

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

In re:

NIGHTHAWK ROYALTIES LLC, *et al.*¹

Debtors.

Chapter 11

Case No. 18-10989 (BLS)

(Jointly Administered)

**DISCLOSURE STATEMENT FOR FIRST AMENDED JOINT
CHAPTER 11 PLAN OF LIQUIDATION OF NIGHTHAWK ROYALTIES LLC
AND ITS AFFILIATED DEBTORS AND DEBTORS IN POSSESSION**

GREENBERG TRAURIG, LLP
Dennis A. Meloro, Esq.
The Nemours Building
1007 North Orange Street, Suite 1200
Wilmington, Delaware 19801
Telephone: (302) 661-7000
Facsimile: (302) 661-7360

Mark D. Bloom, Esq.
John R. Dodd, Esq.
Ari Newman, Esq.
333 S.E. 2nd Avenue, Suite 4400
Miami, Florida 33131
Telephone: (305) 579-0500
Facsimile: (305) 579-0717

Counsel for the Debtors and Debtors-in-Possession

¹ The Debtors in these Chapter 11 Cases, along with the last four (4) digits of each Debtor's federal employer identification number, are: Nighthawk Royalties LLC (6709), Nighthawk Energy plc (1701), Nighthawk Production LLC (6709) and OilQuest USA LLC (6070). The business address of the Debtors is 1805 Shea Center Dr., Suite 290, Highlands Ranch, CO 80129.

DISCLAIMER²

THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT IS INCLUDED FOR PURPOSES OF SOLICITING ACCEPTANCES OF THE FIRST AMENDED JOINT CHAPTER 11 PLAN OF LIQUIDATION OF NIGHTHAWK ROYALTIES LLC AND ITS AFFILIATED DEBTORS AND DEBTORS IN POSSESSION, AND MAY NOT BE RELIED UPON FOR ANY PURPOSE OTHER THAN TO DETERMINE HOW TO VOTE ON THE PLAN. NO PERSON MAY GIVE ANY INFORMATION OR MAKE ANY REPRESENTATIONS, OTHER THAN THE INFORMATION AND REPRESENTATIONS CONTAINED IN THIS DISCLOSURE STATEMENT, REGARDING THE PLAN OR THE SOLICITATION OF ACCEPTANCES OF THE PLAN.

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THIS DISCLOSURE STATEMENT CONTAINS SUMMARIES OF CERTAIN PROVISIONS OF THE PLAN, CERTAIN STATUTORY PROVISIONS, CERTAIN DOCUMENTS RELATING TO THE PLAN, CERTAIN EVENTS THAT HAVE OCCURRED IN THE CHAPTER 11 CASES, AND CERTAIN FINANCIAL INFORMATION. ALTHOUGH THE DEBTORS BELIEVE THAT ALL SUCH SUMMARIES ARE FAIR AND ACCURATE AS OF THE DATE HEREOF, SUCH SUMMARIES ARE QUALIFIED TO THE EXTENT THAT THEY DO NOT SET FORTH THE ENTIRE TEXT OF THE UNDERLYING DOCUMENTS AND TO THE EXTENT THAT THEY MAY CHANGE AS PERMITTED BY THE PLAN AND APPLICABLE LAW. FACTUAL INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT HAS BEEN PROVIDED BY THE DEBTORS' MANAGEMENT, EXCEPT WHERE OTHERWISE SPECIFICALLY NOTED. THE DEBTORS DO NOT WARRANT OR REPRESENT THAT THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT, INCLUDING THE FINANCIAL INFORMATION, IS WITHOUT ANY MATERIAL INACCURACY OR OMISSION AND STATEMENTS IN THIS DISCLOSURE STATEMENT ARE NOT AND SHALL NOT BE DEEMED TO BE ADMISSIONS BY THE DEBTORS.

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ALL HOLDERS OF CLAIMS ENTITLED TO VOTE ARE ADVISED AND ENCOURAGED TO READ THIS DISCLOSURE STATEMENT AND THE PLAN IN THEIR ENTIRETY BEFORE VOTING TO ACCEPT OR REJECT THE PLAN. PLAN SUMMARIES AND STATEMENTS MADE IN THIS DISCLOSURE STATEMENT ARE QUALIFIED IN THEIR ENTIRETY BY REFERENCE TO THE PLAN, THE EXHIBITS ANNEXED TO THE PLAN, THE PLAN SUPPLEMENT DOCUMENTS ONCE FILED, AND THIS DISCLOSURE STATEMENT.

THIS DISCLOSURE STATEMENT HAS BEEN PREPARED IN ACCORDANCE WITH SECTION 1125 OF THE UNITED STATES BANKRUPTCY CODE AND RULE 3016(C) OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE AND NOT NECESSARILY IN ACCORDANCE WITH FEDERAL OR STATE SECURITIES LAWS OR OTHER NON-BANKRUPTCY LAW. THIS DISCLOSURE STATEMENT HAS BEEN NEITHER APPROVED NOR DISAPPROVED BY THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION (THE "SEC"), OR ANY STATE SECURITIES COMMISSION, AND NEITHER THE SEC NOR ANY STATE SECURITIES COMMISSION HAS PASSED UPON THE ACCURACY OR ADEQUACY OF THE INFORMATION CONTAINED HEREIN. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE. PERSONS OR ENTITIES TRADING IN OR OTHERWISE PURCHASING, SELLING OR TRANSFERRING SECURITIES OR CLAIMS OF THE DEBTORS IN THESE CHAPTER 11 CASES SHOULD EVALUATE THIS DISCLOSURE STATEMENT AND THE PLAN IN LIGHT OF THE PURPOSE FOR WHICH THEY WERE PREPARED.

YOU SHOULD CONSULT YOUR PERSONAL COUNSEL OR TAX ADVISOR WITH RESPECT TO ANY QUESTIONS OR CONCERNS REGARDING TAX, SECURITIES, OR OTHER LEGAL CONSEQUENCES OF THE PLAN.

TO ENSURE COMPLIANCE WITH TREASURY DEPARTMENT CIRCULAR 230, EACH HOLDER IS HEREBY NOTIFIED THAT (A) ANY DISCUSSION OF U.S. FEDERAL TAX ISSUES IN THIS DISCLOSURE STATEMENT IS NOT INTENDED OR WRITTEN TO BE RELIED UPON, AND CANNOT BE RELIED UPON, BY ANY HOLDER FOR THE PURPOSE OF AVOIDING PENALTIES THAT MAY BE IMPOSED ON A HOLDER UNDER THE TAX CODE; (B) SUCH DISCUSSION IS INCLUDED HEREIN BY THE DEBTORS IN CONNECTION WITH THE PROMOTION OR MARKETING (WITHIN THE MEANING OF CIRCULAR 230) BY THE DEBTORS OF THE TRANSACTIONS OR MATTERS ADDRESSED HEREIN; AND (C) EACH HOLDER SHOULD SEEK ADVICE BASED ON ITS PARTICULAR CIRCUMSTANCES FROM AN INDEPENDENT TAX ADVISOR.

