UNITED STATES BANKRUPTCY COURT
DISTRICT OF COLORADO

In re NOVINDA CORP., EIN: 33-1050817 Debtor.	Case No. 16-13083-EEB Chapter 11

DISCLOSURE STATEMENT FOR NOVINDA CORP.'S CHAPTER 11 PLAN OF LIQUIDATION

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I. INTRODUCTION

A. Overview

Novinda Corp. ("**Novinda**" or the "**Debtor**") hereby submits this disclosure statement (the "**Disclosure Statement**") pursuant to 11 U.S.C. § 1125.

The purpose of this Disclosure Statement is to provide information allowing the Creditors and Interest Holders of the Debtor to make an informed vote on *Novinda Corp.'s Chapter 11 Plan of Liquidation* (the "**Plan**"), a copy of which is attached hereto as **Exhibit A**. This Disclosure Statement describes the Plan and explains the Debtor's pre-bankruptcy operating and financial history, the events leading up to the commencement of this chapter 11 case, and the anticipated results if the Plan is confirmed and becomes effective. This Disclosure Statement also describes terms and provisions of the Plan, including certain effects of confirmation of the Plan, certain alternatives to the Plan and the manner in which Distributions will be made under the Plan. In addition, this Disclosure Statement discusses the confirmation process and the voting procedures that holders of claims entitled to vote under the Plan must follow for their votes to be counted.

The Plan is simple. The Debtor no longer maintains operations and currently has insufficient funds to pay its unsecured creditors. The Debtor's assets consist of nominal cash (approximately $50,000 in its operating account), a receivable from MTI on account of volume variance payments due under the parties' Supply Agreement, and potential Causes of Action against MTI (and potentially other parties). All other assets were sold to Novinda Holdings, Inc. ("**Buyer**") on August 12, 2016 (the "**Asset Sale**"), pursuant to an Order of this Court.

The Plan provides for the appointment of a Plan Administrator to, among other things, evaluate these Causes of Action and, if appropriate, pursue them. Proceeds from litigation will be distributed to creditors. Altira and NVP have agreed to provide funding to effectuate the Plan and pursue these Causes of Action. They have also agreed to voluntarily subordinate payment rights on account of their unsecured claims to Holders of non-insider unsecured Claims, such that Altira and NVP will receive no Distributions on account of their unsecured Claims unless and until Holders of non-insider unsecured Claims are paid in full.

B. Disclaimers and Limitations

The information contained in this Disclosure Statement is included for purposes of soliciting acceptances of, and obtaining confirmation of, the Plan and may not be relied upon for any other purpose.

Creditors should note that amendments beneficial to one or more Classes of Claims without further impairment of other Classes may be made to the Plan prior to Confirmation. Amendments of that nature may be approved by the Bankruptcy Court at the Confirmation Hearing without re-solicitation of Creditors.

The descriptions of the Plan contained in this Disclosure Statement are summaries and are qualified in their entirety by reference to the Plan. Each Creditor is encouraged to analyze the terms of the Plan carefully.

The statements contained in this Disclosure Statement are believed to be accurate as of the date of its filing unless another time is specified in the Disclosure Statement. They should not be construed as implying that there has been no change in the facts set forth since the date the Disclosure Statement was prepared and the materials relied upon in preparation of the Disclosure Statement were compiled. Counsel for the Debtor makes no representation as to the accuracy of the information contained in this Disclosure Statement.

This Disclosure Statement has been neither approved nor disapproved by the Securities and Exchange Commission (the "**SEC**") or any state securities regulator, and neither the SEC nor any state securities regulator has passed upon the accuracy or adequacy of the statements contained in this Disclosure Statement.

C. Sources of Information for Disclosure Statement; Financial Reporting

Substantially all of the factual information utilized in this Disclosure Statement was obtained from information provided by the Debtor's books, records, Statement of Financial Affairs, Schedules, and the claims register.

D. Brief Explanation of Chapter 11

The commencement of a bankruptcy case creates an estate composed of all the legal and equitable interests of the Debtor as of the date it files for bankruptcy protection. The Debtor filed its petition for chapter 11 relief on April 1, 2016. In a chapter 11 case, a debtor may continue to operate its business and remain in possession of its property as a "debtor-in-possession" unless the Bankruptcy Court orders the appointment of a trustee. The principal purpose of a chapter 11 case is to permit the debtor to reorganize its business or liquidate its assets. To further that interest, the debtor or a party in interest will submit a plan as a proposal for ultimately satisfying the claims against the debtor.

E. Definitions

Defined Terms In the Plan. Various terms are defined in Article II of the Plan. These defined terms are also used in the Disclosure Statement and have the same meaning in this Disclosure Statement as set forth in the Plan.

Other Terms. The words "herein," "hereof," "hereto," "hereunder," and others of similar inference refer to the Disclosure Statement as a whole and not to any particular section, subsection, or clauses contained in the Disclosure Statement unless otherwise specified herein. A term used herein or elsewhere in the Disclosure Statement that is not defined herein or in the Plan shall have the meaning ascribed to that term, if any, in the Bankruptcy Code or the Bankruptcy Rules. The headings in the Plan and in this Disclosure Statement are only for convenience of reference and shall not limit or otherwise affect the provisions of the Plan.

Exhibits. All exhibits to the Plan and Disclosure Statement are incorporated into and are a part of the Plan and Disclosure Statement as if set forth in full herein.

F. Classification and Treatment of Claims

Class	Status	Treatment under Plan	Estimated Distribution
Class 1 – Priority Non-Tax Claims	Impaired	Each holder of an Allowed Priority Non-Tax Claim shall receive, in full satisfaction of such Claim, four quarterly payments totaling a value, as of the Effective Date, equal to the Allowed amount of such Claim.	100%
Class 2 – Secured Note Claims	Impaired	The Holders of Secured Note Claims shall retain the Liens and security interests in the Collateral securing the Secured Note Claims. After all Allowed Administrative Expense Claims have been paid in full, the Plan Administrator shall from time to time, in his discretion, make Distributions to the Holders of Secured Note Claims until the Secured Note Claims have been paid in full or until a final decree has entered in the Chapter 11 Case. To the extent any portion of the Secured Note Claims are undersecured, such amounts shall be treated as Class 3 Claims.	0-100%, depending on results of litigation brought by Plan Administrator
Class 3 – Unsecured Trade Claims and Altira/NVP Unsecured Claims	Impaired	Each Holder of an Allowed Class 3 Claim shall receive, in full and final satisfaction of such Allowed Claim, its *pro rata* share of the Distributable Cash (with such *pro rata* share determined based on the aggregate amount of all Allowed Class 3 Claims and Allowed Class 4 Claims). Holders of Allowed Class 3 Claims and Allowed Class 4 Claims shall receive their *pro rata* share of the Distributions set forth in this Plan based upon the total amount of all Allowed and Disputed Class 3 Claims and Class 4 Claims pending at the time of such Distribution. However, Distributions that Altira and NVP would be entitled to on account of their Altira/NVP Unsecured Claims shall instead be Distributed *pro rata* to Holders of Allowed Unsecured Trade Claims until such time as all Allowed Unsecured Trade Claims have been paid in full. Once Allowed Unsecured Trade Claims have been paid in full, Altira and NVP will resume receiving *pro rata*	0-100%, depending on results of litigation brought by Plan Administrator

Class	Status	Treatment under Plan	Estimated Distribution
		Distributions with Allowed Class 4 Claims.	
Class 4 – MTI Unsecured Claims	Impaired	Class 4 consists of MTI Unsecured Claims that exist against the Debtor. Each Holder of an Allowed Class 4 Claim shall receive, in full and final satisfaction of such Allowed Claim, its *pro rata* share of the Distributable Cash (with such *pro rata* share determined based on the aggregate amount of all Allowed Class 3 Claims and Class 4 Claims). For the avoidance of doubt, the Holders of Class 4 Claims shall not be entitled to the benefit of the payment subordination set forth in Section 5.03(b) of the Plan.	0-100%, depending on results of litigation brought by Plan Administrator
Class 5 – Convenience Claims	Impaired	Class 5 consists of Convenience Claims that exist against the Debtor. Each Holder of an Allowed Class 5 Claim shall receive, in full and final satisfaction of such Allowed Claim, Cash in an amount equal to seventy percent (70%) of such Allowed Claim, payable by the Plan Administrator as soon as practicable following the Effective Date. The payment to Class 5 is in lieu of any treatment as a Class 3 Creditor. Any unsecured creditor electing treatment as a Class 5 Convenience Claim must affirmatively do so on its ballot.	70%
Class 6 – Series D Preferred Interests	Impaired	Each Holder of an Allowed Series D Preferred Interest shall receive, in full and final satisfaction of such Interest, its pro rata share of any Distributable Cash remaining after all Allowed Claims on Classes 3 through 5 have been paid in full. Series D Preferred Interests shall be deemed paid in full if and when the Holders of such Series D Preferred Interests receive Cash in the amount of $0.99 per Series D share, pursuant to the Certificate of Incorporation. For the avoidance of doubt, the Plan is without prejudice to the Plan Administrator's right to bring a cause of action challenging the validity, priority, or	0-100%, depending on results of litigation brought by Plan Administrator

