member or general partner, as applicable.

vii. On or prior to the Effective Date, the Creditor Trust Agreement shall be executed, and on the Effective Date, the Debtors shall contribute the Creditor Trust Assets to the Creditor Trust free and clear of all Liens, Claims, charges, or other encumbrances.

## 10. CANCELLATION OF SECURITIES AND AGREEMENTS

On the Effective Date, except as otherwise provided for in the Plan or any other document incorporated in the Plan or the Plan Supplement, (a) the Existing Securities, the Senior Secured Notes Indenture, the Senior Secured Second-Priority Notes Indenture, the Old Senior Notes Indenture, the Convertible Notes Indenture and any other Certificate, security, share, note, bond, indenture, purchase right, option, warrant, certificates of designations or other instrument or documents directly or indirectly evidencing or creating any indebtedness or obligation of or ownership interest in the Debtors giving rise to any Claim or Equity Interest (except such Certificates, notes or other instruments or documents evidencing indebtedness or obligation of or ownership interest in the Debtors that are Reinstated pursuant to the Plan), to the extent not already cancelled, shall be deemed cancelled and of no further force or effect, without any further action on the part of the Bankruptcy Court or any other Person and (b) the obligations of the Debtors, or an indenture trustee, agent or servicer, as the case may be, pursuant to the Existing Securities, the GMXR Subsidiary Guarantees, the Debtors' certificates of incorporation or formation, any agreements, indentures, or certificates of designations governing the Existing Securities or any agreements, indentures, certificates of designation, by-laws, or certificate or articles of incorporation or similar documents governing the shares, Certificates, notes, bonds, indentures, purchase rights, options, warrants, or other instruments or documents evidencing or creating any indebtedness or obligation of or ownership interest in the Debtors (except such agreements, Certificates, notes, or other instruments evidencing indebtedness or obligation of or ownership interest in the Debtors that are specifically Reinstated pursuant to the Plan) shall be terminated, released and discharged; provided, however, that each indenture or other agreement that governs the rights of the Holder of a Claim based on the Existing Securities and that is

[11] Percentage to be finalized prior to hearing to approve Disclosure Statement.
[12] Percentage to be finalized prior to hearing to approve Disclosure Statement.

administered by an indenture trustee, agent, or servicer shall continue in effect solely for the purposes of (x) allowing such indenture trustee, agent, or servicer to make the Distributions to be made on account of such Claims hereunder and (y) permitting such indenture trustee, agent, or servicer to maintain any rights it may have for fees, costs, charging liens (including, without limitation, property distributed under the Plan), expenses, and indemnification under such indenture or other agreement. For the avoidance of doubt, the fees and expenses (including attorney's fees and fees for any other professional, advisors or consultants) of the Senior Secured Indenture Trustee incurred after the Effective Date in connection with any transaction set forth in the Plan or necessary to implement and consummate the Plan shall be paid by the Reorganized Debtors. For the avoidance of doubt, as of the Effective Date, all GMXR Other Equity Interests, to the extent not already cancelled, shall be cancelled. The GMXR Other Equity Interests will include all options to purchase GMXR Common Stock that, immediately prior to the Effective Date, are issued and outstanding but have not been exercised.

## 11. CORPORATE ACTIONS

Upon the Effective Date, all actions contemplated under the Plan shall be deemed authorized and approved in all respects, including: (1) ratification and implementation of the New Organizational Documents; (2) adoption or assumption, as applicable, of any employment, retirement, and other agreements or arrangements with the Debtors' officers, directors, or employees, amended by agreement between the beneficiaries of such agreements, plans, or arrangements, on the one hand, and the Debtors, on the other hand, or, after the Effective Date, by agreement with the Reorganized Debtors, in each case with the consent of the Consenting Senior Secured Noteholders; (3) appointment of the directors and officers for the Reorganized Debtors; (4) the distribution of the Reorganized GMXR Common Stock, New GMXR Interests and Trust Interests; (5) implementation of the Restructuring Transactions as set forth in the Plan; (6) adoption of the Management Incentive Plan; (7) execution of the Exit Facility; and (8) all other actions contemplated under the Plan (whether to occur before, on, or after 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 security holders, directors or officers of the Debtors or the Reorganized Debtors. The authorizations and approvals contemplated by Article V of the Plan shall be effective notwithstanding any requirements under non-bankruptcy law.

## 12. DIRECTORS AND EXECUTIVE OFFICERS

On the Effective Date, the term of each member of each Debtor's current board of directors will automatically expire. The identities of the individuals who will serve as officers for the Reorganized Debtors will be disclosed in the Plan Supplement. Pursuant to section 1129(a)(5) of the Bankruptcy Code, the number of members on the Reorganized GMXR Board and the identities of the individuals appointed to such board will be disclosed in the Plan Supplement. To the extent any such director or officer of the Reorganized Debtors is an "insider" under the Bankruptcy Code, the Debtors also will disclose the nature of any compensation to be paid to such director or officer. Each such director and officer shall serve from and after the Effective Date pursuant to the terms of the New Organizational Documents and other constituent documents of the Reorganized Debtors.

The Reorganized GMXR Board shall have the responsibility for the oversight of the Reorganized Debtors on and after the Effective Date.

## 13. COMPENSATION AND BENEFIT PLANS AND TREATMENT OF RETIREMENT PLAN

Unless otherwise provided in the Plan, all employment, retirement, and other agreements or arrangements in place as of the Effective Date with the Debtors' officers, directors, or employees, who will continue in such capacities or similar capacities after the Effective Date, including any existing variable incentive plans regarding payment of a percentage of annual salary based on performance goals and financial targets for certain employees identified as key leaders, top level managers, or sales leaders shall remain in place after the Effective Date, as the same may be amended or modified from time to time after the Effective Date; provided, however, that the foregoing shall not apply to any indemnification agreements or arrangements with the Debtors' existing or former directors and officers or any equity-based compensation or incentive-based plan, agreement, or arrangement with any directors, officers, employees or any other parties, in each case, existing as of the Commencement Date or immediately prior to the Effective Date. Nothing in the Plan shall limit, diminish, or otherwise alter the Reorganized Debtors' defenses, claims, Causes of Action, or other rights with respect to any such contracts, agreements, policies, programs, and plans.

## 14. DIRECTOR AND OFFICER LIABILITY INSURANCE

On the Effective Date, the charters, by-laws, operating agreement, partnership agreement and other New Organizational Documents shall contain provisions which (i) eliminate the personal liability of the Reorganized Debtors' then-present and future directors and officers for post-Effective Date monetary damages resulting from breaches of their fiduciary duties to the fullest extent permitted by applicable law in the state in which the subject Reorganized Debtor is organized; and (ii) require such Reorganized Debtor, subject to appropriate procedures, to indemnify the Reorganized Debtors' directors and officers, serving immediately prior to and after the Effective Date for all pre- and post-Effective Date claims and actions as set forth in the New Organizational Documents to the fullest extent permitted by applicable law in the state in which the subject Reorganized Debtor is organized. On or before the Effective Date, the Reorganized Debtors will obtain sufficient liability insurance policy coverage after the Effective Date for the officers and directors of the Reorganized Debtors serving from and after the Effective Date. All directors' and officers' liability insurance policies maintained by the Debtors shall be assumed and entry of the Confirmation Order shall constitute approval of such assumption pursuant to Section 365(a) of the Bankruptcy Code. On or after the Effective Date, the deposit held by the Debtors' insurance agent for director and officers insurance tail coverage shall be applied to pay the premiums for such tail coverage.

## 15. VESTING OF ASSETS IN REORGANIZED DEBTORS

Except as otherwise provided in the Plan, on the Effective Date, any and all property of the GMXR Estate shall be automatically transferred to and vest in New GMXR free and clear of all Liens, Claims, charges, or other encumbrances (except for any Liens granted to secure the Exit Facility). Except as otherwise provided in the Plan, on the Effective Date, any

and all property of the Debtor Subsidiaries Estates shall pass to and vest in the respective Reorganized Subsidiary free and clear of all Liens, Claims, charges, or other encumbrances (except for any Liens granted to secure the Exit Facility). On the Effective Date, New GMXR shall own 100% of the Equity Interests in the Reorganized Subsidiaries. On and after the Effective Date, except as otherwise provided in the Plan, each Reorganized Debtor may operate its business and may use, acquire, or dispose of property and compromise or settle any Claims, Equity Interests, or Causes of Action without supervision or approval by the Bankruptcy Court and free of any restrictions of the Bankruptcy Code or Bankruptcy Rules.

16. NONDISTURBANCE OF VPP INTEREST

Notwithstanding anything to the contrary herein, Confirmation of the Plan shall not amend, alter, or change in any way any of the rights or obligations under any of the documents (the "VPP Documents") executed in connection with the transaction between GMXR and EDF Trading North America, LLC ("EDF") dated December 8, 2011 (the "VPP Transaction"), including the VPP Mortgage. In addition to the VPP Mortgage, the VPP Documents include, the Purchase and Sale Agreement, the VPP Conveyance, the Production and Marketing Agreement, the EPL Services Agreement and the EGG Services Agreement. On the Effective Date, to the extent any of the VPP Documents are executory, such documents will be assumed by the Debtors.

17. PRESERVATION OF RIGHTS OF ACTION; SETTLEMENT OF LITIGATION CLAIMS

Except as otherwise provided in the Plan or in the Confirmation Order, or in any contract, instrument, release, indenture, or other agreement entered into in connection with the Plan, in accordance with section 1123(b) of the Bankruptcy Code, following the Effective Date, the Reorganized Debtors shall retain and may enforce, sue on, settle, or compromise (or decline to do any of the foregoing) all Causes of Action that any of the Debtors or their Estates may hold against any Person or Entity without further approval of the Bankruptcy Court whether arising before or after the Commencement Date, including any actions specifically enumerated in the Plan Supplement, and the Reorganized Debtors' rights to commence, prosecute, or settle such Causes of Action shall be preserved notwithstanding the occurrence of the Effective Date; provided, however, the Causes of Action and Avoidance Actions listed on Exhibit A shall be transferred to the Creditor Trust as provided by the Plan. The Reorganized Debtors may pursue such Causes of Action, as appropriate, in accordance with the best interests of the Reorganized Debtors. The Reorganized Debtors shall have the exclusive right, authority, and discretion to determine and to initiate, file, prosecute, enforce, abandon, settle, compromise, release, withdraw, or litigate to judgment any such Causes of Action and to decline to do any of the foregoing without the consent or approval of any third party or further notice to or action, order, or approval of the Bankruptcy Court. **No Entity may rely on the absence of a specific reference in the Plan, the Plan Supplement, or the Disclosure Statement to any Cause of Action against it as any indication that the Debtors, the Reorganized Debtors or Trustee, as applicable, will not pursue any and all available Causes of Action against it. The Debtors, the Reorganized Debtors or Trustee, as applicable, expressly reserve all rights to prosecute any and all Causes of Action against any Entity, except as otherwise expressly provided in the Plan.** Unless any Causes of Action against an Entity are expressly waived, relinquished,

exculpated, released, compromised, or settled in the Plan or a Bankruptcy Court order, the Reorganized Debtors expressly reserve all Causes of Action, for later adjudication, and, therefore, no preclusion doctrine, including the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion, estoppel (judicial, equitable, or otherwise), or laches, shall apply to such Causes of Action upon, after, or as a consequence of the Confirmation or Consummation.

Other than as specifically provided in Section 13.04 of the Plan, the Debtors, the Reorganized Debtors and the Trustee shall release and not file any Causes of Action against any Protected Person or Released Party; provided, however, that the Trustee may (A) name any of the Debtors' directors and officers who are Protected Persons in litigation solely as nominal defendants, if the Trustee determines, based on the written advice of counsel, that the same is necessary or required in connection with any Cause of Action that seeks recovery under the Debtors' director and officer liability policies (the "D&O Policies") and (B) take such action as the Trustee reasonably deems necessary, based on the advice of counsel, to preserve the proceeds of the Debtors' D&O Policies for the benefit of the Trust beneficiaries.

The Reorganized Debtors shall retain and may enforce, sue on, settle, or compromise (or decline to do any of the foregoing) Causes of Action, including but not limited to the following:

- *Don and Jeannie Crutcher:* Claim for $374,220 for money paid by GMX Resources Inc. to purchase acreage which Crutchers did not own.

- *Penn Virginia Oil & Gas, L.P.: Claims related to the Timmins 3H well, including (i)Fraud and Concealment relating to the Timmins 3H, (ii) gross negligence and willful misconduct in its duties as operator and refusal to carry out its duties as operator of the Timmins 3H well; (iii) breach of contract, including but not limited to (a) failing to make timely lease offerings, (b) failing to provide information supporting bills and overbilling; (c) failure to obtain consent of GMX Resources Inc. prior to plugging Timmins #3H wells; and (d) failure to obtain consent of GMX Resources Inc. prior to undertaking sidetracking operations.*

- *Weatherford International Inc.: Claim for improper billing and overcharges relating to work performed by Weatherford International Inc.*

- *J Aron & Company, Inc: Claims to enforce lien and trust rights and other common law tort claims for payment for oil and gas delivered by GMX Resources Inc. to SemCrude L.P and purchased by J Aron & Company, Inc. in June and July 2008. Such claims are currently the subject of pending litigation in the Delaware Bankruptcy Court.*

- *BP Oil Supply Company: Claims to enforce lien and trust rights and other common law tort claims for payment for oil and gas delivered by GMX Resources Inc. to SemCrude L.P and purchased by BP Oil Supply Company in June and July 2008. Such claims are currently the subject of pending litigation in the Delaware Bankruptcy Court.*

- *Derivative Claims: All derivative claims asserted in the shareholder derivative litigation discussed in Article II, Section A.3 of the Disclosure Statement.*

18. EFFECTUATING DOCUMENTS; FURTHER TRANSACTIONS

On and after the Effective Date, the Reorganized Debtors, and the officers and members of the board of directors thereof, the managing member or general partners of New GMXR and the managing member of the Reorganized Debtor Subsidiaries, to the extent the Debtor Subsidiaries are converted to limited liability companies, are authorized to and may issue, execute, deliver, file, or record such contracts, Securities, instruments, releases, and other agreements or documents and take such actions as may be necessary or appropriate to effectuate, implement, and further evidence the terms and conditions of the Plan and the Securities issued pursuant to the Plan in the name of and on behalf of the Reorganized Debtors, without the need for any approvals, authorization, or consents except for those expressly required pursuant to the Plan.

On and after the Effective Date, the Reorganized Debtors, and the officers and members of the board of directors thereof, the managing member or general partners of New GMXR and the managing member of the Reorganized Debtor Subsidiaries, to the extent the Debtor Subsidiaries are converted to limited liability companies, are authorized to and may issue, execute, deliver, file, or record such contracts, Securities, instruments, releases, and other agreements or documents and take such actions as may be necessary or appropriate to effectuate, implement, and further evidence the terms and conditions of the Plan and the Securities issued pursuant to the Plan in the name of and on behalf of the Reorganized Debtors, without the need for any approvals, authorization, or consents except for those expressly required pursuant to the Plan.

19. EXEMPTION FROM CERTAIN TRANSFER TAXES

Pursuant to section 1146(a) of the Bankruptcy Code, the following will not be subject to any document recording tax, stamp tax, conveyance fee, intangibles or similar tax, sales or use tax, mortgage tax, real estate transfer tax, mortgage recording tax, or other similar tax or governmental assessment, and upon entry of the Confirmation Order, the appropriate state or local governmental officials or agents shall forego the collection of any such tax or governmental assessment and accept for filing and recordation any of the foregoing instruments or other documents without the payment of any such tax or governmental assessment: (a) the issuance, transfer or exchange of any New Equity Securities; (b) the creation of any mortgage, deed of trust, lien or other security interest under or pursuant to the Plan or the Exit Facility; (c) the making or assignment of any lease or sublease under or pursuant to the Plan; (d) the

execution and delivery of the Exit Facility; (e) any Restructuring Transaction; (f) the release or assignment of liens; (g) the contribution and transfer by GMXR of its Assets to New GMXR or (h) 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, agreements of consolidation, restructuring, disposition, liquidation or dissolution, deeds, bills of sale or assignments executed in connection with any of the foregoing or pursuant to the Plan.

## K. PROVISIONS GOVERNING DISTRIBUTIONS

### 1. DISTRIBUTIONS FOR CLAIMS ALLOWED AS OF THE EFFECTIVE DATE

Except as otherwise provided in the Plan or as ordered by the Bankruptcy Court, each Holder of an Allowed Claim shall receive on the Distribution Date the full amount of the Distributions that the Plan provides for Allowed Claims in the applicable Class. All Cash Distributions shall be made by the applicable Disbursing Agent from available Cash of the Debtors or Cash from the Creditor Trust, as applicable. Any Distribution hereunder of property other than Cash (including any issuance of Reorganized GMXR Common Stock, New GMXR Interests or Trust Certificates, and the Distribution of such Reorganized GMXR Common Stock, New GMXR Interests or Trust Certificates, in exchange for Allowed Claims as of the Effective Date) shall be made by the Disbursing Agent, the Senior Secured Notes Indenture Trustee, or the transfer agent in accordance with the terms of the Plan.

### 2. DISBURSING AGENT

The Disbursing Agent shall make all Distributions required under the Plan, except with respect to a Holder of a Claim whose Distribution is governed by an indenture or other agreement and is administered by an indenture trustee, agent, or servicer, which Distributions shall be delivered to the Holders of Allowed Claims at the direction of the appropriate indenture trustee, agent or servicer in accordance with the provisions of the Plan and the terms of the relevant indenture or other governing agreement.

If the Disbursing Agent is an independent third party designated by the Reorganized Debtors to serve in such capacity (or, in the case of an Indenture, the applicable Indenture Trustee), such Disbursing Agent or Indenture Trustee shall receive, without further Bankruptcy Court approval, reasonable compensation for Distribution services rendered pursuant to the Plan and reimbursement of reasonable out-of-pocket expenses incurred in connection with such services from the Reorganized Debtors on terms reasonably acceptable to the Reorganized Debtors, or, in the case of the Senior Secured Notes Indenture Trustee, in accordance with the terms and conditions of the Senior Secured Notes Indenture (as applicable) or upon such other terms as may be agreed upon between the Senior Secured Notes Indenture Trustee and the applicable Reorganized Debtors. No Disbursing Agent shall be required to give any bond or surety or other security for the performance of its duties unless otherwise ordered by the Bankruptcy Court. If otherwise so ordered, all costs and expenses of procuring any such bond shall be paid by the Reorganized Debtors.

Any distributions to beneficiaries of the Trust shall be made by the Trustee as set forth in the Plan or the Trust Agreement.

3. SURRENDER OF SECURITIES

On or before the Distribution Date, or as soon as reasonably practicable thereafter, each Holder of a Certificate shall surrender such Certificate to the Disbursing Agent; provided, however, that in the case of the Senior Secured Notes, Holders shall surrender Certificates to the Senior Secured Notes 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 Senior Secured Notes Indenture Trustee, and each Certificate shall be cancelled. Holders of the Senior Secured Notes shall first surrender the Certificates for the earliest acquired Series A Notes (treating for this purpose, the acquisition date of any Series A Notes acquired in the December 2011 exchange offer as the acquisition date of any Old Senior Notes that were exchanged for Series A Notes therefor in the exchange offer in December 2011) in exchange for any Reorganized GMXR Common Stock received and then surrender the Certificates of its most recently acquired Senior Secured Notes in exchange for any New GMXR Interests received.

4. SERVICES OF THE INDENTURE TRUSTEES

The Senior Secured Notes Indenture Trustee's services with respect to Consummation of the Plan shall be as set forth in the Plan and as authorized by the Senior Secured Notes Indenture, as applicable.

5. RECORD DATE FOR PLAN DISTRIBUTIONS

At the close of business on the Record Date for Plan Distributions, the transfer ledgers for the Existing Securities' registers shall be closed, and there shall be no further changes recognized in the record Holders of such Claims. The Reorganized Debtors and the Disbursing Agent, if any, shall have no obligation to recognize any transfer of any such Claims, even if provided notice thereof, occurring after the Record Date for Plan Distributions and shall be entitled instead to recognize and deal for all purposes hereunder with only those record Holders listed on such transfer ledger as of the close of business on the Record Date for Plan Distributions.

6. MEANS OF CASH PAYMENT

Cash payments hereunder shall be in U.S. funds by check, wire transfer, or such other commercially reasonable manner as the payor shall determine in its sole discretion.

7. CALCULATION OF DISTRIBUTION AMOUNTS OF NEW EQUITY SECURITIES

Fractional shares of New Equity Securities may be issued or distributed hereunder by Reorganized GMXR or any Disbursing Agent, indenture trustee, agent, or servicer.

8. DELIVERY OF DISTRIBUTIONS; UNDELIVERABLE OR UNCLAIMED DISTRIBUTIONS

Distributions to Holders of Allowed Claims shall be made by the Disbursing Agent or the Senior Secured Notes Indenture Trustee, as the case may be, (a) at the Holder's last known address, (b) at the address in any written notice of address change delivered to the Disbursing Agent, Trustee or the Senior Secured Notes Indenture Trustee, (c) in the case of the Holder of a Senior Secured Notes Claim, at the address in the Senior Secured Notes Indenture Trustee's official records, or (d) at the address set forth in a properly completed letter of transmittal accompanying a Certificate properly remitted in accordance with the terms hereof. If any Holder's Distribution is returned as undeliverable, no further Distributions to such Holder shall be made, unless and until the Disbursing Agent or the Senior Secured Notes Indenture Trustee or The Depository Trust Company, as the case may be, is notified of such Holder's then current address, at which time all missed Distributions shall be made to such Holder without interest. Amounts in respect of undeliverable Distributions made through the Disbursing Agent or the Senior Secured Notes Indenture Trustee shall be returned to the appropriate Reorganized Debtor, the Trustee or Senior Secured Notes Indenture Trustee, as the case may be, until such Distributions are claimed. Reorganized GMXR will hold the Reorganized GMXR Common Stock for unidentified Holders of Senior Secured Noteholder Secured Claims in trust following the Effective Date until such unidentified Holders are identified, and, for so long as such Reorganized GMXR Common Stock is held in trust, such Reorganized GMXR Common Stock shall be voted in proportion to all other votes cast in any matter that is subject to a vote of Reorganized GMXR Common Stock. Upon identification, such Holders shall execute and deliver signature page(s) to the New Shareholders Agreement and shall thereafter receive their distribution of Reorganized GMXR Common Stock in accordance with Section 4.01 of the Plan. New GMXR will hold New GMXR Interests for unidentified Holders of Senior Secured Noteholder Secured Claims in trust following the Effective Date until such unidentified holders are identified, and, for so long as such New GMXR Interests are held in trust, such New GMXR Interests shall be voted in proportion to all other votes cast in any matter that is subject to a vote of New GMXR Interests. Upon identification, such Holders shall execute and deliver signature page(s) to the New GMXR Agreement and shall thereafter receive their distribution of New GMXR Interests in accordance with Section 4.01 of the Plan.

The Trust Agreement shall govern the Trustee's rights and obligations with regards to delivery of Distributions and unclaimed Distributions for Holders of the beneficiaries of the Creditor Trust.

9. WITHHOLDING AND REPORTING REQUIREMENTS

In connection with the Plan and all Distributions hereunder, the Disbursing Agent shall, to the extent applicable, comply with all tax withholding and reporting requirements imposed by any federal, state, local, or foreign taxing authority, and all Distributions hereunder shall be subject to any such withholding and reporting requirements. Notwithstanding anything to the contrary in the Plan, the Disbursing Agent shall be authorized to take all actions necessary or appropriate to comply with such withholding and reporting requirements.

The Trustee shall comply with all tax withholding and reporting requirements imposed by any federal, state, local, or foreign taxing authority, and all Distributions from the Creditor Trust shall be subject to any such withholding and reporting requirements.

10. SETOFFS

Other than in respect of any Senior Secured Notes Claim, a Reorganized Debtor may, but shall not be required to, set off against any Claim, and the payments or other Distributions to be made pursuant to the Plan in respect of such Claim, claims of any nature whatsoever that the Debtors or Reorganized Debtors may have had or have against the Holder of such Claim; provided, however, that neither the failure to do so nor the allowance of any Claim hereunder shall constitute a waiver or release by the Reorganized Debtors of any claim that the Debtors or Reorganized Debtors may have had or have against such Holder. Nothing in the Plan shall be deemed to expand rights to setoff under applicable non-bankruptcy law.

L. PROCEDURES FOR RESOLVING DISPUTED, CONTINGENCE, AND UNLIQUIDATED CLAIMS

1. PROSECUTION OF OBJECTIONS TO CLAIMS

Except as otherwise expressly provided in the Plan, the Debtors or the Reorganized Debtors, as applicable, shall have the exclusive authority to file, settle, compromise, withdraw, or litigate to judgment any objections to Claims that are not General Unsecured Claims. From and after the Effective Date, the Trustee shall have authority to file, settle, compromise, withdraw, or litigate to judgment any objection to (i) the amount of any Senior Secured Notes Adequate Protection Claims and (ii) any General Unsecured Claims, including, without limitation, any objection pursuant to section 502(d) of the Bankruptcy Code; provided however, that notwithstanding such section 502(d) objection (if any), the Trustee shall not bring any claim or cause of action against any Protected Person or Released Party for an Avoidance Action.