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Exhibit A Joint Chapter 11 Plan of Liquidation of Nighthawk Royalties LLC and its
Affiliated Debtors and Debtors in Possession

I. INTRODUCTION

Nighthawk Royalties LLC (“**Nighthawk Royalties**”), Nighthawk Energy plc (“**Nighthawk Energy**”), Nighthawk Production (“**Nighthawk Production**”) and OilQuest USA LLC (“**OilQuest**”), as debtors and debtors-in-possession (collectively, the “**Debtors**” or “**Nighthawk**”), submit this disclosure statement (as the same may be further amended, supplemented or modified from time to time, the “**Disclosure Statement**”) pursuant to Section 1125 of Title 11 of the United States Code (the “**Bankruptcy Code**”), for use in the solicitation of votes on the *First Amended Joint Chapter 11 Plan of Liquidation of Nighthawk Royalties LLC and its Affiliated Debtors and Debtors in Possession* dated October [●], 2018 (as the same may be amended, supplemented or modified from time to time, the “**Plan**”). A copy of the Plan is attached as **Exhibit A** to this Disclosure Statement. Unless otherwise provided herein, all capitalized terms used in this Disclosure Statement but not otherwise defined herein shall have the meanings ascribed to such terms in Article I of the Plan.

This Disclosure Statement sets forth certain information regarding the Debtors’ prepetition operating and financial history, their reasons for seeking protection under chapter 11 of the Bankruptcy Code and significant events that have occurred during the Chapter 11 Cases. This Disclosure Statement also describes certain terms and provisions of the Plan, certain risk factors associated with 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.

Confirmation of the Plan will leave each Holder of Other Priority Claims Unimpaired and, in addition, all of the Administrative Claims, and Priority Tax Claims will be paid in full and left Unimpaired. Under the Plan, the Holders of Senior Secured Claims, Unsecured Claims, Intercompany Claims and Equity Interests are Impaired. Please read this Disclosure Statement carefully to fully understand the treatment of your Claim.

THE DEBTORS BELIEVE THAT THE PLAN WILL ENABLE THE DEBTORS TO ACCOMPLISH THE OBJECTIVES OF THESE CHAPTER 11 CASES AND THAT ACCEPTANCE OF THE PLAN IS IN THE BEST INTERESTS OF THE DEBTORS AND THEIR STAKEHOLDERS. THE DEBTORS URGE HOLDERS TO VOTE TO ACCEPT THE PLAN.

II. OVERVIEW OF THE PLAN

The following is a brief overview of the material provisions of the Plan, which is qualified in its entirety by reference to the full text of the Plan. For a more detailed description of the terms and provisions of the Plan, see Article VII of this Disclosure Statement, entitled “Detailed Summary of the Plan of Liquidation.”

A. General Structure of the Plan

The Plan proposed in these Chapter 11 Cases is the culmination of the Debtors’ efforts to maximize value for creditors and other parties in interest through the sale of substantially all of the assets of Nighthawk Production and the orderly wind-down of the Debtors’ remaining assets

and interests. The Plan provides generally for the preservation and transfer of all remaining assets of the Debtors to a Liquidating Trust to be administered by a Liquidating Trustee for the benefit of all creditors. The terms of the Plan represent the best possible outcome for all Claim Holders and the Debtors urge all Holders that are entitled to vote on account of their Claims to vote to accept the Plan.

This Section II.A of the Disclosure Statement only provides a concise summary of the Plan. The Debtors strongly urge you to read the entire Disclosure Statement in order to gain an understanding of the details, and risks associated with, the Plan. In the event of any conflict with the descriptions herein and the terms of the Plan, the terms of the Plan shall govern.

B. Material Terms of the Plan

The Plan designates seven (7) Classes of Claims and one (1) Class of Equity Interests in the Debtors. These Classes take into account the differing nature and priority of the various Claims and Equity Interests under the Bankruptcy Code. Claims are treated generally in accordance with the priorities established under the Bankruptcy Code. The following is an overview of certain material terms of the Plan:

- On the Effective Date:
 - The Liquidating Trustee shall be appointed over the Liquidating Trust.
 - The Liquidating Trust Assets shall be transferred to the Liquidating Trust to be liquidated and monetized by the Liquidating Trustee and so that the Liquidating Trustee may (i) make Distributions required to be made on and after the Effective Date under the Plan, (ii) establish the reserves identified in the Plan, and (iii) pay Allowed Professional Fee Claims.
- Allowed Administrative Claims (including Allowed Professional Fee Claims) and U.S. Trustee Fee Claims will be paid in full as required by the Bankruptcy Code, unless otherwise agreed to by the Debtors or the Liquidating Trustee, as applicable, and the Holders of such Claims.
- Debtor releases and consensual third-party releases in favor of, among others, CBA, as the Debtors' senior secure lender.

C. Summary of Treatment of Claims and Equity Interests under the Plan

The table below summarizes the classification and treatment of the Claims and Equity Interests under the Plan.

Estimated percentage recoveries are also set forth below for certain Classes. 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 yet fully reviewed and analyzed all Claims. Estimated Claim amounts for each Class set forth below are based upon the Debtors' review of its books and records, and include estimates of a number of Claims that are contingent, disputed, and/or unliquidated. Estimated percentage

recoveries are based upon a number of assumptions, including the estimated amount of Allowed Claims in each Class, and are qualified by the risks discussed in Section VIII and elsewhere in this Disclosure Statement.

Any Class of Claims or Equity Interests that does not contain, as of the date of the commencement of the Confirmation Hearing, a Holder of an Allowed Claim or Equity Interest, or a Holder of a Claim temporarily allowed under Bankruptcy Rule 3018, shall be deemed deleted from the Plan for all purposes, including for purposes of determining acceptance of the Plan by such Class under Section 1129(a)(8) of the Bankruptcy Code.

UNCLASSIFIED CLAIMS	
Description and Amount of Claims or Interests and Projected Recoveries	Summary of Treatment under Plan
Administrative Claims (Unimpaired) Estimated Aggregate Allowed amount of Administrative Claims: \$100,000.00³ Estimated Recovery: 100%	<p>Subject to <u>Section 13.01</u> of the Plan, and except to the extent that any Holder of an Allowed Administrative Claim (other than Allowed Professional Fee Claims) has received payment prior to the Effective Date, agrees with the Debtors or the Liquidating Trustee to different treatment or as otherwise provided for in the Plan, each Holder of an Allowed Administrative Claim shall receive in full, in Cash, on or as soon as reasonably practicable following the later of: (i) the Effective Date if due on or before that date, (ii) the date upon which such Administrative Claim becomes an Allowed Claim, or (iii) such other date as may be agreed upon between the Holder of such Allowed Administrative Claim and the Debtors or the Liquidating Trustee, as applicable.</p>
Priority Tax Claims (Unimpaired) Estimated Aggregate Allowed amount of Priority Tax Claims: \$0.00 Estimated Recovery: 100%	<p>Except to the extent that an Allowed Priority Tax Claim has been paid prior to the Effective Date or unless otherwise agreed to by the Debtors or the Liquidating Trustee, as applicable, and the Holder of an Allowed Priority Tax Claim, each Holder of an Allowed Priority Tax Claim shall receive: (a) Cash equal to the amount of such Allowed Priority Tax Claim; (b) such other treatment in accordance with 1129(a)(9)(C) of the Bankruptcy Code; or (c) as may be agreed between the Holder of such Allowed Priority Tax Claim and the Debtors or the Liquidating Trustee, as applicable, except to the extent that such Allowed Priority Claim is already liquidated pursuant to a Final Order of the Bankruptcy Court.</p>
Professional Fee Claims (Unimpaired) Estimated Aggregate Allowed amount of Professional Fee Claims: \$500,000.00 Estimated Recovery: 100%	<p>All Professional Fee Claims shall be paid by the Liquidating Trust to the extent approved by order of the Bankruptcy Court within seven (7) days after entry of such order. On the Effective Date, the Liquidating Trust shall establish the Professional Fee Reserve. The Professional Fee Reserve shall vest in the Liquidating Trust and shall be maintained by the Liquidating Trust in accordance with the Plan. The Liquidating Trust shall fully fund the Professional Fee Reserve on the Effective Date in an amount that is agreed upon by the Debtors prior to the Confirmation Hearing and that approximates the total projected amount of unpaid Professional Fee Claims on the Effective Date. All Professional Fee Claims that have not previously been paid, otherwise satisfied, or withdrawn shall be paid from the Professional Fee Reserve. Any excess funds in the Professional Fee</p>

³ This estimate does not include Professional Fee Claims or ordinary course payables.

