

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

In re:	§	
	§	
VANDERRA RESOURCES, LLC,	§	Case No. 12-45137-DML-11
	§	
Debtor.	§	Chapter 11

**DEBTOR'S AND THE OFFICIAL COMMITTEE OF
UNSECURED CREDITORS' SECOND AMENDED JOINT PLAN
OF LIQUIDATION (AS MODIFIED) FOR VANDERRA RESOURCES, LLC**

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Dated: April 24, 2013

INTRODUCTION

Vanderra Resources, LLC, as debtor and debtor-in-possession in this Chapter 11 bankruptcy case, and The Official Committee of Unsecured Creditors of Vanderra Resources, LLC hereby propose this Second Amended Joint Plan of Liquidation (as Modified) pursuant to § 1121(a) of Title 11 of the United States Code. Reference is made to the Disclosure Statement for a discussion of the Debtor's history, business, assets, liabilities, and for a summary of this Plan and certain related matters.

All holders of Claims and Interests are encouraged to read the Plan and the Disclosure Statement in their entirety before voting to accept or reject this Plan. No materials, other than the Disclosure Statement, the Trust Agreement, and any exhibits and schedules attached thereto or referenced therein, have been approved by the Debtor and the Committee for use in soliciting acceptances or rejections of this Plan.

ARTICLE I DEFINITIONS

As used in the Plan, the following terms shall have the respective meanings specified below. Any term used in the Plan not defined below or herein shall be interpreted in accordance with the Rules of Construction and Interpretation set forth in the following Articles of this Plan.

1.1 Administrative Claim: A Claim for payment of an administrative expense of a kind specified in § 503(b) of the Bankruptcy Code and referred to in § 507(a)(2) of the Bankruptcy Code, including, without limitation, the actual, necessary costs and expenses incurred on or after the Petition Date for preserving the Estate of the Debtor, any actual and necessary costs and expenses of operating the business of the Debtor incurred on or after the Petition Date but prior to the Effective Date (including any Claim incurred in the ordinary course of the Debtor's business which may be paid in the ordinary course of the Debtor's business without Order of the Bankruptcy Court), any indebtedness or obligations incurred or assumed by the Debtor's Estate in connection with the conduct of the Debtor's business on or after the Petition Date and prior to the Effective Date, compensation for legal and other professional services and reimbursement of expenses awarded under §§ 330(a) or 331 of the Bankruptcy Code, and all fees and charges assessed against the Estate under Chapter 123, Title 28, United States Code.

1.2 Administrative Claims Bar Date: The first date that is thirty (30) days following the Effective Date, unless not a Business Day, in which case the Administrative Claims Bar Date will be the first Business Day thereafter.

1.3 Allowance Date: The date on which a Claim is Allowed.

1.4 Allowed: A Claim or Interest: (a) which is listed in the Schedules in a liquidated, non-contingent, and undisputed known amount, but only if no proof of Claim or proof of Interest is filed with the Bankruptcy Court to evidence such Claim or Interest on or before the Bar Date and no objection thereto has been timely filed; (b) which is evidenced by a proof of Claim or proof of Interest filed on or before the Bar Date, but only if no objection to the allowance of the

Claim or Interest or no motion to expunge the proof of Claim or Interest has been timely filed; or (c) which is allowed by a Final Order.

1.5 Available Cash: All of the Cash held by the Trust or the Debtor, except for the Disputed Cash and the Trust Reserve. Available Cash specifically includes the Cash attributable to sales by the Debtor after the Petition Date of Vehicles, ownership of which are represented by certificates of title.

1.6 Avoidance Actions: Any action commenced, or that that may be commenced before or after the Effective Date, pursuant to §§ 510, 522, 541, 542, 543, 544, 545, 547, 548, 549, 550, 551, 522 or 553 of the Bankruptcy Code, including, without limitation, such actions that arise under state law for fraudulent conveyance and other similar avoidance actions.

1.7 Bank Action: All claims and Causes of Action that the Debtor or the Committee may have or otherwise bring against PlainsCapital Bank and any party acting in concert with it, including, without limitation, any Avoidance Actions and the adversary proceedings pending before the Bankruptcy Court as adversary proceeding numbers 13-04025-dml and 13-04026-dml.

1.8 Bankruptcy Code: The Bankruptcy Reform Act of 1978, as amended, Title 11, United States Code, as applicable to this Chapter 11 Case.

1.9 Bankruptcy Court: The United States Bankruptcy Court for the Northern District of Texas, Fort Worth Division.

1.10 Bankruptcy Rules: The Federal Rules of Bankruptcy Procedure, as amended and prescribed under section 2075, Title 28, United States Code, as applicable to the Chapter 11 Case, together with the Local Rules of the Bankruptcy Court.

1.11 Bar Date: The last date on which proofs of Claim may be timely filed against the Debtor unless otherwise extended by Final Order of the Bankruptcy Court, which is (a) January 17, 2013, for the filing of proofs of Claim by all parties other than Governmental Units, and (b) March 11, 2013, for the filing of proofs of Claims by all Governmental Units.

1.12 Business Day: Any day other than a Saturday, Sunday or "legal holiday" as defined in Bankruptcy Rule 9006(a).

1.13 Cash: Cash, wire transfer, certified check, cash equivalents and other readily marketable securities or instruments, including, without limitation, readily marketable direct obligations of the United States of America, certificates of deposit issued by banks, and commercial paper of any entity, including interest accrued or earned thereon, or a check from the Trust.

1.14 Causes of Action: Any action, cause of action, suit, account, controversy, agreement, promise, right to legal remedies, right to equitable remedies, right to payment, and claim, including Avoidance Actions, whether known or unknown, reduced to judgment, not reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, secured, unsecured and whether asserted or assertable directly or indirectly or derivatively, in law, equity or otherwise, including: (a) any claim or right to recover damages

(general, exemplary, or both) relating to or based on (i) fraud, negligence, gross negligence, willful misconduct, or any tort actions, (ii) violations of federal or state securities laws, (iii) violations of applicable corporate or partnership laws, (iv) breaches of fiduciary or agency duties, (v) unjust enrichment, suit on a sworn account, accounting, quantum meruit, restitution, (vi) malpractice, (vii) breach of contract, (viii) conversion, (ix) recharacterization, (x) alter ego, aiding and abetting, conspiracy, *respondeat superior*, or other vicarious or secondary liability claims relating to all of the aforementioned claims, or (xi) any other claim of the Debtor against any party, to the extent not specifically compromised or released pursuant to the Plan or a final order entered after notice and opportunity for hearing; (b) any claims of the Debtor for subordination under § 510 of the Bankruptcy Code or under other applicable laws; (c) any objection to any Disputed Claim which includes as a basis any counterclaim by the Debtor or the Estate for affirmative relief, and which is pending and unresolved as of the Effective Date, together with all liability of the Debtor or the Estate on account of such Disputed Claims; and (d) all claims and defenses asserted by the Debtor or the Trustee in an adversary proceeding or other civil litigation pending as of the Effective Date. Causes of Action also specifically include: (i) all tort and common law claims held by the Debtor against any person, including, without limitation, the following: (a) Persons that were or are joint venturers or partners with, or controlling persons of, the Debtor, (b) Governmental Units, including taxing authorities, (c) holders of Interests; (ii) all claims held by the Debtor whether in contract, tort, or statutory law against the Debtor's, whether current or former: (a) customers, (b) Creditors, (c) officers and directors, (d) suppliers (including any person with whom the Debtor ever did business), (e) employees, (f) managers and affiliates, (g) insurers (including, without limitation, for directors and officers liability coverage, business interruption, or similar claims), and (h) pre-Petition Date professionals used by Debtor. For the avoidance of doubt, but without limitation, the Causes of Action include the causes of action against the persons listed on Schedule E to the Disclosure Statement.

1.15 Chapter 11 Case: The Debtor's Chapter 11 Case, commenced by the filing of a voluntary petition on September 9, 2012, under Chapter 11 of the Bankruptcy Code, and which is being administered under Case No. 12-45137-dml-11.

1.16 Claim: Any right to payment from the Debtor or the Estate, whether or not such right is reduced to judgment, liquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured, known or unknown; or any right to an equitable remedy against the Debtor or the Estate for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured, or unsecured, known or unknown.

1.17 Claimant or Claimholder: A Person asserting a Claim against the Debtor, property of the Debtor, the Debtor's Estate, the Trust, the Trustee, or any assets of the Trust.

1.18 Claims Objection Deadline: One hundred twenty (120) days after the Effective Date, unless extended by the Bankruptcy Court upon motion filed with the Bankruptcy Court on or prior to such date.

1.19 Class: Any group of substantially similar Claims or Interests classified by the Plan pursuant to § 1122 of the Bankruptcy Code.

1.20 Committee: The Official Unsecured Committee of Unsecured Creditors of the Debtor, appointed in the Chapter 11 Case by the United States Trustee on September 20, 2012, as such membership may be amended.

1.21 Confirmation Date: The date upon which the clerk of the Bankruptcy Court enters the Confirmation Order on the docket of the Bankruptcy Court.

1.22 Confirmation Hearing: The hearing held by the Bankruptcy Court pursuant to § 1128 of the Bankruptcy Code to consider confirmation of this Plan, as such hearing may be adjourned or continued from time to time.

1.23 Confirmation Order: The Order of the Bankruptcy Court, and any amendment thereto, confirming the Plan in accordance with the provisions of Chapter 11 of the Bankruptcy Code.

1.24 Contingent Claim: A Claim for which the Debtor's legal duty to pay does not come into existence until triggered by the occurrence of a future event.

1.25 Creditor: Any Person that holds a Claim against the Debtor that arose on or before the Petition Date, or a Claim against the Debtor of any kind specified in §§ 502(f), 502(g), 502(h) or 502(i) of the Bankruptcy Code.

1.26 Debtor: Vanderra Resources, LLC.

1.27 Debtor-in-Possession: The Debtor in its capacity as debtor-in-possession pursuant to §§ 1107 and 1108 of the Bankruptcy Code.

1.28 Disallowed: A Claim or Interest, any portion thereof, that: (a) has been disallowed by either a Final Order or pursuant to a settlement; (b) has been withdrawn by the holder of the Claim or Interest; (c)(i) is set forth in the Schedules at zero or as contingent, disputed, or unliquidated and (ii) as to which the Bar Date has been established but no proof of Claim or proof of Interest has been filed or deemed timely filed with the Bankruptcy Court pursuant to either the Bankruptcy Code or any Final Order of the Bankruptcy Court or otherwise deemed timely filed under applicable law; or (d) has not been scheduled in the Schedules and as to which no proof of Claim or Interest has been timely filed or deemed timely filed with the Bankruptcy Court pursuant to the Bankruptcy Code, a Final Order, or the Plan.

1.29 Disclosure Statement: The Disclosure Statement with respect to the Plan filed by the Debtor with the Bankruptcy Court pursuant to § 1125 of the Bankruptcy Code, as may be amended or supplemented.

1.30 Disputed Cash: Any Cash held by the Trust which is subject to a claimed perfected security interest held by any Person, including but not limited to PlainsCapital Bank and Stone Arch Capital.