Class	Status	Treatment under Plan	Estimated Distribution
		amount of the Series D Preferred Interests.	
Class 7 – Series C Preferred Interests	Impaired	Each Holder of an Allowed Series C Preferred Interest shall receive, in full and final satisfaction of such Interest, its pro rata share of any Distributable Cash remaining after all Allowed Claims and Interests in Classes 3 through 6 have been paid in full. For purposes of the Plan, Series C Preferred Interests shall be deemed paid in full if and when the Holders of such Series C Preferred Interests receive Cash in the amount of $0.33 per Series C share, pursuant to the Certificate of Incorporation.	0-100%, depending on results of litigation brought by Plan Administrator
Class 8 – Series B Preferred Interests	Impaired	Each Holder of an Allowed Series B Preferred Interest shall receive, in full and final satisfaction of such Interest, its pro rata share of any Distributable Cash remaining after all Allowed Claims and Interests in Classes 3 through 7 have been paid in full. For purposes of the Plan, Series B Preferred Interests shall be deemed paid in full if and when the Holders of such Series B Preferred Interests receive Cash in the amount of $0.2256 per Series B share, pursuant to the Certificate of Incorporation.	0-100%, depending on results of litigation brought by Plan Administrator
Class 9 – Series A-3 Preferred Interests	Impaired	Each Holder of an Allowed Series A-3 Preferred Interest shall receive, in full and final satisfaction of such Interest, its pro rata share of any Distributable Cash remaining after all Allowed Claims and Interests in Classes 3 through 8 have been paid in full. For purposes of the Plan, Series A-3 Preferred Interests shall be deemed paid in full if and when the Holders of such Series A-3 Preferred Interests receive Cash in the amount of $0.125999 per Series A-3 share, pursuant to the Certificate of Incorporation.	0-100%, depending on results of litigation brought by Plan Administrator
Class 10 – Series A-2 Preferred Interests	Impaired	Each Holder of an Allowed Series A-2 Preferred Interest shall receive, in full and final satisfaction of such Interest, its pro	0-100%, depending on results of

Class	Status	Treatment under Plan	Estimated Distribution
		rata share of any Distributable Cash remaining after all Allowed Claims and Interests in Classes 3 through 9 have been paid in full. For purposes of the Plan, Series A-2 Preferred Interests shall be deemed paid in full if and when the Holders of such Series A-2 Preferred Interests receive Cash in the amount of $0.125999 per Series A-2 share, pursuant to the Certificate of Incorporation.	litigation brought by Plan Administrator
Class 11 – Series A-1 Preferred Interests	Impaired	Each Holder of an Allowed Series A-1 Preferred Interest shall receive, in full and final satisfaction of such Interest, its pro rata share of any Distributable Cash remaining after all Allowed Claims and Interests in Classes 3 through 10 have been paid in full. For purposes of the Plan, Series A-1 Preferred Interests shall be deemed paid in full if and when the Holders of such Series A-1 Preferred Interests receive Cash in the amount of $0.01 per Series A-1 share, pursuant to the Certificate of Incorporation e.	0-100%, depending on results of litigation brought by Plan Administrator
Class 12 – Common Stock	Impaired	In the event that there is any Distributable Cash remaining after all Allowed Claims and Interests in Classes 3 through 11 have been paid in full, all such remaining Distributable Cash shall be distributed pro rata to the Holders of Common Stock.	0-100%, depending on results of litigation brought by Plan Administrator

The estimated Distributions set forth above are based upon the Debtor's estimates of the Allowed Claims in each class. There is no guarantee that each Class will receive the Distribution estimated above.

G. Parties Entitled to Vote on the Plan

Under the provisions of the Bankruptcy Code, not all parties in interest are entitled to vote on a chapter 11 plan. Creditors whose Claims are not Impaired by the Plan are deemed to accept the Plan under § 1126(f) of the Bankruptcy Code and are not entitled to vote. Classes that receive or retain nothing under the Plan are deemed to reject the Plan and are not entitled to vote. Under this Plan, the Holders of Claims or Interests in Classes 1 through 13, inclusive, are Impaired and thus are entitled to vote on the Plan.

H. Voting Procedures and Confirmation Hearing

After approval of the Disclosure Statement by the Bankruptcy Court, Creditors and Interest Holders will have an opportunity to vote on the Plan. Voting will be by Class, as set forth in the Plan and described later in this Disclosure Statement. For classes containing more than one Claim or Interest, a Class is deemed to have accepted the Plan if more than one-half of the Creditors or Interest Holders in number holding at least two-thirds of the aggregate amount of Claims or Interests voting elect to accept the Plan.

If you are entitled to vote to accept or reject the Plan, a ballot is enclosed for the purpose of voting on the Plan. After carefully reviewing the Plan, this Disclosure Statement, and the detailed instructions accompanying your ballot, please indicate your acceptance or rejection of the Plan by voting in favor of or against the Plan. For your vote to be counted, you must complete and sign your original Ballot and return it by _____, 2016, which is the last date set by the Court to vote on the Plan.

The Bankruptcy Court has set a hearing on Confirmation of the Plan and to consider objections to Confirmation, if any, for _____, 2016, at _____. The Confirmation hearing will be held at the United States Bankruptcy Court for the District of Colorado, U.S. Custom House, Courtroom F, 721 19th Street, Denver, Colorado 80202. At the hearing, the Bankruptcy Court will consider whether the Plan satisfies the requirements of the Bankruptcy Code.

I. Effect of Confirmation of the Plan

Confirmation of the Plan makes the Plan and its provisions binding on the Debtor, all Creditors, all Holders of Interests, and all other parties in interest, regardless of whether they have accepted or rejected the Plan. As a result, Creditors may receive payment on their claims only in accordance with the Plan. If confirmed, the Effective Date of the Plan is anticipated to be the 14th day after the Bankruptcy Court enters the Confirmation Order.

J. Approval of the Disclosure Statement

A decision by the Bankruptcy Court to approve this Disclosure Statement under Bankruptcy Code § 1125 is a finding that the Disclosure Statement contains information of a kind and in sufficient detail to enable a reasonable, hypothetical investor typical of holders of impaired claims to make an informed judgment about the Plan and is not a recommendation by the Bankruptcy Court either for or against the Plan.

II. GENERAL INFORMATION ABOUT THE DEBTOR

A. Organizational History

In 2000, a team of scientists from ADA Technologies received funding from the U.S. Environmental Protection Agency and the U.S. Department of Energy to develop a non-carbon product that could be used for mercury emission control from coal combustion. Chemical process engineers from CH2M HILL joined the team, bringing a wealth of experience to the product manufacturing development effort and providing significant input to the production plan.

On March 25, 2003, the Debtor was formed as a Delaware limited liability company under the name Amended Silicates, LLC. On July 9, 2008, the Debtor changed its corporate form from a limited liability company to a corporation and changed its name to Amended Silicates, Inc. In June 2009, the company received initial venture financing of several million dollars to support product development and initial full-scale field-testing of the product. On December 4, 2009, the Debtor changed its name to Novinda Corp.

The Debtor's principal place of business is located in Denver, Colorado.

B. Summary of the Debtor's Business Prior to Asset Sale

1. Overview of Business

Prior to the closing of the Asset Sale, the Debtor was an advanced air quality technology company providing essential products and services that optimize operations and ensure environmental compliance for the operators of coal-fired power plants, industrial boilers, and cement kilns. The Debtor was principally known for its non-carbon mercury capture reagent, Amended Silicates, a mineral-based powder-like product that removes mercury from combustion gasses via chemical reaction rather than adsorption technologies. Amended Silicates provides economic performance across a variety of power-plant configurations and operating conditions while preserving fly ash value. It has high SO_3 tolerance, is nonflammable and less corrosive to the balance of the plant, and functions across a broad range of operating temperatures.

Until the sale of its assets, the Debtor supplied its customers with a commercial product called AS-HgX-ESP™ ("**ESP**"), which is specifically designed for removing mercury from coal-fired power plants that utilize electrostatic precipitators for particulate removal. The Debtor was in the process of marketing a new mercury-removal product called AS-Ultra (also known as Hybrid4 (H4)), which builds on and improves upon the ESP technology.

In addition to supplying mercury-removal products, the Debtor also offered plant engineering and emission testing capabilities. The Debtor's professionals conducted single pollutant or full spectrum emissions testing, as well as comprehensive full-scale air pollution control trials. From planning and technology execution to process sampling, emissions testing and on-site analytical services, the Debtor's service professionals managed both short term and long-term trials.

2. Workforce

As of the Petition Date, the Debtor employed eight full-time employees. The Debtor's Interim Chief Executive Officer, Michael Rosenberg, joined the Debtor in mid-2015. Prior to joining the Debtor, Mr. Rosenberg was the President and CEO of OPX Biotechnologies, a company that develops and produces bio-based chemicals and fuels. As of the Petition Date, the Debtor's workforce was comprised of Mr. Rosenberg, three field service professionals, a head of sales, one research and development scientist, and two plant engineers. In addition, Conrad Schillingburg served as the Debtor's Contract Chief Financial Officer.

As of the date of this Disclosure Statement, the Debtor has no full-time employees. Substantially all of the Debtor's former employees are now employed by the Plan Funder.

3. Customers and Suppliers

Prior to the Asset Sale, the Debtor's two largest customers were Black Hills Power, Inc. ("**Black Hills**") and Talen Energy (also known as Brunner Island). Black Hills owns and operates power generating facilities in Wyoming. Pursuant to that certain Purchase Agreement dated as of November 25, 2013 (as amended, the "**Black Hills Agreement**") the Debtor supplied ESP (and the company's prior product, AS-HgX) to Black Hills. The Black Hills Agreement was assumed by the Debtor and assigned to Buyer in connection with the Asset Sale. The Debtor did not have a long-term supply contract with Talen Energy.

As of the Petition Date, the Debtor's sole supplier of products was Colloid Environmental Technologies Company ("**CETCO**"), a subsidiary of Minerals Technologies Inc. (collectively with CETCO, and AMCOL International Corporation, "**MTI**"). Pursuant to the parties' Supply Agreement (as defined below), MTI manufactured the products that the Debtor sold to its customers. When a customer placed an order with the Debtor, the Debtor placed a corresponding purchase order with MTI, who produced the necessary amount of product to satisfy the customer's order; MTI generally delivered the products to the Debtor's customers itself, although customers made payment to the Debtor.

C. Summary of Debtor's Capital Structure

1. Description of Debtor's Assets

As described in more detail below, the Debtor sold substantially all of its assets to Buyer pursuant to a Bankruptcy Court-approved sale that closed on August 12, 2016. *See, e.g.*, Docket No. 224 (Report of Sale). Following the Asset Sale, the Estate's remaining assets consist of: (i) cash in the amount of $56,249.04 held in the Debtor's debtor-in-possession operating account as of the date hereof; (ii) cash in the amount of $345,199.39 held in the Debtor's Professional Fee Reserve Account as of the date hereof; (iii) a "volume variance" receivable from MTI; and (iv) Causes of Action held by the Estate.

