[This proposed Disclosure Statement is being used to solicit acceptances of the Plan pursuant to an Order of the Bankruptcy Court entered pursuant to 11 U.S.C. § 105(d)(2)(B)(vi), authorizing a combined hearing on approval of this Disclosure Statement and the hearing on confirmation of the Debtors' Chapter 11 Plan.]

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	Case No. 16-10369 (KJC)
	Chapter 11
Sundevil Power Holdings, LLC, *et al*.,	(Jointly Administered)
Debtors.[1]	

DISCLOSURE STATEMENT WITH RESPECT TO DEBTORS' JOINT CHAPTER 11 PLAN

IMPORTANT DATES

- Objections to the adequacy of the Disclosure Statement: [_____
- Ballots must be received by [____
- Objections to Confirmation of the Plan must be filed and served by [____
- Hearing on Confirmation of the Plan: [____ at ____.m. (prevailing Eastern time)

Dated: November 18, 2016

DRINKER BIDDLE & REATH LLP
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Counsel to the Debtors
and Debtors-in-Possession

[1] The Debtors in these chapter 11 cases, and the last four digits of their respective federal tax identification numbers, are Sundevil Power Holdings, LLC (2308) and SPH Holdco LLC (7777). The Debtors' service address is: 701 East Lake Street, Suite 300, Wayzata, Minnesota 55391.

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DISCLOSURE STATEMENT WITH RESPECT TO DEBTORS' JOINT CHAPTER 11 PLAN

SECTION 1 INTRODUCTION

1.1 OVERVIEW

This Disclosure Statement provides information relevant to considering a proposed joint chapter 11 plan (the "Plan", attached as Appendix A) proposed by the two debtor entities in these bankruptcy cases, namely, Sundevil Power Holdings, LLC and SPH Holdco LLC (collectively, the "Debtors" or the "Company").

Generally speaking, a Disclosure Statement such as this is intended to set forth adequate information so that creditors who are entitled to vote on the Plan are able to make an informed decision on their votes. This Disclosure Statement does not repeat that which is set forth in the Plan. Instead, the Disclosure Statement is intended to be reviewed alongside and in tandem with the Plan. Capitalized terms used in this Disclosure Statement are in some instances defined in this document; otherwise, their definitions are in Article I of the Plan.

The Debtors' bankruptcy cases have been "jointly administered" essentially since they were filed, under case number 16-10639 (KJC), which means that there is a single docket of pleadings in the cases, even though the two Debtors are separate and distinct legal entities. Joint administration does not in any way combine the assets, liabilities or affairs of the Debtors. There remain two separate bankruptcy cases (one for each legal entity), and thus the Plan is a joint plan filed by the two Debtors.

This Disclosure Statement sets forth certain information regarding the following, among other things:

- The Debtors' pre-petition operating and financial history;
- The Debtors' reasons for seeking relief under Chapter 11 and significant events that have occurred during the chapter 11 cases (the "Chapter 11 Cases");
- A summary of the key provisions and the intent of the Plan, the effects of confirmation of the Plan, certain risk factors associated with the Plan, and the manner in which Distributions will be made under the Plan; and
- 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 right to vote on the Plan is reserved only for creditors whose Class of Claims under the Plan meet a two-part standard: First, the Claims must be "impaired" by the Plan (a Bankruptcy Code definition that generally means that creditors' legal rights are being modified by the treatment under the Plan) and second, the Claims in the Class must be entitled to receive a Distribution under the Plan. The Debtors' Plan has two voting classes that meet the voting test: Class 3 (Secured Lender Claims) and Class 4 (Other Secured Claims).

The rest of the Classes under the Plan are non-voting classes. Claims in Classes 1 and 2 are "unimpaired" by the Plan and, under the Bankruptcy Code, holders of unimpaired claims are presumed to have accepted the Plan. The recovery "waterfall" in these Chapter 11 Cases is such that there are no recoveries available for the remaining four plan Classes; therefore, under the Bankruptcy Code these Classes are deemed to reject the Plan. These deemed rejecting Classes are Class 5 (General Unsecured Claims), Class 6 (Intercompany Claims), and the Interest holder (equity) classes, Classes 7 and 8. There are three other categories of Claims that are provided for under the Plan, which are not classified pursuant to the Bankruptcy Code (section 1123(a)(1)): Administrative Expense Claims, Accrued Professional Compensation Claims, and Priority Tax Claims.

1.2 IMPORTANCE OF REVIEW OF THE SOLICITATION DOCUMENTS; DISCLAIMERS

The Debtors caution that the Disclosure Statement, the Plan, and all amendments and supplemental filings, must be reviewed and considered in their entirety. This Disclosure Statement contains several discussions regarding risk factors, among other relevant information.

No representations concerning the Debtors' financial condition or any aspect of the Plan are authorized by the Debtors other than as set forth in this Disclosure Statement. Any representations or inducements made to secure your acceptance or rejection that are other than as contained in or included with this Disclosure Statement should not be relied upon by you in arriving at your decision.

The financial information contained herein, as well as any supplemental information submitted in connection with the Plan, is unaudited unless otherwise indicated. Reasonable effort has been made to ensure that all information in this Disclosure Statement is fairly presented. However, no representations or assurances are made or intended that the information herein has been independently verified as being complete and without error, misstatement or omission.

Nothing contained in this Disclosure Statement constitutes an admission of any fact or liability by any party. This Disclosure Statement shall not be admissible in any non-bankruptcy proceeding involving the Debtors or any other party.

Certain of the information contained in this Disclosure Statement is by its nature forward-looking and contains estimates and assumptions with respect to Cash available for distribution that may be materially different from future results. Except to the extent specifically and expressly stated herein, this Disclosure Statement does not reflect any events that may occur subsequent to the date hereof, which may have a material impact on the information contained in this Disclosure Statement. The Debtors do not undertake any obligation to, and do not intend to, update the financial information contained in or accompanying this Disclosure Statement; thus, any such financial information will not reflect the impact of any subsequent events not already accounted for in the assumptions underlying said financial information. Further, the Debtors do not anticipate that any amendments or supplements to this Disclosure Statement will be distributed to reflect such occurrences. Accordingly, the delivery of this Disclosure Statement will not under any circumstance imply that the information herein is correct or complete as of

any time subsequent to the date hereof. Moreover, the financial information contained herein is based on assumptions that, although believed to be reasonable by the Debtors, may differ from actual results.

This Disclosure Statement should not be construed as legal, business or tax advice. Each creditor or interest holder should consult his or her own legal counsel and accountant as to legal, tax and other matters concerning his or her claim.

SECTION 2 **AN OVERVIEW OF THE CHAPTER 11 PROCESS**

Chapter 11 of the Bankruptcy Code is generally intended to provide the debtor with a "breathing spell" within which to propose a restructuring of its obligations to creditors and other parties. The filing of a chapter 11 bankruptcy petition creates a bankruptcy "estate" comprising all of the property interests of the debtor. Unless a trustee is appointed by the Bankruptcy Court for cause (no trustee has been appointed in these Chapter 11 Cases), a debtor remains in possession and control of all of its assets as a "debtor in possession." The debtor may continue to operate its business in the ordinary course on a day-to-day basis without Bankruptcy Court approval. Bankruptcy Court approval is only required for various statutorily-enumerated kinds of transactions (such as certain financing transactions) and transactions out of the ordinary course of a debtor's business. The filing of the bankruptcy petition gives rise to what is known as the "automatic stay," which generally enjoins creditors from taking any action to collect or recover obligations owed by a debtor prior to the commencement of a chapter 11 case. The Bankruptcy Court can grant relief from the automatic stay under certain specified conditions, or for cause.

The Bankruptcy Code authorizes the creation of one or more official committees to protect the interests of some or all creditors or equity interest holders. No official committee has been appointed in the Debtors' Chapter 11 Cases.

A chapter 11 debtor may emerge from bankruptcy by successfully confirming a plan of reorganization. Alternatively, the debtor may successfully achieve the sale of its assets on a going-concern basis and provide for the distribution of proceeds through a chapter 11 plan that does not provide for a reorganization. Such a non-reorganization plan may be termed a plan of liquidation. A plan may be either consensual or non-consensual and may provide, among other things, for the treatment of the claims of creditors and interests of equity holders. The Debtors' Plan is a plan of liquidation. The provisions of the Debtors' Plan are summarized below.

SECTION 3 **PLAN OVERVIEW**

The following is a brief overview of the material provisions of the Plan and is qualified in its entirety by reference to the full text of the Plan.

The Plan contemplates the liquidation of the Debtors' assets that remain following the closing of the Sale (see Section 5.4.E below), and distribution of the proceeds of such liquidation to creditors. The Plan designates eight (8) Classes of Claims and Interests. These Classes take into account the differing nature and priority of the various Claims and Interests under the Bankruptcy Code.

The Debtors believe that the Plan provides the best means currently available for the payment of Allowed Claims from available assets.

3.1 **General Structure of the Plan**

The Plan is organized into 13 sections that set forth the unclassified and unclassified categories of Claims and Interests, the treatment of those Claims and Interests, voting rights, the means for implementing the Plan, and the conditions and effects of confirmation of the Plan. The following is an overview of certain material terms of the Plan:

- The Company will conclude the liquidation of its assets pursuant to the Plan. To the extent proceeds are available for distribution, Allowed Claims receiving distributions will be paid on, or as soon as practicable after, the Effective Date.