1.31 Disputed Claim: The portion (including, when appropriate, the whole) of a Claim or Interest that is not an Allowed Claim or Allowed Interest as to which: (a) a proof of Claim or Interest has been filed or deemed filed under applicable law or Order of the Bankruptcy Court; (b) an objection has been or may be timely filed; and (c) such objection has not been (i) withdrawn, (ii) overruled or denied in whole or in part pursuant to a Final Order, or (iii) granted in whole or in part pursuant to a Final Order. Before the time that an objection has been or may be filed, a Claim or Interest shall be considered a Disputed Claim or Interest: (a) if the amount or classification of the Claim or Interest specified in the proof of Claim or Interest exceeds the amount or classification of any corresponding Claim or Interest scheduled by the Debtor in its Schedules, to the extent of such excess; (b) in its entirety, if any corresponding Claim or Interest scheduled by the Debtor has been scheduled as disputed, contingent, or unliquidated in its Schedules; or (c) in its entirety, if no corresponding Claim or Interest has been scheduled by the Debtor in its Schedules.

1.32 Distribution: The property required by the Plan to be distributed to the holders of Allowed Claims.

1.33 Distribution Dates: As to all Claims, those dates which are within ninety (90) days after the dates upon which the Trustee determines that the Trust has sufficient funds to (a) pay, in whole or in part, those Allowed Claims of the highest priority of previously unpaid Claims and (b) deposit sufficient funds in the Trust Reserve for Disputed Claims entitled to that same priority of payment without exhausting the Distribution Reserve of funds necessary to meet the continuing operating expenses of the Trust. All Distribution Dates shall be on or shall follow the Effective Date of the Plan. The Effective Date and the Final Distribution Date are considered Distribution Dates.

1.34 DJJ Holdings: D.J.J. Holdings, L.P. and its successors and assigns.

1.35 DJJ Holdings Claim: Any Claim of DJJ Holdings or its predecessors, including, but not limited to, the Claims asserted by DJJ Holdings in its proof of Claim number 103-1 and the Claim listed in the Debtor's schedules as owed to Vanderra Resources, L.P.

1.36 Effective Date: The first date on which all conditions precedent set forth in ARTICLE XII have been satisfied.

1.37 Estate: The estate created upon the filing of the Chapter 11 Case pursuant to § 541 of the Bankruptcy Code, together with all rights, claims and interests appertaining thereto.

1.38 Final Distribution: A Distribution made under the Plan which represents the only or last Distribution to be made to a particular Class of Creditors.

1.39 Final Distribution Date: The date upon which the Trustee makes a Final Distribution.

1.40 Final Order: An order or judgment under 28 U.S.C. § 158(a)(1) of the Bankruptcy Court or other court having jurisdiction over any matter that (a) has not been reversed, stayed, or vacated, (b) the time to appeal, petition for certiorari, or move for a new trial, re-argument, or rehearing has expired, and (c) no appeal, petition for certiorari, or other

proceeding seeking a new trial, re-argument, or rehearing is pending, and, if an appeal, petition for certiorari, or other proceeding seeking a new trial, re-argument or rehearing is pending, such order or judgment is not stayed.

1.41 General Unsecured Claim: A Claim against the Debtor other than a Secured Claim, an Administrative Claim, a Priority Non-Tax Claim, a Priority Tax Claim, a Penalty Claim, or a Subordinated Claim.

1.42 Governmental Unit: A governmental unit as such term is defined in § 101(27) of the Bankruptcy Code.

1.43 Interest: Any interest in the Debtor represented by ownership of membership units in the Debtor, including, to the extent provided by applicable law, any warrant, option or other security to acquire any of the foregoing in the Debtor.

1.44 Lien: A charge against or interest in property to secure payment of a debt or performance of an obligation, including, but not limited to, a mortgage, deed of trust lien, security interest, judicial lien, pledge, encumbrance, or writ of attachment.

1.45 New Vanderra Membership Unit: The interest in the Debtor which shall be created on the Effective Date and vested in the Trust.

1.46 Order: Any mandate, precept, command, or direction formally given or entered by the Bankruptcy Court.

1.47 Other Secured Claim: A Secured Claim other than any Secured Claim of PlainsCapital Bank and Stone Arch Capital.

1.48 Penalty Claim: Any Claim, secured or unsecured, priority or non-priority, arising before Petition Date, for any fine, penalty, or forfeiture, or for multiple, exemplary, or punitive damages, to the extent that such fine, penalty, forfeiture, or damages are not compensation for actual pecuniary loss suffered by the Claimant.

1.49 Person: An individual, corporation, partnership, joint venture, association, limited liability company, limited liability partnership, trust, estate, unincorporated organization, governmental entity or political subdivision thereof, or any other entity.

1.50 Petition Date: September 9, 2012, the date on which the Debtor filed its voluntary Chapter 11 petition commencing the Chapter 11 Case.

1.51 Plan: This Second Amended Joint Plan of Liquidation for Vanderra Resources, LLC, as it may be amended or modified.

1.52 PlainsCapital Bank: PlainsCapital Bank, a Texas state bank, and any subsequent transferees thereof.

1.53 PlainsCapital Bank Contractual Claim: As of April 23, 2013, \$5,082,781.42, plus the interest accruing thereafter at the rate of \$1,434.24 per day (until such time as the Class

1 Distribution is made, at which time the outstanding amounts owed to PlainsCapital Bank will increase on a per day basis at a rate of \$635.61), which is the entire amount owed by the Debtor to PlainsCapital Bank under applicable non-bankruptcy law after deducting the Distribution to be made to PlainsCapital Bank under Class 1 of this Plan, including, but not limited to, the PlainsCapital Bank Unsecured Claim and any Claims for interest, fees, penalties, and expenses arising before or after the Petition Date.

1.54 PlainsCapital Bank Settlement: That certain settlement agreement between the Proponents and PlainsCapital Bank, which will be filed with the Bankruptcy Court along with a motion seeking the approval of same pursuant to Bankruptcy Rule 9019.

1.55 PlainsCapital Bank Unsecured Claim: The unsecured claim of PlainsCapital Bank, which is an Allowed Claim in the amount of \$4,409,328.57 in Class 6 subject to § **Error! Reference source not found.** below.

1.56 Plan Ballot: The form of ballot transmitted to Creditors who are, or may be, entitled to vote on the Plan.

1.57 Plan Supplement: The documents, including the form of Trust Agreement, that shall be contained in a separate submission filed with the Clerk of the Bankruptcy Court at least fifteen (15) days prior to the date on which the Confirmation Hearing shall commence or such shorter period as ordered by the Bankruptcy Court. The Plan Supplement may be reviewed via the Bankruptcy Court's ECF docket for this case, or as requested in writing from the Debtor's counsel.

1.58 Post-Confirmation Service List: The list of the holders of the 20 largest General Unsecured Claims against the Debtor, as such service list is approved at the Confirmation Hearing, plus all those receiving electronic notice via this Bankruptcy Court's ECF electronic filing system.

1.59 Priority Non-Tax Claim: A Claim or portion of a Claim entitled to priority under § 507(a) of the Bankruptcy Code, other than Administrative Claims and Priority Tax Claims.

1.60 Priority Tax Claim: Claim of a Governmental Unit entitled to priority in payment as specified in §§ 502(i) and 507(a)(8) of the Bankruptcy Code, but excluding any portion of such Claim that is a Subordinated Claim or a Secured Tax Claim.

1.61 Proponents: Collectively, the Debtor and the Committee.

1.62 Pro Rata: The proportion that the dollar amount of an Allowed Claim in a Class bears to the aggregate amount of all Allowed Claims in such Class.

1.63 Schedules: The Schedules of Assets and Liabilities and the Statements of Financial Affairs filed by or on behalf the Debtor in the Chapter 11 Case pursuant to § 521 of the Bankruptcy Code and Bankruptcy Rule 1007, as they have been or may hereafter be amended, modified or supplemented.

1.64 Secured Claim: A Claim, if any, that is (a) secured by a valid, perfected and enforceable Lien under applicable state law or by reason of a Final Order on property in which the Debtor's Estate has an interest to the extent of the value of such property, or (b) subject to a permissible setoff under § 553 of the Bankruptcy Code, to the extent of such permissible setoff. In each case, as determined in accordance with § 506(a) of the Bankruptcy Code or as otherwise agreed upon in writing by the Debtor and the hold of such Claim.

1.65 Secured Tax Claim: A Claim of a Governmental Unit for the payment of *ad valorem* taxes that is secured by property of the Debtor or the Estate and is not a Priority Tax Claim.

1.66 Subordinated Claim: A Subordinated Tax Penalty Claim and all or any portion of a Claim which is subordinated in payment pursuant to, or in accordance with, § 510 of the Bankruptcy Code.

1.67 Subordinated Tax Penalty Claim: Any Claim against the Debtor or the Estate in connection with any tax liability and for any fine, penalty, disgorgement, forfeiture order of restitution or for multiple, exemplary, or punitive damages (other than the type specified in § 507(a)(8)(G)) of the Bankruptcy Code to the extent that such fines, penalties, disgorgements, forfeitures, orders of restitution, or damages are not compensation for actual pecuniary loss suffered by a holder of such Claim; provided, however, in accordance with 18 U.S.C. § 3613(e), nothing herein shall apply to any fine, penalty, disgorgement, forfeiture, order of restitution entered or ordered in connection with any criminal action or criminal proceeding by the United States.

1.68 Stone Arch Capital: Stone Arch Capital II, L.P., a Delaware limited liability company, and any subsequent transferees thereof.

1.69 Trust: The Vanderra Resources, LLC Liquidating Trust, which shall be created as a Texas express trust established pursuant to the terms of the Trust Agreement, and in accordance with the Trust Act governing such trusts within the State of Texas.

1.70 Trust Advisory Board: The Trust Advisory Board shall have those rights and responsibilities more fully set forth in the Trust Agreement. The Trust Advisory Board shall initially consist of three duly-elected members chosen by the Committee. Post-Effective Date membership on the Trust Advisory Board shall be governed by those terms found in the Trust Agreement.

1.71 Trust Agreement: That certain agreement which shall govern the actions of the Trustee, and his professionals, attorneys, accountants, and other employees, and the actions of the Trust Advisory Board.

1.72 Trust Assets: All of the Debtor's powers, assets and property not transferred or distributed on or prior to the Effective Date of the Plan, including, but not limited to, the proceeds of any of the Debtor's assets or property, the funds held in the Debtor's bank accounts, any tax refunds, promissory notes, accounts receivable, any avoided Liens or transfers preserved for the benefit of the Estate or the Trust under § 551 of the Bankruptcy Code, and all Causes of

Action belonging to the Debtor, including the Avoidance Actions and the Bank Action, to the extent such Causes of Action have not been previously settled or released pursuant to the Plan.

1.73 Trust Reserve: An amount determined by the Trustee to be held in reserve for distribution to holders of Disputed Claims upon such Claims becoming Allowed Claims, such that the Claimants, upon allowance of such Claims, shall receive the same Pro Rata distributions as holders of Claims in the same Class that are not Disputed Claims have received in prior distributions and will receive upon the next anticipated distribution.