2. ALLOWANCE OF CLAIMS

Except as expressly provided in the Plan or in any order entered in the Chapter 11 Cases before the Effective Date (including the Confirmation Order), the Reorganized Debtors after the Effective Date will have and retain any and all rights and defenses held by the Debtors with respect to any Claim as of the Commencement Date; provided, however, the Trustee shall be authorized to assert in any objection to a General Unsecured Claim the defenses held by the Debtors with respect to such General Unsecured Claim as of the Commencement Date. If an objection to a Claim or a portion thereof is filed as set forth in Article VII of the Plan, no payment or Distribution provided under the Plan shall be made on account of such Claim or portion thereof unless and until and to the extent such Disputed Claim becomes an Allowed Claim.

Unless an order of the Bankruptcy Court specifically provides for a later date, any proof of Claim filed by a party after any applicable bar date established by the Bankruptcy Court with respect to such Claim shall be deemed disallowed and expunged as of the Effective Date without any further notice to or action, order or approval of the Bankruptcy Court, and Holders

of such Claims may not receive any distributions on account of such Claims, unless and until the party filing such Claim either obtains the written consent of the Reorganized Debtors to file such Claim late or obtains an order of the Bankruptcy Court upon written motion on notice to the Reorganized Debtors that permits the filing of the Claim.

3. DISTRIBUTIONS AFTER ALLOWANCE

On the first Distribution Date following the date that the order or judgment of the Bankruptcy Court allowing any Disputed Claim (other than General Unsecured Claims) becomes a Final Order, the Disbursing Agent shall provide to the Holder of such Claim the distribution (if any) to which such Holder is entitled under the Plan. For the avoidance of doubt, Holders of Allowed Claims will receive the same treatment regardless of whether such Claims are Allowed as of the Effective Date or at some time after the Effective Date.

Distributions after allowance of General Unsecured Claims shall be made as set forth in the Plan or the Trust Agreement.

4. ESTIMATION OF CLAIMS

The Debtors (before the Effective Date) or Reorganized Debtors (on or after the Effective Date) may, at any time, and from time to time, request that the Bankruptcy Court estimate any Disputed Claim pursuant to section 502(c) of the Bankruptcy Code regardless of whether an objection was previously filed with the Bankruptcy Court with respect to such Claim, or whether the Bankruptcy Court has ruled on any such objection, and the Bankruptcy Court will retain jurisdiction to estimate any Claim at any time including, without limitation, during litigation concerning any objection to any Claim and during the pendency of any appeal relating to any such objection. In the event that the Bankruptcy Court estimates any Disputed Claim, that estimated amount will constitute either the Allowed amount of such Claim or a maximum limitation on such Claim against any party or Entity, as determined by the Bankruptcy Court. If the estimated amount constitutes a maximum limitation on such Claim, the Debtors (before the Effective Date) or the Reorganized Debtors (on or after the Effective Date), may elect to pursue any supplemental proceedings to object to any ultimate Distribution on such Claim. All of the objection, estimation, settlement, and resolution procedures set forth in the Plan are cumulative and not necessarily exclusive of one another. Claims may be estimated and subsequently compromised, objected to, settled, withdrawn, or resolved by any mechanism approved by the Bankruptcy Court.

5. DEADLINE TO FILE OBJECTIONS TO CLAIMS

Unless otherwise set forth in the Plan or ordered by the Bankruptcy Court, any objections to Claims shall be filed on or before the date that is the later of: (a) 180 days after the Effective Date, and (b) the last day of such other period of limitation as may be specifically fixed by an order of the Bankruptcy Court for objecting to certain Claims. The Bankruptcy Court may extend any deadline to object to Claims upon motion filed by the Reorganized Debtors or the Trustee.

6. DEADLINE TO FILE OTHER SECURED CLAIMS; OBJECTIONS

Unless a prior date has been established pursuant to the Bankruptcy Code, the Bankruptcy Rules or a prior order of the Court, the Confirmation Order will establish a supplemental bar date for Holders of Other Secured Claims that properly and timely filed a proof of claim pursuant to the Bankruptcy Court's order fixing a Claims bar date [Docket No. 572], unless such Holder was otherwise exempt from filing a proof of claim, to file applications for allowance of Other Secured Claims which date will be the first business day that is forty-five (45) days after the Confirmation Date (the "Other Secured Claims Bar Date") or forever be barred from doing so. Holders of Other Secured Claims shall submit written requests for payment, together with evidence that the Claim is entitled to Other Secured Claim status, on or before the Other Secured Claims Bar Date or forever be barred from doing so and collecting payment on such Claims. The notice of Confirmation to be delivered pursuant to Bankruptcy Rules 3020(c) and 2002(1) shall set forth such date and constitute notice of the Other Secured Claims Bar Date, and the Debtors or the Reorganized Debtors, as the case may be, shall have ninety (90) days (or such longer period as may be allowed by order of the Bankruptcy Court) following the Other Secured Claims Bar Date to review and object to such Other Secured Claims either by commencing an adversary proceeding or such other procedure approved by the Bankruptcy Court. All such objections shall be litigated to Final Order; provided, however, that the Debtors or the Reorganized Debtors, as the case may be, may compromise and settle, withdraw or resolve by any other method, without requirement of Bankruptcy Court approval, any objections to Other Secured Claims. **Failure of a Holder of an Other Secured Claim(s) to timely and properly file and serve a written notice or request for payment on or before the Other Secured Claims Bar Date shall result in such Holder's Other Secured Claim(s) being forever barred and discharged.**

M. TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES

1. ASSUMED CONTRACTS AND LEASES

Except as otherwise provided in the Plan, or in any contract, instrument, release, indenture, or other agreement or document entered into in connection with the Plan, as of the Effective Date each Reorganized Debtor shall be deemed to have assumed each Executory Contract and Unexpired Lease listed on a schedule to be filed as part of the Plan Supplement. All Executory Contracts and Unexpired Leases assumed by Reorganized GMXR shall be assigned to New GMXR on the Effective Date. All other Executory Contracts and Unexpired Leases not included in such schedule filed with the Plan Supplement will be rejected. The Confirmation Order shall constitute an order of the Bankruptcy Court under section 365 of the Bankruptcy Code approving the contract and lease assumptions or rejections described above, as of the Effective Date. Any motions to assume Executory Contracts or Unexpired Leases pending on the Effective Date shall be subject to approval by the Bankruptcy Court on or after the Effective Date by a Final Order. Each Executory Contract and Unexpired Lease assumed pursuant to Article VIII of the Plan or by any order of the Bankruptcy Court, which has not been assigned to a third party prior to the Confirmation Date, shall revest in and be fully enforceable by the Reorganized Debtors in accordance with its terms, except as such terms are modified by the provisions of the Plan or any order of the Bankruptcy Court authorizing and providing for its assumption under applicable federal law.

Unless otherwise provided in the Plan, each assumed Executory Contract or Unexpired Lease shall include all modifications, amendments, supplements, restatements or other agreements that in any manner affect such Executory Contract or Unexpired Lease, and all Executory Contracts and Unexpired Leases, related thereto, if any, including all easements, licenses, permits, rights, privileges, immunities, options, rights of first refusal and any other interests, unless any of the foregoing agreements has been previously rejected or repudiated or is rejected or repudiated under the Plan.

The List of Executory Contracts and Unexpired Leases to be assumed shall include a Cure amount for each such Unexpired Lease and Executory Contract. Parties objecting to the Cure amount or to the assumption of such Executory Contract or Unexpired Lease must file objections no later than two (2) days before the Confirmation Hearing. The failure of any party or Entity to timely file its objection to the Cure amount or assumption of such Executory Contract or Unexpired Lease shall be a bar to the assertion, at the Confirmation Hearing or thereafter, of any objection to such Cure amount or assumption, or the Debtors Consummation of the Plan, if authorized by the Court.

2. PAYMENTS RELATED TO ASSUMPTION OF CONTRACTS AND LEASES

Any monetary amounts by which any executory contract and unexpired lease to be assumed under the Plan is in default shall be satisfied, under section 365(b)(1) of the Bankruptcy Code, by the applicable Debtor as soon as practicable following the Effective Date; provided, however, if there is a dispute regarding (i) the nature or amount of any Cure, (ii) the ability of a Reorganized Debtor 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, Cure shall occur following the entry of a Final Order of the Bankruptcy Court resolving the dispute and approving the assumption or assumption and assignment, as the case may be; provided, however, that the Debtors or the Reorganized Debtors may settle any dispute regarding the amount of any dispute without any further notice to or action, order or approval of the Bankruptcy Court; provided further that the Debtors, with the consent of the Consenting Senior Secured Noteholders, or the Reorganized Debtors, as applicable, shall be entitled to remove an Executory Contract from the List of Executory Contracts and Unexpired Leases to be assumed if the resolution of the Cure dispute is not reasonably satisfactory to the Consenting Senior Secured Noteholders.

3. REJECTED CONTRACTS AND LEASES

Except for those executory contracts and unexpired leases set forth on a schedule to the Plan Supplement, all of the executory contracts and unexpired leases to which the Debtors are a party shall be rejected under the Plan; provided, however, that the Debtors reserve the right, at any time prior to the Effective Date, to seek to assume any executory contract or unexpired lease to which any Debtor is a party with the consent of the Consenting Senior Secured Noteholders.

4. CLAIMS BASED UPON REJECTION OF EXECUTORY CONTRACTS OR UNEXPIRED LEASES

Any Claims arising out of the rejection of executory contracts and unexpired leases shall constitute a General Unsecured Claim. All such Claims must be filed with the Bankruptcy Court and served upon the appropriate Debtor and its counsel within forty-five (45) days after the earlier of (a) the date of entry of an order of the Bankruptcy Court approving such rejection or (b) the Confirmation Date. Any such Claims not filed within such times shall be forever barred from assertion against the respective Debtor, its Estate, its property and the Creditor Trust.

5. INDEMNIFICATION OF DIRECTORS, OFFICERS AND EMPLOYEES

The obligations of any Debtor to indemnify any Released Party serving at any time as one of its directors, officers or employees by reason of such Released Party's service in such capacity, or as a director, officer or employee of any other Entity, to the extent provided in such Debtor's existing certificate of incorporation, certificate of formation, corporate charter, bylaws or similar constitutive documents, or any specific agreement relating to any claims, demands, suits or proceedings against such Released Party based upon any act or omission related to service with or on behalf of any of the Debtors prior to the Effective Date, or under applicable state corporate law (to the maximum extent permitted thereunder), shall be deemed and treated as executory contracts in which the relevant Reorganized Debtor shall be deemed to have rejected any such indemnification obligations provided therein pursuant to section 365 of the Bankruptcy Code as of the Effective Date.

N. ACCEPTANCE OR REJECTION OF THE PLAN

1. CLASSES ENTITLED TO VOTE

Each Holder of an Allowed Claim in Classes 1 and 4 shall be entitled to vote. Each Holder of an Allowed Claim or Equity Interest in Classes 2, 3 and 7 shall not be entitled to vote because they are conclusively deemed, by operation of section 1126(f) of the Bankruptcy Code, to have accepted the Plan. Each Holder of an Allowed Claim is Class 5 shall not be entitled to vote because they are conclusively deemed by operation of section 1126(g) to have rejected the Plan. Holders of Equity Interests in Impaired Class 6 will not receive or retain any property under the Plan on account of their Equity Interests. Therefore, Holders of Equity Interests in Impaired Class 6 are deemed to have rejected the Plan by operation of section 1126(g) of the Bankruptcy Code.

2. ACCEPTANCE BY IMPAIRED CLASSES

An Impaired Class of Claims shall have accepted the Plan if the Holders of at least two-thirds (2/3) in dollar amount and more than one-half (1/2) in number of the Allowed Claims in the Class actually voting vote to accept the Plan.

3. ELIMINATION OF CLASSES

Any Class that does not contain any Allowed Claims or any Claims temporarily allowed for voting purposes under Bankruptcy Rule 3018, as of the date of the commencement of the Confirmation Hearing, shall be deemed not included in the Plan for purposes of (i) voting to accept or reject the Plan and (ii) determining whether such Class has accepted or rejected the Plan under section 1129(a)(8) of the Bankruptcy Code.

4. NONCONSENSUAL CONFIRMATION

The Bankruptcy Court may confirm the Plan over the dissent of or rejection by any Impaired Class if all of the requirements for consensual Confirmation under subsection 1129(a), other than subsection 1129(a)(8), of the Bankruptcy Code and for nonconsensual Confirmation under subsection 1129(b) of the Bankruptcy Code have been satisfied.

With respect to each Impaired Class that is deemed to reject the Plan, the Debtors shall request that the Bankruptcy Court confirm or "cram down" the Plan on a non-consensual basis pursuant to section 1129(b) of the Bankruptcy Code.

O. CONDITIONS PRECEDENT TO CONFIRMATION AND EFFECTIVENESS

1. CONDITIONS TO CONFIRMATION

It shall be a condition to Confirmation of the Plan that the following conditions shall have been satisfied or waived pursuant to the provisions of Section 10.04 of the Plan:

a. the Bankruptcy Court shall have entered the Confirmation Order in form and substance reasonably acceptable to the Debtors, the Consenting Senior Secured Noteholders, and, solely to the extent affecting the treatment of Holders of General Unsecured Claims as set forth in the Plan, reasonably acceptable to the Creditors' Committee; and

b. all documentation related to the Plan and the Plan Supplement must be in form and substance reasonably acceptable to the (i) Exit Facility Agent, solely as to provisions which affect, or could be reasonably expected to affect, the Exit Facility Agent's rights, claims, recoveries, and/or interests, (ii) DIP Facility Agent, solely as to provisions which affect, or could be reasonably expected to affect, the DIP Facility Agent's rights, claims, recoveries, and/or interests, (iii) Debtors, (iv) the Consenting Senior Secured Noteholders and (v) and, solely to the extent affecting the treatment of Holders of General Unsecured Claims as set forth in the Plan, reasonably acceptable to the Creditors' Committee.

2. CONDITIONS TO EFFECTIVE DATE

The following are conditions precedent to the occurrence of the Effective Date, each of which must be satisfied or waived in accordance with Section 10.04 of the Plan:

a. The Confirmation Order shall have been entered by the Bankruptcy Court.

b. The Confirmation Order shall have become a Final Order.

c. All authorizations, consents, and regulatory approvals required, if any, in connection with the Consummation of the Plan shall have been obtained.

d. The Debtors and the Exit Facility Lenders shall have executed and delivered the Exit Facility Credit Documents, in form and substance reasonably acceptable to the Debtors and the Consenting Senior Secured Noteholders, and the Exit Facility shall have closed.

e. The Debtors shall have executed and delivered all documents necessary to effectuate the issuance of the New Equity Securities.

f. All other actions, documents, and agreements necessary to implement the Plan shall have been executed, become effective and been delivered (or be in immediately deliverable form), including documents contained in the Plan Supplement.

g. Any amendments, modifications or supplements to the Plan (including the Plan Supplement), if any, shall be reasonably acceptable to the (i) Debtors, (ii) Consenting Senior Secured Noteholders and (iii) and, solely to the extent affecting the treatment of Holders of General Unsecured Claims as set forth in the Plan, to the Creditors' Committee.

h. All documents referenced in subsections (e), (f) and (g) of Section 10.02 of the Plan, including all documents in the Plan Supplement, shall be reasonably acceptable to the (i) Exit Facility Agent, solely as to provisions which affect, or could be reasonably expected to affect, the Exit Facility Agent's rights, claims, recoveries, and/or interests, (ii) DIP Facility Agent, solely as to provisions which affect, or could be reasonably expected to affect, the DIP Facility Agent's rights, claims, recoveries, and/or interests, (iii) Debtors, (iv) the Consenting Senior Secured Noteholders and (v) and, solely to the extent affecting the treatment of Holders of General Unsecured Claims as set forth in the Plan, to the Creditors' Committee.

i. All reasonable fees and expenses (including attorney's fees and fees for any other professional, advisors and consultants) of the Steering Committee, the members of the Steering Committee, the DIP Agent, the Senior Secured Indenture Trustee and the Exit Facility Agent incurred in connection with the Chapter 11 Cases, the negotiation and formulation of the Plan, DIP Facility Agreement, Exit Facility and related documents, and all transactions set forth herein or necessary to implement and consummate the Plan (whether incurred before or after the Commencement Date) shall have been paid.

j. No stay of the Consummation of the Plan shall be in effect.

3. EFFECT OF FAILURE OF CONDITIONS

In the event that one or more of the conditions specified in Section 10.02 of the Plan shall not have occurred or been waived pursuant to Section 10.04 of the Plan on or before the Outside Date (as defined in the Plan Support Agreement), or such later date as may be agreed to by the Debtors and the Consenting Senior Secured Noteholders, (a) the Confirmation Order shall be vacated, (b) no Distributions under the Plan shall be made, (c) the Debtors and Holders

of Claims and Equity Interests shall be restored to the *status quo* as of the day immediately preceding the Confirmation Date as though the Confirmation Order had never been entered, and (d) the Debtors' obligations with respect to Claims and Equity Interests shall remain unchanged and nothing contained herein shall constitute or be deemed a waiver or release of any Claims or Equity Interests by or against the Debtors or any Person or governmental Entity or to prejudice in any manner the rights of the Debtors or any Person or governmental Entity in any other or further proceedings involving the Debtors.

4. WAIVER OF CONDITIONS

Each of the conditions set forth in Section 10.01 and Section 10.02 of the Plan, other than the conditions set forth in Sections 10.02(a) and 10.02(j) of the Plan, may be waived in whole or in part by the Debtors with the consent of the Consenting Senior Secured Noteholders, and, solely to the extent affecting the treatment of Holders of General Unsecured Claims as set forth in the Plan, the Creditors' Committee, without notice, leave or other order of the Bankruptcy Court or any formal action.

P. MODIFICATIONS AND AMENDMENTS; WITHDRAWAL

The Debtors may amend or modify the Plan at any time prior to the Confirmation Date, with the consent of the (i) Exit Facility Agent, solely as to provisions which affect, or could be reasonably expected to affect, the Exit Facility Agent's rights, claims, recoveries, and/or interests, (ii) DIP Facility Agent, solely as to provisions which affect, or could be reasonably expected to affect, the DIP Facility Agent's rights, claims, recoveries, and/or interests, (iii) Debtors, (iv) the Consenting Senior Secured Noteholders and (v) solely to the extent affecting the treatment of Holders of General Unsecured Claims as set forth in the Plan, the Creditors' Committee. The Debtors reserve the right to include any amended documents in the Plan Supplement with the consent of the (i) Exit Facility Agent, solely as to provisions which affect, or could be reasonably expected to affect, the Exit Facility Agent's rights, claims, recoveries, and/or interests, (ii) DIP Facility Agent, solely as to provisions which affect, or could be reasonably expected to affect, the DIP Facility Agent's rights, claims, recoveries, and/or interests, (iii) Debtors, (iv) the Consenting Senior Secured Noteholders and (v) solely to the extent affecting the treatment of Holders of General Unsecured Claims as set forth in the Plan, the Creditors' Committee, whereupon each such amended document shall be deemed substituted for the original of such document. After the Confirmation Date, the Debtors, with the consent of the Consenting Senior Secured Noteholders, or Reorganized Debtors, as applicable, may, under section 1127(b) of the Bankruptcy Code, institute proceedings in the Bankruptcy Court to remedy any defect or omission or reconcile any inconsistencies within or among the Plan, the Disclosure Statement, and the Confirmation Order, and to accomplish such matters as may be reasonably necessary to carry out the purposes and intent hereof so long as such remedies do not materially and adversely affect the treatment of Holders of Claims hereunder.

Entry of a Confirmation Order shall mean that all modifications or amendments to the Plan since the Solicitation thereof are approved pursuant to section 1127(a) of the Bankruptcy Code and do not require additional disclosure or resolicitation under Bankruptcy Rule 3019.

## Q. RETENTION OF JURISDICTION

Under sections 105(a) and 1142 of the Bankruptcy Code, and notwithstanding the Plan's Confirmation and the occurrence of the Effective Date, the Bankruptcy Court shall retain exclusive jurisdiction over all matters arising out of or related to the Chapter 11 Cases and the Plan, to the fullest extent permitted by law, including jurisdiction to:

a) hear and determine any and all objections to the allowance of Claims;

b) hear and determine any and all motions to estimate Claims at any time, regardless of whether the Claim to be estimated is the subject of a pending objection, a pending appeal, or otherwise;

c) hear and determine any and all motions to subordinate Claims at any time and on any basis permitted by applicable law;

d) hear and determine all Professional Fee Claims and other Administrative Claims;

e) hear and determine all matters with respect to the assumption or rejection of any executory contract or unexpired lease to which a Debtor is a party or with respect to which a Debtor may be liable, including, if necessary, the nature or amount of any Claim or required Cure or the liquidation of any Claims arising therefrom;

f) hear and determine any and all adversary proceedings, motions, applications, and contested or litigated matters arising out of, under, or related to, the Chapter 11 Cases, including Avoidance Actions;

g) enter such orders as may be necessary or appropriate in aid of the Consummation hereof and to execute, implement, or consummate the provisions hereof and all contracts, instruments, releases, and other agreements or documents created in connection with the Plan, the Disclosure Statement or the Confirmation Order;

h) hear and determine disputes arising in connection with the interpretation, implementation, Consummation, or enforcement of the Plan and all contracts, instruments, and other agreements executed in connection with the Plan;

i) hear and determine any request to modify the Plan or to cure any defect or omission or reconcile any inconsistency in the Plan or any order of the Bankruptcy Court;

j) issue and enforce injunctions or other orders, or take any other action that may be necessary or appropriate to restrain any interference with or compel action for the implementation, Consummation, or enforcement hereof or the Confirmation Order;

k) enter and implement such orders as may be necessary or appropriate if the Confirmation Order is for any reason reversed, stayed, revoked, modified, or vacated;

l) hear and determine any matters arising in connection with or relating hereto, the Confirmation Order or any contract, instrument, release, or other agreement or document created in connection with the Plan, the Disclosure Statement or the Confirmation Order;

m) enforce all orders, judgments, injunctions, releases, exculpation, indemnification and rulings entered in connection with the Chapter 11 Cases;

n) recover all assets of the Debtors and property of the Debtors' Estates, wherever located;

o) hear and determine matters concerning state, local, and federal taxes in accordance with sections 346, 505, and 1146 of the Bankruptcy Code;

p) allow, disallow, determine, liquidate, classify, estimate or establish the priority, Secured or unsecured status, or amount of any Claim, including the resolution of any request for payment of any Administrative Claim and the resolution of any and all objections to the Secured or unsecured status, priority, amount or allowance of Claims;

q) ensure that distributions to Holders of Allowed Claims are accomplished pursuant to the provisions of the Plan;

r) resolve any cases, controversies, suits, disputes or Causes of Action with respect to the releases, injunctions and other provisions contained in Article XIII, and enter such orders as may be necessary or appropriate to implement such releases, injunctions and other provisions;

s) hear and determine any matters arising in connection with or relating to the Creditor Trust, the Trust Agreement and the Trust Interests;

t) hear and determine all disputes involving the existence, nature, or scope of the Debtors' discharge;

u) hear and determine such other matters as may be provided in the Confirmation Order or as may be authorized under, or not inconsistent with, provisions of the Bankruptcy Code; and

v) enter a final decree closing the Chapter 11 Cases.

## R. SETTLEMENT, RELEASE, INJUNCTION AND RELATED PROVISIONS

### 1. DISCHARGE OF CLAIMS AND TERMINATION OF EQUITY INTERESTS

Except as otherwise provided in the Plan or in the Confirmation Order, all consideration distributed under the Plan shall be in exchange for, and in complete satisfaction, settlement, discharge, and release of, all Claims and Equity Interests of any nature whatsoever against the Debtors or any of their assets or properties, and regardless of whether any property

shall have been distributed or retained pursuant to the Plan on account of such Claims and Equity Interests. Upon the Effective Date, each of the Debtors and the Reorganized Debtors shall be deemed discharged and released under section 1141(d)(1) of the Bankruptcy Code from any and all Claims and Equity Interests (other than those Claims that are not Impaired under the Plan), including, but not limited to, demands and liabilities that arose on or before the Effective Date, and all debts of the kind specified in section 502(g), 502(h), or 502(i) of the Bankruptcy Code, and all Existing Securities shall be cancelled, terminated and extinguished as provided in the Plan. By accepting Distributions pursuant to the Plan, each holder of Allowed Claim receiving Distributions pursuant to the Plan shall be deemed to have specifically consented to the discharge.

2. EXCULPATION AND LIMITATION OF LIABILITY

The Exculpated Parties shall neither have nor incur any liability to any Holder of a Claim or an Equity Interest, or any other party-in-interest, or any of their respective agents, employees, equity interest holders, partners, members, representatives, financial advisors, attorneys, or affiliates, or any of their successors or assigns, for any act or omission in connection with, relating to, or arising out of the negotiation, solicitation, and/or distribution of the Plan Support Agreement, DIP Facility Agreement and related documents, Exit Facility, Sale Transaction, Plan and Disclosure Statement, the administration of the Chapter 11 Cases, the solicitation of acceptances hereof, the pursuit of Confirmation hereof, the Consummation hereof, or the administration hereof or the property to be distributed hereunder, except for any act or omission that constitutes willful misconduct or gross negligence as determined by Final Order by a court of competent jurisdiction, and in all respects they shall be entitled to reasonably rely upon the advice of counsel with respect to their duties and responsibilities under the Plan. This exculpation shall be in addition to, and not in limitation of, all other releases, indemnities, exculpations and any other applicable law or rules protecting such Exculpated Parties from liability.