The moneys held in the Professional Fee Reserve are not available for distribution to Creditors other than Professionals; in the event there are excess funds in such account after payment of Allowed Professional Fees, such funds are required to be returned to the DIP Lenders pursuant to the Bankruptcy Court's Final DIP Order (as defined below). *See* Docket No. 65, at ¶ 22(b).

The volume variance that the Debtor (or the Plan Administrator, as applicable) expects to collect from MTI is based on the Debtor's actual order volume exceeding the volume projected by MTI. Under the Supply Agreement, the price that MTI charges the Debtor is based in part on order volume—the more the Debtor orders, the lower its price. The Debtor has exceeded MTI's projected order volume for 2016. Based on the Debtor's calculations, it will be entitled to a positive volume variance of roughly $150,000 for orders placed through October 31, 2016, although such amount is subject to change based on the Debtor's actual order volume. In addition, the Debtor may file a motion to extend the TSA (as defined below), in which case the Debtor would be entitled to any additional volume variance arising from post-October 31, 2016 orders.

Causes of Action belonging to the Estate are described in more detail in Sections IV.B, IV.C, and V.B, *infra*.

2. Description of Claims Against the Debtor

The following summary of Claims against the Debtor is based on (i) the Debtor's Schedule D (Creditors Who Hold Claims Secured by Property) and Schedule E/F (Creditors Who Have Unsecured Claims), filed on the docket in this Case on April 14, 2016 (Docket No. 42); and (ii) proofs of Claim filed against the Debtor, as reflected in the Court's Claims Register. In addition, the Debtor anticipates that CETCO will file a rejection damages claim pursuant to Bankruptcy Code § 502(g) if and when the Supply Agreement is rejected by the Debtor.

a. Administrative Expense Claims

Administrative Expense Claims are defined in the Plan as any right to payment constituting a cost or expense of the Chapter 11 Case under §§ 503(b), 507(a)(2), or 1114(e)(2) of the Bankruptcy Code, including, without limitation, any actual and necessary costs and expenses of preserving the Estate, any actual and necessary costs and expenses of operating the Debtor's business, any indebtedness or obligations incurred or assumed by the Debtor in connection with the conduct of its business or liquidation of its assets, any Professional Fee claim, and any fees or charges assessed against the Estate under § 1930 of Title 28 of the United States Code. Parties asserting Administrative Expense Claims (other than Professional Fee Claims) are required to file a motion for allowance of such Claim on or before the date that is 28 days after the Effective Date.

Administrative Expense Claims are not reflected in the Debtor's Schedules. The Debtor anticipates that Professional Fees will make up the vast majority of Allowed Administrative Expense Claims. Three of the Debtor's Professionals (Saltzman, LLC; GHP Horwath, PC; and r2 advisors, llc) have already been paid in full for their Allowed Administrative Expense Claims pursuant to the Bankruptcy Court's orders approving such Professionals' final fee applications. *See* Docket Nos. 240, 241 & 243. The other three Professionals (Brownstein Hyatt Farber Schreck, LLP ("**BHFS**"); Kendall, Koenig & Oelsner PC; and Synthesis Intellectual Property LLC) have already received payment of 75% of fees incurred and 100% of costs incurred through August 31, 2016, pursuant to the Court's order approving interim compensation procedures. Docket No. 134. Under the Plan, the deadline for such Professionals to file final fee applications shall be 45 days after the Effective Date. If such final fee applications are granted in full, it is anticipated that the total Professional Fees owing to such Professionals (excluding amounts already paid pursuant to the interim compensation order) could range from $250,000 to $500,000 (or more), depending on the Case activity from the date hereof through the Effective Date.

Other than Professional Fees, the Debtor has paid its postpetition expenses in the ordinary course of business pursuant to the budget attached to the Final DIP Order (as defined below). Accordingly, the Debtor does not anticipate any other Administrative Expense Claims. Indeed, no applications for allowance of Administrative Expense Claims have been filed in this Case to date.

b. Priority Tax Claims

Priority Tax Claims are defined in the Plan as any Claim of a governmental unit of the kind entitled to priority in payment as specified in §§ 502(i) and 507(a)(8) of the Bankruptcy Code. The Debtor is aware of one Priority Tax Claim in the amount of $264.85. *See* Proof of Claim No. 31.

c. Priority Non-Tax Claims

Priority Non-Tax Claims are defined in the Plan as any Claim entitled to priority under § 507(a)(1), (4), (5), (6), or (7) of the Bankruptcy Code. The Priority Non-Tax Claims consist of Claims under § 507(a)(4) of the Bankruptcy Code for "paid time off" earned within 180 days of the Petition Date by the Debtor's former employees (the "**Priority PTO Claims**"). The Priority PTO Claims total approximately $38,000. *See* Schedule E/F (Docket No. 42).

d. Secured Claims

The Debtor is a party to that certain Note Purchase Agreement dated as of February 5, 2016 (together with the Secured Promissory Notes, Security Agreement, and Intellectual Property Security Agreement dated as of February 5, 2016, the "**Secured Loan Agreement**" or the "**Secured Note Claims**," as applicable), by and among the Debtor, as borrower, and Altira Technology Fund V L.P., NV Partners IV LP, and NV Partners IV-C LP, as lenders (the "**Secured Lenders**"). Under the Secured Loan Agreement, the Secured Lenders loaned the Debtor $650,000, funded in two tranches. The initial tranche, in the amount of $325,000, was funded on February 5, 2016. The second and final tranche, also in the amount of $325,000, was funded on or about March 21, 2016. As of the date hereof, the Debtor is indebted to the Secured Lenders in the aggregate amount of not less than $650,000 in principal plus accrued and unpaid interest of $22,693 as of September 22, 2016. Pursuant to the Secured Loan Agreement, the Secured Lenders have a first priority lien on substantially all assets of the Debtor, including the proceeds of contract dispute claims and amounts ultimately collected from MTI pursuant to the Supply Agreement, including volume variance payments.

Other than the Secured Note Claims, the Debtor does not believe there are any secured Claims against the Estate.

e. Unsecured Claims

2015 Unsecured Notes. The Debtor is a party to that certain Note Purchase Agreement dated as of July 31, 2015 (together with any ancillary documents related thereto, the "**Unsecured Note Documents**" or the "**Unsecured Notes**," as applicable), by and among the Debtor, as borrower, and the Purchasers (as defined in the Unsecured Note Documents). As of the Petition Date, the Debtor was indebted to the Purchasers in the aggregate amount of not less than $1,206,821.75 in aggregate principal amount, plus accrued and unpaid interest in the aggregate amount of not less than $79,275.39. Altira, NVP, and AMCOL collectively hold the vast majority of the Unsecured Notes.

Unsecured Trade Claims. Based on proofs of claim filed in the Case, various vendors and other trade creditors (excluding CETCO) are owed up to approximately $350,000 for goods

and services provided to the Debtor prior to the Petition Date. The Debtor has not yet analyzed the validity or amount of these Claims. The Unsecured Trade Claims also include non-priority general Unsecured Claims of the Debtor's former employees for paid time off in excess of the statutory cap set forth in § 507(a)(4) of the Bankruptcy Code.

MTI Unsecured Claims. In addition to AMCOL's Unsecured Notes Claim, CETCO asserts an unsecured Claim for prepetition delivery of products under the Supply Agreement in an amount not less than $316,909.58. *See* Proof of Claim No. 15-3.

3. Description of Interests in the Debtor

The Debtor's Interests are divided into seven classes: (i) Series D Preferred Stock (35,000,000 shares authorized and 13,450,698 shares outstanding); (ii) Series C Preferred Stock, (23,933,939 shares authorized and 20,207,629 shares outstanding); (iii) Series B Preferred Stock (22,163,121 shares authorized and outstanding); (iv) Series A-3 Preferred Stock (85,714,284 shares authorized and outstanding); (v) Series A-2 Preferred Stock (9,523,812 shares authorized and outstanding); (vi) Series A-1 Preferred Stock (1,588,000 shares authorized and outstanding); and (vii) Common Stock (200,000,000 shares authorized and 18,649,375 outstanding). The Debtor's Amended and Restated Certificate of Incorporation, dated as of October 27, 2015, provides for the following liquidation preferences, to be paid in the following order: (i) Series D Preferred Stock, $0.99 per share liquidation preference; (ii) Series C Preferred Stock, $0.33 per share liquidation preference; (iii) Series B Preferred Stock, $0.2256 per share liquidation preference; (iv) Series A-3 Preferred Stock, $0.125999 per share liquidation preference; (v) Series A-2 Preferred Stock, $0.125999 per share liquidation preference; (vi) Series A-1 Preferred Stock, $0.01 per share liquidation preference; and (vii) Common Stock, no liquidation preference.

III. EVENTS LEADING TO COMMENCEMENT OF THE CHAPTER 11 CASE

As of the Petition Date, the Debtor had not generated significant revenue and had incurred substantial expenses to design, develop, and market a product that will serve the coal operated power plant market. Based on the startup nature of the Debtor and the April 2016 commencement date for EPA regulations governing mercury emissions, significant losses were incurred since inception. Operations were supported by the existing investors, in the form of the debt and equity capital infusions described above.

During the twelve months ended December 31, 2015, the Debtor reported revenues of approximately $1.9 million, primarily comprised from the delivery of product to certain coal operated power plants: Black Hills (approximately 67% of total revenue), Basin Electric-Antelope Valley Station (approximately 10% of total revenue), and Basin Electric-Dry Fork Station (approximately 5% of total revenue). The remaining revenue was derived from general services performed by the Debtor's field service team.

During the same period, the Debtor incurred total expenses of approximately $6.2 million, primarily comprised of approximately $2.7 million for cost of goods sold (cost of product, labor and materials to deliver product or perform services), approximately $3.0 million

for selling, general and administrative expenses, and approximately $500,000 for product tests the Debtor performed at coal operated power plants.

The Debtor's prepetition operational losses were largely driven by two factors: (i) slower than anticipated customer growth, and (ii) the Debtor's unprofitable and unsustainable supply relationship with MTI (discussed below).