1.74 Trustee: That certain Person appointed to serve after the Effective Date, pursuant to the Confirmation Order, as the trustee of the Trust, and any successor to such Person.

1.75 Vehicle: Any vehicle, truck, trailer, tractor, or the like, ownership of which is evidenced by a certificate of title.

ARTICLE II RULES OF CONSTRUCTION AND INTERPRETATION

2.1 The words "herein," "hereof" and "hereunder" and other words of similar import refer to this Plan as a whole and not to any particular section, subsection or clause contained in this Plan, unless the context requires otherwise. Whenever from the context it appears appropriate, each term stated in either the singular or the plural includes the singular and the plural, and pronouns stated in the masculine, feminine or neuter gender include the masculine, feminine and the neuter. The section headings contained in the Plan are for reference purposes only and shall not affect in any way the meaning or interpretation of the Plan.

2.2 A capitalized term used in this Plan and not defined herein but that is defined in the Bankruptcy Code has the meaning assigned to the term in the Bankruptcy Code. A capitalized term used in this Plan and not defined herein or in the Bankruptcy Code, but which is defined in the Bankruptcy Rules, has the meaning assigned to the term in the Bankruptcy Rules.

ARTICLE III DESIGNATION OF CLAIMS AND INTERESTS

3.1 Summary. The following is a designation of the Classes of Claims and Interests under the Plan. In accordance with § 1123(a)(1) of the Bankruptcy Code, Administrative Expense Claims and Priority Tax Claims have not been classified and are excluded from the Classes. A Claim or Interest is classified in a particular Class only to the extent that the Claim or Interest (a) qualifies within the description of that Class, (b) is an Allowed Claim or Allowed Interest in that Class, and (c) has not been paid, released or otherwise satisfied before the Effective Date. A Claim or Interest which is not an Allowed Claim or Interest is not in any Class. A proof of Claim asserting a Claim which could be included properly in more than one Class is only entitled to inclusion within a particular Class to the extent that it qualifies under the description of such Class, and shall be included within a different Class(es) to the extent that it qualifies under the description of such different Class(es).

3.2 Classified Claims and Interest. The following table is a summary of the classification and status of Claims and Interest under the Plan:

Class	Status
Class 1: Secured Claims of PlainsCapital Bank	Impaired -- entitled to vote
Class 2: Secured Claims of Stone Arch Capital	Impaired -- entitled to vote
Class 3: Secured Tax Claims	Impaired -- entitled to vote
Class 4: Other Secured Claims	Impaired -- entitled to vote
Class 5: Priority Non-Tax Claims	Impaired -- entitled to vote
Class 6: General Unsecured Claims	Impaired -- entitled to vote
Class 7: Subordinated Claims	Impaired -- not entitled to vote, deemed to have rejected the Plan
Class 8: Interests	Impaired -- not entitled to vote, deemed to have rejected the Plan

3.3 Controversy Concerning Classification, Impairment or Voting Rights. In the event a controversy or dispute should arise involving issues related to the classification, impairment or voting rights with respect to any Claim or Interest, whether before or after the Confirmation Date, the Bankruptcy Court may, after notice and a hearing, determine such controversy. Without limiting the foregoing, the Bankruptcy Court may estimate for voting purposes the amount of any contingent or unliquidated Claim if the fixing or liquidation of, as the case may be, would unduly delay the administration of the Chapter 11 Case.

ARTICLE IV TREATMENT OF UNCLASSIFIED CLAIMS

4.1 Administrative Claims.

4.1.1 Time for Filing Administrative Claims. The holder of an Administrative Claim that is incurred, accrued, or in existence prior to the Effective Date (other than an Allowed Administrative Claim or a liability incurred and paid in the ordinary course of business by the Debtor) must file with the Bankruptcy Court and serve on all parties required to receive such notice an application for the allowance of such Administrative Claim on or before the Administrative Claims Bar Date. Such notice must include, at a minimum, (a) the name of the holder of the Claim, (b) the amount of the Claim, and (c) the basis for the Claim. Failure to timely and properly file and serve the application required under this subsection shall result in the Administrative Claim being forever barred and discharged. Any party in interest with standing to object to such an application may file such an objection thereto. The United States Trustee is not required to file an application for the allowance of an Administrative Claim with regards to fees due in accordance with 28 U.S.C. § 1930(a)(6).

4.1.2 Allowance of Administrative Claims. An Administrative Claim, with respect to which notice has been properly provided, shall become an Allowed Administrative Claim if no timely objection is filed. If a timely objection is filed, the

Administrative Claim shall become an Allowed Administrative Claim only to the extent Allowed by a Final Order.

4.1.3 Treatment. In full and final satisfaction of Allowed Administrative Claims, each Allowed Administrative Claim shall, unless otherwise agreed by the Trustee and the holder of an Allowed Administrative Claim, be paid in full out of Available Cash by the Trust within fifteen (15) days after the later of (a) the Effective Date, or (b) becoming an Allowed Administrative Claim; provided, however, that Allowed Administrative Claims that represent liabilities incurred on or after the Petition Date, but prior to the Effective Date, in the ordinary course of the Debtor's businesses shall be paid in accordance with the agreements related thereto. Notwithstanding the foregoing, any Claim by the United States Trustee for fees due in accordance with 28 U.S.C. § 1930(a)(6) will be treated in accordance with § 1129(a)(12) of the Bankruptcy Code.

4.2 Allowed Priority Tax Claim. Unless otherwise agreed to in writing by the Trustee and the holder, each holder of an Allowed Priority Tax Claim shall be paid out of Available Cash in an amount equal to the unpaid portion of such Allowed Priority Tax Claim on the first Distribution Date following the Allowance Date for such Claim; provided, however, that any Claim or demand for payment of a Subordinated Tax Penalty Claim shall be Disallowed pursuant to the Plan, and the holder of an Allowed Priority Tax Claim shall not be allowed to assess or attempt to collect such penalty from the Debtor, its Estate, the Trust, or its property. To the extent that there is insufficient Available Cash to pay all Claims which have priority over any Allowed Priority Tax Claims, no Distributions will be made on account of Allowed Priority Tax Claims until the Trust holds sufficient Available Cash to pay all Claims holding priority over such Allowed Priority Tax Claims in full, and the Trust Reserve is fully funded. For the avoidance of doubt, the Debtor and Estate retain all rights under § 505 of the Bankruptcy Code with respect to any Priority Tax Claim, all of which rights are deemed automatically transferred to the Trust on the Effective Date.

4.3 Payment of Statutory Fees and Post-Petition Date Taxes. Notwithstanding anything herein, all fees payable pursuant to 28 U.S.C. § 1930 and all Claims of Governmental Unit of the type described in § 503(b)(1)(B)-(C) of the Bankruptcy Code shall be treated as Allowed Administrative Claims upon such amounts becoming due and payable by the Debtor or the Trust under applicable non-bankruptcy law, with the dates such amounts become due being treated as their Allowance Date.

ARTICLE V CLASSIFICATION AND TREATMENT OF CLASSIFIED CLAIMS AND INTERESTS

5.1 Class 1: Secured Claims of PlainsCapital Bank.

5.1.1 Classification. Class 1 consists of the Allowed Secured Claim of PlainsCapital Bank.

5.1.2 Treatment. Class 1 is impaired. The Class 1 Claim is an Allowed Claim in the amount of Five Million, Five Hundred Thousand Dollars (\$5,500,000). The Class

1 Claim shall be paid out of Available Cash on the Effective Date. The security interests in or setoff rights against the Estate's property held by PlainsCapital Bank are avoided and preserved for the benefit of the Estate. Notwithstanding any other provisions herein, the rights of the holder of any remaining Claims of PlainsCapital Bank are subject to the provisions of § 8.11 below. Further, the rights of PlainsCapital Bank under § **Error! Reference source not found.** below are superseded by the treatment provided for the Claims of PlainsCapital Bank in this Plan and in the PlainsCapital Bank Settlement.

5.1.3 Voting. The holder of the Class 1 Claim is entitled to vote on the Plan. The Class 1 Claim shall be voted only in Class 1, regardless of the status of such Claim.

5.2 Class 2: Secured Claims of Stone Arch Capital.

5.2.1 Classification. Class 2 consists of any Allowed Secured Claims of Stone Arch Capital. Class 2 shall retain all Liens against the Trust Assets, except with respect to the Available Cash, to the extent that such Liens are otherwise valid, perfected, enforceable, and unavoidable, subject to all arguments, rights, claims, and causes of action of the Debtor and the Estate regarding the same.

5.2.2 Treatment. Class 2 is impaired. The Class 2 Claim is a Disputed Claim. To the extent that the Class 2 Claim is determined by the Bankruptcy Court to be an Allowed Secured Claim, either in whole or in part, the same shall be paid out of the portion of the Disputed Cash that is subject to the full satisfaction of any senior security interests to Stone Arch Capital. For the avoidance of doubt, the Class 2 Claim shall only be an Allowed Secured Claim to the extent of the value of Stone Arch Capital's senior security interests in or setoff rights against the Estate's interest in such Disputed Cash, other property, or proceeds therefrom. Such payment, net of any expense incurred by the Trustee in collecting or realizing on the asset or proceeds attributable to this Allowed Secured Claim, shall be made as soon as reasonably practicable following the Allowance Date for the Secured Claim. To the extent any portion of the Claim of Stone Arch Capital is not secured by a Lien, such portion of the Claim shall be treated under Class 6 of the Plan or, if so Ordered by the Bankruptcy Court, under Class 7 of the Plan. Notwithstanding any other provisions herein, the rights of the holder of any Allowed Claims of Stone Arch, whether secured or unsecured, are subject to the provisions of § 8.11 below. Further, any Distribution to Stone Arch Capital under § **Error! Reference source not found.** below is subject to the provisions of § 8.11 below.

5.2.3 Valuation. The Debtor and the Estate reserve all rights to seek a valuation of any collateral asserted by Stone Arch Capital related to its Secured Claim, which rights are deemed transferred to the Trust as of the Effective Date.

5.2.4 Voting. The holder of the Class 2 Claim is entitled to vote on the Plan. The Class 2 Claim shall be voted only in Class 2, regardless of the status of such Claim.

5.3 Class 3: Secured Tax Claims.

5.3.1 Classification. Class 3 consist of an Allowed Claim of any Governmental Unit for real or personal property taxes, secured by property of the Estate, and arising

prior to the Petition Date. Holders of Secured Tax Claims shall retain all Liens under this Plan, which Liens shall be transferred to the Available Cash (but only to the extent of such Lien) with the same validity, extent, and priority as otherwise exists, and subject to all arguments, rights, claims, and causes of action of the Debtor and the Estate regarding the same.