3. INJUNCTION

ALL INJUNCTIONS OR STAYS PROVIDED FOR IN THE CHAPTER 11 CASES PURSUANT TO SECTIONS 105 AND 362 OF THE BANKRUPTCY CODE OR OTHERWISE AND IN EFFECT ON THE CONFIRMATION DATE, SHALL REMAIN IN FULL FORCE AND EFFECT UNTIL THE EFFECTIVE DATE. EXCEPT AS OTHERWISE PROVIDED IN THE PLAN OR THE CONFIRMATION ORDER, ALL PERSONS OR ENTITIES THAT HAVE HELD, HOLD OR MAY HOLD CLAIMS OR CAUSES OF ACTION AGAINST OR EQUITY INTERESTS IN ANY OF THE DEBTORS THAT AROSE BEFORE OR WERE HELD AS OF THE EFFECTIVE DATE, ARE AS OF THE EFFECTIVE DATE PERMANENTLY ENJOINED FROM TAKING ANY OF THE FOLLOWING ACTIONS AGAINST ANY OF THE DEBTORS AND THEIR ESTATES, THE REORGANIZED DEBTORS OR THEIR PROPERTY OR ASSETS ON ACCOUNT OF SUCH CLAIMS, CAUSES OF ACTION OR EQUITY INTERESTS: (A) COMMENCING, CONDUCTING OR CONTINUING IN ANY MANNER, DIRECTLY OR INDIRECTLY, ANY SUIT, ACTION OR OTHER PROCEEDING RELATING TO SUCH CLAIM, CAUSE OF ACTION OR EQUITY INTEREST; (B) ENFORCING, LEVYING, ATTACHING, COLLECTING OR OTHERWISE RECOVERING IN ANY MANNER OR BY ANY MEANS,

WHETHER DIRECTLY OR INDIRECTLY, ANY JUDGMENT, AWARD, DECREE OR ORDER RELATING TO SUCH CLAIM, CAUSE OF ACTION OR EQUITY INTEREST; (C) CREATING, PERFECTING OR ENFORCING IN ANY MANNER, DIRECTLY OR INDIRECTLY, ANY LIEN RELATING TO SUCH CLAIM, CAUSE OF ACTION OR EQUITY INTEREST; (D) ASSERTING ANY SETOFF, RIGHT OF SUBROGATION OR RECOUPMENT OF ANY KIND, DIRECTLY OR INDIRECTLY, AGAINST ANY DEBT, LIABILITY OR OBLIGATION DUE TO THE DEBTORS OR THE REORGANIZED DEBTORS RELATING TO SUCH CLAIM, CAUSE OF ACTION OR EQUITY INTEREST; AND (E) PROCEEDING IN ANY MANNER IN ANY PLACE WHATSOEVER THAT DOES NOT CONFORM TO OR COMPLY WITH OR IS INCONSISTENT WITH THE PROVISIONS OF THE PLAN OR THE CONFIRMATION ORDER.

4. RELEASES BY THE DEBTORS

EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THE PLAN, AS OF THE EFFECTIVE DATE, FOR GOOD AND VALUABLE CONSIDERATION, THE ADEQUACY OF WHICH IS HEREBY CONFIRMED, THE DEBTORS AS DEBTORS IN POSSESSION, THE REORGANIZED DEBTORS AND ANY PERSON SEEKING TO EXERCISE THE RIGHTS OF THE DEBTORS' ESTATES, INCLUDING THE TRUSTEE, ANY SUCCESSOR TO THE DEBTORS OR ANY ESTATE REPRESENTATIVE APPOINTED OR SELECTED PURSUANT TO SECTION 1123(B)(3) OF THE BANKRUPTCY CODE WILL BE DEEMED TO HAVE CONCLUSIVELY, ABSOLUTELY, UNCONDITIONALLY, IRREVOCABLY FOREVER RELEASED, WAIVED AND DISCHARGED THE RELEASED PARTIES FROM ANY AND ALL CLAIMS, OBLIGATIONS, SUITS, JUDGMENTS, DAMAGES, DEMANDS, DEBTS, RIGHTS, CAUSES OF ACTION AND LIABILITIES WHATSOEVER (OTHER THAN THOSE ARISING OUT OF OR RELATING TO ANY ACT OR OMISSION BY A RELEASED PARTY THAT CONSTITUTES WILLFUL MISCONDUCT, GROSS NEGLIGENCE, INTENTIONAL FRAUD OR CRIMINAL CONDUCT, IN EACH CASE DETERMINED BY FINAL ORDER OF A COURT OF COMPETENT JURISDICTION, AND OTHER THAN THE RIGHTS OF THE DEBTORS AND THE REORGANIZED DEBTORS TO ENFORCE THE PLAN AND THE CONTRACTS, INSTRUMENTS, RELEASES AND OTHER AGREEMENTS OR DOCUMENTS RELATED HERETO), WHETHER DIRECT OR DERIVATIVE, LIQUIDATED OR UNLIQUIDATED, FIXED OR CONTINGENT, MATURED OR UNMATURED, DISPUTED OR UNDISPUTED, KNOWN OR UNKNOWN, FORESEEN OR UNFORESEEN, THEN EXISTING OR THEREAFTER ARISING, IN LAW, EQUITY OR OTHERWISE THAT ARE BASED IN WHOLE OR IN PART ON ANY ACT, OMISSION, TRANSACTION, EVENT OR OTHER OCCURRENCE TAKING PLACE ON OR PRIOR TO THE EFFECTIVE DATE, OR IN ANY WAY RELATING TO THE RESTRUCTURING OF THE DEBTORS, THE CHAPTER 11 CASES, THE PURCHASE, SALE OR RESCISSION OF THE PURCHASE OR SALE OF ANY SECURITY OF THE DEBTORS, THE PLAN SUPPORT AGREEMENT, THE DIP FACILITY AGREEMENT AND RELATED DOCUMENTS, THE EXIT FACILITY, THE SALE TRANSACTION, THE PLAN OR THE DISCLOSURE STATEMENT, AND THAT COULD HAVE BEEN ASSERTED BY OR ON BEHALF OF THE DEBTORS OR THEIR ESTATES AGAINST ANY OF THE RELEASED PARTIES.

THE DEBTORS' RELEASE OF CURRENT DIRECTORS AND OFFICERS THAT ARE PROTECTED PERSONS INCLUDES THE RELEASE OF ANY LIABILITY FOR BREACH OF FIDUCIARY DUTY OR RELATED CLAIMS; PROVIDED, HOWEVER THAT THE TRUSTEE MAY NAME ANY OR ALL OF SUCH CURRENT DIRECTORS AND OFFICERS SOLELY AS NOMINAL DEFENDANTS, IF THE TRUSTEE DETERMINES, BASED UPON THE WRITTEN ADVICE OF COUNSEL, IT TO BE NECESSARY OR REQUIRED IN ANY POST-EFFECTIVE DATE LITIGATION INSTITUTED BY THE TRUSTEE AGAINST NON-RELEASED OFFICERS AND DIRECTORS.

5. RELEASES BY HOLDERS OF CLAIMS AND EQUITY INTERESTS

AS OF THE EFFECTIVE DATE, FOR GOOD AND VALUABLE CONSIDERATION, THE ADEQUACY OF WHICH IS HEREBY CONFIRMED, (I) EACH CONSENTING SENIOR SECURED NOTEHOLDER AND (II) EACH HOLDER OF A CLAIM (OTHER THAN A CONSENTING SENIOR SECURED NOTEHOLDER) THAT VOTES IN FAVOR OF THE PLAN (OR IS DEEMED TO ACCEPT THE PLAN), AS APPLICABLE, FOR THEMSELVES AND ON BEHALF OF ANY SUCCESSORS AND ASSIGNS, WILL BE DEEMED TO HAVE CONCLUSIVELY, ABSOLUTELY, UNCONDITIONALLY, IRREVOCABLY, FOREVER RELEASED, WAIVED AND DISCHARGED EACH OF THE DEBTORS AND THE REORGANIZED DEBTORS, AND THE RELEASED PARTIES, FROM ANY AND ALL CLAIMS, OBLIGATIONS, SUITS, JUDGMENTS, DAMAGES, DEMANDS, DEBTS, RIGHTS, CAUSES OF ACTION AND LIABILITIES WHATSOEVER, (EXCEPT FOR THE RIGHTS TO ENFORCE THE PLAN AND THE OTHER AGREEMENTS AND DOCUMENTS DELIVERED HEREUNDER) WHETHER DIRECT OR DERIVATIVE, LIQUIDATED OR UNLIQUIDATED, FIXED OR CONTINGENT, MATURED OR UNMATURED, DISPUTED OR UNDISPUTED, KNOWN OR UNKNOWN, FORESEEN OR UNFORESEEN, THEN EXISTING OR THEREAFTER ARISING, IN LAW, EQUITY OR OTHERWISE THAT ARE BASED IN WHOLE OR IN PART ON ANY ACT, OMISSION, TRANSACTION, EVENT OR OTHER OCCURRENCE TAKING PLACE ON OR PRIOR TO THE EFFECTIVE DATE, AND IN ANY WAY RELATING TO THE RESTRUCTURING OF THE DEBTORS, THE CHAPTER 11 CASES, THE PURCHASE, SALE OR RESCISSION OF THE PURCHASE OR SALE OF ANY SECURITY OF THE DEBTORS, THE PLAN SUPPORT AGREEMENT, THE PLAN OR THE DISCLOSURE STATEMENT, EXCEPT THAT, AS TO SPECIFICALLY THE RELEASED PARTIES, NOTHING IN THE PLAN RELEASES WILLFUL MISCONDUCT, GROSS NEGLIGENCE, INTENTIONAL FRAUD, OR CRIMINAL CONDUCT, IN EACH CASE AS DETERMINED BY FINAL ORDER OF A COURT OF COMPETENT JURISDICTION.

6. INJUNCTION RELATED TO RELEASES AND EXCULPATIONS

The Confirmation Order shall permanently enjoin the commencement or prosecution by any Entity, whether directly, derivatively, or otherwise, of any claims, obligations, suits, judgments, damages, demands, debts, rights, causes of action, or liabilities barred or released in Sections 13.02, 13.04 and 13.05 of the Plan.

### 7. RELEASE OF LIENS

Except as otherwise provided in the Plan or in any contract, instrument, release, or other agreement or document created pursuant to the Plan, on the Effective Date and concurrently with the applicable distributions made pursuant to the Plan and, in the case of a Secured Claim, satisfaction in accordance with the Plan of the portion of the Secured Claim that is an Allowed Secured Claim as of the Effective Date, all mortgages, deeds of trust, Liens, pledges, or other security interests against any property of the Estates shall be fully released and discharged and all of the right, title, and interest of any Holder of such mortgages, deeds of trust, Liens, pledges or other security interests shall revert to the Reorganized Debtor and its successors and assigns. For the avoidance of doubt, all mortgages, deeds of trust, Liens, pledges or other security interests against any property of the Estates shall be fully released and discharged on the Effective Date without any further action of any party, including, but not limited to, further order of the Bankruptcy Court, or filing updated schedules or statements typically filed pursuant to the Uniform Commercial Code.

## S. MISCELLANEOUS PROVISIONS

### 1. SEVERABILITY OF PLAN PROVISIONS

If, prior to Confirmation, any term or provision hereof is held 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 make 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 altered or interpreted. Notwithstanding any such holding, alteration, or interpretation, the remainder of the terms and provisions hereof 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 hereof, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms

### 2. SUCCESSORS AND ASSIGNS

The rights, benefits and obligations of all Persons named or referred to under the Plan shall be binding on, and shall inure to the benefit of, their respective heirs, executors, administrators, personal representatives, successors or assigns.

### 3. BINDING EFFECT

Upon the occurrence of the Effective Date, the Plan shall be binding upon and inure to the benefit of the Debtors, all present and former Holders of Claims against and Equity Interests in the Debtors, their respective successors and assigns, including the Reorganized Debtors, all other parties-in-interest in the Chapter 11 Cases (irrespective of whether such Claims or Interests are deemed to have accepted the Plan), all Entities that are parties to or are subject to the settlements, compromises, releases, discharges, and injunctions described in the Plan, each Entity acquiring property under the Plan, and any and all non-Debtor parties to Executory Contracts and Unexpired Leases with the Debtors.

4. REVOCATION, WITHDRAWAL, OR NON-CONSUMMATION

The Debtors reserve the right to revoke or withdraw the Plan at any time prior to the Confirmation Date and to file other plans of reorganization. If the Debtors revoke or withdraw the Plan, or if Confirmation or Consummation hereof does not occur, then (a) the Plan shall be null and void in all respects, (b) any settlement or compromise embodied in the Plan (including the fixing or limiting to an amount any Claim or Class of Claims), assumption or rejection of executory contracts or leases effected by the Plan, and any document or agreement executed pursuant to the Plan shall be deemed null and void, and (c) nothing contained in the Plan, and no acts taken in preparation for Consummation hereof, shall (i) constitute or be deemed to constitute a waiver or release of any Claims by or against, or any Equity Interests in, the Debtors or any other Person, (ii) prejudice in any manner the rights of the Debtors, Holders of any Claims or Equity Interests or any Entity in any further proceedings involving the Debtors, or (iii) constitute an admission of any sort by the Debtors or any other Entity.

5. COMMITTEES AND RETAINED PERSON

On the Effective Date, the Creditors' Committee shall terminate and the Creditors' Committee shall dissolve and the members thereof shall be released and discharged from all rights and duties from or related to the Chapter 11 Cases. The Reorganized Debtors shall not be responsible for paying any fees or expenses incurred by the Creditors' Committee on or after the Effective Date. The Retained Person (as defined in the DIP Facility Agreement) shall be released and discharged from all rights and duties from or related to the Chapter 11 Cases and shall not be an officer of the Reorganized Debtors.

6. PLAN SUPPLEMENT

All exhibits and documents included in the Plan Supplement are incorporated into and are a part of the Plan as if set forth in full in the Plan. All documents required to be filed as part of the Plan Supplement shall be filed with the Bankruptcy Court at least fourteen (14) days prior to the date of the Confirmation Hearing. Thereafter, any Person may examine the Plan Supplement in the office of the Clerk of the Bankruptcy Court during normal court hours. Copies of the Plan Supplement may also be obtained without charge at the website maintained by the Debtors' claims and noticing agent (http://dm.epiq11.com/GMX/Project#) or by contacting Joseph Rovira at the Andrews Kurth address listed below. All documents filed in these cases may also be viewed (a) during regular business hours (9:00 a.m. to 4:00 p.m. Central Time weekdays, except legal holidays) at the U.S. Bankruptcy Court, and (b) electronically on the PACER Internet system, and (c) without charge at the website maintained by the Debtors' claims and noticing agent (http://dm.epiq11.com/GMX/Project#). Holders of Claims against or Equity Interests in the Debtors may also obtain a copy of the Plan Supplement upon written request to the Debtors in accordance with Section 14.06 of the Plan.

7. NOTICES TO DEBTORS

All notices, requests and demands to or upon the Debtors to be effective shall be in writing and, unless otherwise expressly provided in the Plan, 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:

If to Debtors:

GMX Resources Inc.
One Benham Place
9400 N. Broadway, Suite 600
Oklahoma City, OK 73114
Attention: Michael Rohleder
Telephone: 405.600.0711
Facsimile: 405.600.0600

-and-

Andrews Kurth LLP
600 Travis, Suite 4200
Houston, TX 77002
Attention: David Zdunkewicz, Esq.
Timothy A. Davidson II, Esq.
Telephone: 713.220.4200
Facsimile: 713.220.4285

If to the Creditors' Committee:

Looper Reed & McGraw P.C.
1601 Elm Street, Suite 4600
Dallas, TX 75201
Attention: Jason Brookner, Esq.
Telephone: 214.954.4135
Facsimile: 214.953.1332

If to the Steering Committee:

Paul, Weiss, Rifkind, Wharton & Garrison LLP
1285 Avenue of the Americas
New York, NY 10019
Attention: Brian S. Hermann, Esq.
Sarah Harnett, Esq.
Telephone: 212.373.3000
Facsimile: 212.757.3990

8. GOVERNING LAW

Unless a rule of law or procedure is supplied by federal law (including the Bankruptcy Code and Bankruptcy Rules), the laws of (a) the State of Oklahoma shall govern the construction and implementation hereof and any agreements, documents, and instruments

executed in connection with the Plan and (b) the laws of the state of incorporation or organization of each Debtor shall govern corporate or other governance matters with respect to such Debtor, in either case without giving effect to the principles of conflicts of law thereof.

9. SECTION 1125(E) OF THE BANKRUPTCY CODE

As of the Confirmation Date, the Debtors, the Steering Committee and its members and the Creditors' Committee and its members shall be deemed to have solicited acceptances hereof in good faith and in compliance with the Bankruptcy Code. As of the Confirmation Date, the Debtors, the Steering Committee, and each of their respective affiliates, agents, directors, managing partners, managers, officers, employees, investment bankers, financial advisors, attorneys, and other professionals shall be deemed to have participated in good faith and in compliance with the applicable provisions of the Bankruptcy Code in the offer and issuance of the New Equity Securities hereunder, and therefore are not, and on account of such offer, issuance and solicitation shall not be, liable at any time for the violation of any law, rule or regulation governing the solicitation of acceptances or rejections hereof, the offer and issuance of New Equity Securities hereunder, or the distribution or dissemination of any information contained in the Plan, the Disclosure Statement, the Plan Supplement, and any and all related documents.

10. CONFLICT

The terms of the Plan shall govern in the event of any inconsistency with the summaries of the Plan set forth in the Disclosure Statement, the Plan Support Agreement or the term sheet attached as an exhibit to the Plan Support Agreement.

11. ENTIRE AGREEMENT

Except as otherwise indicated, the Plan and the Plan Supplement supersede all previous and contemporaneous negotiations, promises, covenants, agreements, understandings, and representations on such subjects, all of which have become merged and integrated into the Plan.

## V. CAPITAL STRUCTURE OF THE REORGANIZED DEBTORS

### A. EXIT FACILITY

On the Effective Date, the Reorganized Debtors shall be authorized to enter into the Exit Facility Credit Agreement and any ancillary documents necessary or appropriate to satisfy the conditions to effectiveness of the Exit Facility. The Confirmation Order shall be deemed approval of the Exit Facility (including the transactions contemplated thereby, such as any supplementation or additional syndication of the Exit Facility, and all actions to be taken, undertakings to be made, and obligations to be incurred by the Reorganized Debtors in connection therewith, including the payment of all fees, indemnities, and expenses provided for therein) and authorization for the Reorganized Debtors to enter into and execute the Exit Facility Credit Agreement and such other Exit Facility Credit Documents as the Exit Facility Lenders may reasonably require, subject to such modifications as the Debtors and the Consenting Senior

Secured Noteholders may deem to be reasonably necessary to consummate the Exit Facility. The Reorganized Debtors may use the Exit Facility for any purpose permitted thereunder, including the payment in whole or in part of the DIP Facility Claims and, the funding of obligations under the Plan and satisfaction of the Reorganized Debtors' ongoing working capital needs.

Upon the date the Exit Facility Credit Agreement becomes effective: (i) the Debtors and the Reorganized Debtors, as applicable, are authorized to execute and deliver the Exit Facility Credit Documents and perform their obligations thereunder, including, without limitation, the payment or reimbursement of any fees, expenses, losses, damages, or indemnities, (ii) the Exit Facility Credit Documents shall constitute the legal, valid, and binding obligations of the Reorganized Debtors that are parties thereto, enforceable in accordance with their respective terms and (iii) no obligation, payment, transfer, or grant of security under the Exit Facility Credit Documents shall be stayed, restrained, voidable, or recoverable under the Bankruptcy Code or under any applicable law or subject to any defense, reduction, recoupment, setoff, or counterclaim. The Debtors and the Reorganized Debtors, as applicable, and the other persons granting any Liens and security interests to secure the obligations under the Exit Facility Credit Documents are authorized to make all filings and recordings, and to obtain all governmental approvals and consents necessary or desirable to establish and further evidence perfection of such Liens and security interests under the provisions of any applicable federal, state, provincial, or other law (whether domestic or foreign) (it being understood that perfection shall occur automatically by virtue of the occurrence of the Effective Date, and any such filings, recordings, approvals, and consents shall not be required), and will thereafter cooperate to make all other filings and recordings that otherwise would be necessary under applicable law to give notice of such Liens and security interests to third parties.

### B. ISSUANCE OF NEW SECURITIES AND TRUST INTERESTS

#### 1. ISSUANCE OF REORGANIZED GMXR COMMON STOCK AND NEW GMXR INTERESTS

The issuance and Distribution of the Reorganized GMXR Common Stock and the New GMXR Interests pursuant to the Plan is authorized without the need for any further corporate, partnership or limited liability company action or without any further action by the Holders of Claims or Equity Interests.

All of the shares of Reorganized GMXR Common Stock and units or interests representing New GMXR Interests issued pursuant to the Plan shall be duly authorized, validly issued, fully paid, and non-assessable. Each Distribution and issuance referred to in Article V hereof shall be governed by the terms and conditions set forth in the Plan applicable to such Distribution or issuance and by the terms and conditions of the instruments evidencing or relating to such Distribution or issuance, which terms and conditions shall bind each Entity receiving such Distribution or issuance.

On or before the Distribution Date, Reorganized GMXR shall issue the Reorganized GMXR Common Stock and New GMXR shall issue the New GMXR Interests for

Distribution pursuant to the provisions hereof. All securities to be issued shall be deemed issued as of the Effective Date regardless of the date on which they are actually distributed.

2. NEW SHAREHOLDERS AGREEMENT

The Holders of Reorganized GMXR Common Stock shall be parties to the New Shareholders Agreement. The New Shareholders Agreement shall be adopted on the Effective Date and shall be deemed to be valid, binding and enforceable against the Holders of Reorganized GMXR Common Stock (whether or not a party thereto) in accordance with its terms, and each Holder of Allowed Senior Secured Noteholder Secured Claims that receives Reorganized GMXR Common Stock shall be bound by the New Shareholders Agreement. The Holders of Senior Secured Noteholder Secured Claims shall be required to execute the New Shareholders Agreement before receiving their respective distributions of Reorganized GMXR Common Stock under the Plan.

3. NEW GMXR AGREEMENT

The Holders of New GMXR Interests shall be parties to the New GMXR Agreement. The New GMXR Agreement shall be adopted on the Effective Date and shall be deemed to be valid, binding and enforceable against the Holder of New GMXR Interests (whether or not a party thereto) in accordance with its terms, and each Holder of Allowed Senior Secured Noteholder Secured Claims that receives New GMXR Interests shall be bound by the New GMXR Agreement. The Holders of Senior Secured Noteholder Secured Claims shall be required to execute the New GMXR Agreement before receiving their respective distributions of New GMXR Interests.

4. ISSUANCE OF TRUST INTERESTS

The issuance and Distribution of physical Trust Interests (if any) pursuant to the terms of the Trust Agreement is authorized without the need for any further corporate action or without any further action by the Holders of DIP Facility Claims, Senior Secured Notes Adequate Protection Claims and/or General Unsecured Claims, as applicable. All of the Trust Interests issued pursuant to the Plan shall be duly authorized, validly issued, fully paid, and non-assessable. On the Distribution Date, the Trustee shall issue the Trust Interests for Distribution pursuant to the provisions hereof and the Trust Agreement. All Trust Interests to be issued shall be deemed issued as of the Effective Date regardless of the date on which they are actually distributed.

C. SECURITIES LAW MATTERS

Neither the offer nor the issuance of Reorganized GMXR Common Stock, New GMXR Interests or Trust Certificates in exchange for certain Claims against the Debtors have been registered under the Securities Act or similar state statutes or "Blue Sky" laws. The Debtors will rely on section 1145(a)(1) and (2) of the Bankruptcy Code to exempt the offer and issuance of the Reorganized GMXR Common Stock, New GMXR Interests and Trust Certificates pursuant to the Plan from the registration requirements of the Securities Act and applicable state securities and "Blue Sky" laws.

Section 1145(a)(1) of the Bankruptcy Code exempts the offer or sale of securities pursuant to a plan of reorganization from the registration requirements of the Securities Act and from registration under state securities laws if the following conditions are satisfied: (i) the securities are issued by a company (a "debtor" under the Bankruptcy Code) (or its affiliates or successors) under a plan of reorganization; (ii) the recipients of the securities hold a claim against, an interest in, or a claim for an administrative expense against, the debtor; and (iii) the securities are issued in exchange for the recipients' claims against or interests in the debtor, or principally in such exchange and partly for cash or property. In general, offers and sales of securities made in reliance on the exemption afforded under section 1145(a) of the Bankruptcy Code are deemed to be made in a public offering, so that the recipients thereof, other than underwriters, are free to resell such securities without registration under the Securities Act. In addition, such securities generally may be resold without registration under state securities laws pursuant to various exemptions provided by the respective laws of the several states.

The exemption from the registration requirements of the Securities Act for resales provided by section 1145(a) is not available to a recipient of Reorganized GMXR Common Stock, New GMXR Interests or Trust Certificates if such individual or entity is deemed to be an "underwriter" with respect to such securities, as that term is defined in section 1145(b) of the Bankruptcy Code. Section 1145(b) of the Bankruptcy Code defines the term "underwriter" as one who (a) purchases a claim with a view toward distribution of any security to be received in exchange for the claim, or (b) offers to sell securities issued under a plan for the Holders of such securities, or (c) offers to buy securities issued under a plan from persons receiving such securities, if the offer to buy is made with a view toward distribution, or (d) is a control person of the issuer of the securities. Notwithstanding the foregoing, statutory underwriters may be able to sell securities without registration pursuant to Rule 144 under the Securities Act (subject, however, to any resale limitations contained therein), which, in effect, permits the resale of securities (including those securities received by statutory underwriters pursuant to a chapter 11 plan) subject to applicable volume limitations, notice and manner of sale requirements and certain other conditions.