- Allowed Administrative Expense Claims, Accrued Professional Compensation Claims, and Priority Tax Claims will be paid in full as required by the Bankruptcy Code, unless otherwise agreed by the Holders of such Claims.

- Allowed Other Priority Claims and Secured Tax Claims, if any, will be paid in full in accordance with Bankruptcy Code section 1129(a)(9)(C), unless otherwise agreed by the Holders of such Claims.

- Secured Lender Claims will receive any excess cash from the Wind-Down Amount remaining after the payment in full of all Allowed Administrative Expense Claims, all Accrued Professional Compensation Claims, all Allowed Priority Tax Claims, and Allowed Other Priority Claims and Plan Expenses to be paid under this Plan, including any amounts due to the Office of the United States Trustee.

- Allowed Other Secured Claims will, at the option of the Debtors, (i) be paid in full in Cash, without interest (ii) receive the collateral securing its Allowed Other Secured Claim, plus post-petition interest to the extent required under section 506(b) of the Bankruptcy Code, or (iii) receive other treatment rendering such Claim Unimpaired in accordance with section 1124 of the Bankruptcy Code, in each case on the later of the Effective Date and the date such Other Secured Claim becomes an Allowed Other Secured Claim, or as soon thereafter as is reasonably practicable.

- Allowed General Unsecured Claims will receive no distribution on account of such General Unsecured Claims.

- Holders of Intercompany Claims will receive no distribution on account of such Intercompany Claims.

3.2 Summary of Treatment of Claims and Interests under the Plan

The table below summarizes the classification and treatment of the pre-petition Claims and Interests under the Plan. Estimated Claim amounts assume a calculation date of [_____, 2016, except that General Unsecured Claims are calculated as of February 11, 2016 (the "Petition Date"). Estimated percentage recoveries are also set forth below for certain Classes of Claims. Estimated parentage recoveries have been calculated based upon a number of assumptions, including the estimated amount of Allowed Claims in each Class. There is considerable uncertainty concerning the recovery ultimately available. It is presumed, however, that the Debtors have sufficient Cash to satisfy in full all Allowed Administrative Expense Claims, Allowed Accrued Professional Compensation Claims, Allowed Priority Tax Claims, and Allowed Claims in Classes 1, 2, 3, and 4 set forth below.

For certain Classes of Claims, the actual amounts of Allowed Claims could materially exceed or could be materially less than the estimated amounts shown in the table that follows. The Debtors have not reviewed and analyzed all Proofs of Claim filed in the Chapter 11 Cases. Estimated Claim amounts for each Class set forth below are based upon a review of the information available to the Debtors and of certain Proofs of Claim, and include estimates of a number of Claims that are contingent, disputed, and/or unliquidated.

[Continued next page]

Description and Amount of Claims or Interests	Summary of Treatment
Class 1: Other Priority Claims Estimated Aggregate Allowed Amount of Class 1 Claims: $0	• **Unimpaired** • Class 1 consists of all Other Priority Claims • Payment of Cash in the full amount of an Allowed Other Priority Claim, on or as soon as reasonably practicable after the later of (i) the Effective Date; (ii) the date the Other Priority Claim becomes an Allowed Claim; or (iii) the date for payment provided by any agreement or arrangement between the Debtors and the Holder of the Allowed Other Priority Claim. The Debtors do not anticipate that there will be any Allowed Other Priority Claims. • Class 1 is Unimpaired, and Holders of Class 1 Other Priority Claims are presumed to have accepted the Plan. Therefore, Holders of Class 1 Other Priority Claims are not entitled to vote to accept or reject the Plan • Estimated Recovery: 100%
Class 2: Secured Tax Claims Estimated Aggregate Allowed Amount of Class 2 Claims: $0	• **Unimpaired** • Each Holder of an Allowed Secured Tax Claim shall retain it lien rights under applicable law, provided that the Debtors and, following the Effective Date, the Liquidating Trustee, retain and shall be entitled to enforce any setoff and recoupment rights relating to any tax refund claim. The Debtors do not anticipate that there will be any Allowed Secured Tax Claims. • Class 2 is Unimpaired, and Holders of Class 2 Secured Tax Claims are presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, Holders of Class 2 Secured Tax Claims are not entitled to vote to accept or reject the Plan. • Estimated Recovery: 100%

Description and Amount of Claims or Interests	Summary of Treatment
Class 3: Secured Lender Claim Estimated Aggregate Allowed Amount of Class 3 Claim: $234,115,321.55	• **Impaired** • Class 3 consists of the Secured Lender Claim. • The holders of the Secured Lender Claim, and the DIP Lenders, subject to the terms of the Asset Purchase and Sale Agreement, have (i) credit bid in an amount equal to their entire DIP Claim (including the funding by Buyers or one of its Affiliates of the full amount of the Wind-Down Amount (less the amount of Cash in retainers established in accounts with the Debtor's Professionals)) plus a portion of their prepetition Secured Lender Claim equal to the Secured Lender Claim less the Wind-Down Amount for substantially all of the Debtors' property and assets, including (among other things) the proceeds of the Arizona Tax Refund Claim, (ii) paid the Cure Costs under (and as defined in) the Asset Purchase and Sale Agreement and (iii) assumed the Assumed Liabilities under (and as defined in) the Asset Purchase and Sale Agreement. In full and final satisfaction of the remaining Secured Lender Claim, the holders of the Secured Lender Claim shall receive any excess cash from the Wind-Down Amount remaining as soon as practicable after the payment in full of all Allowed Administrative Expense Claims, all Allowed Accrued Professional Compensation Claims, all Allowed Priority Tax Claims, and all Allowed Other Priority Claims and Plan Expenses to be paid under this Plan, including any amounts due to the Office of the United States Trustee. • Class 3 is Impaired. Therefore, Holders of Allowed Class 3 Secured Lender Claims as of the Voting Record Date are entitled to vote to accept or reject the Plan • Estimated Recovery: undetermined

Description and Amount of Claims or Interests	Summary of Treatment
Class 4: Other Secured Claims Estimated Aggregate Allowed Amount of Class 4 Claims: $50,373.20	• **Impaired** • Class 4 consists of all Other Secured Claims. • Each such Holder, at the option of the Debtors, shall (i) be paid in full in Cash, exclusive of interest, (ii) receive the collateral securing its Allowed Other Secured Claim, plus post-petition interest to the extent required under section 506(b) of the Bankruptcy Code, or (iii) receive other treatment rendering such Claim Unimpaired in accordance with section 1124 of the Bankruptcy Code, in each case on the later of the Effective Date and the date such Other Secured Claim becomes an Allowed Other Secured Claim, or as soon thereafter as is reasonably practicable. Class 4 is Impaired because the Plan provides the Debtors the option to alter the legal, equitable, or contractual rights of Holders of Other Secured Claims. Therefore, Holders of Allowed Class 4 Other Secured Claims as of the Voting Record Date are entitled to vote to accept or reject the Plan. • Estimated Recovery: 100% (exclusive of interest)
Class 5: General Unsecured Claims Estimated Aggregate Allowed Amount of Class 5 Claims: $21 million	• **Impaired** • Class 5 consists of General Unsecured Claims. • Holders of General Unsecured Claims shall receive no distribution on account of such General Unsecured Claims. • Class 5 is Impaired, and Holders of General Unsecured Claims are conclusively presumed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code. Therefore Holders of Class 5 General Unsecured Claims are not entitled to vote to accept or reject the Plan. • Estimated Recovery: $0

Description and Amount of Claims or Interests	Summary of Treatment
Class 6: Intercompany Claims	• **Impaired** • Class 6 consists of all Intercompany Claims between the Debtors. • On the Effective Date all Intercompany Claims between the Debtors will be cancelled and compromised, and Holders of Intercompany Claims shall receive no distribution on account of such Intercompany Claims. Therefore, Holders of Class 6 Intercompany Claims are not entitled to vote to accept or reject the Plan. • Estimated Recovery: $0
Class 7: Equity Interests in Sundevil	• **Impaired** • Class 7 consists of all Equity Interests in Sundevil. • On the Effective Date, all Equity Interests in Sundevil will be cancelled and extinguished, and Holders of Equity Interests in Sundevil shall receive no distribution on account of such Interests. • Class 7 is Impaired, and Holders of Equity Interests in Sundevil are conclusively presumed to have rejected the Plan pursuant to Section 1126(g) of the Bankruptcy Code. Therefore, Holders of Class 7 Equity Interests in Sundevil are not entitled to vote to accept or reject the Plan. • Estimated Recovery: $0

Description and Amount of Claims or Interests	Summary of Treatment
Class 8: Equity Interests in Holdco	• **Impaired** • Class 8 consists of all Equity Interests in Holdco. • On the Effective Date all Equity Interests in Holdco will be cancelled and extinguished, and Holders of Equity Interests in Holdco shall receive no distribution on account of such Equity Interests. • Class 8 is Impaired, and Holders of Equity Interests in Holdco are conclusively presumed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code. Therefore, Holders of Class 8 Equity Interests in Holdco are not entitled to vote to accept or reject the Plan. • Estimated Recovery: $0

SECTION 4 PLAN VOTING INSTRUCTIONS AND PROCEDURES

4.1 Notice to Holders of Claims

This Disclosure Statement is being provided to Holders of Claims entitled to vote in order to solicit acceptances of the Plan, pursuant to an Order of the Bankruptcy Court entered pursuant to 11 U.S.C. § 105(d)(2)(B)(vi), authorizing a combined hearing on approval of this Disclosure Statement and the hearing on confirmation of the Debtors' Chapter 11 Plan. The Debtors believe that this Disclosure Statement contains sufficient information to enable Holders of Claims entitled to vote on the Plan to make an informed judgment about whether to accept or reject the Plan. The Disclosure Statement, however, remains subject to review and approval by the Bankruptcy Court.