5.3.2 Treatment. Class 3 is impaired. In full and final satisfaction of Allowed Secured Tax Claim, and any Lien securing the same, each holder of an Allowed Secured Tax Claim shall, unless otherwise agreed between the Claimant and the Trustee, be fully satisfied within thirty (30) days after the later of (a) the Effective Date or (b) becoming an Allowed Secured Tax Claim. Each holder of an Allowed Secured Tax Claim shall retain all Liens securing the same until paid, and this Plan does not modify or affect the validity, extent or priority of such Liens. For the avoidance of doubt, each Class 3 Claim shall only be an Allowed Secured Tax Claim to the extent of the value of the Claim holder's security interests in or setoff rights against the Estate's interest in the Available Cash, other property, or proceeds therefrom. All rights of the Debtor and the Estate under § 505 of the Bankruptcy Code with respect to any Class 3 Claim are preserved under this Plan and are deemed transferred to the Trust automatically on the Effective Date.

5.3.3 Surcharge. The Debtor and the Estate reserve all rights to surcharge, under § 506(c) of the Bankruptcy Code or otherwise, the holder of a Class 3 Claim and any collateral securing the same, which rights are deemed transferred to the Trust as of the Effective Date.

5.3.4 Voting. The holders of Class 3 Claims are entitled to vote on the Plan.

5.4 Class 4: Other Secured Claims.

5.4.1 Classification. Class 4 consists of all Allowed Other Secured Claims against the Debtor.

5.4.2 Treatment. Class 4 is impaired. In full and final satisfaction of the Allowed Other Secured Claims, and any Lien securing the same, each holder of an Allowed Other Secured Claim shall, unless otherwise agreed between the Claimant and the Trustee, be fully satisfied within thirty (30) days after the later of (a) the Effective Date or (b) becoming an Allowed Other Secured Claim. Each holder of an Allowed Other Secured Claim shall retain all Liens securing the same, until paid, and this Plan does not modify or affect the validity, extent or priority of such Liens. To the extent any or all assets securing an Allowed Class 4 Claim has been sold or otherwise disposed of by the Debtor or the Trustee, such holder of an Allowed Class 4 Claim shall be paid from portion of the Disputed Cash that is subject to the full satisfaction of any senior security interests to the holder of an Allowed Other Secured Claim. For the avoidance of doubt, Class 4 Claims shall only be Allowed Secured Claims to the extent of the value of the Claim holder's senior security interests in or setoff rights against the Estate's interest in such property. To the extent any portion of an Allowed Class 4 Claim is unsecured, it will receive the treatment provided for Class 6.

5.4.3 Surcharge. The Debtor and the Estate reserve all rights to surcharge, under § 506(c) of the Bankruptcy Code or otherwise, the holder of a Class 4 Claim and any collateral securing the same, which rights are deemed transferred to the Trust as of the Effective Date.

5.4.4 Voting. The holders of Class 4 Claims are conclusively presumed to have accepted the Plan and are not entitled to vote on the Plan.

5.5 Class 5: Priority Non-Tax Claims.

5.5.1 Classification. Class 5 consists of all Allowed Priority Non-Tax Claims.

5.5.2 Treatment. Class 5 is impaired. In full and final satisfaction of Allowed Priority Non-Tax Claims, each Allowed Priority Non-Tax Claim shall, unless otherwise agreed, be paid in full from Available Cash within thirty (30) days after the later of (a) the Effective Date or (b) becoming an Allowed Priority Non-Tax Claim. For the avoidance of doubt, no Distributions shall be made to holders of Class 5 Claims unless holders of Allowed Administrative Claims and Allowed Priority Tax Claims have been paid in full and the Trust Reserve contains sufficient Available Cash to pay (a) any Disputed Administrative Claim and Disputed Priority Tax Claim in full, or in such other amounts as agreed upon in writing by the holder of such Claim and the Trustee, and (b) actual and anticipated Trust expenses.

5.5.3 Voting. The holders of Class 4 Claims are entitled to vote on the Plan.

5.6 Class 6: General Unsecured Claims.

5.6.1 Classification. Class 6 Consists of all Allowed General Unsecured Claims against the Debtor, the Estate, or the Trust Assets.

5.6.2 Treatment. Class 6 is impaired. All Allowed Class 6 Claims shall be paid from Available Cash Pro Rata by the Trustee on any Distribution Date when such Available Cash exists, and any such Claims that are subsequently Allowed shall be paid Pro Rata on a cumulative basis from Available Cash on the next Distribution Date after the Allowance Date. For the avoidance of doubt, no Distributions shall be made to holders of Class 6 Claims unless holders of Allowed Administrative Claims, Allowed Priority Tax Claims, and Allowed Class 5 Priority Non-Tax Claims have been paid in full and the Trust Reserve contains sufficient Available Cash to pay (a) any Disputed Administrative Claim, Disputed Priority Tax Claim, and Disputed Class 5 Priority Non-Tax Claim in full, or in such other amounts as agreed upon in writing by the holder of such Claim and the Trustee, and (b) actual and anticipated Trust expenses.

5.6.3 Voting. The holders of Class 6 Claims are entitled to vote on the Plan.

5.7 Class 7: Subordinated Claims

5.7.1 Classification. Class 7 Consists of all Allowed Subordinated Claims against the Debtor, the Estate, or the Trust Assets.

5.7.2 Treatment. Class 7 is impaired. All Allowed Class 7 Claims shall be paid from Available Cash Pro Rata by the Trustee on any Distribution Date when such Available Cash exists, and any such Claims that are subsequently Allowed shall be paid Pro Rata on a cumulative basis from Available Cash on the next Distribution Date after the Allowance Date. For the avoidance of doubt, no Distributions shall be made to holders of Class 7 Claims unless holders of Allowed Administrative Claims, Allowed Priority Tax Claims, Allowed Class 5 Priority Non-Tax Claims, and Allowed Class 6 General Unsecured Claims have been paid in full and the Trust Reserve contains sufficient Available Cash to pay (a) any Disputed Administrative Claim, Disputed Priority Tax Claim, Disputed Class 5 Priority Non-Tax Claim, and Disputed Class 6 General Unsecured Claim in full, or in such other amounts as agreed upon in writing by the holder of such Claim and the Trustee, and (b) actual and anticipated Trust expenses.

5.7.3 Voting. The holders of Class 7 Claims are deemed to have voted against the Plan and are not entitled to vote because they are not expected to receive any Distributions.

5.8 Class 8: Interests.

5.8.1 Classification. Class 8 consists of all of the Interests in the Debtor.

5.8.2 Treatment. Class 8 is impaired by the Plan. All Allowed Class 8 Interests shall be deemed cancelled on the Effective Date; provided, however, that holders of Class 8 Interests as of the Effective Date, or their successors or assigns, shall be paid from Available Cash Pro Rata by the Trustee on any Distribution Date when such Available Cash exists, and any such Interests that are subsequently Allowed shall be paid Pro Rata on a cumulative basis from Available Cash on the next Distribution Date after the Allowance Date. For the avoidance of doubt, no Distributions shall be made to holders of Class 8 Interests unless holders of Allowed Administrative Claims, Allowed Priority Tax Claims, Allowed Class 5 Priority Non-Tax Claims, Allowed Class 6 General Unsecured Claims, and Allowed Class 7 Subordinated Claims have been paid in full and the Trust Reserve contains sufficient Available Cash to pay (a) any Disputed Administrative Claim, Disputed Priority Tax Claim, Disputed Class 5 Priority Non-Tax Claim, Disputed Class 6 General Unsecured Claim, and Disputed Class 7 Subordinated Claim in full, or in such other amounts as agreed upon in writing by the holder of such Claims and the Trustee, and (b) actual and anticipated Trust expenses.

5.8.3 Voting. The holders of Class 8 Interests are deemed to have voted against the Plan and are not entitled to vote because they are not expected to receive any distributions.

ARTICLE VI EFFECT OF REJECTION BY ONE OR MORE CLASSES OF CLAIMS

6.1 Impaired Classes to Vote. Each impaired Class of Claims shall be entitled to vote separately to accept or reject the Plan. Unless otherwise provided by the Plan, a holder of a Disputed Claim which has not been temporarily allowed for purposes of voting on the Plan may

vote only such Disputed Claim in an amount equal to the portion, if any, of such Claim shown as fixed, liquidated, and undisputed in the Debtor's Schedules.

6.2 Acceptance by Class of Creditors. A Class shall have accepted the Plan if the Plan is accepted by at least two-thirds (2/3) in amount and more than one-half (1/2) in number of the Allowed Claims of such Class that have voted to accept or reject the Plan.

6.3 Reservation of Cramdown Rights. In the event that any impaired Class shall fail to accept this Plan in accordance with § 1129(a) of the Bankruptcy Code, the Debtor reserves the right to request the Bankruptcy Court to confirm the Plan in accordance with the provisions of the § 1129(b) of the Bankruptcy Code.

ARTICLE VII MEANS FOR IMPLEMENTATION OF THE PLAN

7.1 Adjudication of Available Cash. Upon the Distribution to PlainsCapital Bank to be made on the Effective Date, the Debtor's Cash shall not be the "cash collateral" of PlainsCapital Bank and/or Stone Arch Capital, as defined in the Bankruptcy Code, and neither PlainsCapital Bank nor Stone Arch Capital shall have a perfected security interest or Lien under applicable state law in or to any Vehicle of the Debtor, the Trust and the Estate, or to any Cash proceeds from the sales of any such Vehicle, that was sold after the Petition Date and the Lien interests of PlainsCapital Bank and/or Stone Arch Capital is not noted on the certificate of title for such Vehicle.

7.2 Limited Settlement Offer Related to Available Cash. A dispute presently exists between the Debtor and PlainsCapital Bank as to whether or not PlainsCapital Bank has a Lien to any equipment or item that was added to a Vehicle which was sold by the Debtor after the Petition Date as part of the Vehicle, even if PlainsCapital Bank did not have a perfected Lien in and to the Vehicle itself. As an example, the Debtor may have sold a truck that had a welder attached to it and such welder was sold together with the truck for one aggregate sum. It is possible that the Bankruptcy Court may find that PlainsCapital Bank did not have a perfected Lien in the truck, but did have a perfected Lien in the welder (subject to the claims of the Debtor to avoid or otherwise invalidate the underlying Lien against the Debtor's equipment). Ascertaining with certainty which portion of any Vehicle proceeds are attributable to the Vehicle and which to any add-on will be complicated, burdensome, risky, and expensive. In addition, Stone Arch Capital also asserts that it has a perfected Lien against any equipment or item that was added to a Vehicle, but not in or to the Vehicle itself. Accordingly, with respect to any equipment or item added to a Vehicle which has not been previously appraised by Ritchie Bros. and without prejudice to any and all other issues, arguments, claims, and rights that may exist between the Debtor, the Estate, the Committee, PlainsCapital Bank, and Stone Arch Capital, including, without limitation, any and all objections that either PlainsCapital Bank or Stone Arch Capital may have to this Plan and any and all arguments that either PlainsCapital Bank or Stone Arch Capital may have regarding any issue related to Available Cash, this Plan constitutes a limited settlement offer to PlainsCapital Bank and Stone Arch Capital which they may accept at any time before ten (10) calendar days prior to the deadline set by the Bankruptcy Court for voting on the Plan, by filing a notice accepting the same in the Chapter 11 Case. Absent such a filing, PlainsCapital Bank and/or Stone Arch Capital will be deemed to have rejected the limited

settlement offered in this § 7.2 of the Plan. If PlainsCapital Bank and/or Stone Arch Capital accept this limited settlement offer, and if the Bankruptcy Court otherwise confirms the Plan, including over any rejection of the Plan by PlainsCapital Bank or Stone Arch Capital, or objection to the Plan by PlainsCapital Bank or Stone Arch Capital, 15% of the net proceeds received by the Debtor from the sale of all of its Vehicles after the Petition Date, regardless of whether the Vehicle had an add-on or equipment at the time of sale, shall be conclusively deemed to have been attributable to "equipment" in which PlainsCapital Bank and Stone Arch Capital hold a Lien, albeit a Lien that is subject to subsequent avoidance and contest. In such case, said 15% will not be Available Cash but will instead be included in Disputed Cash, to be treated as otherwise provided for Disputed Cash under this Plan. For the avoidance of doubt, in such case the Debtor and the Estate, and the Trust, retain all of their claims and causes of action concerning the potential avoidance and recovery of such 15% notwithstanding the limited settlement concerning the allocate of sale proceeds between Vehicle and equipment. Nothing herein shall be deemed to effect the priority of any Lien held by PlainsCapital Bank and Stone Arch Capital in or to the equipment or the Disputed Cash.