THE FOREGOING SUMMARY DISCUSSION IS GENERAL IN NATURE AND HAS BEEN INCLUDED IN THIS DISCLOSURE STATEMENT SOLELY FOR INFORMATIONAL PURPOSES. THE DEBTORS MAKE NO REPRESENTATIONS CONCERNING, AND DO NOT HEREBY PROVIDE, ANY OPINIONS OR ADVICE WITH RESPECT TO THE SECURITIES AND BANKRUPTCY MATTERS DESCRIBED HEREIN. THE DEBTORS INCORPORATE BY REFERENCE ALL DISCLOSURES SET FORTH IN GMXR'S PUBLIC FILINGS WITH THE SECURITIES AND EXCHANGE COMMISSION. IN LIGHT OF THE UNCERTAINTY CONCERNING THE AVAILABILITY OF EXEMPTIONS FROM THE RELEVANT PROVISIONS OF FEDERAL AND STATE SECURITIES LAWS, THE DEBTORS ENCOURAGE EACH CREDITOR, EQUITY INTEREST HOLDER, AND PARTY IN INTEREST TO CONSIDER CAREFULLY AND CONSULT WITH ITS OWN LEGAL ADVISORS WITH RESPECT TO ALL SUCH MATTERS. BECAUSE OF THE COMPLEX, SUBJECTIVE NATURE OF THE QUESTION OF WHETHER A PARTICULAR HOLDER MAY BE AN UNDERWRITER, THE DEBTORS MAKE NO REPRESENTATION CONCERNING THE ABILITY OF A PERSON TO DISPOSE OF THE SECURITIES TO BE DISTRIBUTED UNDER THE PLAN.

# VI. CERTAIN FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN

## A. GENERAL

The following discussion summarizes certain material United States federal income tax consequences of the implementation of the Plan to the Debtors and certain Holders of Claims. This summary is for general information purposes only, and, should not be relied upon for purposes of determining the specific tax consequences of the Plan with respect to any particular Holder of a Claim. This discussion does not purport to be a complete analysis or listing of all potential tax considerations.

The discussion is based upon the Internal Revenue Code of 1986, as amended (the "Tax Code"), Treasury Regulations promulgated thereunder, judicial decisions, and published administrative rules and pronouncements of the Internal Revenue Service ("IRS") as in effect on the date hereof. Legislative, judicial or administrative changes or new interpretations enacted or promulgated after the date hereof could alter or modify the analyses set forth below with respect to the United States federal income tax consequences of the Plan. Any such changes or new interpretations may have retroactive effect and could significantly affect the federal income tax consequences of the Plan. No representations are being made regarding the particular tax consequences of the confirmation and consummation of the Plan to the Debtor or any Holder of a Claim. No assurance can be given that the IRS would not assert, or that a court would not sustain, a different position from any discussed herein.

Except as otherwise specifically stated herein, this summary does not address any estate or gift tax consequences of the Plan or the consequences of the Plan under any state, local or foreign laws. The federal income tax consequences of the Plan are complex and due to a lack of definitive judicial or administrative authority or interpretation, substantial uncertainties exist with respect to various tax consequences of the Plan as discussed herein. The Debtors have not requested a ruling from the IRS or an opinion of counsel with respect to any of the tax aspects of the Plan. The discussion below is not binding on the IRS and no assurance can be given as to the interpretation that the IRS will adopt. In addition, except as explicitly provided below, this summary does not purport to address the federal income tax consequences of the Plan to (i) special classes of taxpayers (such as Persons who are related to the Debtors within the meaning of the Tax Code, foreign taxpayers, broker-dealers, banks, mutual funds, insurance companies, financial institutions, small business investment companies, regulated investment companies, tax-exempt organizations, investors in pass-through entities Holders of Claims who are themselves in bankruptcy), U.S. persons whose functional currency is not the U.S. dollar, dealers in securities or foreign currency, traders that mark-to-market their securities, expatriates and former long-term residents of the United States, persons subject to the alternative minimum tax, and persons holding Claims that are part of a straddle, hedging, constructive sale or conversion transaction), or (ii) Holders not entitled to vote on the Plan, including Holders whose Claims are entitled to reinstatement or payment in full in cash under the Plan or Holders whose Claims or Equity Interests are to be extinguished without any Distribution.

This discussion assumes that Holders of Claims hold only Claims in a single Class. Holders of multiple Classes of Claims should consult their own tax advisors as to the effect such

ownership may have on the federal income tax consequences described below. This discussion assumes, except as noted below, that the Claims are held as "capital assets" (generally, property held for investment) within the meaning of Section 1221 of the Tax Code, and that the various debt and other arrangements to which the Debtors are parties will be respected for U.S. federal income tax purposes in accordance with their form.

If a partnership or other pass-through entity is a Holder of a Claim, the tax treatment of a partner or other owner will generally depend upon the status of the partner (or other owner) and the activities of the entity. A partner (or other owner) of a pass-through entity that is a Holder of a Claim should consult its tax advisor regarding the tax consequences of the Plan.

ACCORDINGLY, THE FOLLOWING SUMMARY OF CERTAIN FEDERAL INCOME TAX CONSEQUENCES IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT A SUBSTITUTE FOR CAREFUL TAX PLANNING AND ADVICE BASED UPON THE INDIVIDUAL CIRCUMSTANCES PERTAINING TO A HOLDER OF A CLAIM OR EQUITY INTEREST. ALL HOLDERS OF CLAIMS OR EQUITY INTERESTS ARE URGED TO CONSULT THEIR OWN TAX ADVISORS FOR THE FEDERAL, STATE, LOCAL AND OTHER TAX CONSEQUENCES APPLICABLE UNDER THE PLAN.

### B. CONSEQUENCES TO THE DEBTORS

The Debtors have reported consolidated net operating loss carryforwards ("NOLs") for federal income tax purposes of approximately $453 million as of December 31, 2012 of which $223 million are already subject to limitation under Section 382 of the Tax Code. The Debtors expect to incur further operating losses for the 2013 taxable year. The amount of any such NOL carryforwards and other losses, and the extent to which any limitations may apply, remains subject to audit and adjustment by the IRS.

As discussed below, the amount of the Debtors' NOL carryforwards, and possibly certain other tax attributes, may be significantly reduced upon implementation of the Plan. In addition, the Reorganized Debtors' subsequent utilization of any net built-in losses with respect to their assets and NOLs remaining, and possibly certain other tax attributes, may be restricted as a result of and upon the implementation of the Plan.

#### 1. CANCELLATION OF INDEBTEDNESS INCOME

It is anticipated that the Plan will result in a cancellation of a portion of the Debtors' outstanding indebtedness. In general, the discharge of a debt obligation in exchange for an amount of cash and other property having a fair market value less than the "adjusted issue price" of that debt that is discharged gives rise to cancellation of indebtedness ("COD Income"). Under the Tax Code, a taxpayer generally must recognize COD Income to the extent that its indebtedness is discharged during the taxable year. Section 108(a)(1)(A) of the Tax Code provides an exception to this rule, however, where a taxpayer is in bankruptcy and where the discharge is granted, or is effected pursuant to a plan approved by, the bankruptcy court. In this case, instead of recognizing COD Income, the taxpayer is required, under Section 108(b) of the Tax Code, to reduce certain of its tax attributes by the amount of COD Income. The attributes of the taxpayer are to be reduced in the following order: NOLs, general business and minimum tax

credit carryforwards, capital loss carryforwards, the basis of the taxpayer's assets, and finally, foreign tax credit carryforwards (collectively, "Tax Attributes"). Section 108(b)(5) of the Tax Code permits a taxpayer to elect to first apply the reduction to the basis of the taxpayer's depreciable assets, with any remaining balance applied to the taxpayer's other Tax Attributes in the order stated above.

As a result of having their debt reduced in connection with their bankruptcy, the Debtors generally will not recognize COD Income from the discharge of indebtedness pursuant to the Plan; however, certain Tax Attributes of the Debtors will be reduced or eliminated. The Debtors do not currently anticipate that they will make an election under Section 108(b)(5) of the Tax Code to apply any required attribute reduction first to the basis of the Debtors' depreciable property. Because a portion of the Debtors' outstanding indebtedness will be satisfied in exchange for property other than cash under the Plan, the amount of COD Income, and accordingly, the amount of Tax Attributes required to be reduced, will depend in part on the fair market value of that property. These values cannot be known with certainty until after the Effective Date. Thus, although the Debtor will be required to reduce its Tax Attributes, the exact amount of such reductions will not be known until after the Effective Date.

2. NET OPERATING LOSSES AND OTHER ATTRIBUTES

Following the Effective Date, the Debtors expect to have NOLs. As provided above, the Debtors currently have NOLs and the Debtors expect to generate operating losses through the Effective Date. The Debtors expect that there will be NOLs remaining after the Effective Date to which Section 382 of the Tax Code will apply because it is expected that the amount of NOLs will exceed the amount of COD Income

3. ANNUAL SECTION 382 LIMITATION ON USE OF NOLS

With respect to any NOLs of the Debtors remaining after confirmation of the Plan and any required reduction in Tax Attributes, Section 382 of the Tax Code contains certain rules that generally limit the amount of NOLs (as well as certain built-in losses) a corporate taxpayer can utilize in the years following an "ownership change" (the "Annual Section 382 Limitation"). Section 382 of the Tax Code may also limit the Debtors' ability to use "net unrealized built-in losses" (i.e., losses and deductions that have economically accrued prior to, but remain unrecognized as of, the Effective Date) to offset future income.

An "ownership change" generally occurs when the percentage of the corporation's stock owned by certain 5% shareholders increases by more than 50 percentage points over the lowest percentage owned at any time during the applicable testing period (generally, the shorter of: (i) the three-year period preceding the testing date or (ii) the period of time since the most recent ownership change of the corporation). A 5% shareholder for these purposes includes, generally, an individual or entity that directly or indirectly owns 5% or more of a corporation's stock during the relevant period, and may include one or more groups of shareholders that, in the aggregate, own less than 5% of the value of the corporation's stock. The Debtors will undergo an ownership change on the Effective Date. Debtors believe they also underwent ownership changes during 2005 and in February 2011.

a. General Annual Section 382 Limitation

As a general rule, unless the Section 382(l)(5) Exception (discussed below), applies, a loss corporation's Annual Section 382 Limitation equals the product of the value of the stock of the corporation (with certain adjustments) immediately before the ownership change and the applicable "long-term tax-exempt rate," a rate published monthly by the Treasury Department (3.50% for ownership changes that occur during October 2013). Any unused portion of the Annual Section 382 Limitation generally is available for use in subsequent years, thus increasing the Annual Section 382 Limitation for such years. The Annual Section 382 Limitation is also increased if the loss corporation has net unrealized built-in gains, i.e., gains economically accrued but unrecognized at the time of the ownership change, in excess of a threshold amount. Such a corporation can use NOLs in excess of its Annual Section 382 Limitation to the extent that it realizes those net unrealized built-in gains for federal income tax purposes in the five years following the ownership change.

The corporation's Annual Section 382 Limitation is zero if the loss corporation does not continue its historic business or use a significant portion of its assets in a new business for two years after the ownership change (the "COBE Requirement"). A corporation will generally be treated as conducting the business of a partnership for purposes of the COBE Requirement if the corporation, or certain entities related to such corporation, own an interest in the partnership representing a significant interest in that partnership business or the corporation, or certain entities related to such corporation, have active and substantial management functions as a partner with respect to that partnership business.

b. Special Bankruptcy Exceptions

The application of Section 382 of the Tax Code will be materially different than that described above, if the debtor is subject to the special rules for corporations in bankruptcy. Section 382(1)(5) of the Tax Code provides an exception to the application of the Annual Section 382 Limitation when a corporation is under the jurisdiction of a court in a Title 11 case (the "382(1)(5) Exception"). The 382(1)(5) Exception provides that where an ownership change occurs pursuant to a bankruptcy reorganization or similar proceeding, the Annual Section 382 Limitation will not apply if the pre-change shareholders and/or "qualified creditors" own at least 50 percent of the voting power and equity value of the reorganized corporation after the ownership change. Qualified creditors are, in general, creditors who (i) have held their claims continuously since at least eighteen (18) months before the filing of the bankruptcy petition or (ii) hold claims incurred in the ordinary course of the debtor's business and have held those claims continuously since they were incurred. In addition, a creditor receiving less than 5% of a debtor's equity immediately after emergence from chapter 11 is treated for these purposes as having owned the relevant creditor claims for at least 18 months, *provided however*, that the creditor has not participated in formulating the plan of reorganization in a manner that makes evident to the debtor that such creditor has held claims for less than eighteen (18) months before the filing of the bankruptcy petition. If the 382(l)(5) Exception applies, the Debtors' ability to use pre-Effective Date NOLs would not be subject to the Annual Section 382 Limitation and the COBE Requirement described above would not apply, however, the Debtors' ability to use pre-

Effective Date NOLs may be restricted if the Debtors do not carry on more than an insignificant amount of an active trade or business after the Effective Date. However, several other limitations would apply under the 382(1)(5) Exception, including (a) a corporation's pre-change Tax Attributes that may be carried over to a post-change year must be reduced to the extent attributable to any interest paid or accrued on debt converted to stock in the reorganization during the three taxable years preceding the Effective Date, and during the part of the taxable year prior to and including the Effective Date and (b) if the Debtors undergo another ownership change within two years after the Effective Date, the Debtors' Section 382 limitation following that ownership change will be zero.

If a corporation qualifies for the 382(1)(5) Exception, the use of its NOLs will be governed by that exception unless the corporation affirmatively elects for the provisions not to apply. If a corporation that is eligible for the 382(1)(5) Exception elects out of that provision, a special rule under Section 382(1)(6) of the Tax Code will apply in calculating the Annual Section 382 Limitation. Under Section 382(l)(6), the Annual Section 382 Limitation will be calculated by reference to the lesser of the value of the Debtors' stock (with certain adjustments, including any increase in value resulting from any surrender or cancellation of any Claims in the Chapter 11 Cases) immediately after the ownership change (as opposed to immediately before the ownership change, as discussed above) or the value of the Debtors' assets (determined without regard to liabilities) immediately before the ownership change. Although such calculation may substantially increase the Annual Section 382 Limitation, the Debtors' use of any NOLs or other Tax Attributes remaining after implementation of the Plan may still be substantially limited after an ownership change.

The Debtors intend to take the position that the Plan qualifies for the Section 382(l)(5) Exception. Whether the Debtors qualify for the Section 382(l)(5) Exception is highly fact specific and significant uncertainties exist as to the facts and law underlying this position. Thus, the Debtors are not certain whether they will qualify for the Section 382(l)(5) Exception. If the Debtors do not qualify for the 382(1)(5) Exception or the Debtors elect out of the 382(l)(5) Exception, the Debtors' use of its NOLs will be subject to the Annual Section 382 Limitation following confirmation of the Plan, calculated under the special rule of Section 382(1)(6) of the Tax Code described above. However, any NOLs generated in any-post-Effective Date taxable year (including the portion of the taxable year of the ownership change following the Effective Date) should not be subject to this limitation.

To reduce the risk of an ownership change after the Effective Date, the Reorganized GMXR Certificate of Incorporation will contain transfer restrictions to be described in the Plan Supplement.

### 4. FEDERAL ALTERNATIVE MINIMUM TAX

In general, a federal alternative minimum tax ("AMT") is imposed on a corporation's alternative minimum taxable income ("AMTI") at a 20% rate to the extent that 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 might otherwise be able to offset all of its taxable income for regular

federal income tax purposes by available NOL carryforwards, a corporation is generally entitled to offset no more than 90% of its AMTI with NOL carryforwards (as recomputed for AMT purposes). Accordingly, usage of the Debtors' NOLs by Reorganized GMXR may be subject to limitations for AMT purposes in addition to any other limitations that may apply.

In addition, if a corporation (or a consolidated group) undergoes an ownership change and is in a net unrealized built-in loss position on the date of the ownership change, the corporation's (or group's) aggregate tax basis in its assets may be reduced for certain AMT purposes to reflect the fair market value of such assets as of the change date. Accordingly, if the Debtors are in a net unrealized built-in loss position on the Effective Date, for AMT purposes the tax benefits attributable to basis in assets may be reduced.

Any AMT that a corporation pays generally will be allowed as a nonrefundable credit against its regular federal income tax liability in future taxable years when the corporation is no longer subject to AMT.

#### 5. POSSIBLE CONVERSION OF REORGANIZED SUBSIDIARIES TO LIMITED LIABILITY COMPANIES

Any, or all, of the Debtor Subsidiaries may be converted to limited liability companies no later than the Business Day immediately prior to the Effective Date of the Plan. Provided that a Debtor Subsidiary is determined to be solvent for federal income tax purposes immediately before such conversion, the conversion should be tax-free to GMXR and such Debtor Subsidiary and GMXR should succeed to the Debtor Subsidiary's NOLs. If a Debtor Subsidiary is not solvent at the time of such conversion, then the Debtor Subsidiary's conversion will be a taxable transaction for federal income tax purposes and any of its remaining NOLs will expire. The Plan Supplement will set forth which Debtor Subsidiaries, if any, will be converted to limited liability companies. If any Debtor Subsidiary is not converted to a limited liability company, after the Effective Date, such Debtor Subsidiary shall contribute its assets to New GMXR in exchange for New GMXR Interests.

### C. CONSEQUENCES TO HOLDERS OF DIP FACILITY CLAIMS

Except as provided below, a Holder of a DIP Facility Claim will recognize gain (if the following difference is positive) or loss (if the following difference is negative) with respect to such Claim equal to the sum of the cash and fair market of the debt (if the debt or the DIP Facility Claim is publicly traded within the meaning of the Tax Code) or the issue price of such debt (if the debt and the DIP Facility Claim are not publicly traded), if any, and property, if any, other than with respect to accrued interest, received less the adjusted tax basis in the Claim, excluding any basis allocable to accrued interest. Such gain or loss will be ordinary or capital depending on the character of such Claim in the Holder's hands. Any capital gain or loss will be long-term capital gain or loss if at the time of the disposition of the DIP Facility Claim, a Holder held their interest under the DIP Facility Claim Agreement for more than one year. Such Holder will also recognize ordinary income to the extent of any accrued interest paid that has not previously been reported as taxable income. However, if a Holder of such Claim receives with respect to a Claim exchanged a portion of the Exit Facility such Holder may not have gain or loss

if the Exit Facility is considered for federal income tax purposes to be a continuation of the DIP Facility that has not been materially modified for federal income tax purposes.

### D. CONSEQUENCES TO HOLDERS OF SENIOR SECURED NOTES

Each Holder of a Senior Secured Note will have two, and possibly three, claims under the Plan, a Senior Secured Noteholder Secured Claim, a Senior Secured Notes Deficiency Claim and possibly the Senior Secured Notes Adequate Protection Claim (if any). For federal income tax purposes the consideration received for all these claims is considered together as received in exchange for the Senior Secured Notes. Pursuant to the Plan, each Holder of Senior Secured Notes will receive Reorganized GMXR Common Stock or a combination of Reorganized GMXR Common Stock and New GMXR Interests in exchange for, and in full satisfaction and discharge of, its Allowed Senior Secured Noteholder Secured Claim. If the Class of General Unsecured Claims votes to accept the Plan, then Holders of the Allowed Senior Secured Notes Deficiency Claims and Allowed Senior Secured Notes Adequate Protection Claims (if any) will receive no recovery on such claims. However, if the Class of General Unsecured Claims does not vote to accept the Plan, then the Holders of the Allowed Senior Secured Notes Deficiency Claims will be included in Class 4, General Unsecured Claims, and be entitled to receive their Pro Rata share of all Creditor Trust Assets after payment of Preferred Trust Interests, if any, subject to the rights of Preferred Trust Interests and the Allowed Senior Secured Notes Adequate Protection Claims (if any) will share in the Preferred Series B Trust Interests.

The federal income tax consequences of the Plan to a Holder of Senior Secured Notes will depend, in part, on whether the Senior Secured Notes constitute "securities" for federal income tax purposes, whether the Holder reports income on the accrual or cash basis, whether the Holder has taken a bad debt deduction or worthless security deduction with respect to the Senior Secured Note, whether the Holder is entitled to receive any share of the Creditor Trust Assets, and whether the Holder receives distributions under the Plan in more than one taxable year.

#### 1. DEFINITION OF SECURITIES

Whether an instrument constitutes a "security" is determined based upon all the facts and circumstances, but most authorities have held that the length of the term of a debt instrument is an important factor in determining whether such instrument is a security for 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. Under somewhat different facts, the IRS has ruled that new debt obligations with a term of less than five years issued in exchange for and bearing the same terms (other than interest rate) as securities should also be classified as securities for this purpose, since the new debt represents a continuation of the holder's investment in the corporation in substantially the same form. There are numerous other factors that could be taken into account in determining whether a debt instrument is a security, including 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 Debtors intend to take the position that the (i) Senior Secured Notes Series A due 2017 ("Series A Notes") should be considered securities and (ii) Senior Secured Notes Series B due 2017 ("Series B Notes") should not be considered securities. Because of the inherently factual nature of this determination, each Holder of Secured Senior Notes is urged to consult its tax advisor regarding whether a Secured Senior Note constitutes a security for federal income tax purposes.

### 2. HOLDERS OF SENIOR SECURED NOTE CLAIMS IF THE SENIOR SECURED NOTES ARE SECURITIES

If Senior Secured Notes are treated as securities for federal income tax purposes, the exchange of a Holder's Senior Secured Notes pursuant to the Plan would be treated as a recapitalization, and therefore a reorganization under the Tax Code. For federal income tax purposes, each Holder that receives New GMXR Interests or Creditor Trust Assets will be treated as receiving a pro rata share of New GMXR's assets, net of associated liabilities, and a share of the Creditor Trust Assets and then contributing such assets to New GMXR or the Creditor Trust, as applicable.

In general, if Senior Secured Notes are treated as securities for federal income tax purposes, a Holder (i) will recognize gain only to the extent of (a) any consideration not constituting stock or a "security" of Reorganized GMXR received in exchange therefor (including, any New GMXR Interests or Creditor Trust Assets received) and (b) any amounts received in respect of accrued but unpaid interest on a Senior Secured Note and (ii) will not be permitted to recognize a loss. In that case, the gain would generally be capital gain except to the extent the "market discount" rules cause the gain to be treated as ordinary income (see "— 4. Market Discount" below). Any capital gain or loss will be long-term capital gain or loss, if at the time of disposition of the Senior Secured Note, a Holder held the Senior Secured Note for more than one year.

The Plan and Confirmation Order will provide that the Debtor and the Holder's agree to treat the Reorganized GMXR Common Stock as received in exchange for its earliest acquired Series A Notes (treating for this purpose, the acquisition date of any Series A Notes acquired in the December 2011 exchange offer as the acquisition date of any Old Senior Notes that were exchanged for Series A Notes therefor in the exchange offer in December of 2011), and therefore, a Holder's adjusted tax basis in the Reorganized GMXR Common Stock received would equal the adjusted tax basis of the Senior Secured Notes exchanged therefor. A Holder would have a holding period for the Reorganized GMXR Common Stock that includes the holding period for the Senior Secured Notes exchanged therefor. The adjusted tax basis of any share of Reorganized GMXR Common Stock treated as received in satisfaction of accrued interest would equal the fair market value of such Reorganized GMXR Common Stock and the holding period for such share of Reorganized GMXR Common Stock would begin on the day following the day of receipt. A Holder will have an initial adjusted tax basis in its New GMXR Interest equal to the fair market value of its New GMXR Interest's share in the New GMXR assets, net of such Holder's share of related New GMXR debt, and as a result a Holder may have a lower basis in the New GMXR Interests than it had in the Senior Secured Notes exchanged therefor. Similarly, a Holder will have an initial adjusted tax basis in its Creditor Trust Assets equal to the fair market value of its share of the Creditor Trust Assets, net of such Holder's share

of any Creditor Trust Assets' debt, and as a result a Holder may have a lower basis in the Creditor Trust Assets than it had in the Senior Secured notes exchanged therefor. Although it is unclear under current law, in such case, it is possible that a Holder may be able to increase its basis in any Reorganized GMXR Common Stock in an amount equal to any reduction in basis in New GMXR Interests. The holding period for the New GMXR Interests and Creditor Trust Assets, if any, will begin on the day following the day of receipt. No assurance can be given that the IRS will not challenge such allocation.

3. HOLDERS OF SENIOR SECURED NOTE CLAIMS IF THE SENIOR SECURED NOTES ARE NOT SECURITIES

If Senior Secured Notes are not treated as "securities" for federal income tax purposes, each Holder that receives New GMXR Interests or Creditor Trust Assets in exchange therefor will be treated as receiving a pro rata share of New GMXR's assets, net of associated liabilities, and, if applicable, a share of the Creditor Trust Assets in a fully taxable exchange and then contributing such assets to New GMXR or the Creditor Trust, as applicable. In this case, the Holder would recognize gain or loss equal to the difference between (i) the fair market value as of the Effective Date of the Reorganized GMXR Common Stock or the combination of Reorganized GMXR Common Stock and such Holder's pro rata share of New GMXR assets, net of such Holder's share of related New GMXR debt, (and if the Class of General Unsecured Claims does not vote to accept the Plan, the fair market value of its share of the Creditor Trust Assets, net of such Holder's share of related Creditor Trust Assets' debt,) that is not allocable to accrued interest, and (ii) the Holder's adjusted tax basis in the surrendered Senior Secured Notes. Generally, any gain or loss recognized by a Holder of a Senior Secured Note not constituting a security for federal income tax purposes would be a capital gain or loss, unless the Holder had previously claimed a bad debt deduction or the Holder had accrued but untaxed market discount with respect to such Senior Secured Note. Any capital gain or loss will be long-term capital gain or loss if at the time of disposition of the Senior Secured Note, a Holder held the Senior Secured Note for more than one year. To the extent that a portion of the assets received in the exchange is allocable to accrued interest, the Holder would recognize ordinary income if not previously reported. A Holder's adjusted tax basis in each asset received would equal the fair market value of the asset as of the Effective Date. A Holder's holding period for each asset would begin on the day following the Effective Date.