	Reserve shall be released to the Liquidating Trust to be used for other purposes consistent with the Plan. For the avoidance of doubt, the Professional Fee Reserve is an estimate and shall not be construed as a cap on the Liquidating Trust's obligation to pay in full Allowed Professional Fee Claims.
CLASSIFIED CLAIMS	
Class 1 Claims: Other Priority Claims (Unimpaired) Estimated Allowed Aggregate Amount of Class 1 Claims: \$0.00 Estimated Recovery: 100%	Each Holder of an Allowed Class 1 Claim shall receive Cash in the amount of such Allowed Other Priority Claim without interest or premium on or as soon as reasonably practicable following the later of: (i) the Effective Date if due on or before that date, (ii) the date upon which such Other Priority Claim becomes an Allowed Claim, or (iii) such other date as may be agreed upon between the Holder of such Allowed Other Priority Claim and the Debtors or the Liquidating Trustee.
Class 2 Claims: Senior Secured Claims (Impaired) Estimated Allowed Aggregate Amount of Class 2 Claims: \$0 - \$6,250,000.00 Estimated Recovery: 0-100%	The Holder of Senior Secured Claims shall receive, on account of such Allowed Senior Secured Claims without interest or premium: (i) all Available Secured Cash on the later of (A) the Effective Date or (B) such other date as may be agreed upon between CBA and the Debtors or the Liquidating Trustee and (ii) Excess Cash, if any, upon or immediately before termination of the Liquidating Trust, up to the full Allowed amount of such Holder's Senior Secured Claim without interest or premium; <i>provided, however</i> , that in each case such payment in Cash shall not settle, release or discharge any Allowed Unsecured Claim held by a holder of Senior Secured Claims.
Class 3A Claims: Unsecured Claims against Nighthawk Energy (Impaired) Estimated Allowed Aggregate Amount of Class 3A Claims: \$36,423,546.30 - \$42,673,546.30 Estimated Recovery: 0-100%	Unless such Holder agrees to other treatment (in which event, such other agreement shall govern), Holders of Allowed Class 3A Claims shall receive, on account of such Allowed Class 3A Claim, a Pro Rata Share from the Liquidating Trust Assets contributed by or attributable to Nighthawk Energy plus any Liquidating Trust Assets contributed by or attributable to Nighthawk Production after payment in full of the Class 3B Claims and Class 3C Claims not to exceed the full amount of such Allowed Class 3A Claim, on or as soon as reasonably practicable following the later of: (i) the Effective Date if due on or before that date, (ii) the date upon which such Allowed Class 3A Claim becomes an Allowed Claim, or (iii) such other date as may be agreed upon between the Holder of such Allowed Unsecured Claim and the Debtors or Liquidating Trustee. Notwithstanding the foregoing, in the event that the Liquidating Trustee determines in his reasonable judgment that there is insufficient Cash to make a Distribution to Holders of Class 3A Claims on such date, then a Distribution shall be made on such Claims on the date on which the Liquidating Trustee determines there is sufficient Cash to make such Distribution.

<p>Class 3B Claims: Unsecured Claims against Nighthawk Royalties (Impaired)</p> <p>Estimated Allowed Aggregate Amount of Class 3B Claims: \$0 - \$6,250,000.00</p> <p>Estimated Recovery: 0-100%</p>	<p>Unless such Holder agrees to other treatment (in which event, such other agreement shall govern), Holders of Allowed Class 3B Claims shall receive, on account of such Allowed Class 3B Claim, a Pro Rata Share from the Liquidating Trust Assets contributed by or attributable to Nighthawk Royalties plus any Liquidating Trust Assets contributed by or attributable to Nighthawk Production after payment in full of the Class 3C Claims not to exceed the full amount of such Allowed Class 3B Claim, on or as soon as reasonably practicable following the later of: (i) the Effective Date if due on or before that date, (ii) the date upon which such Allowed Class 3B Claim becomes an Allowed Claim, or (iii) such other date as may be agreed upon between the Holder of such Allowed Unsecured Claim and the Debtors or Liquidating Trustee. Notwithstanding the foregoing, in the event that the Liquidating Trustee determines in his reasonable judgment that there is insufficient Cash to make a Distribution to Holders of Class 3B Claims on such date, then a Distribution shall be made on such Claims on the date on which the Liquidating Trustee determines there is sufficient Cash to make such Distribution.</p>
<p>Class 3C Claims: Unsecured Claims Nighthawk Production (Impaired)</p> <p>Estimated Allowed Aggregate Amount of Class 3C Claims: \$0 - \$6,250,000.00</p> <p>Estimated Recovery: 0-100%</p>	<p>Unless such Holder agrees to other treatment (in which event, such other agreement shall govern), Holders of Allowed Class 3C Claims shall receive, on account of such Allowed Class 3C Claim, a Pro Rata Share from the Liquidating Trust Assets contributed by or attributable to Nighthawk Production not to exceed the full amount of such Allowed Class 3C Claim, on or as soon as reasonably practicable following the later of: (i) the Effective Date if due on or before that date, (ii) the date upon which such Allowed Class 3C Claim becomes an Allowed Claim, or (iii) such other date as may be agreed upon between the Holder of such Allowed Unsecured Claim and the Debtors or Liquidating Trustee. Notwithstanding the foregoing, in the event that the Liquidating Trustee determines in his reasonable judgment that there is insufficient Cash to make a Distribution to Holders of Class 3C Claims on such date, then a Distribution shall be made on such Claims on the date on which the Liquidating Trustee determines there is sufficient Cash to make such Distribution.</p>
<p>Class 3D Claims: Unsecured Claims against OilQuest (Impaired)</p> <p>Estimated Allowed Aggregate Amount of Class 3D Claims: \$0 - \$6,250,000</p> <p>Estimated Recovery: 0-100%</p>	<p>Unless such Holder agrees to other treatment (in which event, such other agreement shall govern), Holders of Allowed Class 3D Claims shall receive, on account of such Allowed Class 3D Claim, a Pro Rata Share from the Liquidating Trust Assets contributed by or attributable to OilQuest not to exceed the full amount of such Allowed Class 3D Claim, on or as soon as reasonably practicable following the later of: (i) the Effective Date if due on or before that date, (ii) the date upon which such Allowed Class 3D Claim becomes an Allowed Claim, or (iii) such other date as may be agreed upon between the Holder of such Allowed Unsecured Claim and the Debtors or Liquidating Trustee. Notwithstanding the foregoing, in the event that the Liquidating Trustee determines in his reasonable judgment that there is insufficient Cash to make a Distribution to Holders of Class 3D Claims on such date, then a Distribution shall be made on such Claims on the date on which the Liquidating Trustee determines there is sufficient Cash to make such Distribution.</p>

<p>Class 4 Intercompany Claims: Intercompany Claims between the Debtors (Impaired)</p> <p>Estimated Recovery: 0%</p>	<p>Any and all Intercompany Claims shall be eliminated as of the Effective Date, by either offset, cancellation or contribution of such pre-Petition Date Intercompany Claims.</p>
<p>Class 5 Equity Interests: Existing Equity Interests in the Debtors (Impaired)</p> <p>Estimated Recovery: 0%</p>	<p>Holders of Equity Interests in the Debtors shall not receive a Distribution under the Plan on account of their Equity Interests and such Equity Interests shall be cancelled under the Plan on the Effective Date.</p>

D. Plan Releases

All Holders of Claims and Equity Interests are urged to read carefully the release provisions set forth in Article XI of the Plan. The Plan includes both the Debtor Release and Third-Party Release in favor of the Released Parties.