7.3 Post-Confirmation Corporate Governance. Upon the Effective Date, the New Vanderra Membership Unit shall be issued to the Trust, and the Trust shall be the sole holder of membership units in the post-Confirmation Debtor as of that date. Upon the Effective Date, the Trustee shall become sole officer of the Debtor, but shall be entitled to appoint other officers for the Debtor as needed to effectuate the Plan in compliance with the Trust Agreement. This issuance of the New Vanderra Membership Unit and appointment of the Trustee shall be effective without the need for any execution or amendment of any corporate documents of the Debtor or any filings with the State of Delaware or other applicable authorities. The Trustee may file appropriate documentation with the State of Delaware or other jurisdiction to carry out any action necessary to continue the Debtor's corporate existence and effectuate the provisions of this Plan.

7.4 Transfer of Assets. Upon the Effective Date, the Trust Assets shall be transferred to the Trust, free and clear of all Liens, Claims, encumbrances, and interests, except for any Lien, Claim, encumbrance, or interest specifically and explicitly preserved by, or created under, this Plan, without the need for any action by the Debtor or the Bankruptcy Court. The Trustee may use his powers as officer of the Debtor as necessary to facilitate such transfers. For the avoidance of doubt, the transfer of the Disputed Cash to the Trust shall be subject to all Liens against the same, to the extent that such Liens are valid, perfected, enforceable, and unavoidable, and subject to all of the Debtor's and Estate's rights to contest the same. The transfer of the Available Cash to the Trust shall be free and clear of all Liens, Claims, encumbrances, and interests, and shall be subject only to being used by the Trust to pay such obligations as are provided for in this Plan.

7.5 Dissolution of Debtor. Upon deeming such action appropriate within his business judgment, the Trustee may file appropriate documentation with the State of Delaware and other authorities to or dissolve the Debtor's corporate existence. The Trustee shall resign as sole officer of the Debtor following its dissolution.

7.6 Dissolution of Trust. As soon as practicable after the Final Distribution, the Trustee shall dissolve the Trust pursuant to the Trust Agreement.

7.7 Section of the Trustee. On the Effective Date, and pursuant to the Confirmation Order, Brad Walker shall be the Trustee of the Trust.

7.8 Powers of Trustee. The Trustee shall have all the powers of the Debtor as debtor-in possession under the Bankruptcy Code, including, without limitation, the powers to assign executory contracts and unexpired leases under § 365 of the Bankruptcy Code and the powers to sell Trust Assets free and clear of Liens, claims, and interests under § 363 of the Bankruptcy Code, subject to the requirements and restrictions of such provisions and other applicable law.

7.9 Compensation of Trustee and Professionals. Subject to the provisions of the Trust Agreement, all costs, fees, expenses, and obligations incurred by the Trustee in administering the Plan, the Trust, or in any manner connected or related thereto (including compensation to the Trustee, the Trustee's retained professionals and agents, and the reimbursement of their expenses) shall be a charge against the Trust Assets. The Trustee may retain any Person or professional retained by the Debtor or the Committee as necessary to assist the Trustee in the performance of the Trustee's duties.

7.10 The Trust Advisory Board. On the Effective Date, the officers and board of directors of the Debtor shall be deemed removed from office, and the operation of the Trust, in accordance with the provisions of the Plan and the Trust Agreement, shall become the general responsibility of the Trustee subject to the oversight of the Trust Advisory Board, pursuant to and in accordance with the provisions of the Plan and the Trust Agreement.

7.11 Information and Reporting. The Trustee shall file post-confirmation reports with the Bankruptcy Court no less often than as soon as practicable after the end of every calendar quarter with respect to the status of the execution and implementation of the Plan, including amounts expended by the Trust, the distributions made by the Trust, and the status and size of the Trust Reserve. These post-confirmation reports shall be served on the Post-Confirmation Service List, and any other Entity requesting service of the same.

7.12 Termination. The duties, responsibilities, and powers of the Trustee and the Trust Advisory Board shall terminate on the date of the Trust is dissolved in accordance with the Trust Agreement.

7.13 Reliance by the Trust Advisory Board. The Trust Advisory Board may rely, and shall be fully protected in acting or refraining from acting, upon any resolution, statement, certificate, instrument, opinion, report, notice, request, consent, order or other instrument or document which they reasonably believe to be genuine and to have been signed or presented by the proper party or parties or, in the case of cables, telecopies and telexes, to have been sent by the proper party or parties, and the Trust Advisory Board may conclusively rely as to the truth of the statements and correctness of the opinions expressed therein.

7.14 Trustee Standing. After the Effective Date, and without limiting the Trustee's standing otherwise, and for the avoidance of doubt only, the Trustee shall have standing to (a) object to the allowance of any Claim or Administrative Claim and (b) continue to prosecute any objections or adversary proceedings filed or commenced by the Debtor or the Committee prior to

the Effective Date. The Trustee shall be substituted for such the Debtor or the Committee automatically with respect to such objections or adversary proceedings commenced without further order of the Bankruptcy Court.

7.15 Section 1146 Exemption. Pursuant to § 1146(a) of the Bankruptcy Code, any transfers of property pursuant hereto shall not be subject to any stamp tax or other similar tax or governmental assessment in the United States, and the Confirmation Order shall direct the appropriate state or local government officials or agents to forego collection of any such tax or governmental assessment and to accept for filing and recordation instruments or other documents pursuant to such transfer of property without the payment of any such tax or governmental assessment.

7.16 Preservation of Causes of Action. *EXCEPT AS OTHERWISE ORDERED BY THE BANKRUPTCY COURT OR AS SPECIFICALLY AND EXPLICITLY PROVIDED IN THE PLAN, ALL CAUSES OF ACTION (INCLUDING, WITHOUT LIMITATION, ALL AVOIDANCE ACTIONS AND THE BANK ACTION) SHALL BE PRESERVED FOR ASSERTION BY THE TRUSTEE. THE TRUSTEE SHALL HAVE THE AUTHORITY AND STANDING TO PROSECUTE, ENFORCE, PURSUE, SUE ON, SETTLE OR COMPROMISE (OR DECLINE TO DO ANY OF THE FOREGOING) CAUSES OF ACTION IN ACCORDANCE WITH § 1123(B)(3) OF THE BANKRUPTCY CODE. ALL PARTIES SHOULD READ ARTICLE IX OF THE DISCLOSURE STATEMENT CONCERNING PRESERVED CAUSES OF ACTION.* Without limiting the effectiveness or generality of the foregoing, and out of an abundance of caution, the following claims and Causes of Action are specifically preserved and reserved under the Plan and are deemed transferred automatically to the Trust as of the Effective Date:

- (a) any claim, Cause of Action, or adversary proceeding then pending;
- (b) all claims and causes of action against Stone Arch Capital, including, but not limited to (i) potential recharacterization of any obligation of the Debtor to Stone Arch Capital and recharacterization or avoidance of any security agreement or Lien instrument issued in connection therewith; (ii) potential subordination, equitable or otherwise, under § 510 of the Bankruptcy Code; (iii) all potential claims related to the Debtor's deepening insolvency, or aiding and abetting any breach of fiduciary duty; (iv) all potential claims to avoid, as preferences or insider preferences, under § 547 of the Bankruptcy Code, any payment made by the Debtor to Stone Arch Capital, and the avoidance and recovery of any such payment under §§ 550 or 551 of the Bankruptcy Code;
- (c) all transfers to or for the benefit of a Creditor, whether they are the immediate or mediate transferee thereof, and which are avoidable as a preferences or insider preferences under § 547 of the Bankruptcy Code, and to recover under §§ 550 or 551 of the Bankruptcy Code such transfers. Among the Parties listed on **Exhibit "E"** to the Disclosure Statement are the names of non-insider of the Debtor who received one or more transfers from the Debtor during the ninety (90) days immediately preceding the Petition Date and the names of insiders of the Debtor who received one of

more transfers from the Debtor during the one (1) year immediately preceding the Petition Date. Said exhibit and this provision of the Plan are provided to give maximum notice of potential preference claims as the Debtor and the Committee are presently aware of and shall in no way act as a limitation on any other potential preference claims or any other claims that may exist, including by way of *expressio unius est exclusio alterius* or any other applicable doctrine or rule of contractual interpretation. It is the specific intention of the Debtor and the Committee that each and every preference, avoidance, fraudulent transfer, and any other claim or cause of action, whether arising before or after the Petition Date, and whether arising under state law or the Bankruptcy Code, be preserved and retained under this Plan and be transferred to the Trust on the Effective Date of this Plan;

(d) all claims and causes of action held by the Debtor, the Estate, the Committee, or the Trust against PlainsCapital Bank and its affiliates, officers, directors, shareholders, members, representatives, attorneys, financial advisors, and agents are released from, whether known or unknown, reduced to judgment, not reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, and whether asserted or assertable directly or indirectly or derivatively, in law, equity or otherwise, including but not limited to the Bank Action and all claims and causes of action that were asserted therein or could have been asserted therein, and (i) all potential claims related to the validity, extent, or perfection of any Lien or security interest of PlainsCapital Bank under applicable state perfection and other laws and under the Bankruptcy Code; (ii) all potential claims related to the avoidance of any Lien or security interest of PlainsCapital Bank, under § 544 of the Bankruptcy Code (including any applicable state fraudulent transfer statute), § 547 of the Bankruptcy Code, or any other applicable section of the Bankruptcy Code, including related to the execution of new loan or restated loan and security documents and agreements issued by the Debtor to PlainsCapital Bank in June or July 2012, and further including any new UCC financing statements filed or recorded by PlainsCapital Bank; (iii) the recovery and retention under §§ 550 and 551 of the Bankruptcy Code, of any transfer avoided; (iv) all potential claims to avoid, as a preference under § 547 of the Bankruptcy Code or otherwise, the payment to PlainsCapital Bank of approximately \$3 million in June or July 2012; (v) all potential claims to avoid payments made to PlainsCapital Bank in the ninety (90) days prior to the Petition Date as preferences under § 547 of the Bankruptcy Code; (vi) all potential claims for breach of contract and wrongful setoff related to the setoff by PlainsCapital Bank of approximately \$960,275.15 on or about September 7, 2012, including for attorneys' fees, consequential damages, and all other damages; (vii) the avoidance, under §§ 547 and 533 of the Bankruptcy Code, of the setoff by PlainsCapital Bank of approximately \$960,275.15 on or about September 7, 2012, and the recovery thereof under §§ 550 and 551 of the Bankruptcy Code; (viii) all potential claims as to the lack of perfection of any Lien or interest of PlainsCapital Bank resulting from the filing of any UCC financing statement in the wrong

jurisdiction; and (ix) any claims, rights, and causes of action arising in or under or relating to the PlainsCapital Bank Settlement; and

(e) all Causes of Action not described in § 7.16(a) – (d), above.