This Disclosure Statement, its attachments and supplements, and the Plan are the only documents authorized by the Bankruptcy Court to be used in connection with the solicitation of votes to accept or reject the Plan. No solicitation of votes may be made except after distribution of this Disclosure Statement, and no person has been authorized to distribute any information concerning the Company other than the information contained herein or therein. No such information should be relied upon in making a determination to vote to accept or reject the Plan.

4.2 **Voting Rights**

In general, a holder of a claim or interest may vote to accept or to reject a plan if (a) the claim or interest is "allowed," which means generally that no party in interest has objected to such claim or interest, and (b) the claim or interest is "impaired" by the plan.

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

If, however, the holder of an impaired claim or interest will not receive or retain any distribution under the plan on account of such claim or interest, the Bankruptcy Code deems such holder to have rejected the plan. If a claim or interest is not impaired by the plan, the Bankruptcy Code deems the holder of such claim or interest to have accepted the plan. Holders of claims and interest that are deemed to accept or reject a plan are not entitled to vote on the plan.

4.3 **Solicitation Materials**

In soliciting votes for the Plan pursuant to this Disclosure Statement, the Debtors, through the voting agent, Garden City Group, LLC (the "Voting Agent"), will send to Holders of Claims who are entitled to vote copies of (a) the Disclosure Statement and Plan, (b) the notice of, among other things, (1) the date, time, and place of the hearing to consider confirmation of the Plan and related matters and (2) the deadline for filing objections to confirmation of the Plan (the "Confirmation Hearing Notice"), (c) one or more ballots to be used in voting to accept or to reject the Plan, and (d) other materials as authorized by the Bankruptcy Court, as more fully set forth in the Solicitation Procedures Order.

If you are the Holder of a Claim who believes you are entitled to vote on the Plan, but you did not receive a ballot or your ballot is damaged or illegible, or if you have any questions concerning voting procedures, you should contact the following:

Sundevil Power Holdings, LLC, et al.
c/o GCG
P.O. Box 10267
Dublin, Ohio 43017-5767
Telephone: (855) 907-3217

4.4 **Voting Procedures, Ballots, and Voting Deadline**

After carefully reviewing the Plan, this Disclosure Statement, and the detailed instructions accompanying your ballot, you are asked to indicate your acceptance or rejection of the Plan by voting in favor of or against the Plan on the accompanying ballot. You should complete and sign your original ballot (copies will not be accepted) and return it as instructed.

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

All votes to accept or reject the Plan must be cast by using the ballot enclosed with the Disclosure Statement. IN ORDER FOR YOUR VOTE TO BE COUNTED, YOUR BALLOT MUST BE PROPERLY COMPLETED AS SET FORTH ABOVE AND IN ACCORDANCE WITH THE VOTING INSTRUCTIONS ON THE BALLOT AND RECEIVED NO LATER THAN [_____, AT 4:00 P.M. (EASTERN) (THE "VOTING DEADLINE") BY THE FOLLOWING:

Sundevil Power Holdings, LLC, et al.
c/o GCG
P.O. Box 10267
Dublin, Ohio 43017-5767
Telephone: (855) 907-3217

UNLESS OTHERWISE PROVIDED IN THE INSTRUCTIONS ACCOMPANYING THE BALLOTS, BALLOTS CAST BY FACSIMILE, E-MAIL, OR OTHER ELECTRONIC MEANS WILL NOT BE ACCEPTED. BALLOTS THAT ARE RECEIVED BUT NOT SIGNED WILL NOT BE COUNTED. DO NOT RETURN ANY STOCK CERTIFICATES, DEBT INSTRUMENTS, OR OTHER EVIDENCES OF YOUR CLAIM WITH YOUR BALLOT.

If you have any questions about (a) the procedure for voting your Claim, (b) the packet of materials that you have received, or (c) the amount of your Claim, or if you wish to obtain, at your own expense unless otherwise specifically required by Bankruptcy Rule 3017(d), an additional copy of the Plan, this Disclosure Statement, or any appendices or exhibits to such documents, please contact:

Sundevil Power Holdings, LLC, et al.
c/o GCG
P.O. Box 10267
Dublin, Ohio 43017-5767
Telephone: (855) 907-3217

For further information and general instructions on voting to accept or reject the Plan, see Article 21 of this Disclosure Statement and the instructions accompanying your ballot.

THE DEBTORS URGE ALL HOLDERS OF CLAIMS ENTITLED TO VOTE TO EXERCISE THEIR RIGHT TO ACCEPT THE PLAN BY COMPLETING THEIR BALLOTS AND RETURNING THEM BY THE VOTING DEADLINE.

4.5 **Waivers of Defects and Irregularities**

Unless otherwise directed by the Bankruptcy Court, all questions as to the validity, form, eligibility (including time of receipt), acceptance, and revocation or withdrawal of ballots will be determined by the Voting Agent and the Debtors in their sole discretion, which determination

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

4.6 **Withdrawal of Ballots; Revocation**

Any creditor that has delivered a valid ballot for the acceptance or rejection of the Plan may withdraw such acceptance or rejection by delivering a written notice of withdrawal to the Voting Agent at any time prior to the Voting Deadline. To be valid, a notice of withdrawal must (i) contain the description of the Claim(s) to which it relates and the aggregate principal amount represented by such Claim(s), (ii) be signed by the withdrawing party in the same manner as the ballot being withdrawn, (iii) contain a certification that the withdrawing party owns the Claim(s) and possesses the right to withdraw the vote sought to be withdrawn, and (iv) be received by the Voting Agent by the Voting Deadline. The Debtors intend to consult with the Voting Agent to determine whether any withdrawals of ballots were received and whether the requisite acceptances of the Plan have been received. As stated above, the Debtors expressly reserve the absolute right to contest the validity of any such withdrawals of ballots.

Unless otherwise directed by the Bankruptcy Court, a purported notice of withdrawal of ballots that is not received in a timely manner by the Voting Agent will not be effective to withdraw a previously cast ballot.

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

4.7 **Voting Objection Deadline**

Pursuant to Bankruptcy Rule 3018(a), the deadline for the Company to file and serve any objections to Claims (each a "Voting Objection") to temporarily allow a Claim for purposes of voting on the Plan in a different class or different amount than is set forth in the Proof of Claim

timely filed by the Bar Date shall be [_____ at 4:00 p.m. (Eastern) (the "Voting Objection Deadline"). Any party with a response to a Voting Objection may be heard at the Confirmation Hearing, and responses to any Voting Objection may be filed with the Bankruptcy Court up to and including the Confirmation Hearing Date. If, and to the extent that, the Company and such party are unable to resolve the issues raised by the Voting Objection on or prior to the Confirmation Hearing Date, any such Voting Objection shall be heard at the Confirmation Hearing.

4.8 Further Information; Additional Copies

If you have any questions or require further information about the voting procedures for voting your Claim or about the packet of material you received, or if you wish to obtain an additional copy of the Plan, this Disclosure Statement, or any exhibits or appendices to such documents (at your own expense, unless otherwise specifically required by Bankruptcy Rule 3017(d) or the Solicitation Order), please contact counsel to the Debtors at Drinker Biddle & Reath LLP, 222 Delaware Avenue, Suite 1410, Wilmington, DE 19801, Telephone: (302) 467-4200, Fax: (302) 467-4201 (Attn: Steven K. Kortanek, Esquire (Steven.kortanek@dbr.com)), by downloading such Exhibits from the Bankruptcy Court's website at http://www.deb.uscourts.gov (registration required), or the Voting Agent's website at http://cases.gcginc.com/snd/.

4.9 Confirmation Hearing and Deadline for Objections to Confirmation

Pursuant to Bankruptcy Code section 1128 and Bankruptcy Rule 3017(e), the Bankruptcy Court has scheduled a Confirmation Hearing for [**_____ at _____ _.m.** (Eastern) (the "Confirmation Hearing Date"). The Confirmation Hearing may be adjourned from time to time by the Bankruptcy Court without further notice except for the announcement of the adjournment date made at the Confirmation Hearing or at any subsequently adjourned Confirmation Hearing. Objections to Confirmation of the Plan must be made in writing and must specify in detail the name and address of the objector, all grounds for the objection, and the amount and Class of the Claim or Interest, if any, held by the objector. Any such objection must be filed with the Bankruptcy Court on or before [**_____, at _____ _.m.** (Eastern). Objections to Confirmation of the Plan are governed by Bankruptcy Rule 9014.

SECTION 5 GENERAL INFORMATION CONCERNING THE DEBTORS

5.1 General Description of the Debtors' Businesses

As of the Petition Date, the Debtors were merchant power generators through Sundevil's ownership of two of the four 550 megawatt natural gas-fired power blocks ("Power Blocks I and II") of the Gila River Power Station (the "GRPS"), located in Gila Bend, Arizona. Sundevil and the other power block owners sold energy into the Southwest electric power market, specifically the sub-region of Arizona, New Mexico, and Southern Nevada known as the Desert Southwest ("DSW"). Most of Sundevil's output was sold at the Palo Verde hub and to California Independent System Operator ("CAISO"). Sundevil also sold capacity to CAISO and was capable of reaching other market hubs such as Mead (Southern Nevada) and Four Corners. The Debtor's sales of energy for 2015 generated approximately $63.9 million in revenue.