4. MARKET DISCOUNT

Under the "market discount" provisions of Sections 1276 through 1278 of the Tax Code, some or all of any gain realized by a Holder of an Allowed Senior Secured Note Claim who exchanges the Senior Secured Note on the Effective Date may be treated as ordinary income (instead of capital gain), to the extent of the amount of "market discount" on its Senior Secured Notes. In general, a debt instrument is considered to have been acquired with "market discount" if its Holder's adjusted tax basis in the debt instrument is less than (i) the sum of all remaining payments to be made on the debt instrument, excluding "qualified stated interest" or, (ii) in the case of a debt instrument issued with original issue discount, its revised issue price. Market discount is considered to be zero if it is less than a de minimis amount (equal to 0.25 percent of the sum of all remaining payments to be made on the Senior Secured Note, excluding qualified stated interest, multiplied by the number of remaining whole years to maturity).

Any gain recognized by a Holder on the taxable disposition of Senior Secured Notes that had been acquired with market discount would be treated as ordinary income to the extent of the market discount that accrued thereon while such Senior Secured Notes were considered to be held by the Holder (unless the Holder elected to include market discount in income as it accrued). To the extent that the surrendered Senior Secured Notes that had been acquired with market discount are deemed to be exchanged for Reorganized GMXR Common Stock in a tax-free reorganization, any market discount that accrued on such debts but was not recognized by the Holder may cause any gain recognized on the subsequent sale, exchange, redemption or other disposition of the Reorganized GMXR Common Stock.

In addition, under Section 108(e)(7) of the Tax Code, any gain recognized on the subsequent sale, exchange, redemption, or other disposition of Reorganized GMXR Common Stock will be treated as ordinary income to the extent the Holder of the surrendered Senior Secured Notes previously claimed ordinary loss deductions with respect to the surrendered Senior Secured Notes.

5. BAD DEBT AND/OR WORTHLESS SECURITIES DEDUCTION

To the extent that the Senior Secured Notes are construed not to be securities for federal income tax purposes, a Holder who, under the Plan, receives in respect of a Senior Secured Note an amount less than the Holder's tax basis in the Senior Secured Note may be entitled to a bad debt deduction in some amount under Section 166(a) of the Tax Code or a worthless securities deduction under Section 165 of the Tax Code. The rules governing the character, timing and amount of bad debt or worthless securities 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. Holders of Senior Secured Notes, therefore, are urged to consult their tax advisors with respect to their ability to take such a deduction.

E. ALLOCATION

1. SENIOR SECURED NOTES EXCHANGED

The Confirmation Order will provide that any Reorganized GMXR Common Stock received by any Holder of an Allowed Senior Secured Noteholder Secured Claim will be received in exchange for its earliest acquired Series A Notes (treating for this purpose, the acquisition date of any Series A Notes acquired in the December 2011 exchange offer as the acquisition date of any Old Senior Notes that were exchanged for Series A Notes therefor in the exchange offer in December of 2011), and any New GMXR Interests received by any Holder of an Allowed Senior Secured Noteholder Secured Claim as received in exchange for the most recently acquired Senior Secured Notes held by such Holder. Reorganized GMXR and each Holder of an Allowed Senior Secured Noteholder Secured Claim shall report consistently with such treatment for all tax purposes, unless otherwise required by a change in applicable tax law. No assurance can be given that the IRS will not challenge such allocation.

2. ACCRUED BUT UNPAID INTEREST

Any amount received by a Holder of a Claim that is attributable to accrued interest not previously included in income would be taxable to the Holder as interest income. Conversely, a Holder of a Claim may be able to recognize a deductible loss (or, possibly, a write-off against a reserve for worthless debts) to the extent that any accrued interest on the Claim was previously included in the Holder's gross income but was not paid in full by Debtors. Holders are urged to consult their own tax advisor regarding the particular U.S. federal income tax consequences to you of the treatment of accrued but unpaid interest, as well as the character of any loss claimed with respect to accrued but unpaid interest previously included in gross income.

Although the manner in which consideration is to be allocated between accrued interest and principal for these purposes is unclear under current law, the consideration paid pursuant to the Plan with respect to a Senior Secured Note shall be allocated, pursuant to the Plan, first to the principal amount of such Senior Secured Note as determined for federal income tax purposes and then to accrued interest, if any, with respect to such Senior Secured Note. Accordingly, in cases where a Holder receives distributions under the Plan having a value less

than the principal amount of its Senior Secured Note, the Debtors allocate the full amount of consideration transferred to such Holder to the principal amount of such obligation and not treat any amount of the consideration to be received by such Holder as attributable to accrued interest. There is no assurance that such allocation will be respected by the IRS for federal income tax purposes.

### F. CONSEQUENCES TO HOLDERS OF ALLOWED GENERAL UNSECURED CLAIMS

Holders of Allowed General Unsecured Claims will receive, in satisfaction and discharge of their Claims their share of the Creditor Trust Assets.

#### 1. GAIN OR LOSS — GENERALLY

In general, each Holder of Allowed General Unsecured Claims (other than Holders of Senior Secured Notes, as discussed above) will recognize gain or loss in an amount equal to the difference between (i) the fair market value of its share of the Creditor Trust Assets received by the Holder in satisfaction of its Claim (other than in respect of any Claim for accrued but unpaid interest, and excluding any portion required to be treated as imputed interest due to the post-Effective Date distribution of such consideration upon the resolution of Disputed General Unsecured Claims) and (ii) the Holder's adjusted tax basis in its Claim (other than any Claim for accrued but unpaid interest). The discussion above under "Accrued But Unpaid Interest" is also applicable to Allowed General Unsecured Claims having accrued but unpaid interest.

As discussed below, provided that the Creditor Trust does not issue Preferred Trust Interests as described below, the Creditor Trust is intended to qualify as a "grantor trust" for U.S. federal income tax purposes. Accordingly, in that case each Holder of an Allowed General Unsecured Claim will be treated for U.S. federal income tax purposes as directly receiving and as a direct owner its allocable percentage of the Creditor Trust Assets. Pursuant to the Plan, the Trustee will make a good faith valuation of the Creditor Trust Assets, and all parties, including the Holders of General Unsecured Claims, must consistently use such valuation for all tax purposes.

Due to the possibility that a Holder of an Allowed General Unsecured Claim may receive additional distributions subsequent to the Effective Date in respect of any subsequently disallowed Disputed General Unsecured Claims or unclaimed distributions, the imputed interest provisions of the Tax Code may apply to treat a portion of such later distributions to such Holders as imputed interest. A portion of any gain realized may be deferred under the "installment method" of reporting. Holders are urged to consult their tax advisors regarding the possibility for deferral, and the ability to elect out of the installment method of reporting any gain realized in respect of their claims.

After the Effective Date, any amount a Holder receives as a distribution from the Creditor Trust in respect of its beneficial interests in the Creditor Trust (other than as a result of the subsequent disallowance of Disputed General Unsecured Claims) should not be included, for federal income tax purposes, in the Holder's amount realized in respect of its Allowed General

Unsecured Claim but should be separately treated as a distribution received in respect of such Holder's beneficial (ownership) interests in the Creditor Trust.

Where gain or loss is recognized by a Holder in respect of its Claim, the character of such gain or loss as long-term or short-term capital gain or loss or as ordinary income or loss will be determined by a number of factors, including the tax status of the Holder, whether the Claim constitutes a capital asset in the hands of the Holder and how long it has been held, whether the Claim, if a debt instrument, was acquired at a market discount and whether and to what extent the Holder had previously claimed a bad debt deduction. A Holder that purchased a Claim constituting a debt instrument from a prior Holder at a market discount may be subject to the market discount rules of the Tax Code. Under those rules, assuming that the Holder has made no election to amortize the market discount into income on a current basis with respect to any market discount instrument, any gain recognized on the exchange of such claim (subject to a *de minimis* rule) generally would be characterized as ordinary income to the extent of the accrued market discount on such Claim as of the date of the exchange.

In general, a Holder's adjusted tax basis in any assets received (including the Holder's undivided interest in the Creditor Trust Assets) will equal the fair market value of such assets, and the holding period for such assets generally will begin the day following the Effective Date.

2. TAX TREATMENT OF THE CREDITOR TRUST AND HOLDERS OF BENEFICIAL INTERESTS

Upon the Effective Date, the Creditor Trust shall be established for the benefit of beneficiaries of the Creditor Trust under the Plan whether the Claims of such beneficiaries are Allowed on or after the Effective Date.

a. Classification of the Creditor Trust

The Creditor Trust is intended to qualify as a liquidating trust for U.S. federal income tax purposes. In general, a liquidating trust is not a separate taxable entity but rather is treated for federal income tax purposes as a "grantor" trust (i.e., a pass-through entity) provided that if Preferred Trust Interests are issued the Creditor Trust may be treated as a partnership for federal income tax purposes as discussed in the following paragraph. However, merely establishing a trust as a liquidating trust does not ensure that it will be treated as a grantor trust for U.S. federal income tax purposes. The IRS, in Revenue Procedure 94-45, 1994-2 C.B. 684, set forth the general criteria for obtaining an IRS ruling as to the grantor trust status of a liquidating trust under a chapter 11 plan. The Creditor Trust has been structured with the intention of complying with such general criteria. Pursuant to the Plan, and in conformity with Revenue Procedure 94-45, if no Preferred Trust Interests are issued all parties (including the Debtors, the Trustee and the Holders of Allowed General Unsecured Claims) are required to treat, for federal income tax purposes, the Creditor Trust as a grantor trust of which the Holders of Allowed General Unsecured Claims are the owners and grantors, and the following discussion assumes that the Creditor Trust will be so respected for U.S. federal income tax purposes. However, no ruling has been requested from the IRS and no opinion of counsel has been requested concerning the tax status of the Creditor Trust as a grantor trust. Accordingly, there can be no assurance that the IRS would not take a contrary position. If the IRS were to challenge successfully such

classification, the federal income tax consequences to the Creditor Trust, the Holders of Claims and the U.S. Debtors could vary from those discussed herein (including the potential for an entity level tax on any income of the Creditor Trust).

If the Creditor Trusts issues Preferred Trust Interests, the Creditor Trust may be required to be treated as a partnership for federal income tax purposes and the Holders of Common Trust Interests and Holders of Preferred Trust Interests will be treated as its partners. If the Creditor Trust issues any Preferred Trust Interests (i) unless the Trustee receives an opinion of counsel or private letter ruling from the IRS that the Creditor Trust should be treated as a grantor trust, the Trustee shall file income tax returns for the Creditor Trust as a partnership, (ii) the Trustee shall also annually send to each record holder of a beneficial interest a Schedule K-1 setting forth the holder's share of items of income, gain, loss, deduction, or credit and will instruct all such holders to report such items on their federal income tax returns or to forward the appropriate information to the beneficial holders with instructions to report such items on their federal income tax returns and (iii) the Creditor Trust's taxable income, gain, loss, deduction, or credit will be allocated among the beneficial holders of the interests in the Creditor Trust in accordance with each holder's relative beneficial interests in the Creditor Trust. If the Creditor Trust is treated as a partnership for federal income tax purposes the discussion below under "Consequences of New GMXR Interest Ownership" should generally apply to Creditor Trust Interests, except that if the Creditor Trust were treated as a publicly traded partnership its income will unlikely be "qualifying income" and it would likely be taxable as a corporation. **The remaining discussion under this section assumes that Preferred Trust Interests are not issued.**

b. General Tax Reporting by the Creditor Trust and Beneficiaries

For all U.S. federal income tax purposes, all parties (including the Debtors, the Trustee, and the Holders of Allowed General Unsecured Claims) must treat the transfer of the Creditor Trust Assets to the Creditor Trust, in accordance with the terms of the Plan, as a transfer of the such Creditor Trust Assets directly to the Holders of Allowed General Unsecured Claims, followed by the transfer of such Creditor Trust Assets by such Holders to the Creditor Trust. Consistent therewith, all parties must treat the Creditor Trust as a grantor trust of which such Holders are the owners and grantors. Thus, such Holders (and any subsequent Holders of interests in the Creditor Trust) will be treated as the direct owners of an undivided interest in the assets of the Creditor Trust for all U.S. federal income tax purposes (which assets will have an adjusted tax basis equal to their fair market value on the Effective Date). Pursuant to the Plan, the Trustee will determine the fair market value of the Creditor Trust Assets as of the Effective Date, and all parties, including the Holders of Allowed General Unsecured Claims, must consistently use such valuation for all tax purposes.

Accordingly, except as discussed below (in connection with pending Disputed General Unsecured Claims), each Holder of an Allowed General Unsecured Claim will be required to report on its U.S. federal income tax return its allocable share of any income, gain, loss, deduction or credit recognized or incurred by the Creditor Trust, in accordance with its relative beneficial interest. The character of items of income, deduction and credit to any Holder and the ability of such Holder to benefit from any deduction or losses may depend on the particular situation of such Holder.

The U.S. federal income tax reporting obligations of a Holder is not dependent upon the Creditor Trust distributing any cash or other proceeds. Therefore, a Holder may incur a federal income tax liability with respect to its allocable share of the income of the trust regardless of the fact that the trust has not made any concurrent distribution to the Holder. In general, other than in respect of cash retained on account of Disputed General Unsecured Claims and subsequently distributed, a distribution of cash by the Creditor Trust to Holders of Allowed General Unsecured Claims will not be taxable to the Holder since such Holders are already regarded for federal income tax purposes as owning the underlying assets.

The Trustee will file with the IRS returns for the Creditor Trust as a grantor trust pursuant to Treasury Regulation Section 1.671-4(a). The Trustee will also send to each Holder of an Allowed General Unsecured Claim, as a Holder of a beneficial interest in the trust, a separate statement setting forth such Holder's share of items of income, gain, loss, deduction or credit and will instruct the Holder to report such items on its federal income tax return. The Trustee will also file, or cause to be filed, all appropriate tax returns with respect to any Creditor Trust Assets allocable to Disputed General Unsecured Claims, as discussed below.

c. Tax Reporting for Creditor Trust Assets Allocable to Disputed General Unsecured Claims

Absent definitive guidance from the IRS or a court of competent jurisdiction to the contrary (including the issuance of applicable Treasury Regulations, the receipt by the Trustee of a private letter ruling if the Trustee so requests one, or the receipt of an adverse determination by the IRS upon audit if not contested by the Trustee), the Trustee shall:

i. treat all Creditor Trust Assets allocable to, or retained on account of, Disputed General Unsecured Claims, as a discrete trust for federal income tax purposes, consisting of separate and independent shares to be established in respect of each Disputed General Unsecured Claim, in accordance with the trust provisions of the Tax Code (Section 641 et seq. of the Tax Code);

ii. treat as taxable income or loss of this separate trust with respect to any given taxable year the portion of the taxable income or loss of the Creditor Trust that would have been allocated to the Holders of such Disputed General Unsecured Claims had such claims been Allowed on the Effective Date (but only for the portion of the taxable year with respect to which such claims are unresolved);

iii. treat as a distribution from this separate trust any increased amounts distributed by the Creditor Trust as a result of any Disputed General Unsecured Claim resolved earlier in the taxable year, to the extent such distribution relates to taxable income or loss of this separate trust determined in accordance with the provisions hereof, and

iv. to the extent permitted by applicable law, report consistently for state and local income tax purposes.

In addition, pursuant to the Plan, all Holders of claims are required to report consistently with such treatment. Accordingly, subject to issuance of definitive guidance, the Trustee will report on the basis that any amounts earned by this separate trust and any taxable income of the Creditor Trust allocable to it are subject to a separate entity level tax, except to the extent such earnings are distributed during the same taxable year. Any amounts earned by or attributable to the separate trust and distributed to a Holder during the same taxable year will be includible in such Holder's gross income.

3. ASSETS HELD IN TRUST FOR DISPUTED GENERAL UNSECURED CLAIMS

Pursuant to the Plan, any assets retained by the Trustee on account of Disputed General Unsecured Claims shall be held in trust (a "Disputed General Unsecured Claims Reserve") pending the resolution of such Disputed General Unsecured Claims.

Under Section 468B(g) of the Tax Code, amounts earned by an escrow account, settlement fund or similar fund must be subject to current tax. Certain Treasury Regulations have been issued under this section that would allow a trustee of a liquidating trust established pursuant to a plan confirmed by a court in a case under title 11 of the United States Code to elect to treat an escrow account, trust, or fund that holds assets of the liquidated trust that are subject to disputed claims as a "disputed ownership fund." A disputed ownership fund is taxable as a C corporation, unless all the assets transferred to the fund are passive investment assets, in which case it is taxable as a "qualified settlement fund." Because the Plan requires the Trustee to report the Creditor Trust Assets allocable to Disputed General Unsecured Claims as provided in F.2.c. above and as provided below in this section, the Debtors do not expect that the Trustee will make an election to treat such assets as a disputed ownership fund.

Absent definitive guidance from the IRS or a court of competent jurisdiction to the contrary (including the issuance of applicable Treasury Regulations, the receipt by the Trustee of a private letter ruling if the Trustee so requests one, or the receipt of an adverse determination by the IRS upon audit if not contested by the Trustee), the Trustee shall (i) treat the Disputed General Unsecured Claims Reserve established on account of Disputed General Unsecured Claims as a discrete trust for federal income tax purposes, consisting of separate and independent shares to be established in respect of each Disputed General Unsecured Claim, in accordance with the trust provisions of the Tax Code (Section 641 *et seq.* of the Tax Code), and (ii) to the extent permitted by applicable law, report consistently for state and local income tax purposes. In addition, pursuant to the Plan, all parties (including Holders of Disputed General Unsecured Claims) shall report consistently with such treatment.

Accordingly, subject to issuance of definitive guidance, the Trustee will report as subject to a separate entity level tax any amounts earned by the Disputed General Unsecured Claims Reserve, except to the extent such earnings are distributed by the Trustee during the same taxable year. In such event, any amount earned by the Disputed General Unsecured Claims Reserve that

is distributed to a Holder during the same taxable year will be includible in such Holder's gross income.

Distributions from the Disputed General Unsecured Claims Reserve will be made to Holders of Disputed General Unsecured Claims when such Disputed General Unsecured Claims are subsequently Allowed and to Holders of previously Allowed General Unsecured Claims (whether such claims were allowed on or after the Effective Date) when any Disputed General Unsecured Claims are subsequently disallowed. Such distributions (other than amounts attributable to earnings) should be taxable to the recipient in accordance with the principles discussed above.

Accordingly, each Holder of a Disputed General Unsecured Claim is urged to consult its tax advisor regarding the potential tax treatment of the Disputed General Unsecured Claim Reserve, distributions therefrom, and any tax consequences to such Holder relating thereto.

## G. CONSEQUENCES OF NEW GMXR INTERESTS OWNERSHIP

The following discussion summarizes certain material U.S. federal income tax consequences that may be relevant to owning New GMXR Interests received pursuant to the Plan. This section does not address all U.S. federal income tax matters that affect New GMXR or the holders. Furthermore, this section focuses on holders who are individual citizens or residents of the United States and has only limited application to corporations, estates, trusts, foreign persons, or other holders subject to specialized tax treatment.

### 1. PARTNERSHIP STATUS

A New GMXR intends to be treated as a partnership for federal income tax purposes. An entity that is treated as a partnership for federal income tax purposes is not a taxable entity and incurs no federal income tax liability. An entity that would otherwise be classified as a partnership for federal income tax purposes may nonetheless be subject to tax as a corporation if it is a "publicly traded partnership" and certain exceptions do not apply. A partnership is a publicly traded partnership if interests in the partnership are traded on an established securities market or interests in the partnership are readily tradable on a secondary market or the substantial equivalent thereof.

It is not expected that New GMXR will be a publicly traded partnership for U.S. federal income tax purposes. The New GMXR Interests will not be traded on an established securities market, it is not anticipated that a market will exist for holders to readily buy, sell or exchange New GMXR Interests in a manner that is comparable, economically, to trading on an established securities market, and New GMXR will not make a market for the New GMXR Interests. The Plan Supplement may include certain transfer restrictions on New GMXR Interests.

If New GMXR were treated as a publicly traded partnership, New GMXR would nonetheless not be taxable as a corporation if 90% or more of New GMXR's gross income for each taxable year in which New GMXR were a publicly traded partnership consisted of "qualifying income." Qualifying income generally includes, among other things, income and gains derived from the exploration, development, mining, production or marketing of oil and natural gas, and the gain from the sale of assets to produce such income. It is anticipated that

New GMXR's income will consist primarily of qualifying income and consequently, even if New GMXR constituted a publicly traded partnership, it is anticipated that New GMXR would not be taxable as a corporation for federal income tax purposes.

2. TAX CONSEQUENCES TO HOLDER'S OF INVESTMENTS IN NEW GMXR INTERESTS

a. Flow-Through of Taxable Income

For federal income tax purposes, a holder's allocable share of recognized items of income, gain, loss, deduction or credit of New GMXR will be determined by the limited liability company agreement or limited partnership agreement of New GMXR. Each holder will be required to report on its income tax return its share of New GMXR's income, gains, losses, and deductions without regard to whether corresponding cash distributions are received by the holder. Accordingly, it is possible that a holder's federal income tax liability with respect to its allocable share of New GMXR's income for a particular taxable year could exceed any cash distribution such holder receives for the year, thus giving rise to an out-of-pocket tax liability for such holder.

b. Basis of New GMXR Interests

A holder's initial tax basis for its New GMXR Interests generally will equal the fair market value of such holder's pro rata share of an undivided interest in the assets of New GMXR. That basis will be increased by the holder's share of New GMXR's income and by any increases in the holder's share of New GMXR's liabilities. That basis will be decreased, but not below zero, by distributions from New GMXR, by the holder's share of New GMXR's losses, by depletion deductions taken by the holder to the extent such deductions do not exceed the holder's proportionate share of the tax basis of the underlying producing properties and by any decreases in the holder's share of New GMXR's liabilities.

c. Treatment of Distributions

Distributions of cash, if any, made by New GMXR to a holder generally will not be taxable to the holder to the extent of the holder's tax basis (as described above) in its New GMXR Interests. Any cash distributions in excess of a holder's tax basis in its New GMXR Interests generally will be considered to be gain from the sale or exchange of those New GMXR Interests. Under current laws, such gain would be treated as capital gain and would be long-term capital gain if the holder's holding period for its New GMXR Interests exceeds one year, subject to certain exceptions. A reduction in a holder's allocable share of New GMXR's liabilities is treated similarly to a cash distribution for federal income tax purposes.

d. Limitations on Deductibility of Tax Losses

The deduction by a holder of its share of New GMXR's taxable losses will be limited to the holder's tax basis in its New GMXR Interests and, in the case of an individual holder, an estate, a trust or a corporate holder, if more than 50% of the value of the holder's stock is owned directly or indirectly by or for five or fewer individuals or certain tax-exempt organizations, to

the amount for which the holder is considered to be "at risk" with respect to New GMXR's activities, if that amount is less than the holder's tax basis.

In addition, the passive activity loss rules limit the use of losses derived from passive activities, which generally include an investment in limited liability company member interests such as the New GMXR Interests. If an investment in New GMXR Interests is treated as a passive activity, a holder who is an individual investor, as well as certain other types of investors, would not be able to use losses from New GMXR to offset non-passive activity income, including salary, business income, and portfolio income (e.g., dividends, interest, royalties, and gain on the disposition of portfolio investments) received during the taxable year. Passive activity losses that are disallowed for a particular taxable year may, however, be carried forward to offset passive activity income earned by the holder in future taxable years. In addition, if New GMXR were characterized as a publicly traded partnership, each holder would be required to treat any loss derived from New GMXR separately from any income or loss derived from any other publicly traded partnership, as well as from income or loss derived from other passive activities. In such case, any net losses or credits attributable to New GMXR which are carried forward may only be offset against future income of New GMXR. Moreover, unlike other passive activity losses, suspended losses attributable to New GMXR would only be allowed upon the complete disposition of the holder's "entire interest" in New GMXR.

e. Depletion Deductions

A Subject to the limitations on deductibility of taxable losses discussed above, holders will be entitled to deductions for the greater of either cost depletion or (if otherwise allowable) percentage depletion with respect to New GMXR's oil and natural gas properties.

Percentage depletion is generally available with respect to holders who qualify under the independent producer exemption contained in the Tax Code. An "independent producer" is a person not directly or indirectly involved in the retail sale of oil, natural gas, or derivative products or the operation of a major refinery. Percentage depletion is calculated as an amount generally equal to 15% (and, in the case of marginal production, potentially a higher percentage) of the holder's gross income from the depletable property for the taxable year. The percentage depletion deduction with respect to any property generally is limited to 100% of the taxable income of the holder from the property for each taxable year, computed without the depletion allowance and without the Section 199 deduction (described below). A holder that qualifies as an independent producer may deduct percentage depletion only to the extent the holder's average daily production of domestic crude oil, or the natural gas equivalent, does not exceed 1,000 barrels.