7.17 Preservation of Avoided Transfers and Liens. The Estate and then the Trust shall retain and preserve as Estate property and then Trust Assets transfers and Liens avoided with respect to property of the Estate or Trust Assets in accordance with § 551 of the Bankruptcy Code.

7.18 Protection of Certain Parties in Interest. Provided the respective officers, directors, shareholders, members, representatives, attorneys, financial advisors, and agents of the Debtor, the Trust, the Trustee, and the Committee act in good faith, and subject to any limitations in exculpation in § 7.19 of this Plan, they will not be liable to any holder of a Claim or Interest, or other party with respect to any action, forbearance from action, decision, or exercise of discretion in connection with: (a) the operation of the Debtor after the Petition Date; (b) the proposal or implementation of any of the transactions provided for, or contemplated in, the Plan or the Trust Agreement; or (c) the administration of the Plan or the assets and property to be distributed pursuant to the Plan and the Trust Agreement; other than for fraud, willful misconduct or gross negligence. The Debtor, the Trust Advisory Board, the Trustee, the Committee, and their respective affiliates, officers, directors, shareholders, members, representatives, attorneys, financial advisors, and agents may rely upon the opinions of counsel, certified public accountants, and other experts or professionals employed by the Debtor, the Trustee and Committee respectively, and such reliance will conclusively establish good faith. In any action, suit or proceeding by any holder of a Claim or Interest or other party in interest contesting any action by or non-action of, the Debtor, the Committee, Trust Advisory Board, Trustee, or their respective affiliates, officers, directors, shareholders, members, representatives, attorneys, financial advisors, and agents as not being in good faith, the reasonable attorneys' fees and costs of the prevailing party will be paid by the losing party and as a condition to going forward with such action, suit, or proceeding at the outset thereof, all parties thereto will be required to provide appropriate proof and assurances of their capacity to make such payments of reasonable attorneys' fees and costs in the event they fail to prevail.

7.19 Exculpation. Neither the Debtor, the Committee, any individual member of the Committee, any individual who served after the Petition Date as an officer, director, manager, managing member or partner of the Debtor, nor any Professional employed by any of the foregoing (including Munsch Hardt Kopf & Harr, P.C. and Hunton & Williams, LLP) (collectively, the "Exculpated Parties") shall have or incur liability to any Person for any act taken or omission in connection with the administration of the Chapter 11 Case, including the formulating, negotiating, implementing, confirming or consummating the Plan, except for gross negligence or willful misconduct. For avoidance of doubt, the foregoing exculpation excludes any claim asserted against any of the Exculpated Parties related to the Causes of Action asserted in Adversary Proceeding styled *Official Unsecured Creditors Committee vs. Stone Arch Capital II, L.P.*, Adversary Proceeding 13-0427.

ARTICLE VIII DISTRIBUTIONS UNDER THE PLAN

8.1 Delivery of Distributions. Subject to Bankruptcy Rule 9010, and pursuant to the terms of the Trust Agreement, Distributions to holders of Allowed Claims will be made by mail at (a) the address of each such holder as set forth on the proofs of Claim filed by such holders, (b) the address set forth in any written notice of address change delivered to the Trustee after the date of any related proof of Claim, or (c) the address reflected in the Schedules if no proof of Claim is filed and the Trustee has not received a written notice or address change. If any Distribution is returned as undeliverable, no further Distributions to such holder will be made unless and until the Trustee is notified in writing of such Claimholder's then current address. Such Distributions shall be placed in the Trust Reserve until such time as all other Trust Assets have been distributed. At such time, all such Distributions, to the extent the same totals over \$1,000.00, shall be distributed Pro Rata to all Claimants whose Claims have not yet been paid in full.

8.2 Unclaimed Distributions and Uncashed Checks. Unclaimed Distributions shall be held in the Trust Reserve for the benefit of the potential Claimants. All claims for undeliverable Distributions must be made on the ninetieth (90th) day following the date on which delivery the Distribution was initially mailed. The Claim upon which an undelivered or unclaimed Distribution was made shall be treated as a Disputed Claim until such period as passed, and after that shall be treated as Disallowed in full by Final Order of the Bankruptcy Court. After such date, all unclaimed Distributions will revert to the Trust for deposit into the Available Cash fund to be reallocated and distributed to the holders of Allowed Claims, and the Claim of any holder with respect to such Distribution will be discharged and forever barred. Checks issued in respect of Allowed Claims will be null and void if not negotiated within ninety (90) days after the date of issuance thereof, and such holder will forfeit its right to such distribution. In no event shall any funds escheat to the State of Texas.

8.3 Due Authorization By Claimants. Each and every Claimant who elects to participate in the Distributions provided for herein warrants that the Creditor is authorized to accept in consideration of its Claim against the Debtor the Distributions provided for in this Plan and that there are no outstanding commitments, agreements, or understandings, express or implied, that may or can in any way defeat or modify the rights conveyed or obligations undertaken by the Creditor under this Plan.

8.4 Setoffs. Except as otherwise expressly provided in the Plan and pursuant to §§ 502(d) or 553 of the Bankruptcy Code or any applicable non-bankruptcy law, the Trustee may setoff against any Distribution to be made pursuant to the Plan on account of an Allowed Claim any claims, rights or Causes of Action held by the Debtor and/or the Trust against the holder of the Allowed Claim, or in relation to the Allowed Claim; provided, however, that neither the failure to effect such a setoff nor the allowance of any Claim shall constitute a waiver or release by the Debtor or the Trust of any such claims, rights or Causes of Action. If the Debtor or the Trust fails to setoff against a Claim and seeks to collect from the holder of such Claim after Distribution to that holder pursuant to the Plan, the Debtor or the Trust, as applicable, shall be entitled to full recovery on the claims of the Debtor, the Estate or the Trust, if any, against the holder of such Claim.

8.5 Additional Charges. Except as may be expressly provided in the Plan or allowed by Final Order of the Bankruptcy Court, no interest, penalty, attorneys' fee or late charges shall be allowed or paid with respect to any Claim.

8.6 Compliance with Tax Requirements. In connection with the Plan, and as fully governed by the Trust Agreement, the Trustee shall comply with all withholding and reporting requirements imposed on it by any Governmental Unit, and all Distributions pursuant to the Plan shall be subject to such withholding and reporting requirements.

8.7 De Minimis Distributions. Ratable Distributions to holders of Allowed Claims will not be made if such Distribution will result in a Distribution amount of less than \$25.00, unless a request therefore is made in writing to the Trustee.

8.8 Rounding. Where the calculation of a Distribution results in a fraction of a cent owing, the calculation shall be rounded down to the nearest whole cent for purposes of paying (or reserving) the Distribution.

8.9 Disputed Cash. The Trustee shall segregate the Disputed Cash from all other Trust Assets and hold the Disputed Cash in a separate bank account. The Disputed Cash shall not be available to pay any Claims or Trust expenses unless and until (a) the Bankruptcy Court enters a Final Order disallowing the Secured Claim asserting a security interest in the Disputed Cash, in which case the funds held in such account that are no longer Disputed Cash shall be transferred to the Trust Reserve for Distribution or reserve in accordance with this Plan, or (b) a Secured Claim asserting a security interest in the Disputed Cash becomes Allowed, in which case the holder of the Allowed Secured Claim will receive the treatment provided for in this Plan.

8.10 Inter-Creditor Subordination Agreements. For the avoidance of doubt, nothing in this Plan shall impair, modify, or affect any subordination agreements or subordination rights by or among any holders of any Claims.

8.11 Inter-Creditor Subordination Amongst the Debtor, PlainsCapital Bank, Stone Arch Capital, and/or DJJ Holdings.

8.11.1 In consideration for the treatment being provided herein and under the PlainsCapital Bank Settlement, PlainsCapital Bank has agreed to subordinate the PlainsCapital Bank Unsecured Claim to the Allowed Claims in Class 6 and to provide Class 6 with the benefit of PlainsCapital Bank's contractual subordination rights against Stone Arch Capital and DJJ Holdings as outlined in the (a) Subordination Agreement dated effected June 29, 2012, and executed by Stone Arch Capital, PlainsCapital Bank and the Debtor, and (b) Subordination Agreement dated effected December 30, 2011, and executed by DJJ Holdings, PlainsCapital Bank and the Debtor.

8.11.2 Notwithstanding any other provisions in this Plan and pursuant to the provisions of the applicable subordination agreements amongst the Debtor, PlainsCapital Bank, Stone Arch Capital, and/or DJJ Holdings, the holders of DJJ Holdings Claim and the Claims of Stone Arch Capital shall not be eligible to receive any Distributions on account of such Claims until such time as the PlainsCapital Bank Contractual Claim

would have hypothetically been paid in full, but for the effect of § **Error! Reference source not found.** below and applicable law. The hypothetical payment on the PlainsCapital Bank Contractual Claim shall be calculated on the basis of the total distribution that would be made to (a) the PlainsCapital Unsecured Claim, plus (b) a hypothetical Allowed Class 6 Claim held by DJJ Holdings in the amount of \$1,637,750.48, plus (c) a hypothetical Allowed Class 6 Claim held by Stone Arch Capital in the amount of \$3,121,666.67.

8.11.3 The holder of the PlainsCapital Bank Unsecured Claim shall not be eligible to receive any Distributions on account of that Claim until Allowed Class 6 General Unsecured Claims, except the DJJ Holdings Claim and Claims of Stone Arch Capital (if those Claims are Allowed), have been paid in full. At such time, the holder of the PlainsCapital Bank Unsecured Claim shall be eligible to receive the subsequent actual Pro Rata Distributions made pursuant to the Plan on account of (a) the PlainsCapital Bank Unsecured Claim, plus (b) a hypothetical Allowed Class 6 Claim held by DJJ Holdings in the amount of \$1,637,750.48, plus (c) a hypothetical Allowed Class 6 Claim held by Stone Arch Capital in the amount of \$3,121,666.67, until the PlainsCapital Bank Contractual Claim is paid in full.