1. *The Debtor Release*

CBA is the Debtors' senior secured stakeholder, and the sole holder of Claims in Class 2, the only Impaired Class of Secured Claims entitled to vote to accept or reject the Plan. As such, CBA's acceptance of the Plan is critical to its confirmation. In addition, pursuant to the Cash Collateral Order CBA conditionally consented to the Debtors' use of cash collateral to fund the Chapter 11 Cases and the Liquidating Trust, thereby facilitating the Sale of the Debtors' assets for the highest and best offer as determined by the Bankruptcy Court in the Sale Order, the post-Sale wind-down of the Debtors, and the resolution of these Chapter 11 Cases through this Plan. The Debtor Release contained in this Plan was negotiated at arm's length and in good faith by the Debtors, and reflects their prudent business judgment consistent with the relevant standard in this Circuit. Accordingly, the Debtors believe that the Debtor Release is fair and equitable, is proposed to be given in exchange for reasonably equivalent consideration, and is in the best interests of the Debtors and their Estates.

2. *The Third-Party Release*

The Plan specifically provides that any Holder of a Claim or Equity Interest that votes to reject the Plan, is deemed to reject the Plan, or does not vote to accept or reject the Plan may elect to opt out of the Third-Party Release by affirmatively electing to "opt out" of the releases in Section 11.03 of the Plan by checking the appropriate box on the respective Ballot or Opt Out Form and timely returning such Ballot or Opt Out Form to the Debtors in accordance with the Disclosure Statement Order. Holders of Claims and Equity Interests are *not* compelled to give the Third-Party Release. In other words, holders of Claims and Equity Interests may freely choose not to consent to the Third-Party Release, such that the Third-Party Release proposed in the Plan is granted only on a consensual basis and accordingly constitutes a consensual third-party release.

THE DEBTORS BELIEVE THAT THE PLAN PROVIDES THE BEST PROSPECT OF RECOVERIES FOR HOLDERS OF ALLOWED CLAIMS AGAINST THE DEBTORS' ESTATES. THEREFORE, THE DEBTORS **STRONGLY RECOMMEND** THAT YOU VOTE TO **ACCEPT** THE PLAN.

III. SOLICITATION, PLAN VOTING INSTRUCTIONS AND VOTING PROCEDURES

A. Notice to Holders of Claims Against and Equity Interests in the Debtors

CONDITIONAL APPROVAL BY THE BANKRUPTCY COURT OF THIS DISCLOSURE STATEMENT MEANS THAT, ON A CONDITIONAL BASIS, THE BANKRUPTCY COURT HAS FOUND THAT THIS DISCLOSURE STATEMENT CONTAINS INFORMATION OF A KIND AND IN SUFFICIENT AND ADEQUATE DETAIL AS FAR AS IS REASONABLY PRACTICABLE IN LIGHT OF THE NATURE AND HISTORY OF THE DEBTORS 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 BANKRUPTCY COURT'S CONDITIONAL APPROVAL OF THIS DISCLOSURE STATEMENT DOES NOT CONSTITUTE EITHER A GUARANTEE OF THE ACCURACY OR COMPLETENESS OF THE INFORMATION CONTAINED HEREIN OR AN ENDORSEMENT OF THE PLAN BY THE BANKRUPTCY COURT.

IF THE PLAN IS APPROVED BY THE REQUISITE VOTE OF HOLDERS OF CLAIMS ENTITLED TO VOTE AND IS SUBSEQUENTLY CONFIRMED BY THE BANKRUPTCY COURT, THE PLAN WILL BIND ALL HOLDERS OF CLAIMS AGAINST, AND EQUITY INTERESTS IN, THE DEBTORS, WHETHER OR NOT THEY WERE ENTITLED TO VOTE OR DID VOTE ON THE PLAN AND WHETHER OR NOT THEY RECEIVE OR RETAIN ANY DISTRIBUTIONS OR PROPERTY UNDER THE PLAN. THUS, ALL HOLDERS OF CLAIMS AGAINST THE DEBTORS ENTITLED TO VOTE ARE ENCOURAGED TO READ THIS DISCLOSURE STATEMENT AND ITS APPENDICES, SUPPLEMENTS AND EXHIBITS CAREFULLY AND IN THEIR ENTIRETY BEFORE DECIDING TO VOTE EITHER TO ACCEPT OR REJECT THE PLAN.

THIS DISCLOSURE STATEMENT 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 DEBTORS 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.

TO THE EXTENT THERE IS ANY CONFLICT BETWEEN THE SOLICITATION PROCEDURES ORDER AND THE PROVISIONS OF THE DISCLOSURE STATEMENT, WHICH RELATE TO THE SOLICITATION OF VOTES TO ACCEPT OR REJECT THE

PLAN AND/OR THE TABULATION OF VOTES RELATED THERETO, THE SOLICITATION PROCEDURES ORDER SHALL CONTROL.

B. Parties-in-Interest Entitled to Vote

In general, a holder of a claim against or interest in a debtor may vote to accept or to reject a plan of liquidation if (a) the claim or interest is “allowed” and (b) the claim or interest is “impaired” by such plan.

Under Section 1124 of the Bankruptcy Code, a class of claims or interests is deemed to be “impaired” under a plan of liquidation 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 such default.

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

C. Classes Entitled to Vote to Accept or Reject the Plan

Under the Bankruptcy Code, (a) a class of claims has accepted a plan if such plan has been accepted by creditors that hold at least two-thirds (2/3) in amount and more than one-half (1/2) in number of the allowed claims of such class held by creditors that have accepted or rejected such plan, and (b) a class of interests has accepted a plan if such plan has been accepted by holders of such interests that hold at least two-thirds (2/3) in amount of the allowed interests of such class held by holders of such interests that have accepted or rejected such plan.

Pursuant to the Plan, **Class 2 Claims** and **Class 3A-3D Claims** are Impaired by, and entitled to receive a Distribution under, the Plan, and therefore only the Holders of Claims in those Classes are entitled to vote to accept or reject the Plan. **Class 1 Claims** are Unimpaired by the Plan and Holders of such Claims are conclusively presumed to have accepted the Plan; therefore, such Holders are not entitled to vote to accept or reject the Plan. In addition, Intercompany Claims in **Class 4 Intercompany Claims** and Equity Interests in **Class 5 Equity Interests** shall receive no Distribution under the Plan and Holders of Intercompany Claims and Equity Interests are conclusively presumed to have rejected the Plan; therefore, such Holders are not entitled to vote to accept or reject the Plan.