IV. SIGNIFICANT EVENTS IN THE CHAPTER 11 CASE

A. Voluntary Petition; "First Day" Motions; Employment Applications; and Bar Date Motion

Voluntary Petition. On April 1, 2016, the Debtor filed its voluntary chapter 11 petition in the Bankruptcy Court and certain related disclosures, statements, and forms. On April 8, 2016, the Debtor filed an amended petition to reflect the Debtor's status as a "small business" debtor pursuant to § 101(51D) of the Bankruptcy Code.

First Day Motions. On April 7, 2016, the Debtor filed two "first day" motions: (i) *Expedited Motion of Debtor for Entry of Order Authorizing Debtor to Pay Certain Employee Obligations and Maintain and Continue Employee Benefits and Programs* (Docket No. 14) (the "**Employee Motion**"); and (ii) *Motion of Debtor for Entry of Interim and Final Orders: (A) Authorizing Postpetition Financing and Use of Cash Collateral; (B) Granting § 364(c) Liens and a Superpriority Administrative Claim; (C) Approving Agreements with Altira Technology Funds V L.P. as Collateral Agent for Lenders; (D) Setting a Final Hearing; and (E) Granting Related Relief* (Docket No. 15) (the "**DIP Motion**").

Pursuant to the Employee Motion, the Debtor sought authority to, *inter alia*, pay prepetition wages owed to its employees and honor prepetition accrued vacation time, as well as to continue in the ordinary course of business the employee programs and policies in place as of the Petition Date. The Court granted the Employee Motion on April 12, 2016. *See* Docket No. 31.

Pursuant to the DIP Motion, the Debtor sought authority to, *inter alia*, borrow up to $1.45 million in secured postpetition financing (the "**DIP Loan**") from Altira and NVP on a junior basis. On April 13, 2016, the Court approved the DIP Loan on an interim basis (Docket No. 33); the Court approved the DIP Loan on a final basis on April 28, 2016 (Docket No. 65).

Employment Applications. On April 8, 2016, the Debtor filed applications to employ Brownstein Hyatt Farber Schreck, LLP ("**BHFS**") and Kendall, Koenig & Oelsner PC ("**KKO**") as bankruptcy counsel and special corporate counsel, respectively. On April 13, 2016, the Debtor filed applications to employ Saltzman LLC and Synthesis Intellectual Property, LLC as financial advisor and special patent counsel, respectively. On May 13, 2016, the Debtor filed an application to employ GHP Horwath, P.C. as tax accountant. Each of the foregoing employment applications was approved by the Court. *See* Docket Nos. 56-59 & 71.

Bar Date Motion. On April 11, 2016, the Debtor filed a motion to establish bar dates for filing proofs of claim in the Chapter 11 Case. *See* Docket No. 26. On April 13, 2016, the Court entered an order establishing September 28, 2016 as the deadline for governmental units (as

defined in § 101(27) of the Bankruptcy Code) to file proofs of claim and June 15, 2016 as the bar date with respect to all other proofs of claim. *See* Docket No. 34.

B. The Debtor's Rule 2004 Investigations of MTI and Douglas Dietrich; Potential Causes of Action Against MTI

MTI and its subsidiaries pervade the Debtor's Board of Directors and capital structure. MTI has the right to designate a member of the Debtor's Board of Directors. MTI's current Board designee is Mr. Hastings, MTI's Senior Vice President, Corporate Development. MTI's subsidiary AMCOL International Corporation ("**AMCOL**") owns 100% of the Debtor's outstanding Series B Preferred Stock and 38.3% of the Debtor's outstanding Series C Preferred Stock; in total, MTI (through AMCOL) owns 17.46% of the Debtor's outstanding equity securities. MTI (through AMCOL) also holds Unsecured Notes with a principal balance of $450,769.75, which equals 37.4% of the aggregate outstanding principal balance of the Unsecured Notes.

MTI, through its subsidiary, CETCO, was also the Debtor's exclusive manufacturer and supplier. Prior to the Asset Sale, the Debtor owned the IP related to ESP and the other products it sold to its customers, but the Debtor did not have the capability to manufacture the products. Accordingly, the Debtor entered into an agreement with CETCO for the manufacture and supply of products—that certain Supply Agreement dated as of December 31, 2009 (as amended, the "**Supply Agreement**"). As a general matter, the Supply Agreement provides that the Debtor will place purchase orders with CETCO in order for the Debtor to fulfill its customers' purchase orders. The Supply Agreement provides that the terms thereof shall not be disclosed by the parties. Accordingly, this Disclosure Statement provides a general description of the Supply Agreement without disclosing its terms.

In May 2014, MTI acquired AMCOL and AMCOL's subsidiary, CETCO. The Debtor believes that since MTI became the indirect owner of CETCO, it has engaged in a pattern of conduct that played a material role in the Debtor's bankruptcy filing. The Debtor is still in the process of investigating MTI's conduct.

On May 24, 2016, the Debtor filed a motion for authority to conduct a Rule 2004 examination of MTI, AMCOL, and CETCO. *See* Docket No. 74 (the "**2004 Motion**"). The Court granted the 2004 Motion on May 25, 2016. *See* Docket No. 75. Pursuant to the 2004 Motion, the Debtor sought testimony and documents on the following topics: (i) whether CETCO has violated and/or continues to violate the terms of the parties' various supply agreements; (ii) transparency regarding the prices charged by CETCO in years 2015 and 2016; (iii) the basis for MTI's demand that the Debtor enter into the exclusive supply agreement and check endorsement side letter; (iv) whether CETCO is a viable supply and development partner going forward; (v) evidence of and support for CETCO's potential rejection damages claim in the event the Debtor rejects the Supply Agreement; (vi) issues surrounding MTI's asserted ownership rights in the Debtor's intellectual property; (vii) MTI's views that the Debtor's business should be wound down, including its perception of the value of the Debtor's business and assets; (viii) MTI's use of information obtained from the Debtor's Board meetings; and (ix) any other acts or actions taken by MTI that have harmed or could be harmful to the Debtor's business. In addition, the Debtor sought information that will help the Debtor ascertain whether

there is a basis to equitably subordinate the claims held by the MTI Entities or bring estate causes of action against them or Mr. Hastings.

The Debtor and MTI engaged in extensive negotiations and disputes concerning, *inter alia*, the scope and timing of MTI's document production; several of the disputes required the involvement of the Bankruptcy Court. MTI ultimately produced more than 30,000 pages of documents (and additional documents are still being produced as of the date hereof). The Debtor is scheduled to take a deposition of Mr. Hastings in October 2016 pursuant to the 2004 Motion.

On August 25, 2016, the Debtor filed a motion pursuant to Rule 2004 to examine Douglas Dietrich, who at the time was MTI's Chief Financial Officer but is now its Interim Co-Chief Executive Officer. *See* Docket No. 238 (the "**Dietrich 2004 Motion**"). The purpose of the Dietrich 2004 Motion was to obtain documents and testimony concerning the representations set forth in Mr. Dietrich's February 2, 2016 pricing letter and, more generally, Mr. Dietrich's knowledge of the circumstances surrounding the 50% price increase. The Bankruptcy Court granted the Dietrich 2004 Motion on August 26, 2016. *See* Docket No. 245. MTI moved for reconsideration of the Bankruptcy Court's order and moved to quash the subpoena issued to Mr. Dietrich, both of which were denied by the Bankruptcy Court on September 8, 2016. *See* Docket No. 269. The Debtor is scheduled to examine Mr. Dietrich in October or November 2016.

Based on documents produced by MTI to date pursuant to the Debtor's Rule 2004 examination, the Debtor believes that MTI and Mr. Hastings engaged in a scheme to take control of the Debtor, elevating MTI's own interest as a competitor above the Debtor's interests. Among other actions, the documents show that Mr. Hastings shared confidential information obtained in his capacity as a member of the Debtor's board of directors with MTI, which then acted on such information to MTI's benefit and the Debtor's detriment. In 2014, Mr. Hastings used his board position to gather information regarding the Debtor's potential use of an alternative supplier; MTI then required the Debtor to cease discussions with such supplier as a condition to providing financing. In July 2015, Mr. Hastings shared confidential information regarding the Debtor's bank's cash sweep of the Debtor's operating account; MTI then required the Debtor to sign a July 28, 2015 side letter requiring payment of all outstanding payables to MTI and endorsement of all future customer checks to MTI.

In late 2015 and early 2016, knowing the Debtor was in financial distress, MTI sought means to increase the price of products sold to the Debtor. On February 2, 2016, Mr. Dietrich sent a letter to the Debtor imposing more than a 50% increase in the price of products. Based in part on discovery obtained in this Case, the Debtor believes that the price increase was in violation of the Supply Agreement and that correspondence from MTI, signed by Mr. Dietrich, contained material misrepresentations regarding the basis for the price increase. The Debtor also has reason to believe that the price increase was an intentional wrongful act by MTI, as part of its scheme to enhance its position as a competitor or potential acquirer of the Debtor. A more detailed summary of the Debtor's findings to date is available in the Debtor's Status Report filed at Docket No. 187.

The Debtor believes that the Estate holds potentially valuable Causes of Action against MTI and Mr. Hastings based on the conduct described above. Potential Estate Causes of Action against Mr. Hastings include, without limitation, breach of fiduciary duty, fraud, unjust

enrichment, intentional interference with contractual relations, and conspiracy. Potential Causes of Action against MTI include, without limitation, breach of fiduciary duty, aiding and abetting breach of fiduciary duty, fraud, negligent misrepresentation, prima facie tort, misappropriation of business value, unjust enrichment, deceptive trade practices, antitrust, breach of contract, and equitable subordination. All such Causes of Action are expressly preserved under the Plan for the Plan Administrator to bring for the benefit of Creditors.