5.2 Corporate/Organizational Structure

Each of the Debtors is a Delaware limited liability company. Sundevil was formed in 2010 and Holdco was formed in 2012. Sundevil is a wholly owned subsidiary of Holdco, which is jointly owned by Wayzata Opportunities Fund, LLC and Wayzata Opportunities Fund II, LLC (collectively, the "Wayzata Funds"). The Wayzata Funds, in turn, are managed by Wayzata Investment Partners LLC, a Delaware limited liability company and Minnesota-based private equity firm. Sundevil was formed for the purpose of purchasing Power Blocks I and II of the GRPS. Holdco was formed for the purpose of owning the equity interests in Sundevil and facilitating a secured financing.

5.3 Circumstances Leading to the Commencement of the Debtors' Cases

Power Blocks I and II began commercial operations in 2003 and were previously owned by Gila River Power, L.P. ("GRP"). GRP is an affiliate of Entegra Power Services LLC ("Entegra"). Sundevil purchased Block II from GRP in 2010 and Block I from GRP in 2011. Sundevil has made significant capital improvements to both Power Blocks during the course of its ownership.

The combination of lower-than-anticipated power demand growth, declining natural gas prices, increased distributed generation (rooftop solar), slower-than-expected retirement of older, inflexible coal-fired generation, and a substantial buildout of utility scale renewable energy sources contributed to the Debtors' inability to generate sufficient revenue and liquidity to continue to maintain their capital structure on a long-term basis. While the buildout of substantial, utility-scale renewable resources actually increases the need for flexible generation resources such as those owned by the Debtors, regulated utilities have continued to rely on older, inflexible, carbon-intensive, coal-fired generation to meet electric demand needs despite the ability of Sundevil's assets to serve those needs more economically while achieving comparatively significant reductions in air emissions (i.e., carbon dioxide reductions of up to 65%, nitrous oxide reductions of roughly 95% and sulfur dioxide emissions reductions of nearly 99%). While these older coal-generation assets are more expensive to operate and pollute more, regulated utilities have been allowed to continue to pass such costs on to their customers.

Prior to the Petition Date, the Debtors attempted to find a third-party equity investor or, alternatively, to sell their assets outside of bankruptcy. Those efforts did not result in a binding offer and the Debtors lacked sufficient funds to continue the process. Sundevil's Secured Lenders agreed to provide financing in order to continue to operate the business and continue the sale efforts in a chapter 11 case. The Debtors filed these Chapter 11 Cases with the goal of continuing the process for a sale of all or substantially all of the assets of Sundevil (the "Project Assets") or of all of the equity interests in Sundevil (the "Equity Interests") through section 363 of the Bankruptcy Code.

Additional details concerning the Debtors' businesses, capital structure, and the circumstances leading to the chapter 11 cases may be found in the Declaration of Raphael T. Wallander in Support of Chapter 11 Petitions and First Day Pleadings (the "Wallander Declaration") filed on Petition Date [D.I. 4].

5.4 Significant Events Since the Petition Date

On the Petition Date, the Debtors each filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code.

A. First Day Motions and Other Post-Petition Motions

Promptly following the Petition Date, the Debtors sought approval from the Bankruptcy Court of certain motions and applications (collectively, the "First Day Motions"), which the Debtors filed simultaneously with, or shortly following, their voluntary petitions. The Debtors sought such relief to minimize disruption of the Debtors' business as a result of the filing of the cases, to establish procedures regarding case administration, and to facilitate the Debtors' restructuring efforts. Specifically, the First Day Motions addressed the following issues, among others:

1. Joint Administration Motion

On the Petition Date, the Debtors filed their *Motion for Entry of an Order Directing Joint Administration of the Debtors' Chapter 11 Cases* [D.I. 5], seeking an order providing for the joint administration of the cases of the Debtors. On February 12, 2016, the Bankruptcy Court entered an order directing the joint administration of the Debtors' chapter 11 cases [D.I. 36].

2. Insurance Motion

On the Petition Date, the Debtors filed their *Motion for Entry of an Order Authorizing the Debtors to Continue Insurance Policies and Pay Related Obligations* (the "Insurance Motion") [D.I. 15]. On March 3, 2016, the Bankruptcy Court entered an order granting the Insurance Motion [D.I. 85].

3. Prepetition Tax Motion

On the Petition Date, the Debtors filed their *Motion for Entry of Interim and Final Orders Authorizing the Debtors to Pay Certain Taxes* (the "Taxes Motion") [D.I. 11]. On February 12, 2016, the Bankruptcy Court entered an interim order granting the Taxes Motion [D.I. 39]. On March 1, 2016, the Bankruptcy Court entered a final order granting the Taxes Motion [D.I. 73].

4. Cash Management Motion

On the Petition Date, the Debtors filed their *Motion for Entry of Interim and Final Orders Authorizing* Continued *Use of the Debtors' Cash Management System* (the "Cash Management Motion") [D.I. 12]. On February 12, 2016, the Bankruptcy Court entered its interim order granting the Cash Management Motion [D.I. 40]. On March 1, 2016, the Bankruptcy Court entered a final order granting the Cash Management Motion [D.I. 74].

5. Cash Collateral and Debtor-in-Possession Financing

On the Petition Date, the Debtors filed their *Motion for Entry of Interim and Final Orders Pursuant to Sections 361, 362, 363 and 364 of the Bankruptcy Code and Rule 4001 of the*

Federal Rules of Bankruptcy Procedure (A) Authorizing the Debtors to (I) Use Cash Collateral of the Prepetition Secured Parties, (II) Obtain Secured Superpriority Postpetition Financing and (III) Provide Adequate Protection to the Prepetition Secured Parties, and (B) Scheduling Final Hearing (the "DIP Motion") [D.I. 16]. On February 12, 2016, the Bankruptcy Court entered its interim order granting the DIP Motion [D.I. 45]. On March 3, 2016, the Bankruptcy Court entered its final order granting the DIP Motion (the "Final DIP Order") [D.I. 86].

As set forth in the Final DIP Order, the Secured Lenders (who are also the Debtors' prepetition secured lenders) permitted the Debtors to continue to use their Cash Collateral, and provided post-petition financing to the Debtors in the form of a revolving credit facility of up to $45 million. As of the Petition Date, the Secured Lenders had a first-priority, perfected lien in all of the Debtors' assets. Pursuant to the Final DIP Order, the DIP Lenders were also granted, among other things, a superpriority claim and a superpriority lien in the Debtors' assets.

On June 17, 2016, the Debtors filed their *Motion for an Interim and Final Order (A) Approving an Extension of the Maturity Date and Milestone Modifications under the Senior Secured Superpriority Debtor-in-Possession Credit Agreement and (B) Supplementing the Final DIP Order Pursuant to 11 U.S.C. § 364* (the "DIP Extension Motion") [D.I. 190]. On June 24, 2016, the Bankruptcy Court entered its interim order granting the DIP Extension Motion [D.I. 206]. On August 12, 2016, the Bankruptcy Court entered its final order granting the DIP Extension Motion [D.I. 263].

On August 19, 2016, the Debtors filed their *Motion for an Interim and Final Order (A) Approving a Second Extension of the Maturity Date and Milestone Modifications under the Senior Secured Superpriority Debtor-in-Possession Credit Agreement and (B) Supplementing the Final DIP Order Pursuant to 11 U.S.C. § 364* (the "Second DIP Extension Motion") [D.I. 279]. On August 23, 2016, the Bankruptcy Court entered its interim order granting the Second DIP Extension Motion [D.I. 292]. On September 21, 2016, the Bankruptcy Court entered its final order granting the Second DIP Extension Motion [D.I. 328].

6. Energy Trading Contracts Motion

On the Petition Date, the Debtors filed their *Motion for Entry of Interim and Final Orders Authorizing the Debtors to (I) Continue Performance under Energy Trading Contracts and (II) Pay Prepetition Amounts Related Thereto* (the "Energy Trading Contracts Motion") [D.I. 14]. On February 12, 2016, the Bankruptcy Court entered an order granting the Energy Trading Contracts Motion on an interim basis [D.I. 42]. On March 1, 2016, the Bankruptcy Court entered its Order entered an order approving the Energy Trading Contracts Motion on a final basis [D.I. 76].

B. Employment and Retention of Debtors' Professionals

On March 11, 2016, the Debtors filed the applications to employ and retain Drinker Biddle & Reath LLP as their bankruptcy counsel, Vinson & Elkins LLP as special counsel, and Jefferies LLC as financial advisor, effective retroactively to the Petition Date [D.I. 99, 100, 101]. On April 7, 2016, the Bankruptcy Court entered orders authorizing the employment and retention

of Drinker Biddle & Reath LLP, Vinson & Elkins LLP, and Jefferies LLC, in each case effective retroactively to the Petition Date [D.I. 134, 135, 136].

On March 14, 2016, the Debtors filed the application to employ and retain Garden City Group, LLC as administrative agent to the Debtors, effective retroactively to the Petition Date [D.I. 105]. On April 7, 2016, the Bankruptcy Court entered an order authorizing the employment and retention of Garden City Group, LLC as administrative agent to the Debtors, effective retroactively to the Petition Date [D.I. 138].