D. Calculation of Claims for Voting Purposes; Claim Objection Deadline

Pursuant to Section 105(a) of the Bankruptcy Code and Rule 3003(c)(2) of the Bankruptcy Rules, any Holder of a Claim (a) that is either (i) not scheduled, or (ii) scheduled as (x) contingent, unliquidated, undetermined or undisputed, (y) in the amount of \$0.00 or (z) as unknown; (b) that is not the subject of a Proof of Claim Filed by the applicable Bar Date set by

the Bankruptcy Court or is not otherwise deemed timely filed by the Bankruptcy Court; (c) that is satisfied by the Debtors; (d) that is Filed in the amount of \$0.00; (e) that has been resolved pursuant to stipulation or order entered by the Bankruptcy Court; or (f) that is subject to an objection, will not be treated by the Debtors as a Creditor with respect to such Claim, for purposes of voting on the Plan.

In order to calculate the amount of Claims for voting purposes, Claims will be (a) counted in the amount Allowed by the Plan; (b) counted in the amount listed on the Schedules if (i) the Claim is not scheduled (x) as contingent, unliquidated, disputed or undetermined or (y) in the amount of \$0.00, (ii) no Proof of Claim has been timely filed (or otherwise deemed timely filed by the Bankruptcy Court under applicable law), (iii) such Claim has not been satisfied by the Debtors, and (iv) such Claim has not been resolved pursuant to a stipulation or order entered by the Bankruptcy Court; (c) counted in the amount listed in a timely filed Proof of Claim (or otherwise deemed timely filed by the Bankruptcy Court under applicable law) if (i) the Claim amount is not disputed, contingent, undetermined or unliquidated, (ii) the Claim was not filed in the amount of \$0.00, (iii) the Proof of Claim has not been amended or superseded by another Proof of Claim, or (iv) the Claim is not the subject of a Claim Objection (as defined below); (d) allowed in the amount temporarily allowed by the Bankruptcy Court for voting purposes only pursuant to rule 3018(a) of the Bankruptcy Rules as set forth below; or (e) reclassified and/or allowed in a fixed, reduced amount if the Debtors have requested that such Claim be reclassified and/or allowed in a fixed, reduced amount pursuant to a Claim Objection (as defined below) to such Claim.

Pursuant to Bankruptcy Rule 3018(a), the deadline for the Debtors to File and serve any objections (each a “**Claim Objection**”) to 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 applicable Bar Date as set by the Bankruptcy Court, shall be no later than fourteen (14) days before the Confirmation Hearing (the “**Claim Objection Deadline**”). For the avoidance of doubt, the Debtors (and after the Effective Date, the Liquidating Trustee) shall retain their right to object to a Claim at a later date on any ground(s), so long as such objection is not for voting purposes. Responses, if any, to the Claim Objection shall be Filed no later than three (3) days before the Confirmation Hearing. The Bankruptcy Court may conduct a hearing on any Claim Objection at the Confirmation Hearing or such earlier time as may be scheduled by the Bankruptcy Court. The ruling by the Bankruptcy Court on any Claim Objection will be considered a ruling with respect to the allowance of the Claim(s) under Bankruptcy Rule 3018 and such Claim(s) will be counted, if at all, for voting purposes only, in the amount determined by the Bankruptcy Court. Any party with a response to a Claim Objection may be heard at the Confirmation Hearing. If, and to the extent that, the Debtors and such party are unable to resolve the issues raised by the Claim Objection on or prior to the Confirmation Hearing, any such Claim Objection will be heard at the Confirmation Hearing.

Creditors seeking to have a Claim that is the subject of a Claim Objection, or otherwise disputed, contingent, undetermined or unliquidated, temporarily allowed for purposes of voting to accept or reject the Plan pursuant to Bankruptcy Rule 3018(a) must File a motion (the “**Claims Estimation Motion**”) for such relief no later than fourteen (14) days prior to the Voting Deadline (as defined below). The Bankruptcy Court shall hear such Claims Estimation Motion at the Confirmation Hearing or such earlier time as may be scheduled by the Bankruptcy Court.

Any such Claims Estimation Motion may be resolved by agreement between the Debtors and the movant without the requirement for further order or approval of the Bankruptcy Court. The deadline for the Debtors to file and serve any objections (each, a “**Claims Estimation Objection**”) to a Claims Estimation Motion shall be three (3) days prior to the Confirmation Hearing (the “**Claims Estimation Objection Deadline**”). Responses to any Claims Estimation Objection may be filed with the Bankruptcy Court up to and including the date of the Confirmation Hearing, and any party with a response to a Claims Estimation Objection may be heard at the Confirmation Hearing.

E. Solicitation Materials

In soliciting votes for the Plan pursuant to this Disclosure Statement, the Debtors will send to Holders of Claims who are entitled to vote, a solicitation package (the “**Solicitation Package**”), which shall include, among other things copies of (a) the Disclosure Statement and Plan and instructions on how to obtain, free of charge, additional copies of this Disclosure Statement together with the Plan and all other exhibits annexed thereto, (b) the Order of the Bankruptcy Court (i) conditionally approving this Disclosure Statement, (ii) establishing solicitation, voting and tabulation procedures; (iii) scheduling the Confirmation Hearing to consider (1) final approval of the Disclosure Statement, and (2) confirmation of the Plan and; (iv) approving the form of Ballot to be used in voting to accept or to reject the Plan; and (v) granting related relief (the “**Solicitation Procedures Order**”), (c) one or more Ballots (as defined below) to be used in voting to accept or to reject the Plan, and (d) other materials that the Bankruptcy Court may direct or approve.

Prior to the Confirmation Hearing, the Debtors intend to File a Plan Supplement that will include, among other things, the Liquidating Trust Agreement and the identity of the Liquidating Trustee.

F. Voting Procedures, Ballots, and Voting Deadlines

The record date with respect to Holders of Claims means the Voting Record Date as established by the Bankruptcy Court in the Solicitation Procedures Order (the “**Voting Record Date**”). The Voting Record Date is the date used for determining (1) the Holders of Claims against the Classes entitled to vote to accept or reject the Plan (each a “**Voting Class**”), who are entitled to receive Solicitation Packages and vote to accept or reject the Plan. and (2) whether Claims have been properly assigned or transferred to an assignee pursuant to Bankruptcy Rule 3001(e) such that the assignee can vote as the Holder of a Claim. However, with respect to any transferred Claim, the transferee shall be entitled to receive a Solicitation Package and cast a Ballot on account of the transferred Claim only if the parties have completed all actions necessary to effect the transfer of the Claim pursuant to Bankruptcy Rule 3001(e) by the Voting Record Date. In the event a Claim is transferred after the transferor has executed and submitted a Ballot to the Voting Agent, the transferee of such Claim shall be bound by any such vote (and the consequences thereof) made by the Holder of such transferred Claim as of the Voting Record Date. The Voting Record Date and all of the Debtors’ solicitation and voting procedures shall apply to all of the Debtors’ Creditors and other parties in interest.

The record date with respect to Holders of Equity Interests means the Equity Interest Record Date as established by the Bankruptcy Court in the Solicitation Procedures Order (the “**Equity Interest Record Date**”). The Equity Interest Record Date is the date used for determining (a) the Holders of Equity Interests in Class 5 and the other Classes not entitled to vote to accept or reject the Plan (each a “**Non-Voting Class**”), who shall receive a notice package, including the Opt Out Form (the “**Notice Package**”), setting forth: (i) the classes that are not entitled to vote on the Plan; (ii) a summary of the treatment of claims and interests under the Plan; (iii) the date and time of the Combined Hearing; (iv) the deadline and procedures for filing objections to the Plan and Disclosure Statement; (v) the Third Party Release opt out procedure, and (vi) the deadline for filing Administrative Claims set forth in the Plan,

In the event that any Holder of an Equity Interest in the Debtors assigns or otherwise transfers all or some of such Equity Interest, then the transferor shall promptly provide to Debtors’ counsel written notice of such transfer. With respect to any transferred Equity Interest, the transferee shall be entitled to receive a Non-Voting Package on account of the transferred Equity Interest only if the transferor has provided written notice of such transfer to Debtors’ counsel by the Equity Interest Record Date.