In addition to the foregoing limitations, the percentage depletion deduction otherwise available is limited to 65% of a holder's total taxable income from all sources for the year, computed without the depletion allowance, any Section 199 deduction (described below), net operating loss carrybacks, or capital loss carrybacks. Any percentage depletion deduction disallowed because of the 65% limitation may be deducted in the following taxable year if the percentage depletion deduction for such year plus the deduction carryover does not exceed 65% of the holder's total taxable income for that year. The carryover period resulting from the 65% net income limitation is indefinite.

Holders that do not qualify under the independent producer exemption are generally restricted to depletion deductions based on cost depletion. Cost depletion deductions are calculated by (1) dividing the holder's share of the tax basis in the underlying mineral property by the number of mineral units (barrels of oil and thousand cubic feet, or Mcf, of natural gas) remaining as of the beginning of the taxable year and (2) multiplying the result by the number of mineral units sold within the taxable year. The total amount of deductions based on cost depletion cannot exceed the holder's share of the total tax basis in the applicable property.

All or a portion of any gain recognized by a holder as a result of either the disposition by New GMXR of some or all of New GMXR's oil and natural gas interests or the disposition by the holder of some or all of its New GMXR Interests may be taxed as ordinary income to the extent of recapture of depletion and certain other deductions, except for percentage depletion deductions in excess of the tax basis of the property. The amount of the recapture is generally limited to the amount of gain recognized on the disposition.

f. Deductions for Intangible Drilling and Development Costs

New GMXR expects to elect to currently deduct intangible drilling and development costs (IDCs) associated with wells located in the United States. IDCs generally include New GMXR's expenses for wages, fuel, repairs, hauling, supplies, and other items that are incidental to, and necessary for, the drilling and preparation of wells for the production of oil, natural gas, or geothermal energy.

Although New GMXR expects to elect to currently deduct IDCs, each holder will have the option of either currently deducting IDCs or capitalizing all or part of the IDCs and amortizing them on a straight-line basis over a 60-month period, beginning with the taxable month in which the expenditure is made or incurred.

A holder who is directly or indirectly, through certain related parties, involved in substantial oil and natural gas refining or retail marketing activities should consult the holder's own tax advisor regarding special rules that may apply to the holder with respect to IDCs of New GMXR.

IDCs previously deducted that are allocable to property (held directly or through ownership of an interest in a partnership) and that would have been included in the tax basis of the property had the IDC deduction not been taken are recaptured to the extent of any gain realized upon the disposition of the property or upon the disposition by a holder of New GMXR Interests.

g. Section 199 Deduction for U.S. Production Activities

Subject to the limitations on the deductibility of losses discussed above, holders will be entitled to a maximum deduction, referred to as the Section 199 deduction, equal to 9% of New GMXR's "qualified production activities income" that is allocated to such holder. The amount of a holder's Section 199 deduction for each year is limited to 50% of the IRS Form W-2 wages actually or deemed paid by the holder during the calendar year that are deducted in arriving at qualified production activities income. Each holder will be treated as having been allocated IRS

Form W-2 wages from New GMXR equal to the holder's allocable share of New GMXR's wages that are deducted in arriving at qualified production activities income for that taxable year. The availability of the domestic production deduction is dependent upon many factors, which will vary among individual holders. Section 199 of the Tax Code and related tax matters are complex. Holders are urged to consult their tax advisors regarding the application of these rules to the holder's particular circumstances.

h. Depreciation

The tax basis of New GMXR's assets, such as casing, tubing, tanks, pumping units and other similar property, will be used for purposes of computing depreciation and cost recovery deductions and, ultimately, gain or loss on the disposition of these assets. To the extent allowable, New GMXR may elect to use the depreciation and cost recovery methods that will result in the largest deductions being taken in the early years after assets are placed in service. Property New GMXR subsequently acquires or constructs may be depreciated using accelerated methods permitted by the Tax Code.

If New GMXR disposes of depreciable property by sale, foreclosure or otherwise, all or a portion of any gain, determined by reference to the amount of depreciation previously deducted and the nature of the property, may be subject to recapture rules and taxed as ordinary income rather than capital gain. Similarly, a holder who has taken cost recovery or depreciation deductions with respect to property we own will likely be required to recapture some or all of those deductions as ordinary income upon a sale of New GMXR Interests.

i. Disposition of New GMXR Interests

A holder will recognize gain or loss on a sale of New GMXR Interests equal to the difference between the holder's amount realized and the holder's tax basis for the New GMXR Interests sold. A holder's amount realized will equal the sum of the cash and/or the fair market value of other property received plus the holder's share under the partnership tax rules of New GMXR's liabilities.

Except as described below, gain or loss recognized by a holder, on the sale or exchange of New GMXR Interests will generally be taxable as capital gain or loss. However, a portion of this gain or loss, which we expect may be substantial, will be separately computed and taxed as ordinary income or loss under Section 751 of the Tax Code to the extent attributable to certain assets, including unrealized receivables, depreciation and depletion recapture and/or substantially appreciated inventory items. Ordinary income attributable to such assets may exceed the net taxable gain realized upon the sale of New GMXR Interests, and may be recognized even if a holder realizes a net taxable loss on the sale of New GMXR Interests. As a result, it is possible for a holder to recognize both ordinary income and a capital loss upon a sale of New GMXR Interest.

j. State, Local and Other Tax Considerations

In addition to federal income taxes, holders may be subject to other taxes, including state and local income taxes, unincorporated business taxes, and estate, inheritance, or intangible taxes

that may be imposed by the various jurisdictions in which New GMXR does business or owns property or in which the holders are resident. Holders will be required to file state income tax returns and to pay state income taxes in many of the states in which New GMXR may do business or own property and may be subject to penalties for failure to comply with those requirements.

IT IS THE RESPONSIBILITY OF EACH HOLDER TO INVESTIGATE THE LEGAL AND TAX CONSEQUENCES, UNDER THE LAWS OF PERTINENT STATES AND LOCALITIES, OF ITS OWNERSHIP OF NEW GMXR INTERESTS. THE DEBTORS STRONGLY RECOMMEND THAT EACH PROSPECTIVE HOLDER CONSULT, AND DEPEND ON, THE HOLDER'S OWN TAX COUNSEL OR OTHER ADVISOR WITH REGARD TO THOSE MATTERS. IT IS THE RESPONSIBILITY OF EACH HOLDER TO FILE ALL TAX RETURNS THAT MAY BE REQUIRED OF THE HOLDER.

k. Information Returns

New GMXR intends to furnish to each holder, as soon as available to New GMXR, specific tax information, including a Schedule K-1, which describes the holder's share of New GMXR's income, gain, loss, and deductions for New GMXR's preceding taxable year. However, holders may not receive such Schedules K-1 until after April 15th of the following year. Holders of New GMXR Interests may be required to obtain extensions of the filing date for their income tax returns at the federal, state and local levels.

H. TAX EXEMPT ORGANIZATIONS AND OTHER INVESTORS

Ownership of New GMXR Interests by employee benefit plans, other tax-exempt organizations and foreign taxpayers raise issues unique to those investors and may have substantially adverse tax consequences to them.

Employee benefit plans and most other organizations exempt from federal income tax, including individual retirement accounts and other retirement plans, are subject to federal income tax on unrelated business taxable income. Much of New GMXR's income allocated to a holder that is a tax-exempt organization likely will be unrelated business taxable income and will be taxable to them.

Non-resident aliens and foreign corporations, trusts, or estates that own New GMXR Interests will be considered to be engaged in business in the United States because of the ownership of New GMXR Interests. As a consequence they will be required to file U.S. federal tax returns to report their share of New GMXR's income, gain, loss, or deduction and pay federal income tax at regular rates on their share of New GMXR's net income or gain. Under applicable tax rules, New GMXR will be required to withhold tax on distributions to such persons. In addition, because a foreign corporation that owns New GMXR Interests will be treated as engaged in a U.S. trade or business, that corporation may be subject to the U.S. branch profits tax on its share of much of New GMXR's income and gain. Generally, under FIRPTA, non-U.S. persons are subject to federal income tax in the same manner as U.S. persons on any gain realized on the disposition of an interest, other than an interest solely as a creditor, in U.S. real property (a "USRPI"). FIRPTA tax applies if a non-U.S. person is a holder of an interest in a

partnership that realizes gain in respect of an interest in a USRPI. New GMXR's assets are expected to constitute interests in USRPIs.

In addition, because the majority of New GMXR's assets are expected to constitute USRPIs, the stock of Reorganized GMXR is also expected to be a USRPI. Accordingly, Non-resident aliens and foreign corporations, trusts, or estates that dispose of Reorganized GMXR Common Stock are expected to be subject to FIRPTA with respect to the disposition of that stock, and are expected to be subject to withholding tax on such dispositions. NON-RESIDENT ALIENS AND FOREIGN CORPORATIONS, TRUSTS, OR ESTATES ARE URGED TO CONSULT THEIR TAX ADVISORS WITH RESPECT TO THE FOREGOING AND OTHER TAX CONSEQUENCES TO THEM OF THE PLAN AND THE OWNERSHIP AND DISPOSITION OF REORGANIZED GMXR COMMON STOCK, NEW GMXR INTERESTS, AND, IF APPLICABLE, INTERESTS IN THE CREDITOR TRUST.

## I. INFORMATION REPORTING AND BACKUP WITHHOLDING

Certain payments, including the payments with respect to Claims pursuant to the Plan or by Reorganized GMXR or New GMXR, may be subject to information reporting by the payor to the IRS. Moreover, such reportable payments may be subject to backup withholding (currently at a rate of 28%) under certain circumstances. Backup withholding is not an additional tax. Rather, amounts withheld under the backup withholding rules may be credited against a Holder's federal income tax liability, and a Holder may obtain a refund of any excess amounts withheld under the backup withholding rules by filing an appropriate claim for refund with the IRS (generally a United States federal income tax return). The Debtors intend to comply with all applicable reporting withholding requirements of the Tax Code.

## J. IMPORTANCE OF OBTAINING PROFESSIONAL TAX ASSISTANCE

THE FOREGOING SUMMARY HAS BEEN PROVIDED FOR INFORMATIONAL PURPOSES ONLY. THE TAX CONSEQUENCES ARE IN MANY CASES UNCERTAIN AND MAY VARY DEPENDING ON A HOLDER'S PARTICULAR CIRCUMSTANCES. ALL HOLDERS OF CLAIMS AND EQUITY INTERESTS ARE URGED TO CONSULT THEIR TAX ADVISORS CONCERNING THE FEDERAL, STATE, LOCAL, AND OTHER TAX CONSEQUENCES APPLICABLE UNDER THE PLAN.

TO ENSURE COMPLIANCE WITH TREASURY DEPARTMENT CIRCULAR 230, HOLDERS OF CLAIMS OR EQUITY INTERESTS ARE HEREBY NOTIFIED THAT: (1) ANY DISCUSSION OF FEDERAL TAX ISSUES IN THIS DISCLOSURE STATEMENT IS NOT INTENDED OR WRITTEN TO BE RELIED UPON, AND CANNOT BE RELIED UPON, BY ANY HOLDER OF A CLAIM OR EQUITY INTERESTS FOR THE PURPOSE OF AVOIDING PENALTIES THAT MAY BE IMPOSED ON HOLDERS OF CLAIMS OR EQUITY INTERESTS UNDER THE INTERNAL REVENUE CODE; (2) SUCH DISCUSSION IS WRITTEN IN CONNECTION WITH THE CONFIRMATION OF THE PLAN TO WHICH THE TRANSACTIONS DESCRIBED IN THIS DISCLOSURE STATEMENT ARE ANCILLARY, AND (3) HOLDERS OF CLAIMS OR EQUITY INTERESTS SHOULD SEEK ADVICE BASED UPON THEIR PARTICULAR CIRCUMSTANCES FROM AN INDEPENDENT TAX ADVISOR.

## VII. FEASIBILITY OF THE PLAN AND THE BEST INTERESTS OF CREDITORS TEST

### A. FEASIBILITY OF THE PLAN

In connection with Confirmation of the Plan, section 1129(a)(11) of the Bankruptcy Code requires that the Bankruptcy Court find that Confirmation of the Plan is not likely to be followed by the liquidation or the need for further financial reorganization of the Debtors. This is the so-called "feasibility" test. To support their belief in the feasibility of the Plan, the Debtors, with the assistance of Opportune LLP and Jefferies, have prepared the Financial Projections attached hereto as **Exhibit C** (the "Financial Projections").

The Financial Projections indicate that the Reorganized Debtors should have sufficient cash flow to make the payments required under the Plan on the Effective Date, repay and service debt obligations as they become due, and maintain operations on a going-forward basis. Accordingly, the Debtors believe that the Plan complies with section 1129(a)(11) of the Bankruptcy Code. As noted in the Financial Projections, however, the Debtors caution that no representations can be made as to the accuracy of the Financial Projections or as to the Reorganized Debtors' ability to achieve the projected results. Many of the assumptions upon which the Financial Projections are based are subject to uncertainties outside the control of the Debtors. Some assumptions inevitably will not materialize, and events and circumstances occurring after the date on which the Financial Projections were prepared may be different from and may adversely affect the Reorganized Debtors' financial results. See Section IX — "CERTAIN FACTORS TO BE CONSIDERED" for a discussion of certain risk factors that could affect financial feasibility of the Plan.

THE FINANCIAL PROJECTIONS WERE NOT PREPARED WITH A VIEW TOWARD COMPLIANCE WITH THE GUIDELINES ESTABLISHED BY THE AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS OR THE RULES AND REGULATIONS OF THE SECURITIES AND EXCHANGE COMMISSION REGARDING FINANCIAL PROJECTIONS. FURTHERMORE, THE FINANCIAL PROJECTIONS HAVE NOT BEEN AUDITED BY THE DEBTORS' INDEPENDENT CERTIFIED ACCOUNTANTS. ALTHOUGH PRESENTED WITH NUMERICAL SPECIFICITY, THE FINANCIAL PROJECTIONS ARE BASED UPON A VARIETY OF ASSUMPTIONS, SOME OF WHICH HAVE NOT BEEN ACHIEVED TO DATE AND MAY NOT BE REALIZED IN THE FUTURE, AND ARE SUBJECT TO SIGNIFICANT BUSINESS, LITIGATION, ECONOMIC, AND COMPETITIVE UNCERTAINTIES AND CONTINGENCIES, MANY, IF NOT ALL, OF WHICH ARE BEYOND THE CONTROL OF THE DEBTORS. CONSEQUENTLY, THE FINANCIAL PROJECTIONS SHOULD NOT BE REGARDED AS A REPRESENTATION OR WARRANTY BY THE DEBTORS, OR ANY OTHER PERSON, THAT THE FINANCIAL PROJECTIONS WILL BE REALIZED. ACTUAL RESULTS MAY VARY MATERIALLY FROM THE THOSE PRESENTED IN THE FINANCIAL PROJECTIONS.

### B. BEST INTERESTS TEST

The Bankruptcy Code requires that the Bankruptcy Court find that the Plan is in the best interest of all Holders of Claims and Equity Interests that are Impaired by the Plan and that have

not accepted the Plan as a requirement to confirm the Plan. The "best interests" test, as set forth in section 1129(a)(11) of the Bankruptcy Code, requires the Bankruptcy Court to find either that all members of an Impaired Class of Claims or Equity Interests have accepted the Plan or that the Plan will provide a member who has not accepted the Plan with a recovery of property of a value, as of the Effective Date of the Plan, that is not less than the amount that such Holder would receive or retain if the Debtors were liquidated under chapter 7 of the Bankruptcy Code on such date.

To calculate the probable Distribution to members of each Impaired Class of Claims and Equity Interests if the Debtors were liquidated under chapter 7, the Bankruptcy Court must first determine the aggregate dollar amount that would be generated from the disposition of the Debtors' assets if liquidated in chapter 7 cases under the Bankruptcy Code. This "liquidation value" would consist primarily of the proceeds from a forced sale of the Debtors' assets by a chapter 7 trustee.

The amount of liquidation value available to Holders of Claims against the Debtors would be reduced by, first, the claims of secured creditors (to the extent of the value of their collateral), and by the costs and expenses of liquidation, as well as by other administrative expenses and costs of the chapter 7 cases. Costs of a liquidation of the Debtors under chapter 7 of the Bankruptcy Code would include the compensation of a chapter 7 trustee, as well as of counsel and other professionals retained by the trustee, asset disposition expenses, and litigation costs. The liquidation itself would trigger certain priority payments that otherwise would be due in the ordinary course of business. Those priority claims would be paid in full from the liquidation proceeds before the balance would be made available to pay unsecured Claims or to make any distribution in respect of Equity Interests, if any. The liquidation would also prompt the rejection of executory contracts and unexpired leases and thereby create a significantly greater amount of unsecured Claims.

In a chapter 7 liquidation, no junior Class of Claims or Equity Interests may be paid unless all Classes of Claims or Equity Interests senior to such junior Class are paid in full. Section 510(a) of the Bankruptcy Code provides that subordination agreements are enforceable in a bankruptcy case to the same extent that such subordination is enforceable under applicable non-bankruptcy law. Therefore, no Class of Claims or Equity Interests that is contractually subordinated to another Class would receive any payment on account of its Claims or Equity Interests, unless and until such senior Classes were paid in full.

Once the Bankruptcy Court ascertains the recoveries in liquidation of the Debtors' secured and priority creditors, it would then determine the probable distribution to unsecured creditors from the remaining available proceeds of the liquidation. If this probable distribution has a value greater than the value of Distributions to be received by the unsecured creditors under the Plan, then the Plan is not in the best interests of creditors and cannot be confirmed by the Bankruptcy Court. As shown in the Liquidation Analysis attached hereto as **Exhibit F**, the Debtors believe that each member of each Class of Impaired Claims will receive at least as much, if not more, under the Plan as it would receive if the Debtors were liquidated. Under either scenario, holders of Impaired Equity Interests will not receive any distribution.

C. LIQUIDATION ANALYSIS

The Debtors believe that under the Plan, all Holders of Impaired Claims and Equity Interests will receive property with a value not less than the value each such Holder would receive in a liquidation of the Debtors under chapter 7 of the Bankruptcy Code. The Debtors' belief is based primarily on:

- consideration of the effects that a chapter 7 liquidation would have on the ultimate proceeds available for distribution to Holders of Impaired Claims and Equity Interests, including:
  - increased costs and expenses of a liquidation under chapter 7 arising from fees payable to one or more chapter 7 trustees and professional advisors to such trustee(s), who may not be familiar with the Debtors' industry and business operations;
  - erosion in value of assets in a chapter 7 case in the context of the rapid liquidation required under chapter 7 and the "forced sale" atmosphere that would prevail in today's negative environment for the sale of exploration and production assets;
  - significant adverse effects on the Debtors' business as a result of the likely departure of key employees;
  - substantial increases in Claims, as well as substantially increased estimated contingent Claims, lease and contract rejection Claims;
  - substantial delay in distributions, if any, to the Holders of Claims and Equity Interests that would likely ensue in a chapter 7 liquidation; and
- the liquidation analysis prepared by the Debtors, which is attached hereto as **Exhibit F**.

The Debtors believe that any liquidation analysis includes some speculation as such an analysis necessarily is premised on assumptions and estimates which are inherently subject to significant uncertainties and contingencies, many of which would be beyond the control of the Debtors. Thus, there can be no assurance as to values that would actually be realized in a chapter 7 liquidation, nor can there be any assurance that a Bankruptcy Court would accept the Debtors' conclusions or concur with such assumptions in making its determinations under section 1129(a)(11) of the Bankruptcy Code.

For example, the Liquidation Analysis necessarily contains an estimate of the amount of Claims which will ultimately become Allowed Claims. No order or finding has been entered by the Bankruptcy Court or any other court estimating or otherwise fixing the amount of Claims at the projected amounts of Allowed Claims set forth in the Liquidation Analysis. In preparing the Liquidation Analysis, the Debtors have projected an amount of Allowed Claims within a reasonable range such that, for purposes of the Liquidation Analysis, the largest possible liquidation dividend to Holders of Allowed Claims can be assessed. The estimate of the amount

of Allowed Claims set forth in the Liquidation Analysis should not be relied on for any other purpose, including any determination of the value of any Distribution to be made on the account of Allowed Claims under the Plan.

To the extent that Confirmation of the Plan required the establishment of amounts for the chapter 7 liquidation value of the Debtors, funds available to pay Claims, and the reorganization value of the Debtors, the Bankruptcy Court will determine those amounts at the Confirmation Hearing. Accordingly, the annexed Liquidation Analysis is provided solely to disclose to Holders of Eligible Claims and Equity Interests the effects of a hypothetical chapter 7 liquidation of the Debtors, subject to the assumptions set forth therein.

### D. VALUATION OF THE REORGANIZED DEBTORS

Based on a robust exposure of the Debtors' assets to potential buyers, through the Jefferies marketing process, the Purchaser's credit bid of $338 million was determined to be the winning bid at the Auction. The Debtors and their advisors believe that the $338 million credit bid is the best, most objective indicator of the value of the Reorganized Debtors.

## VIII. ALTERNATIVES TO CONFIRMATION AND CONSUMMATION OF THE PLAN

The Debtors believe that the Plan affords Holders of Claims the potential for the greatest realization on the Debtors' assets and, therefore, is in the best interests of such Holders. If the Plan is not subsequently confirmed and consummated, the theoretical alternatives include: (i) formulation of an alternative plan or plans of reorganization or (ii) liquidation of the Debtors under chapter 7 or 11 of the Bankruptcy Code.

### A. ALTERNATIVE PLAN(S)

If the votes required to confirm the Plan are not received or if the Plan is not confirmed, the Debtors (or, if the Debtors' exclusive periods in which to file and solicit acceptances of a reorganization plan have expired, any other party in interest) could attempt to formulate and propose a different plan or plans of reorganization. Such a plan or plans might involve either a reorganization and continuation of the Debtors' businesses or an orderly liquidation of assets. To that extent, the Debtors would be required to amend the terms of the existing DIP Facility Agreement and receive consent from the DIP Lenders and Steering Committee to continue to use cash collateral, or identify replacement debtor in possession financing, and there is no assurance that such alternative plan would provide more value to Holders. As such, the confirmation and consummation of such an alternative plan is be highly speculative.

### B. LIQUIDATION UNDER CHAPTER 7

Proceeding under chapter 7 would impose significant additional monetary and time costs on the Debtors' Estates. Under chapter 7, one or more trustees would be elected or appointed to administer the Estates, to resolve pending controversies, including Disputed Claims against the Debtors and Claims of the various estates against other parties, and to make distributions to Holders of Claims. A chapter 7 trustee would be entitled to compensation in accordance with the

scale set forth in Bankruptcy Code section 326, and the trustee would also incur significant administrative expenses.

There is a strong probability that a chapter 7 trustee in these cases would not possess any particular knowledge about the Debtors. The Debtors assert that the value of the Debtors' assets would be greatly diminished thereby. Additionally, a trustee would probably seek the assistance of professionals who may not have any significant background or familiarity with these cases. The trustee and any professionals retained by the trustee likely would expend significant time familiarizing themselves with these cases. This would result in duplication of effort, increased expenses, and delay in payments to creditors.

In an analysis of liquidation under chapter 7, it must be recognized that additional costs in both time and money are inevitable. In addition to these time and monetary costs, there are other problems in a chapter 7 liquidation that would result in a substantially smaller recovery for Holders of Eligible Claims than under the Plan.

Further, Distributions under the Plan probably would be made earlier than would distributions in a chapter 7 case. In contrast to the Plan, which contemplates Distributions to Holders of Allowed Claims as soon as practicable after the Effective Date, distributions of the proceeds of a chapter 7 liquidation might not occur until one or more years after the completion of the liquidation in order to afford the Chapter 7 trustee the opportunity to resolve claims and prepare for distributions.

THE DEBTORS BELIEVE THAT THE PLAN AFFORDS SUBSTANTIALLY GREATER RECOVERY TO HOLDERS OF CLAIMS THAN SUCH HOLDERS WOULD RECEIVE IF THE DEBTORS WERE LIQUIDATED UNDER CHAPTER 7 OF THE BANKRUPTCY CODE.

The Liquidation Analysis, prepared by the Debtors with their financial advisor, is premised upon a liquidation under chapter 7 cases and is attached hereto as **Exhibit F.** In the analysis, the Debtors have taken into account the nature, status, and underlying value of their assets, the ultimate realizable value of such assets, and the extent to which the assets are subject to liens and security interests.

The Debtors have no knowledge of a buyer whom the Debtors believe is ready, willing and financially able to purchase the Debtors as a whole or even to purchase significant portions of the Debtors as ongoing businesses on terms and conditions that are more favorable than the Plan to Holders of Claims and Equity Interests as evidenced by the results of the Auction. Therefore, the likely form of any liquidation would be the sale of individual assets. Based upon this analysis, it is likely that a liquidation of the Debtors' assets would produce less value for distribution to creditors than that recoverable in each instance under the Plan. In the opinion of the Debtors, the recoveries projected to be available in liquidation will not afford Holders of Eligible Claims as great a realization as does the Plan.