C. Schedules and Statements of Financial Affairs

On March 10, 2016, each of the Debtors filed its Schedules and Statements of Financial Affairs [D.I. 95 & 96].

D. Proof of Claim Bar Dates

By order dated March 3, 2016, the Bankruptcy Court established certain bar dates for the filing of claims against the Debtors [D.I. 87]. April 11, 2016, was established as the deadline to file, among other things, general unsecured claims against the Debtors. August 11, 2016, was established as the deadline for governmental units to file claims against the Debtors.

E. Sale of Substantially All Assets

On March 3, 2016, the Bankruptcy Court entered an order [D.I. 84] (the "Bid Procedures Order") approving, among other things, the dates, deadlines, and bidding procedures with respect to, and notice of, a sale of substantially all of the assets of the Debtors (the "Sale"). The Debtors engaged in a sale process in accordance with the Bid Procedures Order pursuant to which the Secured Lenders were named the winning bidder on May 4, 2016 [D.I. 154].

On August 10, 2016, the Buyers, designees of the Secured Lenders, and Sundevil executed that certain Asset Purchase and Sale Agreement (the "APA"), governing the terms of the Sale. The Sale under the APA is authorized under and pursuant to the *Order (I) Authorizing and Approving the Sale of Substantially All of the Debtors' Assets Free and Clear of All Encumbrances, Claims, Liens, and Other Interests to the Buyer; (II) Approving Assumption and Assignment of the Assigned Contracts; (III) Determining Cure Amounts; and (IV) Granting Related Relief,* entered on August 23, 2016 [D.I. 291] (the "Sale Order"). The Debtors are expected to close upon the sale of substantially all of their assets to the Buyers, in accordance with the APA, in November of 2016, subject to the timing of receipt of the requisite approvals from the Federal Energy Regulatory Commission (FERC).

SECTION 6 A SECTION-BY-SECTION SUMMARY OF THE PLAN

The Plan itself is the sole and exclusive source of the legally binding provisions of the Plan. This Disclosure Statement serves only as a summary. Except where such provisions are summarized elsewhere in this Disclosure Statement, the below sections provide additional information regarding the Sections of the Plan.

6.1 Section 1 of the Plan – Definitions

The Definitions section of Plan is intended to contain substantially all definitions of capitalized terms used in the Plan. In many instances, defined terms used throughout the Plan have subsection references to the corresponding definition of such term under Section 1 of the Plan. Capitalized terms used in this Disclosure Statement that are not defined herein are as defined in Section 1 of the Plan.

6.2 Section 2 of the Plan – Unclassified Administrative and Priority Claims

Classification of claims is required by Bankruptcy Code section 1122. Section 2 of Plan provides for the treatment of claims that are not subject to classification under the Bankruptcy Code. The Bankruptcy Code generally requires that administrative and priority claims be paid in full on the Effective Date. The Plan so provides, subject to limited variations such as by agreement of affected Holders of Allowed Administrative Expense Claims or Priority Claims.

Holders of Allowed Administrative Expense Claims will be paid in full in cash from the Wind-Down Amount on the Effective Date, unless otherwise agreed or another exception applies. The exceptions under Section 2 of the Plan principally relate to (i) Administrative Expense Claims that are disputed and therefore may be later determined to be Allowed, (ii) Administrative Expense Claims that the Debtors pay in the ordinary course after the Petition Date, and (iii) Administrative Expense Claims asserted by one or both of the Buyers pursuant to the APA and the Sale Order.

Another set of unclassified claims are the Accrued Professional Compensation Claims held by Professionals. These Claims will be paid in full in cash from the Wind-Down Amount by the Liquidating Trustee in accordance with fee applications by such Professionals and any Orders entered by the Bankruptcy Court on such applications.

Priority Tax Claims are another set of unclassified claims. Similar to Administrative Expense Claims, they will be paid on the Effective Date unless otherwise agreed or another exception applies. The exceptions under Section 2 of the Plan principally relate to (i) Priority Tax Claims that are disputed and therefore may be later determined to be Allowed, and (ii) Priority Tax Claims that the Debtors pay in the ordinary course after the Petition Date.

6.3 Section 3 of the Plan – Classification of Claims

In accordance with Bankruptcy Code section 1122, the Plan divides Claims and Interests into Classes and sets forth the treatment for each Class. Section 3 of the Plan provides the classifications. The Debtors believe that the Plan has classified all Claims and Interests in compliance with the provisions of Bankruptcy Code section 1122 and applicable case law, but it is possible that a Holder of a Claim may challenge the classification of Claims and that the Bankruptcy Court may determine that a different classification is required for the Plan to be confirmed. In that event, the Debtors intend, to the extent permitted by the Bankruptcy Code, the Plan, and the Bankruptcy Court, to make such reasonable modifications of the classifications under the Plan to permit confirmation and to use the Plan acceptances received for purposes of obtaining the approval of the reconstituted Class or Classes of which each accepting Holder ultimately is deemed to be a member. Any such reclassification could adversely affect the Class

in which such Holder initially was a member, or any other Class under the Plan, by changing the composition of such Class and the vote required of that Class for approval of the Plan.

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

The classification of Claims and Interests and the nature of Distributions to members of each Class are summarized below. The Debtors believe that the consideration, if any, provided under the Plan to Holders of Claims and Interests reflects an appropriate resolution of their Claims and Interests, taking into account the differing nature and priority (including applicable contractual and statutory subordination) of such Claims and Interests and the fair value of the Company's assets. In view of the deemed rejection by Class 5, however, as set forth below, the Debtors will seek confirmation of the Plan pursuant to the "cramdown" provisions of the Bankruptcy Code with respect to such Class. The Debtors further reserve their right to seek confirmation through such "cramdown" provisions with respect to any other Class that does not vote to accept the Plan in accordance with Bankruptcy Code section 1126. Specifically, Bankruptcy Code section 1129(b) permits confirmation of a Chapter 11 plan in certain circumstances even if the plan has not been accepted by all impaired classes of claims and interests. *See* Article 7.7 below. Although the Debtors believe that the Plan can be confirmed under section 1129(b), there can be no assurance that the Bankruptcy Court will find that the requirements to do so have been satisfied.

The following table designates the Classes of Claims against and Interests in the Debtors, and specifies which of those Classes are (i) Impaired or Unimpaired by the Plan, (ii) entitled to vote to accept the Plan in accordance with section 1126 of the Bankruptcy Code, (iii) deemed to reject the Plan, or (iv) deemed to accept the Plan. A Claim or Interest is classified in a particular Class only to the extent that any such Claim or Interest is an Allowed Claim or Interest in that Class and has not been paid, released, settled or otherwise satisfied prior to the Effective Date.

Class	Description	Treatment	Entitled to Vote
1	Other Priority Claims	Unimpaired	No (deemed to accept)
2	Secured Tax Claims	Unimpaired	No (deemed to accept)
3	Secured Lender Claims	Impaired	Yes
4	Other Secured Claims	Impaired	Yes
5	General Unsecured Claims	Impaired	No (deemed to reject)
6	Intercompany Claims	Impaired	No (deemed to accept)

Class	Description	Treatment	Entitled to Vote
7	Equity Interests in Sundevil	Impaired	No (deemed to reject)
8	Equity Interests in Holdco	Impaired	No (deemed to reject)

6.4 Section 4 of the Plan – Treatment of Classes

Section 3.2 above contains a summary of the treatment of each Class under the Plan.

6.5 Section 5 of the Plan – Acceptance or Rejection

Section 1126 of the Bankruptcy Code provides that each Impaired Class of Claims or Interests that may receive a Distribution pursuant to the Plan may vote separately to accept or reject the Plan. Each Holder of an Allowed Claim in such an Impaired Class that is entitled to vote as of the Voting Record Date shall receive a ballot and may cast a vote to accept or reject the Plan.

A Class of Claims entitled to vote to accept or reject the Plan shall be deemed to accept the Plan if the Holders of Claims in such voting Class that hold at least two-thirds (2/3) in amount and more than one-half (1/2) in number of the Claims that vote in such Class vote to accept the Plan. Classes 1 and 2 are Unimpaired under the Plan and are, therefore, conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code.

Holders of Claims are not entitled to vote if, as of the Voting Record Date, the Claim (a) has been disallowed, (b) is the subject of a pending objection, or (c) (i) was not listed on the Debtors' Schedules or was listed on the Debtors' Schedules as unliquidated, contingent or disputed, and (ii) a Proof of Claim was not filed or was filed for an unliquidated, contingent or disputed claim, unless on or before the Voting Record Date the Bankruptcy Court enters a Final Order directing otherwise. However, if a Claim is disallowed in part, the Holder shall be entitled to vote the Allowed portion of the Claim

6.6 Section 6 of the Plan – Implementation

Section 6 of the Plan provides for a Liquidating Trust and a Liquidating Trustee to receive all Remaining Assets on the Effective Date, and to carry out the provisions of the Plan through among other things a Liquidating Trust Agreement. Section 6 also provides for an efficient means to immediately terminate the existence of the Debtor entities, and to close the bankruptcy cases when appropriate (Holdco upon the Effective Date, and Sundevil after the Plan is fully administered).