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.

All votes to accept or reject the Plan must be cast by using the Ballot enclosed with the Solicitation Packages. Unless the Debtors determine otherwise in its sole and absolute discretion, in order for your vote to be counted, your Ballot must be properly executed, completed, and delivered so that your Ballot is actually received by the Debtors by electronic mail, personal delivery or overnight mail no later than the time set forth in the Solicitation Procedures Order (the “**Voting Deadline**”) at the following address:

Nighthawk Royalties LLC, et al.
c/o Greenberg Traurig, P.A.,
Attn: Ari Newman, Esq.,
333 S.E. 2nd Avenue, Suite 4400
Miami, FL 33140
Email: newmanar@gtlaw.com; **and**
fontanezm@gtlaw.com

Any Ballot that is not made and timely filed in the manner set forth above shall not be counted.

Unless otherwise provided in the instructions accompanying the Ballots, the following Ballots will not be counted in determining whether the Plan has been accepted or rejected:

- any Ballot that is otherwise properly completed, executed and timely returned, but does not indicate an acceptance or rejection of the Plan, or indicates both an acceptance and a rejection of the Plan;

- any Ballot received after the Voting Deadline, except in the Debtors' discretion or by order of this Court;
- any Ballot containing a vote that this Court determines, after notice and a hearing, was not solicited or procured in good faith or in accordance with the applicable provisions of the Bankruptcy Code;
- any Ballot that is illegible or contains insufficient information to permit the identification of the Creditor;
- any Ballot that partially accepts, or partially rejects, the Plan;
- any Ballot cast by a Person or Entity that does not hold a Claim in a Voting Class;
- any unsigned Ballot or Ballot without an original signature, except in the Debtors' discretion; and
- any Ballot transmitted to the Debtors by facsimile, except in the Debtors' discretion.

The Ballots do not require Holders of Claims to return any stock certificates, debt instruments, or other evidences of their Claim with their Ballot.

Except as otherwise provided herein, or in the Solicitation Procedures Order, if no Holders of Claims eligible to vote in a particular Class vote to accept or reject the Plan, the Plan will be deemed not to have been accepted by the Holders of such Claims in such Class.

Each Holder of a Claim must vote all of its Claim within a particular Class either to accept or reject the Plan and may not split such votes within a Voting Class. Accordingly, an individual Ballot that partially rejects and partially accepts the Plan on account of multiple Claims within the same Voting Class shall not be counted. By signing and returning a Ballot, each Holder of a Claim will certify to the Bankruptcy Court and the Debtors that no other Ballots with respect to such Claim have been cast or, if any other Ballots have been cast with respect to such Class of Claims, such other Ballots indicated the same vote to accept or reject the Plan.

It is important that the Holder of a Claim in a Class entitled to vote follow the specific instructions provided on such Holder's Ballot(s) and the accompanying instructions.

If you have any questions about (a) the procedure for voting your Claim, (b) the Solicitation Package 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, the Plan Supplement or any appendices or exhibits to such documents, please contact Debtors' counsel at the address specified above or at (305) 579-0868.

For further information and general instructions on voting to accept or reject the Plan, see the instructions accompanying your Ballot.

G. Waiver of Defects, Irregularities, Etc.

Unless otherwise directed by the Bankruptcy Court, all questions as to the validity, form, eligibility (including time of receipt), acceptance, and revocation or withdrawal of Ballots will be determined by the Bankruptcy Court. As indicated below under “Withdrawal of Ballots; Revocation,” effective withdrawals of Ballots must be delivered to Debtors’ counsel at the address specified above prior to the Voting Deadline. The Debtors reserve the right to contest the validity of any such withdrawals of Ballots. Subject to any contrary order of the Bankruptcy Court, the Debtors 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, without notice, any defects, irregularities or conditions of delivery as to any particular Ballot, including failure to timely file such Ballot. Unless otherwise ordered by the Bankruptcy Court, any defects or irregularities in connection with deliveries of Ballots must be cured within such time as the Debtors (or the Bankruptcy Court) determine, and delivery of such Ballots shall not be deemed to have been made until such irregularities have been cured or waived. Neither the Debtors nor any other Person or Entity will be under any duty to provide notification of defects or irregularities with respect to deliveries of Ballots, nor shall any such party incur any liability for failure to provide such notification. Ballots previously furnished (and as to which any irregularities have not theretofore been cured or waived) will not be counted, except as otherwise provided herein or in the Solicitation Procedures Order.

H. Withdrawal of Ballots; Revocation

Unless otherwise provided, any party who has delivered a valid Ballot for the acceptance or rejection of the Plan may withdraw such acceptance or rejection by delivering a written notice of withdrawal to Debtors’ counsel 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 actually received by Debtors’ counsel prior to the Voting Deadline. As stated above, the Debtors expressly reserve the 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 Debtors’ counsel will not be effective to withdraw a previously timely cast Ballot.

Unless otherwise provided, any party who has previously submitted to Debtors’ counsel prior to the Voting Deadline a properly completed Ballot may revoke such Ballot and change such vote by submitting to Debtors’ counsel prior to the Voting Deadline a subsequent properly completed Ballot for acceptance or rejection of the Plan. In the event where more than one timely, properly completed Ballot is received, the last valid Ballot received before the Voting Deadline will supersede and revoke any earlier received Ballot; provided that, if a Holder of Claims casts multiple Ballots on account of the same Claim or Class of Claims, which are

received by Debtors' counsel on the same day, but which are voted inconsistently, all such Ballots will not be counted.

I. Request for Ballot(s); 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, if you wish to obtain an additional copy of the Plan, this Disclosure Statement, Plan Supplement or any exhibits or appendices to such documents, or 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, please contact Debtors' counsel at:

Greenberg Traurig, P.A.
Attn: Ari Newman, Esq.
333 S.E. 2nd Avenue, Suite 4400
Miami, Florida 33131
Email: newmanar@gtlaw.com and
fontanezm@gtlaw.com
Tel: (305) 579-0868

J. Confirmation Hearing and Deadline for Objections to Confirmation

Pursuant to Section 1128(a) of the Bankruptcy Code, the Bankruptcy Court, after notice, may hold a hearing on Confirmation of the Plan. Section 1128(b) of the Bankruptcy Code provides that any party in interest may object to Confirmation of the Plan. At the Confirmation Hearing, the Bankruptcy Court will also determine whether this Disclosure Statement contains adequate information under Section 1125 of the Bankruptcy Code.

The Confirmation Hearing will commence on the date set forth in the Solicitation Procedures Order, before the Honorable Brendan L. Shannon, United States Bankruptcy Judge, in the United States Bankruptcy Court for the District of Delaware, 824 North Market Street, 6th Floor, Courtroom #1, Wilmington, Delaware 19801. The Confirmation Hearing may be continued from time to time without further notice. The Bankruptcy Court, in its discretion and prior to the Confirmation Hearing, may put in place additional procedures governing the Confirmation Hearing.

The Plan may be modified, if necessary, prior to, during, or as a result of the Confirmation Hearing, without further notice to parties in interest.