## IX. CERTAIN FACTORS TO BE CONSIDERED

PRIOR TO VOTING TO ACCEPT OR REJECT THE PLAN, ALL HOLDERS OF ELIGIBLE CLAIMS SHOULD READ AND CAREFULLY CONSIDER THE FACTORS SET

FORTH BELOW, AS WELL AS ALL OTHER INFORMATION SET FORTH OR OTHERWISE REFERENCED IN THIS DISCLOSURE STATEMENT. THESE FACTORS SHOULD NOT, HOWEVER, BE REGARDED AS CONSTITUTING THE ONLY RISKS INVOLVED IN CONNECTION WITH THE PLAN AND ITS IMPLEMENTATION. ADDITIONAL RISKS AND UNCERTAINTIES NOT PRESENTLY KNOWN TO THE DEBTORS OR THAT THEY CURRENTLY DEEM IMMATERIAL MAY ALSO HARM THEIR BUSINESSES.

## A. GENERAL

While the Debtors hoped that a chapter 11 filing would not be seriously disruptive to their business, the Debtors cannot be certain that this will be the case going forward. Although the Plan is designed to conclude the Chapter 11 Cases, it is impossible to predict with certainty the amount of additional time that the Debtors may spend in chapter 11 or to assure that the Plan will be confirmed.

Even if confirmed on a timely basis, a chapter 11 proceeding to confirm the Plan could continue to have an adverse effect on the Debtors' businesses. Among other things, it is possible that a bankruptcy proceeding could continue to adversely affect (i) the Debtors' relationships with their key vendors, (ii) the Debtors' relationships with their customers, (iii) the Debtors' relationships with their employees and (iv) the legal rights and obligations of the Debtors under agreements that may be in default as a result of the Chapter 11 Cases.

A chapter 11 proceeding also involves additional expenses and will continue to divert the attention of the Debtors' management from operation of their business.

The extent to which a chapter 11 proceeding disrupts the Debtors' businesses will likely be directly related to the length of time it takes to complete the reorganization proceeding. If the Debtors are unable to obtain Confirmation of the Plan on a timely basis because of a challenge to the Plan or a failure to satisfy the conditions to the Plan, they may be forced to continue to operate in chapter 11 for an extended period while they try to develop a different reorganization plan that can be confirmed. That would increase both the probability and the magnitude of the adverse effects described in this Disclosure Statement.

## B. CERTAIN RISKS RELATED TO THE DEBTORS' BUSINESS, INDUSTRY AND NEW EQUITY SECURITIES

### 1. THE DEBTORS' CURRENT FINANCIAL CONDITION HAS ADVERSELY AFFECTED THEIR BUSINESS OPERATIONS AND THEIR BUSINESS PROSPECTS.

The Debtors' current financial condition and the surrounding bankruptcy proceedings have been disruptive to the business. Management has devoted substantial time and attention to the current bankruptcy proceedings, thereby reducing its focus on operating the business. In addition, the Debtors have laid-off a substantial number of employees. These lay-offs have negatively impacted employee morale and productivity and caused voluntary employee resignations. Further, the Debtors' current financial condition and the resulting uncertainty associated with the current bankruptcy proceedings have caused vendors to terminate their

relationships with the Debtors or to refuse to extend credit to the Debtors on acceptable terms or at all. These developments have had a material adverse effect on the Debtors' business, operations, financial condition and cash flows.

2. THE DEBTORS' ASSET CARRYING VALUES HAVE BEEN IMPAIRED BASED, IN PART, ON NATURAL GAS PRICES AS OF DECEMBER 31, 2012 AND THEY MAY BE FURTHER IMPAIRED IF GAS PRICES CONTINUE TO DECLINE.

The substantial decline in gas prices and reduced capital spending on certain fields based on this lower price environment over the past several years has negatively impacted the estimated net cash flows from the Debtors' natural gas reserves, which estimates are used to determine impairments of the Debtors' natural gas properties. As a result of the decline in gas prices, the Debtors have revised their estimated reserves downward and have significantly reduced their estimated future cash flows.

3. EVEN IF THE DEBTORS SUCCESSFULLY EMERGE FROM BANKRUPTCY AND ENTER INTO THE EXIT FACILITY, THE DEBTORS WILL CONTINUE TO HAVE SUBSTANTIAL CAPITAL NEEDS WHICH THEY MAY NOT BE ABLE TO MEET IN THE FUTURE.

Assuming the successful emergence of the Debtors from bankruptcy and availability of the Exit Facility, the Debtors will continue to have substantial capital requirements to fund the development of their reserves. The Debtors may not be able to generate sufficient cash flow from operations to meet their ongoing obligations since such cash flows will be subject to a range of economic, competitive and business risk factors. Additionally, the amounts available under the Exit Facility may not be sufficient for the Debtors' capital requirements and they may not be able to access additional financing resources due to a variety of reasons, including restrictive covenants in the Exit Facility, decreases in oil and gas prices, and the lack of available capital due to the tightening of the global credit markets. If the Debtors are unable to make scheduled payments on the Exit Facility, or if their financing requirements are not met by the Exit Facility and they are unable to access additional financing, the Debtors' business, operations, financial condition and cash flows may be negatively impacted.

4. PROPERTIES OF THE DEBTORS MAY NOT PRODUCE AS PROJECTED, AND THE DEBTORS MAY NOT HAVE FULLY IDENTIFIED LIABILITIES ASSOCIATED WITH THESE PROPERTIES OR OBTAINED ADEQUATE PROTECTION FROM SELLERS AGAINST LIABILITIES.

In the past, the Debtors acquired producing properties from third parties, and these acquisitions required assessments of many factors, which are inherently inexact and may be inaccurate, including:

- the amount of recoverable reserves and the rates at which those reserves will be produced;

- future oil and natural gas prices;
- estimates of operating costs;
- estimates of future development costs;
- estimates of the costs and timing of plugging and abandonment activities; and
- potential environmental and other liabilities.

The Debtors' assessments may not have revealed all existing or potential problems, nor permitted them to become adequately familiar with the properties to evaluate fully their deficiencies and capabilities. In the course of their due diligence, the Debtors may not have inspected every well, platform or pipeline. The Debtors' inspections may not have identified structural and environmental problems, such as pipeline corrosion or groundwater contamination. The Debtors may not have obtained contractual indemnities from the seller for liabilities that it created. The Debtors may have assumed the risk of the physical condition of the properties in addition to the risk that the properties may not perform in accordance with their expectations.

5. LOSS OF KEY MANAGEMENT AND FAILURE TO ATTRACT QUALIFIED MANAGEMENT COULD NEGATIVELY IMPACT THE DEBTORS' OPERATIONS.

Successfully developing and implementing their strategies will depend, in part, on the Debtors' management team. The loss of members of the Debtors' management team could have an adverse effect on their business.

6. EXPLORING FOR AND PRODUCING OIL AND NATURAL GAS ARE HIGH-RISK ACTIVITIES WITH MANY UNCERTAINTIES THAT COULD ADVERSELY AFFECT THE DEBTORS' BUSINESS, FINANCIAL CONDITION OR RESULTS OF OPERATIONS.

The Debtors' future success will depend on the success of their exploration and production activities. The Debtors' oil and natural gas exploration and production activities are subject to numerous risks beyond their control, including the risk that drilling will not result in commercially viable oil or natural gas production. The Debtors' decisions to purchase, explore, develop or otherwise exploit prospects or properties will depend in part on the evaluation of data obtained through geophysical and geological analyses, production data and engineering studies, the results of which are often inconclusive or subject to varying interpretations. The Debtors' cost of drilling, completing and operating wells is often uncertain before drilling commences. Overruns in budgeted expenditures are common risks that can make a particular project uneconomical. Further, many factors may curtail, delay or cancel drilling activity, including the following:

- pressure or irregularities in geological formations;

- shortages of or delays in obtaining equipment and qualified personnel;
- equipment failures or accidents;
- adverse weather conditions;
- reductions in oil and natural gas prices;
- title problems;
- limitations in the demand for oil and natural gas;
- cost of services to drill, complete, operate, and work over wells; and
- changes in federal, state, and local regulatory and taxing regulations.

7. A SUBSTANTIAL OR EXTENDED DECLINE IN OIL AND NATURAL GAS PRICES MAY HAVE A MATERIAL ADVERSE EFFECT ON THE DEBTORS' BUSINESS, FINANCIAL CONDITION, RESULTS OF OPERATIONS, CASH FLOWS AND THEIR ABILITY TO MEET THEIR OBLIGATIONS, OPERATING COST REQUIREMENTS, CAPITAL EXPENDITURE REQUIREMENTS AND OTHER FINANCIAL COMMITMENTS.

The price the Debtors receive for their oil and natural gas production heavily influences their revenue, profitability, financial condition, cash flow, access to capital and future rate of growth. Oil and natural gas are commodities and, as a result, their prices are subject to wide fluctuations in response to relatively minor changes in supply and demand. Historically, the markets for oil and natural gas have been volatile. These markets will likely continue to be volatile in the future. The prices the Debtors receive for their production, and the levels of their production, depend on numerous factors beyond their control. These factors include:

- changes in the global and regional supply, demand and inventories of oil;
- domestic natural gas supply, demand and inventories;
- the actions of the Organization of Petroleum Exporting Countries ("OPEC");
- the price and quantity of foreign imports of oil;
- the price and availability of liquefied natural gas imports;
- political conditions, including embargoes, in or affecting other oil-producing countries;
- economic and energy infrastructure disruptions caused by actual or threatened acts of war, or terrorist activities, or national security measures

deployed to protect the United States from such actual or threatened acts or activities;

- economic stability of major oil and natural gas companies and the interdependence of oil and natural gas and energy companies;
- the level of worldwide oil and natural gas exploration and production activity;
- weather conditions, including energy infrastructure disruptions resulting from those conditions;
- technological advances effecting energy consumption; and
- the price and availability of alternative fuels.

In addition to decreasing the Debtors' revenues and cash flows on a per unit basis, lower oil and natural gas prices may reduce the amount of oil and natural gas that the Debtors can produce economically.

8. THE DEBTORS MAY INCUR SUBSTANTIAL LOSSES AND BE SUBJECT TO SUBSTANTIAL LIABILITY CLAIMS AS A RESULT OF THEIR OIL AND NATURAL GAS OPERATIONS. THEIR INSURANCE COVERAGE MAY NOT BE SUFFICIENT OR MAY NOT BE AVAILABLE TO COVER SOME OF THESE LOSSES AND CLAIMS.

Losses and liabilities arising from uninsured and underinsured events could materially and adversely affect the Debtors' business, financial condition or results of operations. The Debtors' oil and natural gas exploration and production activities are subject to all of the operating risks associated with drilling for and producing oil and natural gas, including the possibility of`:

- environmental hazards, such as uncontrollable flows of oil, natural gas, brine, well fluids, toxic gas or other pollution into the environment, including groundwater and shoreline contamination;
- abnormally pressured formations;
- mechanical difficulties;
- fires and explosions;
- personal injuries and death; and
- natural disasters.

Any of these risks could adversely affect the Debtors' ability to conduct operations or result in substantial losses. The Debtors maintain insurance at levels that they believe are consistent with industry practices and their particular needs, but they are not fully insured against all risks. The Debtors may elect not to obtain insurance for certain risks or to limit levels of coverage if they believe that the cost of available insurance is excessive relative to the risks involved. In addition, pollution and environmental risks generally are not fully insurable. If a significant accident or other event occurs and it is not fully covered by insurance, it could adversely affect the Debtors' financial condition, results of operations and cash flows and could reduce or eliminate the funds available for exploration, exploitation and acquisitions or result in loss of equipment and properties.

9. RESERVE ESTIMATES DEPEND ON MANY ASSUMPTIONS THAT MAY PROVE TO BE INACCURATE. ANY MATERIAL INACCURACIES IN THESE RESERVE ESTIMATES OR UNDERLYING ASSUMPTIONS WILL MATERIALLY AFFECT THE QUANTITIES AND ESTIMATED VALUES OF THE DEBTORS' RESERVES.

The process of estimating oil and natural gas reserves is complex, requiring interpretations of available technical data and many assumptions, including assumptions relating to economic factors. Any significant inaccuracies in these interpretations or assumptions could materially affect the estimated quantities and present value of reserves disclosed in GMXR's filings with the SEC.

Estimates of oil and natural gas reserves are inherently imprecise. The preparation of the Debtors' reserve estimates requires projections of production rates and timing of development expenditures, analysis of available geological, geophysical, production and engineering data, and assumptions about oil and natural gas prices, drilling and operating expenses, capital expenditures, taxes and availability of funds. The extent, quality and reliability of this data can vary. Actual future production, oil and natural gas prices, revenues, taxes, development expenditures, drilling and operating expenses and quantities of recoverable oil and natural gas reserves will vary from the Debtors' estimates.

The present value of future net revenues from the Debtors' proved reserves and the standardized measure of discounted future net cash flows referred to in GMXR's filings with the SEC should not be assumed to represent or approximate the current market value of the Debtors' estimated proved oil and natural gas reserves. In accordance with SEC requirements, the estimated discounted future net cash flows from the Debtors' proved reserves are computed using the 12-month average price for each product, calculated as the simple arithmetic average of the first day-of-the-month price for the prior twelve month period, except where such guidelines permit alternate treatment, including the use of fixed and determinable contractual price escalation. Actual future prices and costs may differ materially from those used in the Debtors' reserve estimates.

If the Debtors' estimates of the recoverable reserve volumes on a property are revised downward, or if development costs exceed previous estimates, or if commodity prices decrease, as discussed elsewhere in these risk factors, the Debtors may be required to record an

impairment to their property and equipment, which could have a material adverse effect on their financial position and results of operations. Once recorded, an impairment of property and equipment may not be reversed at a later date. In addition, under SEC requirements, if provided undeveloped reserves are not expected to be developed within a five-year timeframe, these reserves are to be removed from proved reserves. The Debtors' ability to obtain financing depends in part on their estimate of the proved oil and natural gas reserves for properties that will serve as collateral. If proved reserves on a property are revised downward, the Debtors' ability to acquire adequate funding may be significantly reduced.

10. IF THE DEBTORS ARE UNABLE TO REPLACE THE RESERVES THAT THEY HAVE PRODUCED, THEIR RESERVES AND REVENUES WILL DECLINE.

The Debtors' future success depends on their ability to find, develop and acquire additional oil and natural gas reserves that are economically recoverable. Lower commodity prices and increased costs associated with exploration and production may lower the threshold of economic recoverability. Additionally, the Debtors have substantially cut their capital expenditure budget in 2012 and 2013 in order to conserve cash resources, which has negatively impacted the ability of the Debtors to replace current reserves produced. Without continued successful acquisition or exploration activities, the Debtors' reserves and revenues will decline as a result of their current reserves being depleted by production. The Debtors may not be able to find or acquire additional reserves on an economic basis.

11. THE DEBTORS' BUSINESS REQUIRES SUBSTANTIAL CAPITAL INVESTMENT AND MAINTENANCE EXPENDITURES, AND THEIR CAPITAL RESOURCES MAY NOT BE ADEQUATE TO PROVIDE FOR ALL OF THEIR CASH REQUIREMENTS.

The Debtors' operations are capital intensive. The Debtors' ability to replace their oil and natural gas production and maintain their production levels and reserves requires extensive capital investment. The Debtors' business also requires substantial expenditures for routine maintenance. Without access to new capital, the Debtors may not be able to maintain their production levels and reserves.

12. IMPEDIMENTS TO TRANSPORTING THE DEBTORS' PRODUCTS MAY LIMIT THEIR ACCESS TO OIL AND NATURAL GAS MARKETS OR DELAY THEIR PRODUCTION.

The Debtors' ability to market their oil and natural gas production depends on a number of factors, including the proximity of their reserves to pipelines and terminal facilities, the availability and capacity of gathering systems, pipelines and processing facilities owned and operated by third parties, and the availability of satisfactory oil and natural gas transportation arrangements. These facilities and systems may be shut-in due to factors outside of the Debtors' control. If any of these third party services and arrangements become partially or fully unavailable, or if the Debtors are unable to secure such services and arrangements on acceptable terms, the Debtors' production could be limited or delayed and their revenues could be adversely affected.

13. THE DEBTORS' UNDEVELOPED ACREAGE MUST BE DRILLED BEFORE LEASE EXPIRATION IN ORDER TO HOLD THE ACREAGE BY PRODUCTION.

In the highly competitive market for acreage, failure to drill sufficient wells to hold acreage will result in a substantial lease renewal cost, or if renewal is not feasible, loss of our lease and prospective drilling opportunities. Unless production is established within the spacing units covering the undeveloped acres on which some of the locations are identified, the leases for such acreage could expire. In addition, a significant portion of the acreage the Debtors' acquired in 2011 in the Bakken and Niobrara formations will expire over the next several years unless extended as allowed under the terms of the individual lease agreements or held by production by producing wells. The cost to renew such leases may increase significantly, and the Debtors may not be able to renew such leases on commercially reasonable terms or at all. In addition, on certain portions of the Debtors' acreage, third-party leases become immediately effective if the Debtors' leases expire.

14. THE DEBTORS ARE EXPOSED TO COUNTERPARTY RISK IF THEY ENGAGE IN HEDGING ACTIVITIES USING COMMODITY DERIVATIVE INSTRUMENTS OR THROUGH INSURANCE AND OTHER ARRANGEMENTS THEY ENTER INTO WITH FINANCIAL AND OTHER INSTITUTIONS.

The Debtors may enter into transactions with counterparties such as commercial banks, investment banks, insurance companies, and other financial institutions. These transactions would expose the Debtors to credit risk in the event of default of any of these counterparties.

The Debtors may create exposure to these financial institutions in the form of oil and natural gas derivative contracts, which may protect a portion of the Debtors' cash flows when commodity prices decline. During periods of low oil and natural gas prices, the Debtors may have heightened counterparty risk associated with these derivative contracts because the value of the Debtors' derivative positions may provide a significant amount of cash flow. If a hedging counterparty defaults on its obligations, the Debtors may not realize the benefit of some or all of their derivative instruments.

The Debtors also maintain insurance policies with insurance companies to protect them against certain risks inherent in their business. If an insurer defaults on its obligation to the Debtors, they may not be reimbursed for losses they have insured against. In addition, if any lender under a future credit facility is unable or unwilling to fund its commitment, the Debtors' liquidity may be reduced by an amount up to the aggregate amount of such lender's unfunded commitment under a future credit facility.

15. THE DEBTORS ARE SUBJECT TO EXTENSIVE GOVERNMENTAL LAWS AND REGULATIONS, INCLUDING ENVIRONMENTAL REGULATIONS, WHICH CAN ADVERSELY AFFECT THE COST, MANNER OR FEASIBILITY OF DOING BUSINESS AND COULD RESULT IN RESTRICTIONS ON THEIR OPERATIONS OR CIVIL OR CRIMINAL LIABILITY.

The Debtors' exploration, development and production operations, their activities in connection with storage and transportation of oil and other hydrocarbons and their use of facilities for treating, processing or otherwise handling hydrocarbons and related wastes are subject to various federal, state and local laws, orders and regulations. Failure to comply with these laws and regulations may result in the assessment of administrative, civil and criminal fines and penalties or the imposition of injunctive relief.

Future compliance with laws and regulations, including environmental, production, transportation, sales, rate and tax rules and regulations, and any changes to such laws or regulations, may reduce the Debtors' profitability and have a material adverse effect on their financial position, liquidity and cash flows. Such laws and regulations may require more stringent and costly waste handling, storage, transport, disposal or cleanup requirements.

16. POTENTIAL LEGISLATIVE AND REGULATORY ACTIONS COULD INCREASE THE DEBTORS' COSTS, REDUCE THEIR REVENUE AND CASH FLOW FROM OIL AND NATURAL GAS SALES, REDUCE THEIR LIQUIDITY OR OTHERWISE ALTER THE WAY THEY CONDUCT THEIR BUSINESS.

Pending federal budget proposals would potentially increase and accelerate the payment of federal income taxes of independent producers of oil and natural gas. Proposals that would significantly affect the Debtors include, but are not limited to, repealing the expensing of intangible drilling costs, repealing the percentage depletion allowance, repealing the manufacturing tax deduction for oil and natural gas companies and increasing the amortization period of geological and geophysical expenses. 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 proposals 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 natural gas exploration and development, and any such change (i) would make it more costly for the Debtors to explore for and develop its oil and natural gas resources and (ii) could negatively affect the Debtors' financial condition, results of operation and cash flows.

17. COMPETITION IN THE OIL AND NATURAL GAS INDUSTRY IS INTENSE, WHICH MAY ADVERSELY AFFECT THE DEBTORS.

The Debtors operate in a highly competitive environment for acquiring oil and natural gas properties, marketing oil and natural gas and attracting and retaining trained personnel. Many of their competitors possess and employ financial, technical and personnel resources substantially greater than the Debtors. Those companies may be able to pay more for productive oil and natural gas properties and exploratory prospects and to define, evaluate, bid

for and purchase a greater number of properties and prospects than the Debtors' financial or personnel resources permit. The Debtors' ability to acquire additional properties and to discover reserves in the future will depend on their ability to evaluate and select suitable properties and to consummate transactions in a highly competitive environment. Also, there is substantial competition for capital available for investment in the oil and natural gas industry. There can be no assurance that the Debtors will be able to compete successfully in the future in acquiring prospective reserves, developing reserves, marketing hydrocarbons, attracting and retaining quality personnel and raising additional capital. If the Debtors are unable to compete successfully in these areas in the future, their future revenues and growth may be diminished or restricted.

18. ADVERSE PUBLICITY ABOUT THE DEBTORS, INCLUDING THEIR CHAPTER 11 FILINGS, MAY HARM THE DEBTORS' ABILITY TO COMPETE IN A HIGHLY COMPETITIVE ENVIRONMENT.

Recent adverse publicity concerning the Debtors' financial condition may harm its ability to operate and to maintain favorable relationships with existing service providers, suppliers and working-interest partners. For example, it may be more challenging for the Debtors to engage in drilling operations, and some of the Debtors' suppliers may require cash payments rather than extending credit, which adversely affects the Debtors' liquidity. The Debtors may also experience difficulty attracting and retaining key employees.

19. THE REORGANIZED DEBTORS WILL NOT HAVE ACCESS TO CAPITAL MARKETS

Because the Reorganized Debtors will not be a publicly traded company, its access to capital markets will be limited, making it more difficult to raise funds for operations. The exploration and production of oil and natural gas is a capital intensive industry, so a limitation on access to capital markets could significantly impair the Reorganized Debtors' ability to develop their assets.

20. THE EXIT FACILITY MAY CONTAIN CERTAIN RESTRICTIONS AND LIMITATIONS THAT COULD SIGNIFICANTLY AFFECT THE REORGANIZED DEBTORS' ABILITY TO OPERATE THEIR BUSINESSES, AS WELL AS SIGNIFICANTLY AFFECT THEIR LIQUIDITY.

The Exit Facility may contain a number of significant covenants that could adversely affect the Reorganized Debtors' ability to operate their businesses, as well as significantly affect their liquidity, and therefore could adversely affect the Reorganized Debtors' results of operations. These covenants may restrict (subject to certain exceptions) the Reorganized Debtors' ability to incur additional indebtedness; grant liens; consummate mergers, acquisitions consolidations, liquidations and dissolutions; sell assets; pay dividends and make other payments in respect of capital stock; make capital expenditures; make investments, loans and advances; make payments and modifications to subordinated and other material debt instruments; enter into transactions with affiliates; consummate sale-leaseback transactions; change their fiscal year; and enter into hedging arrangements (except as otherwise expressly

permitted). In addition, the Reorganized Debtors may be required to maintain a minimum interest coverage ratio and a maximum leverage ratio.

The breach of any covenants or obligations in the Exit Facility, not otherwise waived or amended, could result in a default under the Exit Facility and could trigger acceleration of such obligations. Any default under the Exit Facility could adversely affect the Reorganized Debtors' growth, financial condition, results of operations, and ability to make payments on debt.

21. THE VALUE OF THE NEW EQUITY SECURITIES MAY BE ADVERSELY AFFECTED BY A NUMBER OF FACTORS.

The value of the New Equity Securities may be adversely affected by a number of factors, including many of the risks described in this Disclosure Statement. If, for example, the Reorganized Debtors fail to comply with the covenants in the Exit Facility, resulting in an event of default thereunder, certain of the Reorganized Debtors' outstanding indebtedness could be accelerated, which could have a material adverse effect on the value of the New Equity Securities.

22. THERE IS NO ESTABLISHED TRADING MARKET FOR THE REORGANIZED GMXR COMMON STOCK OR NEW GMXR INTERESTS , AND IF ONE DEVELOPS, IT MAY NOT BE LIQUID.

There is no established trading market for the Reorganized GMXR Common Stock or the New GMXR Interests , and there is no assurance that any active trading market will develop for the Reorganized GMXR Common Stock. The GMXR Common Stock has been delisted from the New York Stock Exchange (the "NYSE"). Reorganized GMXR and New GMXR will be a private company as of the Effective Date. Reorganized GMXR may apply for listing of the Reorganized GMXR Common Stock or the New GMXR Interests on the NYSE or another national stock exchange after the Effective Date, such as the Nasdaq Global Market, assuming the Reorganized Debtors satisfy the applicable listing criteria. There is no assurance that the NYSE or any other national exchange will approve the Reorganized GMXR Common Stock or the New GMXR Interests for listing as there is no assurance that the Debtors or Reorganized Debtors will seek to be listed, or satisfy the criteria for listing, or be approved for listing, the Reorganized GMXR Common Stock or the New GMXR Interests the NYSE or on another national stock exchange. Failure to list the Reorganized GMXR Common Stock or the New GMXR Interests may negatively affect the ability of Holders of Reorganized GMXR Common Stock to sell their shares. Accordingly, no assurance can be given that a holder of Reorganized GMXR Common Stock or New GMXR Interests will be able to sell such interest in the future or as to the price at which such sale may occur.