6.7 Section 7 of the Plan – Distributions

Section 7 of the Plan provides general procedures concerning distributions under the Plan, including, but not limited to: (i) deemed consolidation of the Debtors solely for purposes of distributions on Allowed General Unsecured Claims, (ii) disallowance of post-petition interest, (iii) treatment of undeliverable distributions, (iv) preservation of the Debtors' setoff rights, and

(v) minimum distribution amounts and disposition of any residual Cash. The Debtors believe that these procedures are reasonable, customary, and in the best interests of the Debtors' creditors.

6.8 Section 8 of the Plan – Disputed Claims Procedures

Section 8 of the Plan provides for pre-Effective Date and post-Effective Date procedures relating to allowance, estimation and distributions relating to Disputed Claims. Prior to the Effective Date, estimation and/or objection to a Claim may adversely affect a creditor's right to vote on the Plan. For claims disputes following the Effective Date, Section 8 provides that the Liquidating Trustee has the exclusive right, as successor to all of the Debtors' rights, to pursue any objections to Claims that may be necessary.

6.9 Section 9 of the Plan – Executory Contracts and Unexpired Leases

Section 9 of the Plan provides for automatic rejection on the Effective Date of all executory contracts and unexpired leases, except for those previously assumed, those designated as an executory contract or unexpired lease to be assumed by the Buyers, and those subject of a separate assumption motion. Section 9 also provides for the deadline for any rejection damage claims resulting from such deemed rejection as of the Effective Date.

6.10 Section 10 of the Plan – Conditions to the Effective Date

The occurrence of the Effective Date of the Plan is subject to the satisfaction or waiver of the specific conditions listed in Section 10 of the Plan. The Debtors believe that these conditions are reasonable, customary, and in the interests of the Debtors' creditors.

6.11 Section 11 of the Plan – Effect of Confirmation – Releases and Injunctions

A. Summary

Section 11 of the Plan is intended to provide the broadest permissible extent of finality and binding effect of confirmation of the Plan, and the occurrence of the Effective Date, on all creditors, interest holders and other affected parties. The binding effect of the Plan expressly covers all such persons and entities regardless of whether any such Holder of a Claim or Interest has voted, failed to vote, failed to opt out of any proposed releases and injunctions provided in the Plan, and/or has any right to a distribution. The due process requirements of pursuing confirmation of the Plan require actual mailed notice to affected parties, and as such, the failure to act will be taken as consent, in particular as to the releases and injunctions provided under the Plan.

The Plan is a liquidating plan and, as provided in section 1141(d)(3) of the Bankruptcy Code, the confirmation of a plan does not formally discharge a debtor if the plan provides for the liquidation of all or substantially all of the property of the estate. However, the releases and injunctions provided under the Plan, coupled with the immediate and permanent dissolution of the two Debtor entities, have an effect that is similar in some respects to a full discharge. Subsections of Section 11 not elaborated upon below are self-explanatory or addressed elsewhere.

B. **Section 11.4 – Injunction.**

The injunction provisions of Section 11.4 of the Plan are intended to be as broad as legally permissible. The purpose of such injunctions is entirely integrated with the express purpose of the Plan to provide a global and final resolution of all claims and potential claims as among all creditors, parties and parties in interest on all things relating to the Debtors. Claims against parties subject to the protections of the Plan's injunctions could give rise to additional Claims for advancement, indemnification, contribution and/or reimbursement by the Debtors or their estates, among other things. For this reason, Claims of any and all natures were required to be made under the Bar Date Order, under the Challenge Deadline under the Final DIP Order, or generally in or in connection with the Debtors' Chapter 11 Cases. Claims or potential Claims not timely made in this manner must be enjoined to avoid frustrating the express purpose of the Plan in identifying all Claims and potential Claims, and providing a final, full and global resolution of such Claims.

C. **Section 11.6 – Debtor and Estate Releases.**

Section 11.6 of Plan provides for broad releases by the Debtors of the Released Parties. The releases exclude claims arising from any act or omission constituting willful misconduct, gross negligence, fraud or a criminal act, and any obligations of the Buyers under the APA and the Sale Order. These releases are fully warranted in order to achieve a full, global and final resolution of all claims and potential claims that the Debtors may have. The Debtors believe that there are no such claims against any party that are viable. In any event, even the possibility of any such claim, meritorious or not, would defeat the integrated, global settlement that is central to the Plan.

D. **Section 11.7 – Releases by Holders of Claims.**

Section 11.7 of Plan provides for the release of certain non-debtor third parties[2] from claims held by creditors who vote to accept the Plan and unimpaired creditors who are deemed to accept the Plan. These third-party releases are consensual to the extent that affected creditors, having been expressly notified of the proposed third party releases, consent to such releases by failing to cast a ballot rejecting the Plan (if entitled to vote) or to object to the Plan. Failure to take such action is consent and creditors are expressly on notice that such failure to act is deemed to be consent. The third-party releases are subject to substantially the same exception as the debtor releases, for any act or omission constituting willful misconduct, gross negligence, fraud or a criminal act.

[2] The Released Parties comprise (a) the Debtors, (b) the Prepetition Secured Parties, (c) the Secured Lenders, (d) the DIP Lenders, (e) the DIP Agent, (f) Wayzata Investment Partners LLC, Wayzata Opportunities Fund, LLC and Wayzata Opportunities Fund II LLC, (g) the Indemnified Parties, (h) with respect to the persons named in (a)-(f) above, such Person's managers, directors, officers, shareholders, partners, members, employees, agents, authorized signatories, Affiliates, parents, subsidiaries, predecessors, successors, heirs, executors, and assignees, attorneys, financial advisors, investment bankers, accountants and other professionals or representatives, in each case in their capacity as such.

E. **Section 11.8 – Exculpation.**

Section 11.8 of the Plan provides that the Debtors and those acting on their behalf in preparing and prosecuting the Chapter 11 Cases shall have no liability for any prepetition or postpetition act taken or omitted to be taken in connection with a broad scope of actions in prosecuting the cases. Exculpation protection shall be subject to substantially the same exception as the Debtor releases, for any act or omission constituting willful misconduct, gross negligence, fraud or a criminal act.

6.12 **Section 12 of the Plan – Retention of Jurisdiction**

This Section is largely self-explanatory. The Plan expressly provides for broad retention of the Bankruptcy Court's jurisdiction in order to allow efficient recourse to the Bankruptcy Court for disputes arising after the Effective Date that bear an appropriate nexus to the Debtors and these Chapter 11 Cases.

6.13 **Section 13 of the Plan – Miscellaneous**

For the most part, the provisions of Section 13 are self-explanatory. One set of provisions that warrants highlighting is Section 13.8, which provides a procedure for retention and destruction of records including electronically-stored information (ESI). Records retention for any meaningful period beyond the Effective Date would frustrate the integrated purpose of the Plan to achieve a full and final resolution of all matters relating to the Debtors. As such, Section 13.8 places the burden on any party seeking to obtain access to, or to preserve for later access, any records of the Debtors.

SECTION 7 **LEGAL STANDARDS FOR CONFIRMATION OF THE PLAN**

Described below are certain important considerations under the Bankruptcy Code in connection with confirmation of the Plan:

7.1 **Requirements for Confirmation of the Plan**

Before the Plan can be confirmed, the Bankruptcy Court must determine at the hearing on confirmation of the Plan (the "Confirmation Hearing") that, among others, the following requirements for confirmation, set forth in Bankruptcy Code section 1129, have been satisfied:

- The Plan complies with the applicable provisions of the Bankruptcy Code.
- The Debtors, as the Plan proponents, have complied with the applicable provisions of the Bankruptcy Code.
- The Plan has been proposed in good faith and not by any means forbidden by law.
- Any payment made or promised by the Company or by a Person issuing securities or acquiring property under the Plan for services or for costs and expenses in, or in connection with, the Chapter 11 Cases, or in connection with the Plan and incident to the Chapter 11 Cases, has been disclosed to the Bankruptcy Court, and

any such payment made before confirmation of the Plan is reasonable, or if such payment is to be fixed after confirmation of the Plan, such payment is subject to the approval of the Bankruptcy Court as reasonable.

- The Debtors have disclosed (a) the identity and affiliations of (i) any individual proposed to serve, after confirmation of the Plan, as a director, officer, or voting trustee of the Debtors, (ii) any affiliate of the Company participating in a joint plan with the Company, or (iii) any successor to the Company under the Plan (and the appointment to, or continuance in, such office of such individual(s) is consistent with the interests of Claim and Interest Holders and with public policy), and (b) the identity of any insider that will be employed or retained by the Company and the nature of any compensation for such insider.

- With respect to each Class of Claims or interests, each Impaired Claim and Impaired Interest Holder either has accepted the Plan or will receive or retain under the Plan, on account of the Claims or Interests held by such Holder, property of a value, as of the Effective Date, that is not less than the amount that such Holder would receive or retain if the Company were liquidated on such date under Chapter 7 of the Bankruptcy Code.

- The Plan provides that (i) Allowed Administrative Expense Claims, Allowed Accrued Professional Compensation Claims, and Allowed Priority Claims other than Allowed Priority Tax Claims will be paid in full (or that adequate reserves shall be established for the payment of such Claims) on the Effective Date, and (ii) Holders of Allowed Priority Tax Claims will receive on account of such Allowed Claims deferred cash payments, over a period not exceeding five (5) years after the Petition Date, of a value, as of the Effective Date, equal to the Allowed Amount of such Claims, unless they agree otherwise.