All objections to confirmation of the Plan and the adequacy of disclosure in this Disclosure Statement (a "**Plan Objection**") must be filed with the Bankruptcy Court and served on the Debtors and certain other parties in interest in accordance with the Solicitation Procedures Order so that they are received no later than seven (7) before the Confirmation Hearing (the "**Plan Objection Deadline**"). The Debtors and any other party supporting Confirmation of the Plan, may file a response to any Plan Objection no later than two business (2) days prior to the date of the Confirmation Hearing. At that same time, the Debtors may also file its proposed findings of fact and conclusions of law with a form of order confirming the Plan, and may file any memorandum of law in support of Confirmation of the Plan.

The Confirmation Order shall approve all provisions, terms, and conditions of the Plan, unless such provisions, terms or conditions are otherwise satisfied or waived pursuant to the Plan provisions described in Section VII herein.

IV. GENERAL INFORMATION CONCERNING THE DEBTORS

A. Overview of the Debtors' Corporate History and Business Operations

Nighthawk Energy is currently a public limited company registered in England and is the direct parent, and sole owner, of Nighthawk Royalties. On May 24, 2000, Nighthawk Energy was incorporated as a private company limited by shares with registered number 4000483 under the UK Companies Act 1985. On April 27, 2006, it re-registered as a public company, and on March 12, 2007, its shares began to trade on the Alternative Investment Market (“AIM”), a sub-market of the London Stock Exchange, under the ticker symbol “AIM:HAWK.” London-traded shares in Nighthawk Energy were suspended on May 1, 2018 and, pursuant to AIM rules, all trading in the shares was cancelled on July 30, 2018.

Effective July 1, 2009, Nighthawk Energy also issued ADRs in the United States through The Bank of New York Mellon, as depositary bank (“BNY”). The ADRs are traded over-the-counter under the ticker symbol “USOTC:NHEGY.” On August 22, 2018, BNY gave notice to holders of the ADRs that it was terminating the ADR facility effective as of October 22, 2018.

Nighthawk Royalties is a limited liability company organized under the laws of Delaware with the federal employer identification number: 13-4336709. It is the direct parent, and sole owner, of Nighthawk Production and OilQuest.

Nighthawk Production is a limited liability company organized under the laws of Delaware with the federal employer identification number: 13-4336709. It was the principal operating company of Nighthawk. The principal business activity of Nighthawk Production was the exploration for and development of hydrocarbons. Nighthawk Production operated solely in Colorado where it held interests in over 150,000 net mineral acres in and around Lincoln County. These interests included a producing field called “Arikaree Creek” and the rights to develop an undeveloped field called “Broken Spears.”

OilQuest is a limited liability company organized under the laws of Colorado with the federal employer identification number: 76-0776070. OilQuest has interests in certain royalties associated with Nighthawk’s commercial activities, but does not have any operations or other business activity.

B. The Debtors' Management Structure

The Board of Directors of Nighthawk Energy (the “**Board**”) was charged with overseeing the entire Nighthawk operation, and is now overseeing the wind-down of Nighthawk’s businesses. The Board is comprised of Chuck Wilson; Richard McCullough (Executive Chairman); and Drew McManigle, an independent director who joined the Board on May 4, 2018. Before Mr. McManigle joined the Board, the Board’s non-executive director was Stuart Eaton. Mr. Eaton resigned on May 4, 2018, and Mr. McManigle was appointed as his

replacement. Nighthawk's Interim Chief Financial Officer and company Secretary is Chris Kohler. Mr. Wilson is also Chief Operating Officer of the Debtors.

Since the Sale (as defined below), Messrs. Kohler and Wilson have remained with the Debtors in a limited capacity and on an hourly basis to help facilitate the Nighthawk wind-down. Entry of the Confirmation Order shall ratify and approve all actions taken by the managers, limited and general partners, directors and officers of the Debtors from the Petition Date through and until Effective Date.

In addition to the current directors, Johan Claesson ("**Mr. Claesson**"), a Swedish national, was a member of the Board until he resigned in November 2017.

C. The Debtors' Corporate Structure

Nighthawk Production and OilQuest are wholly-owned subsidiaries of Nighthawk Royalties, which is a wholly-owned subsidiary of Nighthawk Energy, a public limited company in England. As of the Petition Date, the largest holder of Nighthawk Energy's public shares was Chase Nominees Limited, as nominee for various beneficial holders believed to include Fastighetsaktiebolaget Korporalen ("**FABK**"), an entity owned or controlled by Mr. Claesson. The Debtors believe that Mr. Claesson and his affiliated persons and entities are, collectively, the largest shareholders in Nighthawk Energy.

D. Debtors' Prepetition Capital Structure

As of the Petition Date, the Debtors had outstanding debt obligations in the aggregate amount of over \$55 million, including accrued and unpaid interest, consisting primarily of "borrowed money" obligations, as described below.

1. Senior Secured Debt

On September 26, 2014, Nighthawk Production entered into a \$100 million senior secured credit facility ("**CBA Facility**") with Commonwealth Bank of Australia, as Administrative Agent, and the lenders from time to time party thereto (collectively, "**CBA**"), bearing interest at LIBOR (US) + 4.0% and with an initial maturity date of September 26, 2018. The CBA Facility contained both a four-year Revolving Credit Facility and a Letter of Credit Facility.

By the end of 2015, Nighthawk was no longer in compliance with certain of the CBA Facility's covenants and provisions. As a result, Nighthawk negotiated a series of forbearance agreements with CBA, which resulted in amendments to the CBA Facility that adjusted, among other provisions, the maturity date to June 1, 2018 and increased the interest rate. As of the Petition Dates, Nighthawk was operating under the Ninth Amendment to the CBA Facility, dated December 27, 2017 (the "**Ninth Amendment**"), under which CBA issued a notice of default and reservation of rights on April 19, 2018.

The CBA Facility is fully guaranteed, on a senior secured basis, by each of the Debtors, and secured by substantially all of their assets, subject to permitted liens and specified excluded assets (the "**Prepetition Collateral**").

As of the Petition Date, the approximate amount outstanding under the CBA Facility was \$21.3 million, which included interest in the approximate amount of \$50,000.00.

2. *Subordinated Secured Debt*

On July 30, 2016, the Debtors issued a \$3.0 million secured loan note bearing 15% interest per annum and maturing April 30, 2019 (as amended and modified, the “**Subordinated Loan**”) to certain subordinated noteholders (the “**Subordinated Noteholders**”) ⁴. The approximate amount currently outstanding under the Subordinated Loan is \$3.0 million.

The Subordinated Noteholders entered into a Subordination and Intercreditor Agreement, dated as of July 29, 2016 (the “**Intercreditor Agreement**”), by and among, *inter alia*, Nighthawk Production, Nighthawk Energy, CBA and the Subordinated Noteholders.

3. *Unsecured Notes*

In January 2012, Nighthawk Energy issued \$15.6 million of unsecured convertible zero coupon notes (as amended and modified, the “**2012 Convertible Notes**”), scheduled to mature on January 22, 2015 and convertible to equity at any time before maturity. In September 2014, holders of unconverted 2012 Convertible Notes in the approximate amount of \$8.15 million agreed to extend the maturity and conversion date thereunder to March 2019.

In June 2013, Nighthawk Energy issued \$5.8 million of unsecured convertible notes (as amended and modified, the “**2013 Convertible Notes**”) bearing interest at 9% per annum, scheduled to mature on June 2, 2015 and convertible to equity at any time before maturity. In September 2014, holders of unconverted 2013 Convertible Notes in the approximate amount of \$5.0 million agreed to extend the maturity and conversion date thereunder to March 2019.