If such market were to develop, the liquidity of the market for the Reorganized GMXR Common Stock and New GMXR Interests and the prices at which such interests would trade will depend upon many factors, including the number of holders, investor expectations for the Reorganized Debtors, and other factors beyond the Reorganized Debtors' control. In addition, the Reorganized GMXR Common Stock and New GMXR Interests will be issued to prepetition creditors of the Debtors, some of whom may prefer to liquidate their investment

rather than to hold it on a long-term basis, which may create an initial imbalance in the market if and when one were to develop. In addition, the marketability of the Reorganized GMXR Common Stock and New GMXR Interests also will be impacted by the terms and provisions of the New Shareholders Agreement and New GMXR Agreement and creditors receiving such equity interests should familiarize themselves with the terms of such agreements (which will be contained in the Plan Supplement). The Reorganized GMXR Common Stock and New GMXR Interests will be subject to certain transfer and other restrictions pursuant to, among other things, the New Shareholders Agreement, the New GMXR Agreement and the New Organizational Documents. The New Shareholders Agreement and/or the New Organizational Documents will include customary transfer restrictions related to Section 382 of the U.S. Internal Revenue Code of 1986, as amended.

#### 23. REORGANIZED GMXR DOES NOT ANTICIPATE PAYING DIVIDENDS ON THE REORGANIZED GMXR COMMON STOCK IN THE FORESEEABLE FUTURE.

Reorganized GMXR does not anticipate paying any dividends on the Reorganized GMXR Common Stock in the foreseeable future. In addition, the covenants in certain future debt instruments to which Reorganized GMXR will be a party, including the Exit Facility, will likely place restrictions or conditions on Reorganized GMXR's ability to pay dividends. Certain institutional investors may only invest in dividend-paying equity securities or may operate under other restrictions that may prohibit or limit their ability to invest in Reorganized GMXR Common Stock. In addition, Reorganized GMXR's only asset after the Effective Date will be its interests in New GMXR. On or prior to the Effective Date, GMXR shall contribute all of its assets to New GMXR (except the Creditor Trust Assets) free and clear of all Liens, Claims, charges, or other encumbrances (except for any Liens granted to secure the Exit Facility). All assets of GMXR, other than the Creditor Trust Assets, shall be deemed automatically transferred to New GMXR without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order or rule or any requirement of further action, vote or other approval or authorization by any Person. New GMXR will own the New Endeavor Interests, New Diamond Blue Interests and GMXR's equity interests in Endeavor Gathering, LLC.

### C. CERTAIN BANKRUPTCY LAW CONSIDERATIONS

#### 1. PARTIES-IN-INTEREST MAY OBJECT TO THE PLAN AND CONFIRMATION

Section 1129 of the Bankruptcy Code provides certain requirements for a chapter 11 plan to be confirmed, parties-in-interest may object to confirmation of a plan based on an alleged failure to fulfill these requirements or other reasons. The Debtors believe that the Plan complies with the requirements of the Bankruptcy Code.

2. PARTIES-IN-INTEREST MAY OBJECT TO THE DEBTORS' CLASSIFICATION OF CLAIMS AND EQUITY INTERESTS

Section 1122 of the Bankruptcy Code provides that a plan of reorganization may place a claim or an interest in a particular class only if such claim or interest is substantially similar to the other claims or interests in such class.

The Debtors believe that the classification of Claims and Equity Interests under the Plan complies with the requirements set forth in the Bankruptcy Code because each class of Claims and Equity Interests encompasses Claims or Equity Interests that are substantially similar to the other Claims or Equity Interests in each such Class. Nevertheless, there can be no assurance that the Bankruptcy Court will reach the same conclusion.

3. UNDUE DELAY IN CONFIRMATION MAY DISRUPT THE BUSINESS OF THE DEBTORS AND HAVE POTENTIAL ADVERSE EFFECTS

The Debtors cannot accurately predict or quantify the impact on their business of not confirming the Plan and thus prolonging the Chapter 11 Cases. A lengthy time in bankruptcy could continue to adversely affect the Debtors' relationships with their customers, oil and gas lessors, suppliers, and employees, which, in turn, could adversely affect the Debtors' competitive position, financial condition, results of operations and cash flows.

Furthermore, not confirming the Plan and thus prolonging the Chapter 11 Cases could adversely affect the Debtors' ability to seek out and take advantage of new business opportunities. So long as the Chapter 11 Cases continue, the Debtors' senior management will be required to spend a significant amount of time and effort dealing with the Debtors' reorganization instead of focusing on the Debtors' current business, and developing future business opportunities for the Debtors.

4. THE DEBTORS MAY NOT BE ABLE TO OBTAIN CONFIRMATION OF THE PLAN

The Debtors cannot ensure they will receive the votes required to confirm the Plan. In the event that votes are received in number and amount sufficient to enable the Bankruptcy Court to confirm the Plan, the Debtors intend to seek, as promptly as practicable thereafter, Confirmation of the Plan. In the event that sufficient votes are not received, the Debtors may seek to cramdown the Plan on any Classes that vote to reject the Plan or to confirm an alternative chapter 11 plan. There can be no assurance that the terms of any such alternative chapter 11 plan would be similar or as favorable to the Holders of Allowed Claims and Allowed Interests as those proposed in the Plan.

Even if the Debtors do receive sufficient votes, there can be no assurance that the Bankruptcy Court will confirm the Plan. Even if a sufficient number of votes are received and, with respect to those Classes deemed to have rejected the Plan, the requirements for "cramdown" are met, the Bankruptcy Court, which as a court of equity may exercise substantial discretion, may choose not to confirm the Plan or may require additional solicitations or consents prior to confirming the Plan. Section 1129 of the Bankruptcy Code requires, among other things, a

showing that Confirmation of the Plan will not be followed by liquidation or the need for further financial reorganization of the Debtors (see Section VII.A — "FEASIBILITY OF THE PLAN AND THE BEST INTERESTS OF CREDITORS TEST — FEASIBILITY OF THE PLAN") and that the value of Distributions to dissenting Holders of Claims and Equity Interests may not be less than the value such Holders would receive if the Debtors were liquidated under chapter 7 of the Bankruptcy Code. See Section VII.B — "FEASIBILITY OF THE PLAN AND THE BEST INTERESTS OF CREDITORS TEST — BEST INTERESTS TEST." Although the Debtors believe that the Plan will meet such tests, there can be no assurance that the Bankruptcy Court will reach the same conclusion.

The Debtors' ability to propose and confirm an alternative reorganization plan is uncertain. Confirmation of any alternative reorganization plan under chapter 11 of the Bankruptcy Code would likely take significantly more time and result in delays in the ultimate distributions to the Holders of Eligible Claims. If confirmation of an alternative plan of reorganization is not possible, the Debtors would likely be liquidated. Based upon the Debtors' analysis, liquidation under chapter 7 would result in distributions of reduced value, if any, to Holders of Eligible Claims. See Section VII — "FEASIBILITY OF THE PLAN AND THE BEST INTERESTS OF CREDITORS TEST." In a liquidation under chapter 11, the Debtors' assets could be sold in an orderly fashion over a more extended period of time than in a liquidation under chapter 7. However, it is unlikely that any liquidation would realize the full going concern value of their businesses. Consequently, the Debtors believe that a liquidation under chapter 11 would also result in smaller distributions to the Holders of Eligible Claims than those provided for in the Plan and no distributions to the Holders Equity Interests.

5. FAILURE TO CONSUMMATE THE PLAN

Consummation of the Plan is conditioned upon, among other things, entry of the Confirmation Order and an order (which may be the Confirmation Order) approving the assumption and assignment to New GMXR of all or substantially all executory contracts and unexpired leases (other than those specifically rejected by the Debtors) to the Reorganized Debtors or their assignees. As of the date of this Disclosure Statement, there can be no assurance that any or all of the foregoing conditions will be met (or waived) or that the other conditions to Consummation set forth more fully in the Plan will be satisfied. Accordingly, even if the Plan is confirmed by the Bankruptcy Court, there can be no assurance that the Plan will be consummated and the Restructuring completed. For risks associated with failure to consummate the Plan, see ARTICLE VIII — "ALTERNATIVES TO CONFIRMATION AND CONSUMMATION OF THE PLAN."

6. RISK OF NON-OCCURRENCE OF THE EFFECTIVE DATE

Although the Debtors believe that the Effective Date may occur within a reasonable time following the Confirmation Date, there can be no assurance as to such timing.

### 7. RISK OF POST-CONFIRMATION DEFAULT

At the Confirmation Hearing, the Bankruptcy Court will be required to make a judicial determination that the Plan is feasible, but that determination does not serve as any guarantee that there will not be any post-Confirmation defaults.

The Debtors believe that the cash flow generated from operations and post-Effective Date borrowings will be sufficient to meet the Debtors' operating requirements, their obligations under the Exit Facility, and other post-Confirmation obligations under the Plan.

### 8. CLAIMS ESTIMATION

There can be no assurance that the estimated amount of Claims are correct, and the actual Allowed amounts of Claims may differ from estimates. The estimated amounts are subject to certain risks, uncertainties and assumptions. Should one or more of these risks or uncertainties materialize or should underlying assumptions prove incorrect, the actual Allowed amounts of Claims may vary from those estimated therein.

## D. CERTAIN TAX CONSIDERATIONS

THERE ARE A NUMBER OF MATERIAL INCOME TAX CONSIDERATIONS, RISKS AND UNCERTAINTIES ASSOCIATED WITH CONSUMMATION OF THE PLAN. INTERESTED PARTIES SHOULD READ CAREFULLY THE DISCUSSION SET FORTH IN SECTION VI - "CERTAIN FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN" FOR A DISCUSSION OF CERTAIN FEDERAL INCOME TAX CONSEQUENCES OF THE TRANSACTIONS CONTEMPLATED UNDER THE PLAN BOTH TO THE DEBTORS AND TO HOLDERS OF CLAIMS THAT ARE IMPAIRED UNDER THE PLAN.

## E. INHERENT UNCERTAINTY OF FINANCIAL PROJECTIONS

The Financial Projections cover the Debtors' operations as of January 1, 2014 and through the period ending December 31, 2016. These Financial Projections are based upon numerous assumptions that are an integral part of the Financial Projections, including Confirmation and Consummation of the Plan in accordance with its terms, the anticipated future performance of the Reorganized Debtors, industry performance, general business and economic conditions, competition, adequate financing, absence of material contingent or unliquidated litigation or indemnity claims, and other matters, many of which are beyond the control of the Reorganized Debtors and some or all of which may not materialize. In addition, unanticipated events and circumstances occurring subsequent to the date of this Disclosure Statement may affect the actual financial results of the Reorganized Debtors' operations. These variations may be material and may adversely affect the ability of the Reorganized Debtors to pay the obligations owing to certain Holders of Claims entitled to Distributions under the Plan and other post-Effective Date indebtedness. Because the actual results achieved throughout the periods covered by the Financial Projections may vary from the projected results, the Financial Projections should not be relied upon as a guaranty, representation, or other assurance of the actual results that will occur.

# X. THE SOLICITATION; VOTING PROCEDURES

## A. VOTING DEADLINE

The period during which Ballots and Master Ballots with respect to the Plan will be accepted by the Debtors will terminate on the Voting Deadline. Except to the extent the Debtors so determine or as permitted by the Bankruptcy Court, Ballots and Master Ballots that are received after the Voting Deadline will not be counted or otherwise used by the Debtors in connection with the Debtors' request for Confirmation of the Plan (or any permitted modification thereof).

## B. VOTING PROCEDURES

Under the Bankruptcy Code, for purposes of determining whether the requisite number of votes to confirm the Plan have been received, only Holders of Eligible Claims who actually vote will be counted. The failure of a Holder to deliver a duly executed Ballot will be deemed to constitute an abstention by such Holder with respect to voting on the Plan and such abstentions will not be counted as votes for or against the Plan.

The Debtors are providing the Solicitation Package to Holders of Eligible Claims whose names (or the names of whose Nominees) appear as of the Voting Record Date in the records maintained by the Debtors and the security holders lists maintained by the Indenture Trustees. Nominees should provide copies of the Solicitation Package to the beneficial owners of the Eligible Claims. Any beneficial owner of Eligible Claims who has not received a Ballot should contact his/her or its Nominee or the Solicitation Agent.

Holders of Eligible Claims should provide all of the information requested by the Ballots and return all Ballots in the return envelope provided with each such Ballot.

## C. SPECIAL NOTE FOR HOLDERS OF VOTING NOTES

Holders of Senior Secured Notes, Second-Priority Notes, Old Senior Notes and Convertible Notes and General Unsecured Claims as of the Voting Record Date are entitled to vote on the Plan. Neither the Senior Secured Notes Indenture Trustee, the Second-Priority Notes Indenture Trustee, Old Senior Notes Indenture Trustee, nor the Convertible Notes Indenture Trustee will vote on behalf of the Holders of such notes or make any recommendation for or against the Plan. Holders must submit their own Ballots.

### 1. BENEFICIAL OWNERS

A beneficial owner holding a Senior Secured Note, Second-Priority Note, Old Senior Note or Convertible Note as a record Holder in its own name should vote on the Plan by completing and signing the applicable enclosed Ballot and returning it directly to the Solicitation Agent on or before the Voting Deadline using the enclosed self-addressed, postage-paid envelope.

Any beneficial owner holding a Senior Secured Note, Second-Priority Note, Old Senior Note, or Convertible Note Claim in a "street name" through a Nominee may vote on the Plan by one of the following two methods (as selected by such beneficial owner's Nominee).

- Complete and sign the applicable enclosed beneficial owner Ballot. Return the Ballot to Nominee as promptly as possible and in sufficient time to allow such Nominee to process the Ballot and return it to the Solicitation Agent by the Voting Deadline. If no self-addressed, postage-paid envelope was enclosed for this purpose, the Solicitation Agent must be contacted for instructions.

- Complete and sign the applicable pre-validated Ballot (as described below) provided to Holder by Nominee. The Holder will then return the pre-validated Ballot to the Solicitation Agent by the Voting Deadline using the enclosed self-addressed, postage-paid envelope.

Any Ballot returned to a Nominee by a beneficial owner will not be counted for purposes of acceptance or rejection of the Plan until such Nominee properly completes and delivers to the Solicitation Agent that Ballot or a Master Ballot that reflects the vote of such beneficial owner.

2. NOMINEES

A Nominee that on the Voting Record Date is the registered Holder of a Senior Secured Note, Second-Priority Note, Old Senior Note or Convertible Note for a beneficial owner should obtain the vote of such beneficial owner, consistent with customary practices for obtaining the votes of securities held in "street name," in one of the following two ways:

a. Pre-Validated Ballots

A Nominee may pre-validate a Ballot by: (i) signing the applicable Ballot; (ii) indicating on the Ballot the name of the registered Holder and the amount of Senior Secured Notes, Second-Priority Notes, Old Senior Notes, or Convertible Notes, as applicable, held by the Nominee; and (iii) forwarding such Ballot together with the Solicitation Package and other materials requested to be forwarded to the beneficial owner for voting. The beneficial owner must then complete the information requested in the Ballot, review the certifications contained in the Ballot, and return the Ballot directly to the Solicitation Agent in the pre-addressed, postage paid envelope so that it is received by the Solicitation Agent before the Voting Deadline. A list of the beneficial owners to whom "pre-validated" Ballots were delivered should be maintained by the Nominee for inspection for at least one year from the Voting Deadline.

b. Master Ballots

A Nominee may obtain the votes of beneficial owners by forwarding to the beneficial owners the applicable unsigned Ballots, together with the Disclosure Statement, a return envelope provided by, and addressed to, the Nominee, and other materials requested to be forwarded. Each such beneficial owner must then indicate his/her or its vote on the Ballot, complete the information requested in the Ballot, review the certifications contained in the

Ballot, execute the Ballot, and return the Ballot to the Nominee. After collecting the Ballots, the Nominee should, in turn, complete the applicable Master Ballot compiling the votes and other information from the Ballot, execute the Master Ballot, and deliver the Master Ballot to the Solicitation Agent so that it is received by the Solicitation Agent before the Voting Deadline. All Ballots returned by beneficial owners should either be forwarded to the Solicitation Agent (along with the Master Ballot) or retained by Nominees for inspection for at least one year from the Voting Deadline.

EACH NOMINEE SHOULD ADVISE ITS BENEFICIAL OWNERS TO RETURN THEIR BALLOTS TO THE NOMINEE BY A DATE CALCULATED BY THE NOMINEE TO ALLOW IT TO PREPARE AND RETURN THE MASTER BALLOT TO THE SOLICITATION AGENT SO THAT IT IS RECEIVED BY THE SOLICITATION AGENT BEFORE THE VOTING DEADLINE.

3. MISCELLANEOUS

For purposes of determining whether sufficient votes have been received to accept or reject the Plan, the beneficial owners of the Senior Secured Notes, Second-Priority Notes, Old Senior Notes or Convertible Notes will be deemed to be the "holders" of the Claims represented by such notes, as applicable. Unless otherwise ordered by the Bankruptcy Court, Ballots that are signed, dated and timely received, but on which a vote to accept or reject the Plan has not been indicated, will not be counted. The Debtors, in their sole discretion, may request that the Solicitation Agent attempt to contact such voters to cure any such defects in the Ballots.

Except as provided below, unless the applicable Ballot is timely submitted to the Solicitation 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 utilize it in connection with seeking Confirmation of the Plan.

In the event of a dispute with respect to any Claim, any vote to accept or reject the Plan cast with respect to such Claim will not be counted for purposes of determining whether the Plan has been accepted or rejected, unless the Bankruptcy Court orders otherwise.

D. FIDUCIARIES AND OTHER REPRESENTATIVES

If a Ballot is signed by a trustee, executor, administrator, guardian, attorney-in-fact, officer of a corporation, or another acting in a fiduciary or representative capacity, such Person should indicate such capacity when signing and, unless otherwise determined by the Debtors, must submit proper evidence satisfactory to the Debtors of authority to so act. Authorized signatories should submit the separate Ballot of each beneficial owner for whom they are voting.

UNLESS THE APPLICABLE BALLOT BEING FURNISHED IS TIMELY SUBMITTED TO THE SOLICITATION AGENT ON OR PRIOR TO THE VOTING DEADLINE, SUCH BALLOT WILL BE REJECTED AS INVALID AND WILL NOT BE COUNTED AS AN ACCEPTANCE OR REJECTION OF THE PLAN. IN NO CASE SHOULD A BALLOT BE DELIVERED TO ANY ENTITY OTHER THAN THE NOMINEE OR THE SOLICITATION AGENT.

E. PARTIES ENTITLED TO VOTE

Under section 1124 of the Bankruptcy Code, a class of claims or equity interests is deemed to be "impaired" under a plan unless (i) the plan leaves unaltered the legal, equitable, and contractual rights to which such claim or equity interest entitles the holder thereof or (ii) notwithstanding any legal right to an accelerated payment of such claim or equity interest, the plan cures all existing defaults (other than defaults resulting from the occurrence of events of bankruptcy) and reinstates the maturity of such claim or equity interest as it existed before the default.

In general, a holder of a claim or equity interest may vote to accept or to reject a plan if the claim or equity interest is "allowed," which means generally that no party-in-interest has objected to such claim or equity interest, and the claim or equity interest is impaired by the plan. If, however, the holder of an impaired claim or equity interest will not receive or retain any distribution under the plan on account of such claim or equity interest, the Bankruptcy Code deems such holder to have rejected the plan, and, accordingly, holders of such claims and equity interests do not actually vote on the plan. If a claim or equity interest is not impaired by the plan, the Bankruptcy Code deems the holder of such claim or equity interest to have accepted the plan and, accordingly, holders of such claims and equity interests are not entitled to vote on the plan.

Classes 2, 3 and 7 of the Plan are Unimpaired. Accordingly, under section 1126(f) of the Bankruptcy Code, all such Classes of Claims are deemed to have accepted the Plan and are not entitled to vote in respect of the Plan.

Classes 1 and 4 of the Plan are Impaired. Therefore, the Holders of Claims in Classes 1 and 4 are being solicited for votes in favor of the Plan.

Classes 5 and 6 of the Plan are Impaired and will not receive or retain any Distribution or property under the Plan on account of their Claims or Equity Interests Accordingly, under section 1126(g) of the Bankruptcy Code, such Classes of Claims or Equity Interests is deemed to have rejected the Plan and is not entitled to vote on the Plan.

A vote may be disregarded if the Bankruptcy Court determines, pursuant to section 1126(e) of the Bankruptcy Code, that it was not solicited or procured in good faith or in accordance with the provisions of the Bankruptcy Code.

F. AGREEMENTS UPON FURNISHING BALLOTS

The delivery of an accepting Ballot to the Solicitation Agent by a Holder of Eligible Claims pursuant to one of the procedures set forth above will constitute the agreement of such Holder to accept (i) all of the terms of, and conditions to, the Solicitation and (ii) the terms of the Plan; provided, however, all parties in interest retain their right to object to Confirmation of the Plan pursuant to section 1128 of the Bankruptcy Code.

G. WAIVERS OF DEFECTS, IRREGULARITIES, ETC.

Unless otherwise directed by the Bankruptcy Court, all questions as to the validity, form, eligibility (including time of receipt), acceptance, and revocation or withdrawal of Ballots or

Master Ballots will be determined by the Solicitation Agent and the Debtors in their sole discretion, which determination will be final and binding. As indicated in Section X.H, effective withdrawals of Ballots must be delivered to the Solicitation Agent prior to the Voting Deadline. The Debtors reserve the absolute right to contest the validity of any such withdrawal. The Debtors also reserve the right to reject any and all Ballots not in proper form, the acceptance of which would, in the opinion of the Debtors or their counsel, be unlawful. The Debtors further reserve the right to waive any defects or irregularities or conditions of delivery as to any particular Ballot. The interpretation (including of the Ballot and the respective instructions thereto) by the Debtors, unless otherwise directed by the Bankruptcy Court, will be final and binding on all parties. Unless waived, any defects or irregularities in connection with deliveries of Ballots must be cured within such time as the Debtors (or the Bankruptcy Court) determine. Neither the Debtors nor any other Person will be under any duty to provide notification of defects or irregularities with respect to deliveries of Ballots nor will any of them incur any liabilities for failure to provide such notification. Unless otherwise directed by the Bankruptcy Court, delivery of such Ballots will not be deemed to have been made until such irregularities have been cured or waived. Ballots previously furnished (and as to which any irregularities have not theretofore been cured or waived) will be invalidated.

## H. WITHDRAWAL OF BALLOTS; REVOCATION

Any party who has delivered a valid Ballot for the acceptance or rejection of the Plan may withdraw such acceptance or rejection by delivering a written notice of withdrawal to the Solicitation Agent at any time prior to the Voting Deadline. A notice of withdrawal, to be valid, must (i) contain the description of the Claim(s) to which it relates and the aggregate principal amount represented by such Claim(s), (ii) be signed by the withdrawing party in the same manner as the Ballot being withdrawn, (iii) contain a certification that the withdrawing party owns the Claim(s) and possesses the right to withdraw the vote sought to be withdrawn and (iv) be received by the Solicitation Agent in a timely manner at the address set forth in Section X.J. After the Voting Deadline, the Debtors intend to consult with the Solicitation Agent to determine whether any withdrawals of Ballots were received and whether the required number of votes to confirm the Plan have been received. As stated above, the Debtors expressly reserve the absolute right to contest the validity of any such withdrawals of Ballots.

A purported notice of withdrawal of Ballots which is not received in a timely manner by the Solicitation Agent will not be effective to withdraw a previously cast Ballot.

Any party who has previously submitted to the Solicitation Agent prior to the Voting Deadline a properly completed Ballot may revoke such Ballot and change his or its vote by submitting to the Solicitation Agent prior to the Voting Deadline a subsequent properly completed Ballot for acceptance or rejection of the Plan. In the case where more than one timely, properly completed Ballot is received, only the Ballot which bears the latest date will be counted for purposes of determining whether the votes required to confirm the Plan have been received.

The Debtors will pay all costs, fees and expenses relating to the Solicitation, including customary mailing and handling costs of Nominees.

## I. DELIVERY OF EXISTING SECURITIES

The Debtors are not at this time requesting the delivery of, and neither the Debtors nor the Solicitation Agent will accept, certificates representing any Existing Securities. On the Effective Date, all Existing Securities will be cancelled.

## J. FURTHER INFORMATION; ADDITIONAL COPIES

If you have any questions or require further information about the voting procedure for voting your Claim, or about the Solicitation Package; or if you wish to obtain an additional copy of the Plan, the Disclosure Statement, the Plan Supplement or any exhibits to such documents (at your own expense, unless otherwise specifically required by Federal Rule of Bankruptcy Procedure 3017(d)), please contact the Solicitation Agent:

GMX Resources Inc. Ballot Processing
c/o Epiq Bankruptcy Solutions, LLC
757 Third Avenue, 3rd Floor
New York, NY 10017
Telephone: (646) 282-2500

## RECOMMENDATION AND CONCLUSION

For all of the reasons set forth in this Disclosure Statement, the Debtors believe that Confirmation and Consummation of the Plan is preferable to all other alternatives discussed herein. Consequently, the Debtors, with the support of the Creditors' Committee, urge all Holders of Eligible Claims to vote to accept the Plan, and to complete and return their Ballots so that they will be received by the Solicitation Agent on or before 5:00 p.m., central time, on _____, ___ 2013.

Dated: Oklahoma City, Oklahoma
October 23, 2013

GMX RESOURCES INC., AND ITS AFFILIATED DEBTORS

By: _____
Name: Michael J. Rohleder
Title: President