- If a Class of Claims is Impaired under the Plan, at least one Class of Impaired Claims has accepted the Plan, determined without including any acceptance of the Plan by insiders holding Claims in such Class.

The Debtors have complied with all of the requirements of Chapter 11 of the Bankruptcy Code, and the Plan has been proposed and submitted to the Bankruptcy Court in good faith. The Debtors believe that, upon receipt of the votes required to confirm the Plan, the Plan will satisfy all the statutory requirements of Chapter 11 of the Bankruptcy Code.

7.2 **Feasibility of the Plan**

In connection with confirmation of the Plan, the Bankruptcy Court will be required to determine that the Plan is feasible pursuant to Bankruptcy Code section 1129(a)(11), which means that the confirmation of the Plan is not likely to be followed by the liquidation or the need for further financial reorganization of the Company.

The Sale Order and accompanying APA provide for the Debtors to retain an amount of cash sufficient to wind down the Chapter 11 Cases (the "Wind-Down Amount"), pursuant to the

Wind-Down Budget attached thereto. Accordingly, the Debtors believe that the Plan complies with the financial feasibility standard of Bankruptcy Code section 1129(a)(11).

7.3 **Acceptance of the Plan**

As a condition to Confirmation, the Bankruptcy Code requires a vote to accept the Plan by each Class of Impaired Claims that is entitled to vote on the Plan, except under certain circumstances.

Bankruptcy Code section 1126(c) defines acceptance of a plan by a class of impaired claims as acceptance by holders of at least two-thirds (2/3) in dollar amount and more than one-half (1/2) in number of claims in that class, as to each count measured only against the dollar amounts of claims and number of creditors who actually vote to accept or to reject the Plan. Thus, Holders of Claims in each of Classes 3 and 4 will have voted to accept the Plan only if two-thirds (2/3) in amount and a majority in number of the Claims actually voting in each Class cast their ballots in favor of acceptance. Holders of Claims who fail to vote are not counted as either accepting or rejecting the Plan.

7.4 **Best Interests Test**

As noted above, even if a plan is accepted by each class of claims and interests, the Bankruptcy Code requires a bankruptcy court to determine that the plan is in the best interests of all holders of claims or interests that are impaired by the plan and that have not accepted the plan. The "best interests" test, as set forth in Bankruptcy Code section 1129(a)(7), requires a bankruptcy court to find either that all members of an impaired class of claims or interests have accepted the plan or that the plan will provide a member who has not accepted the plan with a recovery of property of a value, as of the effective date of the plan, that is not less than the amount that such holder would recover if the debtor were liquidated under Chapter 7 of the Bankruptcy Code.

To calculate the probable distribution to holders of each impaired class of claims and interests if the debtor were liquidated under Chapter 7, a bankruptcy court must first determine the aggregate dollar amount that would be generated from the debtor's assets if its Chapter 11 case were converted to a Chapter 7 case under the Bankruptcy Code. This "liquidation value" would consist primarily of the proceeds from a forced sale of the debtor's assets by a Chapter 7 trustee rather than the orderly going-concern sale process under the Plan.

The amount of liquidation value available to unsecured creditors would be reduced by, first, the claims of secured creditors to the extent of the value of their collateral and, second, by the costs and expenses of liquidation, as well as by other administrative expenses and costs of both the Chapter 7 case and the Chapter 11 case. Costs of liquidation under Chapter 7 of the Bankruptcy Code would include the compensation of a trustee, as well as of counsel and other professionals retained by the trustee, asset disposition expenses, all unpaid expenses incurred by the debtors in their Chapter 11 cases (such as compensation of attorneys, financial advisors, and accountants) that are allowed in the Chapter 7 case, litigation costs, and claims arising from the operations of the debtor during the pendency of the Chapter 11 case. The liquidation itself would trigger certain priority payments that otherwise would be due in the ordinary course of

business. Those priority claims would be paid in full from the liquidation proceeds before the balance would be made available to pay general unsecured claims or to make any distribution in respect of equity security interests. The liquidation would also prompt the rejection of a large number of executory contracts and unexpired leases and thereby significantly enlarge the total pool of unsecured claims by reason of resulting rejection damages claims.

Once the bankruptcy court ascertains the recoveries in liquidation of secured creditors and priority claimants, it must determine the probable distribution to general unsecured creditors and equity security holders from the remaining available proceeds in liquidation. If such probable distribution has a value greater than the distributions to be received by such creditors and equity security holders under the plan, then the plan is not in the best interests of creditors and equity security holders.

7.5 Liquidation Analysis

The Debtors will provide a hypothetical Chapter 7 liquidation analysis (the "Liquidation Analysis") prior to the Voting Deadline, either as an attachment to the Disclosure Statement or filed on the docket as a supplement to the Plan.

Any liquidation analysis with respect to the Company is inherently speculative. The Liquidation Analysis for the Company will necessarily contain estimates of the net proceeds that would be received from a forced sale of assets and/or business units, as well as the amount of Claims that would ultimately become Allowed Claims. Claims estimates will be based solely upon a review of the Claims filed and information from the Company's books and records. No order or finding has been entered by the Bankruptcy Court estimating or otherwise fixing the amount of Claims at the projected amounts of Allowed Claims set forth in the Liquidation Analysis. In preparing the Liquidation Analysis, the Debtors will have projected an amount of Allowed Claims that represents their best estimate of the Chapter 7 liquidation dividend to Holders of Allowed Claims. The estimate of the amount of Allowed Claims set forth in the Liquidation Analysis should not be relied on for any other purpose, including, without limitation, any determination of the value of any Distribution to be made on account of Allowed Claims under the Plan.

7.6 Application of the "Best Interests" of Creditors Test to the Liquidation Analysis and the Valuation

While it is difficult to determine with any specificity the value each Holder of an Unsecured Claim will receive as a percentage of its Allowed Claim, the Debtors believe that the ultimate recovery under the Plan will yield a greater or equal recovery to Holders of Claims in Impaired Classes than the recovery available in a liquidation in a case under Chapter 7 of the Bankruptcy Code. Accordingly, the Debtors believe that the "best interests" test of Bankruptcy Code section 1129 will be satisfied.

7.7 Confirmation Without Acceptance of All Impaired Classes: The "Cramdown" Alternative

In view of the deemed rejection of the Plan by Holders of Class 5 Claims, the Debtors will seek confirmation of the Plan pursuant to the "cramdown" provisions of the Bankruptcy

Code. The Debtors further reserve the right to seek a "cramdown" confirmation of the Plan with respect to the Claims and Interests in Classes 3 and 4 in the event the Holders of such Claims or Interests vote to reject the Plan. Specifically, Bankruptcy Code section 1129(b) provides that a plan may be confirmed even if the plan is not accepted by all impaired classes, as long as at least one impaired class of claims has accepted it. The bankruptcy court may confirm a plan at the request of the plan proponents if the plan "does not discriminate unfairly" and is "fair and equitable" as to each impaired class that has not accepted the plan. A plan does not discriminate unfairly within the meaning of the Bankruptcy Code if a dissenting class is treated equally with respect to other classes of equal rank.

The Debtors believe the Plan does not discriminate unfairly with respect to the Claims in Classes 3 and 4 because all Holders of Claims in Classes 3 and 4 are treated similarly.

The fair and equitable test for secured claims is that the plan provides (i) that the holders of secured claims retain the liens in the property securing such claims to the extent of the allowed amount of such claims, and that the holders of such claims receive on account of such claims deferred cash payments totaling at least the allowed amount of such claims, of a value, as of the effective date of the plan, of at least the value of such holders' interest in the estate's interest in such property; (ii) for the sale of any property subject to the liens securing such claims, free and clear of such liens, with the liens attaching to the proceeds of such sale, and such liened proceeds being treated either pursuant to (i) or (iii); or (iii) for the realization by such holders of the indubitable equivalent of such claims.

A plan is fair and equitable as to a class of unsecured claims that rejects a plan if the plan provides (i) for each holder of a claim included in the rejecting class to receive or retain on account of that claim property that has a value, as of the effective date of the plan, equal to the allowed amount of such claim or (ii) that the holder of any claim or interest that is junior to the claims of such class will not receive or retain on account of such junior claim or interest any property at all.

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

In the event it becomes necessary to "cramdown" the Plan over the rejection of any of Classes 3 or 4, the Debtors will demonstrate at the Confirmation Hearing that the Plan does not discriminate unfairly and is fair and equitable with respect to such Classes.

7.8 **Anticipated Effective Date**

The length of time between a confirmation date and an effective date varies from case to case and depends upon how long it takes to satisfy each of the conditions precedent to the occurrence of the effective date specified in the particular plan of reorganization.

7.9 **Effects of Failure of Conditions**

If the conditions precedent to the Effective Date specified above have not been satisfied or waived by the Debtors within sixty (60) days after the Plan Confirmation Date, which period may be extended by the Debtors in consultation with the Buyers, then (i) the Plan Confirmation Order shall be vacated; (ii) no Distributions under this Plan shall be made; (iii) the Debtors and all Holders of Claims and Interests shall be restored to the *status quo ante* as of the day immediately preceding the Plan Confirmation Date as though the Plan Confirmation Date never occurred; and (iv) all of the Debtors' obligations with respect to Claims and Interests shall remain unchanged, and nothing contained in the Plan shall be deemed to constitute a waiver or release of any Claims or Interests by or against the Debtors or any other Entity or to prejudice in any manner the rights of the Debtors or any other Entity in any further proceedings involving the Debtors or otherwise.