8.11.4 Upon becoming eligible to receive Distributions, the holders of the DJJ Holdings Claim, if Allowed, and the Claims of Stone Arch Capital, if Allowed, shall receive, in addition to the subsequent direct Distributions that such holders are eligible to receive under the Plan on account of those Claims, the Distributions, as allocated on a Pro Rata basis among the Allowed DJJ Holdings Claim and the Allowed Claims of Stone Arch Capital, that would be made after such time on account of the Class 6 PlainsCapital Bank Unsecured Claim under this Plan but for the effect of § **Error! Reference source not found.** above.

8.11.5 Nothing in this § 8.11 shall constitute a determination that the DJJ Holdings Claim or the Claims of Stone Arch are Allowed or Disallowed in any amount or Class.

8.12 All of the Distributions to be made under the Plan to holders of Claims in Class 1, Class 2 and Class 6 shall be subject to the provisions of this § 8.11.

ARTICLE IX EXECUTORY CONTRACTS AND UNEXPIRED LEASES

9.1 Rejection of Executory Contracts and Unexpired Leases Not Assumed. All executory contracts and leases of the Debtor that were not previously assumed and assigned or rejected by the Debtor are deemed rejected, unless identified as being assumed in the Plan Supplement, or otherwise dealt with by the Plan, the Confirmation Order or any other Order of the Bankruptcy Court entered prior to the Effective Date.

9.2 Claims Based on Rejection of Executory Contracts of Unexpired Leases. Any Claim for damages arising from the rejection of an executory contract or unexpired lease pursuant to the Plan must be asserted in a proof of Claim filed not later than thirty (30) days after

the Effective Date. Any such rejection Claims not timely filed shall be discharged and forever barred from assertion against the Debtor, the Trust or the Trust Assets. Any other bar date previously established for the filing of Claims based on the rejection of executory contracts or unexpired leases shall not be affected by this provision.

9.3 Assumption of Inter-Creditor Subordination Agreements Amongst Debtor, PlainsCapital Bank, Stone Arch Capital and DJJ Holdings. In the event that the inter-creditor subordination agreements amongst the Debtor, PlainsCapital Bank, Stone Arch Capital and DJJ Holdings are ever determined to be executory contracts, and in order to give effect to the provisions §§ 8.10 and 8.11 herein, such inter-creditor subordination agreements are assumed.

ARTICLE X PROCEDURES FOR RESOLVING DISPUTED CLAIMS

10.1 Objections to Claims. An objection to the allowance of Claims shall be in writing and may be filed only by the Trustee at any time on or before the Claims Objection Deadline, unless such deadline is extended by the Bankruptcy Court for cause shown. Any Disputed Claim as to which an objection is not filed on or before the Claims Objection Deadline shall be deemed to constitute an Allowed Claim under the Plan following the Claims Objection Deadline.

10.1.1 Notwithstanding the foregoing, any party in interest that otherwise would have standing to object to a Claim absent the provisions of this Plan, may, on or before the Claims Objection Deadline, file a motion with the Bankruptcy Court requesting standing to so object on the basis that an advance, written demand has been made by the movant upon the Trustee to object to the Claim and the Trustee has unjustifiably refused or failed to respond. Any such motion filed by the Claims Objection Deadline shall, if granted, toll the Claims Objection Deadline solely with respect to the Claim which is the subject of the Motion, until and including the date which is ten (10) business days following the date of entry of the Bankruptcy Court's granting Order.

10.2 Contingent Claims. Until a Contingent Claim becomes an Allowed Claim or is Disallowed, the Claim will be treated as a Disputed Claim for all purposes under the Plan. The holder of a Contingent Claim will be entitled to a Distribution under the Plan only when the Contingent Claim becomes an Allowed Claim. Any Contingent Claim for reimbursement or contribution held by a Person that may be liable with the Debtor on a Claim of a Creditor is Disallowed as of the Effective Date if: (a) that Creditor's Claim is Disallowed; (b) the Claim for reimbursement or contribution is contingent as of the Effective Date; or (c) that Person asserts a right of subrogation to the rights of the Creditor under § 509 of the Bankruptcy Code.

10.3 Post-Confirmation Proofs of Claim and Amendments. Except as otherwise expressly contemplated by the Plan, following the later of the Effective Date or the applicable Bar Date, no original or amended proof of Claim may be filed in the Chapter 11 Case to assert a Claim against the Debtor or the Estate without prior authorization of the Bankruptcy Court, and any such proof of Claim which is filed without such authorization shall be deemed null, void and of no force or effect; provided, however, that the holder of a Claim that has been evidenced in the Chapter 11 Case by the filing of a proof of Claim on or before the Bar Date shall be

permitted to file an amended proof of Claim in relation to such Claim at any time if the sole purpose of the amendment is to reduce the amount of the Claim asserted.

10.4 Settlement of Disputed Claims. At any time after the Confirmation Date and before the Effective Date, notwithstanding anything in this Plan to the contrary, the Debtor may settle some or all of the Disputed Claims subject to obtaining any necessary Bankruptcy Court approval. Following the Effective Date, and without the necessity of notice and Bankruptcy Court approval, the Trustee shall have the authority to resolve any Disputed Claim which is the subject of a timely-filed objection if the resolution will result in the Claim being Allowed in an amount of not greater than \$50,000.00 more than either (i) the liquidated, non-disputed and non-contingent amount of the Claim as listed in the Debtor's Schedules, or (ii) the amount of the Claim as acknowledged by the Debtor in an objection thereto. Any resolution of a Disputed Claim under the above-parameters shall be evidenced by a notice filed with the Bankruptcy Court. All other settlements involving Disputed Claims to which timely-filed objections have been lodged shall be subject to notice and Bankruptcy Court approval, unless ordered otherwise by the Bankruptcy Court upon separate motion and notice in the Chapter 11 Case. Subject to § 10.5 of this Plan, such settlements of Disputed Claims may also settle Causes of Action.

10.5 Settlement of Causes of Action. At any time after the Confirmation Date and before the Effective Date, notwithstanding anything in this Plan to the contrary, the Debtor may settle some or all of the Causes of Action subject to obtaining any necessary Bankruptcy Court approval. Following the Effective Date, and without the necessity of notice and Bankruptcy Court approval, the Trustee shall have the authority to settle any Cause of Action for an amount of not lesser than \$50,000.00 from the liability asserted in such Cause of Action. All other settlements involving Causes of Action shall be subject to notice and Bankruptcy Court approval, unless ordered otherwise by the Bankruptcy Court upon separate motion and notice in the Chapter 11 Case.

ARTICLE XI EFFECT OF CONFIRMATION

11.1 Legally Binding Effect. The provisions of this Plan shall bind all holders of Claims and/or Interests, and all other parties-in-interest, whether or not they accept this Plan. On and after the Effective Date, all holders of Claims and Interests shall be precluded and enjoined from asserting any Claim against the Debtor, the Trust or the Trust Assets based on any transaction or other activity of any kind that occurred prior to the Confirmation Date except as permitted under the Plan.

11.2 Vesting of Property of Debtor in Trust. Upon the Effective Date of the Plan, all property of the Debtor's Estate shall vest in and become the property of the Trust, and the Trustee shall have the right, *inter alia*, to act and prosecute actions in the name of the Debtor.

11.3 Liens, Claims and Encumbrances. Except as otherwise specifically provided in this Plan, or in the Confirmation Order, on the Effective Date of the Plan all property vesting in and becoming property of the Trust shall be free of all Liens, claims and encumbrances.

11.4 Injunction. Except and otherwise provided in the Plan, all Persons are enjoined from (a) threatening, commencing or continuing any lawsuit or other legal or equitable action against the Debtor, the Debtor's property, the Trustee, the Trust, or the Trust Assets to recover on any Claim or Interest, (b) committing any act to obtain possession of or exercise control over Trust Assets or property or assets of the Debtor or its Estate, (c) committing any act to create, perfect, or enforce any Lien against Trust Assets or property or assets of the Debtor or the Estate, (d) committing any act to collect, assess, or recover on a Claim that arose prior to the Effective Date, and (e) setting off any debt owing to the Debtor that arose prior to the Petition Date against any Claim against the Debtor.

ARTICLE XII CONDITIONS PRECEDENT TO CONFIRMATION AND EFFECTIVENESS OF THE PLAN

12.1 Conditions to Confirmation. The Bankruptcy Court shall have entered a Final Order approving the PlainsCapital Bank Settlement in a form and substance satisfactory to the Proponents and PlainsCapital Bank and entered the Confirmation Order in a form and substance satisfactory to the Proponents, which shall include, among other things, findings of fact and/or conclusions of law that: (a) enjoin and restrain all Creditors and Interest holders of and in the Debtor from asserting any Lien, Claim, interest or encumbrance against the Debtor, the Estate, the Trust, or the Trust Assets unless such Lien, Claim, interest or encumbrance is expressly reserved hereunder; (b) reserve jurisdiction of the Bankruptcy Court to implement and enforce the Plan; (c) provide, pursuant to § 1125(e) of the Bankruptcy Code, that Persons who have solicited acceptances or rejections of the Plan have acted in good faith and in compliance with the provisions of the Bankruptcy Code, and are not liable on account of such solicitation or participation for violation of any applicable law, rule, or regulation governing the solicitation of acceptances or rejections of the Plan.; and (d) find that the Plan and the payments required hereunder are feasible.

12.2 Conditions to Effective Date. The following are conditions precedent to the occurrence of the Effective Date, each of which must be satisfied or waived by the Proponents, jointly, in accordance with the terms hereof: (a) the Confirmation Order shall have become a Final Order; (b) execution of definitive documentation required to consummate the transactions contemplated in the Plan and satisfaction of the conditions precedent, if any, set forth therein in accordance with the terms thereof; (c) the Court shall have entered a Final Order approving the PlainsCapital Bank Settlement; and (d) all other actions, documents, and agreements necessary to implement the Plan shall have been effected or executed; provided, however, that if the Effective Date has not occurred on or before the date that is sixty (60) days following the first date on which the Confirmation Order becomes a Final Order, then this Plan shall be deemed to be revoked and its terms null and void unless the Bankruptcy Court Orders otherwise.

12.3 Notice of Effective Date. On or before ten (10) Business Days after occurrence of the Effective Date, the Debtor shall mail or cause to be mailed to all holders of Claims and Interests a notice that informs such holders of the following: (a) entry of the Confirmation Order; (b) occurrence of the Effective Date; (c) the deadline to file applications for Administrative Claims; and (d) such other matters that the Debtor deems appropriate.