C. MTI's Derivative Standing Motion and Direct Adversary Complaint; Potential Causes of Action Against Altira and NVP

On May 26, 2016, MTI filed a motion (the "**Derivative Standing Motion**") seeking derivative standing to pursue causes of action on behalf of the Debtor against Andrew Garman, Hull McKinnon, Altira, and NVP, based on the theory that the proposed defendants "engaged in a series of acts intentionally designed to ensure that their investments in Novinda were protected and preferred over the rights of the Debtor's other creditors and shareholders, including MTI." *See* Docket No. 77. The proposed derivative complaint attached to the Derivative Standing Motion contained claims for (i) breach of fiduciary duty; (ii) aiding and abetting breach of fiduciary duty; (iii) unjust enrichment; (iv) fraudulent transfer; (v) equitable subordination; and (vi) recharacterization (collectively, the "**Altira/NVP Causes of Action**"). *See* Docket No. 77-1. MTI also filed a direct adversary complaint on its own behalf asserting substantially similar claims against the same defendants. *See* Adv. Proc. No. 16-ap-1201 (the "**Direct Action**").

The Bankruptcy Court denied the Derivative Standing Motion without prejudice on the grounds that the Altira/NVP Causes of Action were premature and were better suited to be brought by a neutral plan administrator or chapter 7 trustee. The Bankruptcy Court's order denying the Derivative Standing Motion expressly reserved the right of "any plan administrator or liquidating trustee under a confirmed chapter 11 plan . . . to seek standing and subsequently assert the causes of action set forth in MTI's proposed Complaint." Docket No. 164. The Plan expressly preserves these causes of action. *See* Plan § 8.04. If the Plan is confirmed, the Plan Administrator will have authority to investigate the Altira/NVP Causes of Action and, if appropriate, seek funding to pursue them for the benefit of the Estate.

MTI voluntarily dismissed the Direct Action on June 21, 2016. *See* Docket No. 9 in Adv. Proc. No. 16-1201.

D. Auction and Sale of Substantially All of the Debtor's Assets

On June 8, 2016, the Debtor filed a motion (the "**Sale Motion**") to, *inter alia*, (i) establish bidding procedures for the sale of substantially all of the Debtor's assets, and (ii) approve the sale of such assets to the stalking horse bidder or other successful bidder. *See* Docket No. 91. The Sale Motion disclosed that Altira and NVP were the stalking horse bidder for the assets, with a stalking horse bid in the form of a credit bid of the $1.45 million DIP Loan (plus accrued interest). MTI filed an objection to the Debtor's proposed bidding procedures. *See* Docket No. 118. After a hearing held on June 20, 2016, the Bankruptcy Court entered an order approving the Debtor's proposed bidding procedures (the "**Bidding Procedures Order**"). *See* Docket No. 136.

Pursuant to the Bidding Procedures Order, the deadline for potential bidders to submit bids for the Debtor's assets was July 15, 2016. No Qualified Bids (as defined in the Bidding Procedures Order) were received by such date, although one potential bidder expressed interest in participating at the auction. The Debtor worked with such potential bidder in an attempt to get the bidder qualified, but ultimately no competing bids were received. Accordingly, at the sale hearing held on July 25, 2016, the Debtor sought and obtained approval to sell substantially all of its assets to Altira and NVP. Altira and NVP assigned their rights under the Asset Purchase Agreement (as defined in the Sale Motion) to the Buyer, who acquired the purchased assets. The Asset Sale to the Buyer closed on August 12, 2016. Most of the Debtor's executory contracts and unexpired leases were assumed and assigned to the Buyer in connection with the Asset Sale. *See, e.g.*, Docket No. 140 (notice of intent to assume and assign contracts and leases). Notably, the Supply Agreement was not assumed and assigned.

In connection with the Asset Sale, the Debtor obtained Court approval to retain r2 advisors, llc ("**R2**") as financial advisor to market the Debtor's assets and generally oversee the sale process. Thomas M. Kim, the Plan Administrator, is a principal of R2. R2 was paid a total of $20,000 for its work as the Debtor's financial advisor. *See* Docket No. 243.

E. The Transition Services Agreement

On July 22, 2016, the Debtor filed its *Motion for Approval of Transition Services Agreement* (Docket No. 175) (the "**TSA Motion**"). Pursuant to the TSA Motion, the Debtor sought Bankruptcy Court approval of that certain Transition Services Agreement, by and between the Debtor and the Buyer (as amended, the "**TSA**"). The purpose of the TSA is to facilitate the Buyer's transition to a new supplier. The TSA provides for a 90-day transition period during which the Debtor shall continue to place orders from CETCO under the Supply Agreement as requested by the Buyer. In exchange for the services provided by the Debtor under the TSA, the Buyer paid to the Debtor $45,000 upon entry into the TSA and $7,500 per month for the three-month period of the TSA. Pursuant to an amendment to the TSA, the Buyer continues to endorse checks received by customers directly to MTI. The Buyer also established a $100,000 escrow account to cover any shortfalls between the endorsed checks and MTI's invoice prices. *See* Docket No. 216.

The Court approved the TSA on August 10, 2016. *See* Docket No. 218. The TSA will expire by its terms on October 31, 2016.

V. DESCRIPTION OF THE PLAN

The entire text of the Plan has been provided with this Disclosure Statement. The following is a brief summary of certain provisions of the Plan; however, this summary is not comprehensive. The Plan and not the Disclosure Statement is the legally operative document that controls the relationship between the Debtor and its Creditors and Interest Holders. Therefore, the Plan should be read carefully and independently of this Disclosure Statement. Creditors and Interest Holders are urged to consult with counsel and other professionals in order to fully resolve any questions concerning the Plan.

A. Overview of the Plan

The Plan is simple and straightforward. The Debtor has liquidated substantially all of its assets through the Asset Sale and no longer maintains operations. The most significant remaining assets of the Debtor are its potential Causes of Action. The primary purpose of Plan is to pursue these Causes of Action for the benefit of Creditors. The Plan calls for the appointment of a neutral Plan Administrator to, among other things, evaluate the Estate's Causes of Action and, if appropriate, pursue them. The Plan Administrator will receive funding from the Plan Funder for this purpose. Payments to Creditors and Interest Holders, if any, will be directly related to the outcome of litigation brought by the Plan Administrator.

As described in more detail below, unsecured Creditors will receive their *pro rata* portion of the litigation proceeds generated by the Plan Administrator after payment of Administrative Expense Claims, Priority Non-Tax Claims, Secured Note Claims, Plan Funder recovery pursuant to Section 8.02(e) of the Plan, and certain other fees and expenses. In addition, Altira and NVP have agreed to voluntarily subordinate their payment rights such that they will receive no Distributions on account of their unsecured Claims unless and until Holders of Allowed Unsecured Trade Claims are paid in full. To the extent there is Cash remaining after payment in full of all Allowed Claims, Interest Holders will be paid in accordance with their non-bankruptcy liquidation priorities.

B. Preserved Causes of Action and Funding for the Plan

1. Causes of Action Vest in Estate and are Preserved for Prosecution by Plan Administrator

Except as expressly provided in the Plan, on the Effective Date the property of the Estate, including all Causes of Action, shall remain vested in the Estate, or vest in the Estate, as the case may be, until entry of the final decree in the Chapter 11 Case. Preserved Causes of Action include, without limitation, the MTI Causes of Action, Altira/NVP Causes of Action, and Avoidance Actions.

MTI Causes of Action. The Estate's potential Causes of Action against MTI are described in Section IV.B, *supra*. All such Causes of Action are expressly preserved under the Plan to be brought by the Plan Administrator for the benefit of Creditors. Based on the Debtor's analysis, the potential recovery on the MTI Causes of Action could range from $0 to tens of millions of dollars.

Altira/NVP Causes of Action. The Causes of Action described in MTI's Derivative Standing Motion are also expressly preserved under the Plan. These Causes of Action include claims for breach of fiduciary duty, fraudulent transfer, and equitable subordination against Altira, NVP, and Messrs. Garman and McKinnon. The Plan Administrator will have discretion to evaluate such potential Causes of Action and, if in the best interest of the Estate, pursue them.

Avoidance Actions. The Debtor's Statement of Financial Affairs list numerous payments made during the 90 days prior to the Petition Date (the "**Transfers**"). The Debtor has analyzed the Transfers and determined that most or all of them are subject to complete defenses, such as the "ordinary course of business" defense. Nevertheless, all potential Avoidance Actions are

preserved under the Plan and the Plan Administrator shall be entitled to bring any such Cause of Action if he determines that doing so is in the best interest of the Estate.

2. Plan Funding

The Plan Administrator's prosecution of Causes of Action will be funded by (i) cash on hand; (ii) the 2016 volume variance that the Estate will receive from MTI; (iii) the Plan Contributions from the Plan Funder; and (iv) any additional funding from the Plan Funder or other party. The Plan Contributions from the Plan Funder consist of an Initial Plan Contribution and Subsequent Plan Contributions. The Initial Plan Contribution will be $400,000 in Cash. Subsequent Plan Contributions will consist of: (x) funds recovered on account of sales tax overpayments made by the Debtor to the states of Pennsylvania and Wyoming in calendar years 2015 and 2016, and (y) if the TSA is extended, funds recovered from CETCO on account of endorsed customer checks arising from orders placed during the extended TSA period to the extent such checks are in excess of the amounts to which CETCO was entitled under the Supply Agreement.

With respect to item (x) above (tax overpayments), the Debtor erroneously paid approximately $185,000 in sales tax to MTI in addition to its customers paying the same sales tax, such that the states of Pennsylvania and Wyoming have been double-paid. In connection with the Asset Sale, Buyer acquired the Debtor's claim to the sales tax overpayments. Buyer is in the process of recovering the overpayments from the applicable taxing authorities; it is anticipated that such funds will be recovered within 3-9 months. Pursuant to the Plan, the Plan Funder has agreed to contribute all such funds to the Estate if and when received.

With respect to item (y) above (TSA extension), Buyer and/or the Debtor is required under the TSA to endorse customer checks to CETCO as they are received. The Price customer Talen Energy pays is significantly higher than the price that MTI charges the Debtor. Accordingly, Buyer and/or the Debtor is entitled to a refund from MTI to the extent of the overpayments. In the event that the TSA is extended beyond October 31, 2016, the Plan Funder has agreed to contribute to the Estate all overpayments recovered from MTI for orders placed during the extended TSA period. This amount could be in excess of $100,000 for orders placed from October 31, 2016 to December 31, 2016.