SECTION 8 **CERTAIN RISK FACTORS TO BE CONSIDERED**

The Holders of Claims in Classes 3 and 4 should read and carefully consider the following factors, as well as the other information set forth in this Disclosure Statement (and the documents delivered together herewith and/or incorporated by reference herein), before deciding whether to vote to accept or reject the Plan. These risk factors should not, however, be regarded as constituting the only risks associated with the Plan and its implementation.

8.1 **General Considerations**

The Plan sets forth the manner of treatment of Claims against, and Interests in, the Company. Certain Claims, and all Interests, will receive no Distributions under the Plan.

8.2 **Certain Bankruptcy Considerations**

Even if all voting Impaired Classes vote in favor of the Plan, and even if, with respect to any Impaired Class deemed to have rejected the Plan, the requirements for "cramdown" are met, the Bankruptcy Court, which is a court of equity, may exercise substantial discretion and may choose not to confirm the Plan. Bankruptcy Code section 1129 requires, among other things, a showing that confirmation of the Plan will not be followed by liquidation or the need for further financial reorganization of the Company, and that the value of Distributions to dissenting Holders of Claims and Interests will not be less than the value such Holders would receive if the Company were liquidated under Chapter 7 of the Bankruptcy Code. Although the Debtors believe that the Plan will meet such tests, there can be no assurance that the Bankruptcy Court will reach the same conclusion.

8.3 Claims Estimations

The Debtors reserve the right to object to the amount or classification of any Claim or Interest except any such Claim or Interest that is deemed Allowed under the Plan or except as otherwise provided in the Plan. There can be no assurance that any estimated Claim amounts set forth in this Disclosure Statement are correct. The actual Allowed amount of Claims likely will differ in some respect from the estimates. The estimated amounts are subject to certain risks, uncertainties, and assumptions. Should one or more of these risks or uncertainties materialize, or should the underlying assumptions prove incorrect, the actual Allowed amount of Claims may vary from those estimated herein.

8.4 Administrative and Priority Claims

As the number and amount of Administrative Expense Claims, Priority Tax Claims, and Non-Tax Priority Claims are presently unknown to the Debtors, it is possible that, if the actual number and amount of Administrative Expense Claims, Priority Tax Claims, Accrued Professional Compensation Claims, and Other Priority Claims exceeds estimates, the Company may not obtain enough Cash to satisfy all such Claims in full. Accordingly, should Allowed Administrative Expense Claims, Allowed Accrued Professional Compensation Claims, Allowed Priority Tax Claims, and Allowed Other Priority Claims (collectively, the "Administrative and Priority Claims") exceed the amount of Cash held by the Company and the Holders of such Claims refuse to consent to less than full payment, the Bankruptcy Court may deny confirmation of the Plan.

Based on all available information as of the date hereof, the Debtors believe that the Company will be able to pay all Allowed Administrative and Priority Claims in full. But regardless, because the Company's ability to recover and distribute in a timely manner the sources of funding for the payment of Allowed Administrative and Priority Claims under the Plan will result in higher recoveries for Administrative and Priority Claims than in a Chapter 7 liquidation, the Debtors urge Holders of Administrative and Priority Claims to support the Plan.

8.5 Conditions Precedent to Consummation; Timing

The Plan provides for certain conditions that must be satisfied (or waived) prior to the Effective Date. As of the date of this Disclosure Statement, there can be no assurance that any or all of the conditions in the Plan will be satisfied (or waived). Accordingly, even if the Plan is confirmed by the Bankruptcy Court, there can be no assurance that the Plan will be consummated and the restructuring completed.

8.6 Certain Tax Considerations

There are a number of income tax considerations, risks, and uncertainties associated with consummation of the Plan. Interested parties should read carefully Section 9 below regarding certain U.S. federal, state, and local income tax consequences of the transactions proposed by the Plan to the Company and to certain Holders of Claims or Interests who are entitled to vote to accept or reject the Plan.

SECTION 9 **TAX CONSEQUENCES OF THE PLAN**

Confirmation of a plan can have a number of tax implications upon the holders of Claims and Interests against the Company, including, but not limited to, discharge/cancellation of indebtedness and capital gains/losses. Given the relative size of the Company's estate and the diverse nature of the holders of Claims and Interests, the Debtors have not undertaken an analysis of the tax consequences of the Plan upon holders of Claims and Interests. Accordingly, creditors and parties in interest should consult competent tax counsel and other professionals for purposes of determining the specific tax consequences of the Plan with respect to a particular holder of a Claim or Interest.

THE TAX CONSEQUENCES TO HOLDERS OF CLAIMS OR INTERESTS MAY VARY BASED UPON THE INDIVIDUAL CIRCUMSTANCES OF EACH HOLDER. MOREOVER, THE TAX CONSEQUENCES OF CERTAIN ASPECTS OF THE PLAN MAY BE UNCERTAIN DUE TO, IN SOME CASES, THE LACK OF APPLICABLE LEGAL PRECEDENT AND THE POSSIBILITY OF CHANGES IN THE LAW. NO RULING HAS BEEN APPLIED FOR OR OBTAINED FROM THE INTERNAL REVENUE SERVICE, OR ANY STATE OR LOCAL TAXING AUTHORITY, WITH RESPECT TO ANY OF THE TAX ASPECTS OF THE PLAN, AND NO OPINION OF COUNSEL HAS BEEN REQUESTED OR OBTAINED BY THE DEBTORS WITH RESPECT THERETO.

THIS DISCUSSION DOES NOT CONSTITUTE TAX ADVICE OR A TAX OPINION CONCERNING THE MATTERS DESCRIBED. THERE CAN BE NO ASSURANCE THAT THE INTERNAL REVENUE SERVICE, OR ANY STATE OR LOCAL TAXING AUTHORITY, WILL NOT CHALLENGE ANY POSITION TAKEN BY A HOLDER OF A CLAIM OR INTEREST AS TO THE TAX CONSEQUENCES OF THE PLAN, OR THAT SUCH A CHALLENGE, IF ASSERTED, WOULD NOT BE UPHELD. ACCORDINGLY, EACH HOLDER OF A CLAIM OR INTEREST IS STRONGLY URGED TO CONSULT WITH HIS, HER, OR ITS OWN TAX ADVISORS REGARDING THE FEDERAL, STATE, LOCAL, OR OTHER TAX CONSEQUENCES OF THE PLAN.

SECTION 10 **ALTERNATIVES TO CONFIRMATION OF THE PLAN**

The Debtors believe that the Plan affords Holders of Claims the potential for the greatest realization on the Company's assets and, therefore, is in the best interests of such Holders. If, however, the requisite acceptances are not received or the Plan is not confirmed and consummated, the theoretical alternatives include (a) formulation of an alternative plan or plans of reorganization, (b) liquidation of the Company under Chapter 7 or Chapter 11 of the Bankruptcy Code, or (c) dismissal of the Chapter 11 Cases.

10.1 **Alternative Plan(s) of Reorganization**

If the requisite acceptances are not received or if the Plan is not confirmed, any other party in interest could attempt to formulate and propose a different plan or plans of reorganization.

The Debtors believes that the Plan enables Creditors to realize the greatest possible value under the circumstances and has the greatest chance to be confirmed and consummated.

10.2 **Liquidation under Chapter 7 or Chapter 11**

If no plan is confirmed, the Company's Chapter 11 Cases may be converted to cases under Chapter 7 of the Bankruptcy Code, pursuant to which a trustee would be elected or appointed to liquidate the Company's assets for distribution in accordance with the priorities established by the Bankruptcy Code. It is impossible to predict precisely how the proceeds of the liquidation would be distributed to the respective Holders of Claims against or Interests in the Company.

The Debtors believe that, in a liquidation under Chapter 7 of the Bankruptcy Code, additional administrative expenses involved in the appointment of a trustee and attorneys, accountants, and other professionals to assist such trustee would cause a substantial diminution in the distributable value available to creditors. The assets available for distribution to Creditors would be reduced by such additional expenses and by Claims, some of which would be entitled to priority, arising by reason of the liquidation and from the rejection of leases and other executory contracts in connection with the cessation of operations and the failure to realize the greater going concern value of the Company's assets.

10.3 **Dismissal of the Chapter 11 Cases**

If no plan is confirmed, the Company's cases could also be dismissed. Among other effects, dismissal would result in the termination of the automatic stay, thus permitting creditors (e.g., the Secured Lenders) to assert state-law rights and remedies against the Debtors and their assets, likely to the detriment of other creditors. While it is impossible to predict precisely what would happen in the event the Chapter 11 Cases were dismissed, the Debtors believe that, at a minimum, dismissal would result in the non-payment of any amounts that were provided for in the Wind-Down Budget, as the Wind-Down Amount would likely be subject to foreclosure.

RECOMMENDATION AND CONCLUSION

For all of the reasons set forth in this Disclosure Statement, the Debtors believe that confirmation and consummation of the Plan is preferable to all other alternatives. Consequently, the Debtors urge all Holders of Claims in Classes 3 and 4 to vote to ACCEPT the Plan, and to complete and return their ballots so that they will be RECEIVED on or before 4:00 p.m. (Eastern) on the Voting Deadline.

Dated: November 18, 2016

/s/ Raphael T. Wallander
Raphael T. Wallander
Principal at Wayzata Investment Partners LLC,
manager of the Debtors