ARTICLE XIII RETENTION OF JURISDICTION

13.1 Retention of Jurisdiction. Notwithstanding entry of the Confirmation Order, or the entry of a final decree, with respect to the Chapter 11 Case, or any of them, the Bankruptcy Court shall retain jurisdiction from and after the Effective Date, to the fullest extent legally permitted, over the Chapter 11 Case, all proceedings arising under, arising in or related to the Chapter 11 Case, the Confirmation Order and the Plan including, without limitation, jurisdiction to:

- (a) determine (i) any Disputed Claims, Disputed Interests and all related Claims accruing after the Confirmation Date including rights and liabilities under contracts giving rise to such Claims, (ii) the validity, extent, priority, and nonavoidability of consensual and nonconsensual Liens and other encumbrances, (iii) preconfirmation tax liability pursuant to § 505 of the Bankruptcy Code, and (iv) controversies and disputes regarding the interpretation of the Plan and documents executed in connection therewith;
- (b) Allow, Disallow, estimate, liquidate or determine any Claim or Interest against or in the Debtor and to enter or enforce any Order requiring the filing of any such Claim or Interest before a particular date;
- (c) approve all matters related to the assumption, assumption and assignment, or rejection of any executory contract or unexpired lease of the Debtor pursuant to § 365 of the Bankruptcy Code and the Plan;
- (d) determine any request for payment of an administrative expense entitled to priority under § 507(a)(1) of the Bankruptcy Code, including compensation of parties entitled thereto, or fees and reimbursements to the Debtor;
- (e) resolve controversies and disputes regarding the interpretation and implementation of the Plan, any disputes relating to whether or not a timely and proper proof of Claim was filed or whether a Disallowed Claim or Disallowed Interest should be reinstated;
- (f) implement the provisions of the Plan and enter Orders in aid of confirmation and consummation of the Plan, including any disputes concerning the enforceability or applicability of the releases and injunctions contained herein;
- (g) determine issues relating to the garnishment of any Distributions payable under the terms of the Plan;
- (h) modify the Plan pursuant to § 1127 of the Bankruptcy Code;
- (i) adjudicate any and all Causes of Action that arose in the Chapter 11 Case prior to the Confirmation Date or in connection with the implementation of the Plan, whether or not pending on the Confirmation Date, including without limitation, any remands of appeals;

- (j) resolve disputes concerning any reserves with respect to Disputed Claims and Disputed Interests or the administration thereof;
- (k) resolve any disputes concerning whether a person or entity had sufficient notice of the Chapter 11 Case, any applicable Bar Date, the hearing on the approval of the Disclosure Statement as containing adequate information, or the Confirmation Hearing for the purpose of determining whether a Claim or Interest is discharged hereunder or for any other purpose;
- (l) determine any and all applications, claims, pending adversary proceedings, and contested matters (including, without limitation, any adversary proceeding or other proceeding to recharacterize agreements or reclassify Claims or Interests) in the Chapter 11 Case;
- (m) enter and implement such Orders as may be appropriate in the event the Confirmation Order is for any reason stayed, revoked, modified, or vacated;
- (n) seek the issuance of such Orders in aid of execution of the Plan, to the extent authorized by § 1142 of the Bankruptcy Code;
- (o) consider any modifications of the Plan, to cure any defect or omission, or reconcile any inconsistency in any Order of the Bankruptcy Court, including, without limitation, the Confirmation Order;
- (p) recover all assets of the Debtor and property of the Estate, wherever located, including any Cause of Action;
- (q) resolve any dispute relating to the approval and payment of the fees and expenses of the Debtor or its professionals;
- (r) resolve matters concerning state, local, and federal taxes in accordance with §§ 346, 505, and 1146 of the Bankruptcy Code;
- (s) hear any other matter not inconsistent with the Bankruptcy Code;
- (t) resolve any and all disputes or controversies relating to Distributions to be made, and/or reserves or escrows to be established, under the Plan;
- (u) enter a final decree closing the Chapter 11 Case;
- (v) enforce any injunctions or discharges granted under the Plan; and
- (w) approve settlements relating to any of the above.

13.2 Limitation on Jurisdiction and Authority. In no event shall the provisions of this Plan be deemed to confer in the Bankruptcy Court jurisdiction greater than that established by the provisions of 28 U.S.C. §§ 157 and 1334 or authority to enter final judgments beyond that provided by applicable law, including the Constitution of the United States.

13.3 No New Requirements. The grant of jurisdiction to the Bankruptcy Court herein over a matter or issue does not mean that Bankruptcy Court approval is required for such matters or issues, nor does it otherwise affect the substantive legal requirements or the requirements in the Trust Agreement pertaining to such matters or issues.

ARTICLE XIV MISCELLANEOUS PROVISIONS

14.1 Authorization. The Debtor, the Trust Advisory Board, the Trustee, the Committee and the Trust shall be authorized to perform all reasonable, necessary and authorized acts to consummate the terms and conditions of the Plan.

14.2 Amendment of the Plan. The Proponents reserve the right, in accordance with the Bankruptcy Code, to amend or modify the Plan prior to the Confirmation Date. After the Effective Date, the Trustee may, upon Order of the Bankruptcy Court, amend or modify the Plan in accordance with § 1127(b) of the Bankruptcy Code, or remedy any defect or omission or reconcile any inconsistency in the Plan in such manner as may be necessary to carry out the purposes and intent of the Plan.

14.3 Non-Confirmation of the Plan. The Proponents reserve the right to withdraw this Plan at any time prior to the Confirmation Date. If the Proponents withdraw this Plan prior to the Confirmation Date, or if the Confirmation Date or the Effective Date does not occur, then this Plan shall be deemed null and void. In such event, nothing contained in this Plan shall be deemed to constitute an admission of any liability or of the viability of any defense to liability on the part of the Proponents, the Estate or any other Person.

14.4 No Admissions. Notwithstanding anything herein to the contrary, nothing contained in the Plan shall be deemed an admission by the Debtor with respect to any matter set forth herein, including, without limitation, liability on any Claim or the propriety of any Claim's classification.

14.5 Filing of Additional Documentation. On or before the Effective Date, the Proponents may file with the Bankruptcy Court such agreements and other documents as may be reasonably necessary or appropriate to effectuate and further evidence the terms and conditions of this Plan.

14.6 Termination of the Committee. On the Effective Date, the Committee shall be terminated and cease to exist. All expenses of the Committee and the fees and expenses of the Committee's professionals incurred prior to the Effective Date shall be paid as an Administrative Claim to the extent Allowed.

14.7 Governing Law. Except to the extent the Bankruptcy Code or the Bankruptcy Rules are applicable, the rights and obligations arising under the Plan shall be governed by, and construed and enforced in accordance with the laws of the State of Texas, without giving effect to the principles of conflicts of law thereof.

14.8 Successors and Assigns. The rights, benefits and obligations of any entity named or referred to in the Plan shall be binding on, and shall inure to the benefit of, any heir, executor, administrator, successor or assign of such entity.

14.9 Transfer of Claims. Any transfer of a claim shall be in accordance with Bankruptcy Rule 3001(e). Notice of any such transfer shall be forwarded to the Trust Advisory Board by registered or certified mail. Both the transferee and transferor shall execute any notice, and the signatures of the parties shall be acknowledged before a notary public. The notice must clearly describe the interest to be transferred. No transfer of a partial interest shall be allowed. All transfers must be of one hundred percent (100%) of the transferee's interest in the Claim.

14.10 Headings. Each heading preceding an article, section or paragraph of the Plan is inserted for convenience only and shall not affect interpretation or construction of the Plan.

14.11 Severability. Should any term or provision of the Plan be determined by the Bankruptcy Court to be invalid, void or unenforceable, such determination shall in no way limit or affect the enforceability or operative effect of any other provision of the Plan. If any term or provision of the Plan is of such a character as to deny Confirmation, the Proponents reserve the right to strike such provisions from the Plan and seek Confirmation of the Plan as modified. Notwithstanding any such holding, alteration, or interpretation, the remainder of the terms and provisions of the Plan will remain in full force and effect and will in no way be affected, Impaired or invalidated by such holding, alteration or interpretation. The Confirmation Order will constitute a judicial determination and will provide that each term and provision of the Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms.

14.12 All Claims and Interests. The Plan is intended to deal with all Claims against and Interests of whatever character whether or not Disputed, contingent, or liquidated and whether or not Allowed by the Bankruptcy Court under § 502 of the Bankruptcy Code. However, only those Allowed Claims and Equity Interests under § 502 of the Bankruptcy Code shall be entitled to receive the treatment afforded by the Plan.

14.13 Successors and Assigns. All of the rights, benefits and obligations of any Person named or referred to in the Plan shall be binding on, and shall inure to the benefit of, any heir, executor, administrator, successor or assign of such Person.

14.14 Computation of Time. In computing any period of time prescribed or allowed by the Plan, the provisions of Bankruptcy Rule 9006 shall apply unless otherwise set forth in the Plan or determined by the Bankruptcy Court.

14.15 Section 1125(e) Good Faith Compliance. The Proponents and each of their respective representatives shall be deemed to have acted in "good faith" under § 1125(e) of the Bankruptcy Code.

14.16 No Stay of Confirmation Order. The Confirmation Order shall contain a waiver of any stay of enforcement otherwise applicable, including Bankruptcy Rules 3020(e) and 7062.

14.17 Notices. Any notice required to be given under this Plan shall be in writing and, except for a notice of change of address, shall be considered complete on the earlier of: (a) three (3) days following the date the notice is sent by United States mail, postage prepaid, or by overnight courier service, or in the case of mailing to a non-United States address, air mail, postage prepaid, or personally delivered; (b) the date the notice is actually received by the Entities on the Post-Confirmation Service List by facsimile or computer transmission; or (c) three (3) days following the date the notice is sent to those Entities on the Post-Confirmation Service List as such Service List is adopted by the Bankruptcy Court at the hearing on confirmation of the Plan, as such list may be amended from time-to-time by written notice from the Entities on the Post-Confirmation Service List. Unless and until otherwise directed, any pleading, notice or other document required or permitted by the Plan to be served on or delivered to the Debtor, the Committee, or, if after the Effective Date, the Trustee in lieu of the Debtor and the Committee, and the U.S. Trustee, as the case may be, shall be sent by U.S. first class mail, postage prepaid, to:

Debtor:

Vanderra Resources, LLC
2525 Ridgmar Blvd., Ste. 200
Fort Worth, Texas 76116

With copies to:

Kevin M. Lippman
Munsch, Hardt, Kopf & Harr, P.C.
3800 Lincoln Plaza
500 North Akard Street
Dallas, Texas 75201-6659

Committee:

Ken Davis
Clean Blast Services, Inc.
P.O. Box 677
Kennedale, Texas 76060

With copies to:

Andrew E. Jillson
Hunton & Williams LLP
1445 Ross Avenue, Suite 3700
Dallas, Texas 75202-2799

United States Trustee:

Meredyth A. Kippes
Office of United States Trustee
1100 Commerce Street, Room 976
Dallas, Texas 75242

Trustee:

Brad Walker
100 Crescent Court
Suite 700
Dallas, Texas 75201

14.18 U.S. Trustee Fees. The Debtor will pay only unpaid, but accrued fees owed to the U.S. Trustee on or before the Effective Date of the Plan. After confirmation, the Trustee will file with the Bankruptcy Court and serve on the U.S. Trustee quarterly financial reports in a format prescribed by the U.S. Trustee, and the Trustee will pay post-confirmation quarterly fees to the U.S. Trustee until a final decree is entered or the Chapter 11 Case is converted or dismissed.

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Respectfully submitted:

VANDERRA RESOURCES, LLC

/s/ Joe Lassiter
President of Vanderra Resources, LLC

THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS
OF VANDERRA RESOURCES, LLC

/s/ Ken Davis
Chair of The Official Committee of Unsecured Creditors

MUNSCH HARDT KOPF & HARR, P.C.

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