The Plan Administrator is permitted under the Plan to seek additional funding from the Plan Funder, or any other party, to carry out his duties under this Plan, including prosecuting Causes of Action. *See* Plan § 8.02(b). The Plan Administrator may use up to $25,000 of the Plan Contributions from the Plan Funder to investigate the Altira/NVP Causes of Action, but may not use such Plan Contributions to initiate or prosecute Causes of Action against Altira, NVP, Andrew Garman or Hull McKinnon. To the extent the Plan Administrator seeks to initiate or prosecute Causes of Action against Altira, NVP, Andrew Garman or Hull McKinnon, he may use unencumbered Cash of the Estate (other than Plan Contributions) or seek additional funding pursuant to Section 8.02(b) of the Plan.

In exchange for the Plan Contributions, the Plan Funder, and any other party that contributes funds pursuant to Section 8.02(b) of the Plan, shall receive an amount equal to 110% of the total Cash contributed pursuant to Article VIII of the Plan. *See* Plan §§ 3.05 & 8.02(e).

C. Treatment of Unclassified Claims

1. Administrative Expense Claims

Any party who claims to hold an Administrative Expense Claim (other than a Claim for Professional Fees) shall file a motion seeking allowance of such Administrative Claim on or before the date that is 28 days after the Effective Date (the "Administrative Expense Claim Bar Date"), regardless of whether or not such party has previously asserted an Administrative Expense Claim in a proof of claim. Except to the extent any entity entitled to payment of an Allowed Administrative Expense Claim has received payment on account of such Claim prior to the Effective Date or agrees to less favorable treatment, each Holder of an Allowed Administrative Expense Claim (other than a Claim for Professional Fees) shall receive Cash in an amount equal to such Allowed Claim by the later of either (i) the Effective Date or as soon thereafter as is reasonably practicable, or (ii) the date that is 14 days after the Administrative Expense Claim is Allowed.

2. Professional Fee Claims

All Professionals seeking payment of Professional Fees or reimbursement of expenses incurred through and including the Effective Date under § 503(b)(2), (3), (4) or (5) of the Bankruptcy Code ("Professional Fees") shall file their respective final applications on or before the date that is 45 days after the Effective Date. Except to the extent that the Holder of a Professional Fees Claim agrees to different treatment, the Allowed Professional Fees shall be paid in full in Cash by the Plan Administrator as soon as practicable after such Claims are Allowed by the Bankruptcy Court.

3. Priority Tax Claims

Except to the extent any entity entitled to payment of any Allowed Priority Tax Claim has received payment on account of such Claim prior to the Effective Date, each Holder of an Allowed Priority Tax Claim shall be paid in full on the Effective Date, or as soon thereafter as is reasonably practicable, unless such Holder of an Allowed Priority Tax Claim agrees to different treatment.

4. Plan Funder Claims

Payments to the Plan Funder, or any other party that contributes funding pursuant to Article VIII of the Plan, shall receive Distributions in the amount and in accordance with Article VIII of the Plan. Such party shall be entitled to receive a Distribution equal to 110% of the total Cash contributed pursuant to Article VIII of the Plan. Such Claims shall be paid before any Allowed Claims in Classes 3 through 12.

D. Classification and Treatment of Claims and Interests

1. Class 1: Priority Non-Tax Claims

Each holder of an Allowed Priority Non-Tax Claim shall receive, in full satisfaction of such Claim, four quarterly payments totaling a value, as of the Effective Date, equal to the Allowed amount of such Claim.

2. Class 2: Secured Note Claims

The Holders of Secured Note Claims shall retain the Liens and security interests in the Collateral securing the Secured Note Claims. After all Allowed Administrative Expense Claims have been paid in full, the Plan Administrator shall from time to time, in his discretion, make Distributions to the Holders of Secured Note Claims until the Secured Note Claims have been paid in full or until a final decree has entered in the Chapter 11 Case. To the extent any portion of the Secured Note Claims are undersecured, such amounts shall be treated as Class 3 Claims.

3. Class 3: Unsecured Trade Claims and Altira/NVP Unsecured Claims

a. Class 3 consists of Unsecured Trade Claims and Altira/NVP Unsecured Claims that exist against the Debtor. Subject to Section 5.03(b) of the Plan, each Holder of an Allowed Class 3 Claim shall receive, in full and final satisfaction of such Allowed Claim, its *pro rata* share of the Distributable Cash (with such *pro rata* share determined based on the aggregate amount of all Allowed Class 3 Claims and Allowed Class 4 Claims).

b. Holders of Allowed Class 3 Claims and Allowed Class 4 Claims shall receive their *pro rata* share of the Distributions set forth in this Plan based upon the total amount of all Allowed and Disputed Class 3 Claims and Class 4 Claims pending at the time of such Distribution. However, Distributions that Altira and NVP would be entitled to on account of their Altira/NVP Unsecured Claims, if Allowed, shall instead be Distributed *pro rata* to Holders of Allowed Unsecured Trade Claims until such time as all Allowed Unsecured Trade Claims have been paid in full. Once Allowed Unsecured Trade Claims have been paid in full, Altira and NVP will resume receiving *pro rata* Distributions with Allowed Class 4 Claims.

c. The Plan Administrator shall continue to make Distributions to Holders of Allowed Class 3 Claims until all Allowed Class 3 Claims have been paid in full or until a final decree has entered in the Chapter 11 Case. The timing and amount of Distributions to Holders of Allowed Class 3 Claims shall be made in accordance with Article VI of the Plan.

4. Class 4: MTI Unsecured Claims

a. Class 4 consists of MTI Unsecured Claims that exist against the Debtor. Each Holder of an Allowed Class 4 Claim shall receive, in full and final satisfaction of such Allowed Claim, its pro *rata* share of the Distributable Cash (with such *pro rata* share determined based on the aggregate amount of all Allowed Class 3 Claims and Class

4 Claims). For the avoidance of doubt, the Holders of Class 4 Claims shall not be entitled to the benefit of the payment subordination set forth in Section 5.03(b) of the Plan.

b. The Plan Administrator shall continue to make Distributions to Holders of Allowed Class 4 Claims until all Allowed Class 4 Claims have been paid in full or until a final decree has entered in the Chapter 11 Case. The timing and amount of Distributions to Holders of Allowed Class 4 Claims shall be made in accordance with Article VI of the Plan.

5. Class 5: Convenience Claims

Class 5 consists of Convenience Claims that exist against the Debtor. Each Holder of an Allowed Class 5 Claim shall receive, in full and final satisfaction of such Allowed Claim, Cash in an amount equal to seventy percent (70%) of such Allowed Claim, payable by the Plan Administrator as soon as practicable following the Effective Date. The payment to Class 5 is in lieu of any treatment as a Class 3 Creditor. Any unsecured creditor electing treatment as a Class 5 Convenience Claim must affirmatively do so on its ballot.

6. Class 6: Series D Preferred Interests

Class 6 consists of Series D Preferred Interests in the Debtor. Each Holder of an Allowed Series D Preferred Interest shall receive, in full and final satisfaction of such Interest, its *pro rata* share of any Distributable Cash remaining after all Allowed Claims on Classes 3 through 5 have been paid in full. For purposes of the Plan, Series D Preferred Interests shall be deemed paid in full if and when the Holders of such Series D Preferred Interests receive Cash in the amount of $0.99 per Series D share. Notwithstanding anything in the Plan to the contrary, Holders of Series D Preferred Interests shall retain their rights of conversion to Common Stock as set forth in the Certificate of Incorporation and related instruments and agreements. For the avoidance of doubt, the Plan is without prejudice to the Plan Administrator's right to bring a cause of action challenging the validity, priority, or amount of the Series D Preferred Interests.

7. Class 7: Series C Preferred Interests

Class 7 consists of Series C Preferred Interests in the Debtor. Each Holder of an Allowed Series C Preferred Interest shall receive, in full and final satisfaction of such Interest, its *pro rata* share of any Distributable Cash remaining after all Allowed Claims and Interests in Classes 3 through 6 have been paid in full. For purposes of the Plan, Series C Preferred Interests shall be deemed paid in full if and when the Holders of such Series C Preferred Interests receive Cash in the amount of $0.33 per Series C share. Notwithstanding anything in the Plan to the contrary, Holders of Series C Preferred Interests shall retain their rights of conversion to Common Stock as set forth in the Certificate of Incorporation and related instruments and agreements.

8. Class 8: Series B Preferred Interests

Class 8 consists of Series B Preferred Interests in the Debtor. Each Holder of an Allowed Series B Preferred Interest shall receive, in full and final satisfaction of such Interest, its *pro rata* share of any Distributable Cash remaining after all Allowed Claims and Interests in Classes 3

through 7 have been paid in full. For purposes of the Plan, Series B Preferred Interests shall be deemed paid in full if and when the Holders of such Series B Preferred Interests receive Cash in the amount of $0.2256 per Series B share. Notwithstanding anything in the Plan to the contrary, Holders of Series B Preferred Interests shall retain their rights of conversion to Common Stock as set forth in the Certificate of Incorporation and related instruments and agreements.

9. Class 9: Series A-3 Preferred Interests

Class 9 consists of Series A-3 Preferred Interests in the Debtor. Each Holder of an Allowed Series A-3 Preferred Interest shall receive, in full and final satisfaction of such Interest, its *pro rata* share of any Distributable Cash remaining after all Allowed Claims and Interests in Classes 3 through 8 have been paid in full. For purposes of the Plan, Series A-3 Preferred Interests shall be deemed paid in full if and when the Holders of such Series A-3 Preferred Interests receive Cash in the amount of $0.125999 per Series A-3 share. Notwithstanding anything in the Plan to the contrary, Holders of Series A-3 Preferred Interests shall retain their rights of conversion to Common Stock as set forth in the Certificate of Incorporation and related instruments and agreements.

10. Class 10: Series A-2 Preferred Interests

Class 10 consists of Series A-2 Preferred Interests in the Debtor. Each Holder of an Allowed Series A-2 Preferred Interest shall receive, in full and final satisfaction of such Interest, its *pro rata* share of any Distributable Cash remaining after all Allowed Claims and Interests in Classes 3 through 9 have been paid in full. For purposes of the Plan, Series A-2 Preferred Interests shall be deemed paid in full if and when the Holders of such Series A-2 Preferred Interests receive Cash in the amount of $0.125999 per Series A-2 share. Notwithstanding anything in the Plan to the contrary, Holders of Series A-2 Preferred Interests shall retain their rights of conversion to Common Stock as set forth in the Certificate of Incorporation and related instruments and agreements.

11. Class 11: Series A-3 Preferred Interests

Class 11 consists of Series A-3 Preferred Interests in the Debtor. Each Holder of an Allowed Series A-3 Preferred Interest shall receive, in full and final satisfaction of such Interest, its *pro rata* share of any Distributable Cash remaining after all Allowed Claims and Interests in Classes 3 through 10 have been paid in full. For purposes of the Plan, Series A-3 Preferred Interests shall be deemed paid in full if and when the Holders of such Series A-3 Preferred Interests receive Cash in the amount of $0.01 per Series A-3 share. Notwithstanding anything in the Plan to the contrary, Holders of Series A-3 Preferred Interests shall retain their rights of conversion to Common Stock as set forth in the Certificate of Incorporation and related instruments and agreements.

12. Class 12: Common Stock

Class 12 consists of Common Stock Interests in the Debtor. In the event that there is any Distributable Cash remaining after all Allowed Claims and Interests in Classes 3 through 11 have been paid in full, all such remaining Distributable Cash shall be distributed *pro rata* to the Holders of Common Stock.

E. Plan Administrator

a. Appointment and Compensation. As of the Effective Date, Thomas M. Kim, Founder and Managing Director of r2 advisors, llc, shall be appointed Plan Administrator. A copy of Mr. Kim's curriculum vitae is attached hereto as **Exhibit B.** The Plan Administrator shall receive as compensation: (i) base compensation equal to $2,500 per month for a minimum of 10 months, *plus* (ii) $0.15 for every $1.00 that the Plan Administrator Distributes to Holders of Allowed Unsecured Trade Claims. The Plan Administrator shall also be entitled to reimbursement for actual out-of-pocket expenses.

b. Powers and Duties. In addition to any other powers described in this Plan, the powers and duties of the Plan Administrator consist of the following:

i. To take control of, preserve, and convert to Cash property of the Estate, subject to the terms of this Plan;

ii. To investigate and prosecute or abandon all Causes of Action belonging to or assertible by the Estate, including Avoidance Claims belonging to or assertible by the Estate, the MTI Causes of Action and the Altira/NVP Causes of Action;

iii. Subject to Bankruptcy Court approval, to enter into a litigation funding agreement to obtain further funding from the Plan Funder or other third party to enable the Plan Administrator to pursue or continue to pursue Causes of Action belonging to or assertible by the Estate;

iv. To review, object to, seek equitable subordination of, or seek any other remedy with respect to Claims filed against the Debtor;

v. To abandon, discontinue, dismiss, amend, settle, compromise, negotiate or otherwise resolve all disputes, including all Causes of Action, Avoidance Claims and Objections to Claims;

vi. To take all actions necessary to recover or seek payment of amounts owed to the Debtor under the Supply Agreement or any other agreement with MTI, AMCOL or CETCO.

vii. To make Distributions on account of all Allowed Claims and Interests consistent with the terms of this Plan;

viii. To retain persons and professionals to assist in carrying out the powers and duties enumerated pursuant to this Plan;

ix. To enter into contracts as necessary to assist in carrying out the powers and duties enumerated pursuant to this Plan;

x. To pay expenses incurred in carrying out the powers and duties enumerated pursuant to this Plan, including professional fees incurred after the Effective Date;

xi. To the extent the Plan Administrator deems necessary, to take all necessary actions to assure that the corporate existence of the Debtor remains in good standing until entry of a final decree closing the Chapter 11 Case;

xii. To open and maintain bank accounts and deposit funds and draw checks and make disbursements in accordance with the Plan;

xiii. To effectuate any of the provisions in this Plan;

xiv. At the appropriate time, to ask the Bankruptcy Court to enter the final decree; and

xv. To execute all documents appropriate to convey assets of the Estate consistent with the terms of this Plan.

c. Vesting of Causes of Action. Except as otherwise provided in the Plan, as of the Effective Date, pursuant to § 1123(b)(3)(B) of the Bankruptcy Code, any and all Causes of Action accruing to the Debtor, or the Debtor in its capacity as debtor-in-possession, and not released or compromised pursuant to this Plan, including, without limitation, Avoidance Claims, the MTI Causes of Action and the Altira/NVP Causes of Action, shall remain assets of the Estate, and the Plan Administrator shall have the authority to prosecute such Causes of Action for the benefit of the Estate. On and after the Effective Date, the Plan Administrator shall have the authority to abandon, discontinue, dismiss, amend, settle, compromise, negotiate or otherwise resolve all such Causes of Action in accordance with the terms of the Plan. It is anticipated that the Plan Administrator will keep the Chapter 11 Case open until resolution of the Causes of Action pursued by the Plan Administrator, if any.

d. Exculpation for the Plan Administrator. Neither the Plan Administrator nor any of his designees, retained professionals or any duly designated agent or representative shall be liable for anything other than such person's own acts as shall constitute willful misconduct or gross negligence in the performance (or nonperformance) of its duties, or acts contrary to the express terms of this Plan. The Plan Administrator may, in connection with the performance of his functions, consult with counsel, accountants and its agents, and may reasonably rely upon advice or opinions received in the course of such consultation. If the Plan Administrator determines not to consult with counsel, accountants or its agents, such determination shall not in itself be deemed to impose any liability on the Plan Administrator, or his designees.

e. Termination of Appointment of Plan Administrator. The Plan Administrator's appointment shall terminate upon the entry of a final decree closing the Chapter 11 Case, at which time the Plan Administrator shall have no powers and duties. In the event that Thomas M. Kim resigns or otherwise ceases to be the Plan Administrator prior to the entry of a final decree, then the Plan Funder shall have the

right, after notice and a hearing before the Bankruptcy Court, to appoint a replacement Plan Administrator.

F. Conditions Precedent to Effectiveness of the Plan

The Plan shall not become effective unless and until the following have been satisfied or waived in accordance with Section 9.02 of the Plan:

a. The Confirmation Order, in form and substance reasonably satisfactory to the Debtor, shall have been entered by the Bankruptcy Court;

There is no stay or injunction in effect with respect to the Confirmation Order; and

14 days shall have passed since the Confirmation Order has been entered by the Bankruptcy Court.

G. Settlement, Release, Injunction, and Related Provisions

The Plan does not contain any releases of Claims or Causes of Action against non-Debtor parties for acts or omissions occurring prior to the Petition Date.

H. Feasibility; Financial Projections; Distributions to Creditors

Section 1129(a)(11) of the Bankruptcy Code requires that a debtor or plan proponent demonstrate that confirmation of a plan is not likely to be followed by liquidation or the need for further financial reorganization unless the plan calls for liquidation. The Plan calls for the continued liquidation of the Debtor and is therefore, by definition, feasible. The Debtor has no ongoing operations, and thus this Disclosure Statement does not contain any financial projections of operations.

The Debtor has analyzed its ability to meet its obligations under the Plan. Based upon current cash, the Debtor will be able to meet its post-confirmation wind-down costs, make all payments required on Unclassified Claims, and pay all Class 1 Claims in accordance with the Plan terms. The Plan Administrator will be left with substantial funds to pursue Causes of Action as he deems appropriate. Recoveries to Holders of Claims and Interests in Classes 2 through 13 will be largely dependent on the outcome of such litigation.

I. Cramdown

If any class of Claims fails to accept the Plan in accordance with § 1126(c) of the Bankruptcy Code, the Bankruptcy Court may confirm the Plan in accordance with § 1129(b) of the Bankruptcy Code on the basis that the Plan is fair and equitable and does not discriminate unfairly with respect to any non-accepting, impaired Class. The Plan satisfies the "absolute priority rule" insofar as holders of Interests will receive no Distributions unless and until all Allowed unsecured Claims are paid in full.

J. Federal Income Tax Consequences of the Plan

Any tax advice contained in this Disclosure Statement is not intended or written to be used, and cannot be used, by any taxpayer for the purpose of avoiding tax-related

penalties under the Internal Revenue Code of 1986, as amended. Any tax advice contained in this Disclosure Statement was written to support the promotion of the transactions described in this Disclosure Statement.

The following discussion is not intended as a substitute for professional tax advice, including the evaluation of recently enacted and pending legislation, since recent changes in the federal income taxation of reorganizations under the Bankruptcy Code are complex and lack authoritative interpretation. The Debtor has not received, nor will it request, a ruling from the IRS as to any of the tax consequences of the Plan with respect to holders of Claims or Interests. The Debtor assumes no responsibility for the tax effect that Confirmation and receipt of any Distribution under the Plan may have on any given creditor or other party in interest. The Debtor recommends that Creditors and other parties in interest consult with their own tax advisors concerning the federal, state and local tax consequences of the Plan.

Creditors may be required to report income or may be entitled to a deduction as a result of implementation of the Plan. To the extent a Creditor receives, or expects to receive, less pursuant to the Plan than the Creditor's basis in the claim to which such amount relates, the Creditor may be permitted to claim a bad debt deduction. The amount, timing and character of the deduction will depend, among other things, upon the Creditor's tax accounting method for bad debts, the Creditor's tax status, the nature of the Creditor's claim, whether the Creditor receives consideration in more than one year, and whether the creditor has previously taken a bad debt deduction or worthless security deduction with respect to the Creditor's claim. If the debt is not business related, a deduction is only available if the debt is worthless. A cash-basis taxpayer can deduct a bad debt only if an actual cash loss has been sustained or if the amount deducted was included in income. All accrual-basis taxpayers must use the specific charge-off method to deduct business bad debts.

To the extent that a Creditor receives payment pursuant to the Plan in an amount in excess of the Creditor's adjusted tax basis in the claim to which payment relates, the excess will be treated as income or gain to the Creditor. A Creditor not previously required to include in its taxable income any accrued but unpaid interest on a Claim may be treated as receiving taxable interest, to the extent the amount it receives pursuant to the Plan is allocable to such accrued but unpaid interest. A Creditor previously required to include in its taxable income any accrued but unpaid interest on a claim may be entitled to recognize a deductible loss, to the extent the amount of interest actually received by the Creditor is less than the amount of interest taken into income by the creditor.

VI. EXECUTORY CONTRACTS AND UNEXPIRED LEASES

A. Assumption or Rejection of Executory Contracts and Unexpired Leases.

Pursuant to §§ 365(a) and 1123(b)(2) of the Bankruptcy Code, all executory contracts and unexpired leases that exist between the Debtor and any party that have not been previously assumed pursuant to an order of the Bankruptcy Court shall be deemed rejected on the Effective Date. Attached to the Plan as Exhibit A is a list of executory contracts and unexpired leases that the Debtor shall seek to reject pursuant to the Plan. For the avoidance of doubt, the Debtor will file separate motions seeking to authority to reject such executory contracts. For the avoidance

of doubt, the Supply Agreement between the Debtor and CETCO shall be deemed rejected on the Effective Date.

B. Claims Based on Rejection of Executory Contracts or Unexpired Leases.

With respect to Claims arising from the rejection of executory contracts or unexpired leases pursuant to Section 7.01 of the Plan, the bar date to file Proofs of Claim in this Case shall be reopened for a period of 28 days after the Effective Date, and all such Proofs of Claim must be filed with the Bankruptcy Court during that time. Any Claim arising from the rejection of an executory contract or unexpired lease pursuant to Section 7.01 of the Plan for which a Proof of Claim is not timely filed within that time period shall be forever barred from assertion against the Estate, the Debtor, the Plan Administrator, their successors and assigns, or their assets and properties, unless otherwise ordered by the Bankruptcy Court or as otherwise provided herein.

VII. MISCELLANEOUS PLAN PROVISIONS

A. No Discharge

Pursuant to Bankruptcy Code § 1141(d)(3), the Confirmation Order will not discharge the Debtor of any debts.

B. Exculpation

The Debtor and any of its employees, advisors, counsel, and agents shall neither have nor incur any liability to any Holder of a Claim or Interest, or any party acting or asserting a claim through a Holder of a Claim or Interest, for any act or omission in connection with, related to, or arising out of, the Chapter 11 Case, the pursuit of confirmation of the Plan, the consummation of the Plan, the administration of the Plan or the property to be distributed under the Plan, except for willful misconduct or gross negligence, and, in all respects, the Debtor shall be entitled to rely upon the advice of counsel with respect to its duties and responsibilities under the Plan. For the avoidance of doubt, this Section shall not exculpate any director or officer of the Debtor for any liability arising from the MTI Causes of Action or the Altira/NVP Causes of Action.

C. Post-Effective Date Fees and Expenses.

From and after the Effective Date, in the ordinary course of business and without the necessity for any approval by the Bankruptcy Court, the reasonable fees and expenses of professional persons incurred after the Effective Date by the Plan Administrator shall be paid by the Plan Administrator, including, without limitation, those fees and expenses incurred in connection with the implementation and consummation of the Plan.

D. Post-Effective Date Statutory Fees.

All fees payable pursuant to § 1930 of Title 28 of the United States Code incurred after the Effective Date shall be paid in accordance with applicable law. The Plan Administrator shall submit post-confirmation reports in compliance with applicable law.

E. Objections to Claims and Settlements

a. After the Effective Date, Objections to Claims may be made, and Objections to Claims made previous thereto shall be pursued, only by the Plan Administrator. The deadline for the Plan Administrator to file Objections to Claims shall be 180 days after the Effective Date, subject to extension by motion to the Court. After the Effective Date, the Plan Administrator shall, without further order of the Bankruptcy Court, have the right to retain and compensate counsel or other professionals to assist with Objections to Claims or any other duties of the Plan Administrator under the Plan.

b. After the Effective Date, the Plan Administrator may settle any Disputed Claims where the proposed Allowed Claim is to be less than $25,000 without notice and a hearing and without an order of the Bankruptcy Court. All other settlements shall be subject to notice and a hearing pursuant to § 102(1) of the Bankruptcy Code and Bankruptcy Rule 9019.

F. Reserves for Disputed Claims

If any Claim is a Disputed Claim, no Distribution provided hereunder shall be made on account of such Claim unless and until said Disputed Claim becomes an Allowed Claim. In the event any Distribution is made while there is an extant Disputed Claim, the Distribution that would be paid on account of the Disputed Claim shall be withheld until the Disputed Claim is Allowed or Disallowed. If the Claim is Allowed, the Holder of the Allowed Claim will receive its withheld Distribution. If the Claim is Disallowed, then any Distribution that was withheld with respect to such Claim shall be Distributed *pro rata* among the Holders of Allowed Class 3 Claims and Allowed Class 4 Claims in accordance with Article V of the Plan.

G. Retention of Jurisdiction

The Plan contains a standard retention of jurisdiction provision. *See* Plan Art. X. In the event that the Plan Administrator defaults on any of his obligations under the Plan, the Bankruptcy Court shall retain jurisdiction to enforce the terms of the Plan. *See id.* & § 8.07.

H. Other Provisions

Creditors and other parties in interest are directed to the Plan with respect to the provisions that are not specifically discussed in this Disclosure Statement.

VIII. RISK FACTORS

As with any plan or other financial transaction, there are certain risk factors which must be considered. It should be noted that all risk factors cannot be anticipated, that some events will develop in ways that were not foreseen and that many or all of the assumptions that have been used in connection with this Disclosure Statement and the Plan will not be realized exactly as assumed. Some or all of such variations may be material. While every effort has been made to be reasonable in this regard, there can be no assurance that subsequent events will bear out the analysis set forth herein. Not all possible risks can be, or are discussed in this Disclosure Statement. Under the Plan, some of the principal risks that Holders of Claims and Interests should be aware of, in the Debtor's view, are as follows:

- Dilution of Distribution Based on Allowed Claims. No final determination has been made as to which Claims will be Disputed Claims, and it is possible that the number of Disputed Claims may be material and that the amounts allowed in respect of such Disputed Claims maybe materially in excess of the estimates of Allowed Claims used to develop the Plan and this Disclosure Statement. The Holders of Allowed Claims are subject to the risk of dilution if the amount of actual Allowed Claims exceeds such estimates. Accordingly, Distributions to the Holders of Allowed Claims are at risk of being adversely affected by the total amount of Allowed Claims.
- Litigation Risk. Litigation is inherently uncertain. The Debtor believes that the Estate possesses valuable Causes of Action, but there is no guarantee that the Plan Administrator will be successful in his pursuit of Causes of Action. If the Plan Administrator does not achieve any recovery from the Causes of Action, then it is unlikely that any funds will be Distributed to Holders of unsecured Claims or Interests.
- Litigation Expenses. Litigation expenses could be substantial, which could affect Distributions on account of Allowed unsecured Claims and Interests.

IX. LIQUIDATION ANALYSIS

To confirm the Plan, the Court must determine (with certain exceptions) that the Plan provides each member of each Impaired class of Allowed Claims a recovery at least equal to the distribution that such member would receive if the Debtor were liquidated under chapter 7 of the Bankruptcy Code. The trustee appointed in a chapter 7 case would make all of his or her own decisions with respect to the liquidation of the Estate, the hiring of professionals, the pursuit of any claims or litigation, and the payment or objection to Claims. A chapter 7 trustee and his or her professionals at this stage would necessarily duplicate much of the work already done by the Debtor and its professionals, at additional expense. As a general matter, distributions in chapter 7 cases are not made until all issues have been resolved and the trustee's Final Report is approved. If the Chapter 11 Case were converted to chapter 7, commencement of distributions would likely be delayed with no commensurate benefit. Conversion to chapter 7 would also result in the Court setting a new claims bar date, opening up the possibility of additional claims being filed.

The Debtor has concluded that under the Plan each Holder of a Claim or Interest will receive or retain property of a value that is equal to or greater than the amount that such Holder would receive or retain if the estate of the Debtor were liquidated under chapter 7 because, among other reasons, the Holders of the Secured Note Claims hold a Lien on substantially all of the Debtor's assets. If the Debtor's assets were liquidated in chapter 7, all proceeds would thus go to the Holders of Secured Note Claims, with no recovery to Holders of Claims in Classes 1, 3, 4, or 5. In addition to the Secured Note Claims, unpaid Professional Fees incurred through the Effective Date could be as high as $500,000 or more, depending on activity in the Case—an amount greater than the sum of the Debtor's cash on hand plus the anticipated 2016 volume variance owed by MTI. If the Chapter 11 Case were to be converted to chapter 7 and the Professional Fees were Allowed by the Bankruptcy Court, they would take priority over Claims and Interests in Classes 3 through 12; there would be no funds available for distribution to Holders of allowed unsecured Claims and Interests.

Moreover, the Plan provides for $400,000 in Cash funding plus Subsequent Plan Contributions for the Plan Administrator to pursue Causes of Action; there is no indication that a chapter 7 trustee would have a source of funding to pursue potentially valuable Causes of Action. Nor would the Estate be able to continue to place orders under the TSA if the Chapter 11 Case were converted to chapter 7; thus the Estate would not be entitled to receive the volume variances associated with such orders. In short, as opposed to a virtually guaranteed recovery of zero in chapter 7, under the Plan the Holders of unsecured Claims and Interests could possibly receive significant recoveries.

X. SOLICITATION OF ACCEPTANCE OF PLAN

The Debtor hereby solicits acceptance of the Plan and urges its Creditors and Interest Holders to vote to accept the Plan.

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September 28, 2016

NOVINDA CORP.

Debtor and Debtor-in-Possession

By: Michael Rosenberg, its Interim CEO

By: _____
Name: Michael Rosenberg
Title: Interim Chief Executive Officer

APPROVED AS TO FORM:

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