On August 14, 2015, Nighthawk Energy issued \$10 million of unsecured convertible zero coupon notes maturing in March 2019 (as amended and modified, the “**2015 Convertible Notes**,” and together with the 2012 Convertible Notes and the 2013 Convertible Notes, the “**Unsecured Notes**”). The 2015 Convertible Notes may be converted to equity at any time until maturity. By Extraordinary Resolution of the Noteholders dated August 31, 2016, FABK – on behalf of itself and any other holders of the 2015 Convertible Notes – agreed to subordinate, among other things, all rights of payment and collection under 2015 Convertible Notes to the obligations owing under CBA Facility.

The approximate amount currently outstanding under the Unsecured Notes is \$21 million. The Unsecured Notes are believed to be held in large part by persons and entities affiliated with Mr. Claesson.

⁴ At issuance, the Subordinated Noteholders consisted of the following four entities: (i) FABK, (ii) Peter Gyllenhammar AB, (iii) Muirfield Invest AB, and (iv) Tom Stendahl. Upon information and belief, Mr. Gyllenhammar transferred all or a portion of his note to The Union Discount Company of London Ltd.

4. *Shareholder Loans*

In July 2013, certain shareholders of Nighthawk Energy made a \$12 million loan to Nighthawk Energy bearing interest at 9% per annum (as amended and modified, the “**Shareholder Loans**”). The Shareholder Loans were restructured over time and in September 2014 the interest rate on the outstanding principal of \$9.97 million was adjusted to 15% per annum and the maturity date was extended to March 2019.

As of the Petition Date, the approximate amount outstanding under the Shareholder Loans was \$10 million. The Shareholder Loans were made in large part by persons and entities affiliated with Mr. Claesson.

In accordance with Section 506(a) of the Bankruptcy Code, and with the exception of the Senior Secured Claims (as defined in the Plan), all of the borrowed-money claims identified above, including the Subordinated Loan, the Unsecured Notes and the Shareholder Loans are Unsecured Claims against Nighthawk Energy and are classified in the Plan as Class 3A Claims.

5. *Unsecured Claims and Equity*

Certain of the Debtors are also subject to indebtedness in the form of general unsecured claims, principally trade claims relating to the operations of Nighthawk Production. Equity in Nighthawk Energy is publicly held. As of the Petition Date, the largest holder of Nighthawk Energy’s public shares was Chase Nominees Limited, as nominee for various beneficial holders.

E. *Events Leading to the Filing of these Chapter 11 Cases*

Nighthawk’s business operations and financial performance were adversely affected by macroeconomic and industry distress and a failed waterflooding project. In light of these challenges Nighthawk has conducted a review of the various strategic alternatives available to it. These and other key events precipitating the filing of the Chapter 11 Cases are summarized below.

1. *Macroeconomic and Industry Challenges*

Since 2014, Nighthawk has encountered significant financial distress arising principally from the substantial decline in oil prices during 2014 and 2015, which resulted in a corresponding decrease in the value of the oil reserves owned by Nighthawk Production. This decrease in valuation resulted in the under-collateralization of Nighthawk’s secured loans, and a significant drain on liquidity to address debt covenant concerns. Although Nighthawk was able to raise additional financing for the Waterflooding Pilot Project (as defined below), the period since 2014 has been characterized by constrained access to additional capital and liquidity, impairing Nighthawk’s ability to exploit development opportunities. During this period, Nighthawk also undertook to increase operational efficiencies, including through headcount and salary reductions.

2. *Failed Waterflooding Project*

In 2016, after considering whether to (i) devote its then-limited capital resources to commence new drilling projects in previously undeveloped areas or, in the alternative, (ii) undertake a waterflood project in its developed Arikaree Creek field (the “**Waterflood Project**”) designed to enhance production from that field, Nighthawk determined to proceed with the Waterflood Project. This decision was made based on advice given to the Company by a retained independent consulting engineer. The cost of the Waterflood Project was estimated to be in excess of \$5 million. Waterflooding is a process whereby water is injected into an oil field to increase pressure and stimulate production in order to increase oil recovery from existing reserves. The Waterflood Project covered approximately 700 acres of the total 1,400 acres in the Arikaree Creek field. If successful, the Waterflood Project was estimated to increase Nighthawk’s reserves in the range of 1.5 to 2.3 million barrels of oil, and would have resulted in beneficial increases in cash flows and further reserve replacement. However, the Waterflood Project ultimately failed to increase Nighthawk’s proved developed producing reserves materially.

3. *Default Under Credit Agreement and Claesson Resignation from Board*

The various factors described above combined at various times to trigger a series of defaults under the CBA Facility, and rendered Nighthawk incapable of meeting debt service to CBA and its other debtholders. Through a series of amendments to the documents governing the CBA Facility, CBA agreed to forbear from exercising its remedies for a period of almost two years. This forbearance appeared to come to an end on April 19, 2018, when CBA issued the Debtors a notice of default and reservation of rights letter.

In November 2017, while serving as a member of the Board, Mr. Claesson expressed a desire to communicate directly with CBA regarding a potential acquisition of the CBA Facility or other financial restructuring and recapitalization of Nighthawk. Having been advised of the potential for a conflict of interest posed by his multiple positions as a director, creditor and major shareholder and his expressed desire to pursue these financial opportunities, Mr. Claesson resigned from the Board in November of 2017. By that time the Board already had discussed and largely agreed with CBA on the essential terms of the Ninth Amendment to the CBA Facility, including the requirement that Nighthawk engage an investment banker to pursue a restructuring or sale of its oil and gas assets.

Mr. Claesson approached CBA with various restructuring and/or debt acquisition proposals, each of which required CBA to take a significant discount on its secured debt. CBA rejected each of Mr. Claesson’s proposals. Despite repeated encouragement by Nighthawk and access to material non-public information provided to him by Nighthawk under the terms of a nondisclosure agreement, Mr. Claesson did not present a meaningful restructuring and recapitalization proposal to the Board. The Ninth Amendment required any such restructuring proposal to be evidenced by definitive documents executed on or before April 18, 2018. Nighthawk never received a formal proposal from Mr. Claesson.

4. *Review of Strategic Alternatives*

Pursuant to the Ninth Amendment mentioned above, and with the consent of CBA, Nighthawk retained SSG Advisors LLC (“SSG”), as its investment banker under an Engagement Agreement dated January 24, 2018. The purpose of the engagement was to explore strategic alternatives, including a potential restructuring or the sale of substantially all of Nighthawk’s assets.

Among the strategic alternatives thoroughly vetted and explored by SSG were (i) a financial restructuring and recapitalization involving Mr. Claesson and his related entities (collectively with Mr. Claesson, the “**Claesson Entities**”)⁵; (ii) a sale of the Debtors’ assets to the Claesson Entities; (iii) a sale of the Debtors’ assets to a strategic buyer; and (iv) a sale of the Debtors’ assets to a financial buyer.

SSG ran an extensive marketing process, contacting over 160 potential transaction parties from both within and outside of the oil and gas industry. SSG’s comprehensive efforts resulted in the receipt of 21 executed non-disclosure agreements pursuant to which interested parties obtained access to an electronic data room established by Nighthawk and engaged in other due diligence, and 7 letters of intent from prospective transaction parties.

Based on the responses and multiple expressions of interest received by SSG, it became clear that a financial restructuring of the Debtors, other than one involving the Claesson Entities, was highly unlikely. Maintaining an ongoing dialogue with the Claesson Entities under the terms of the nondisclosure agreement, the Debtors and SSG conveyed to the Claesson Entities the prices and terms of all offers received by the Debtors, so as to inform and encourage the Claesson Entities’ efforts to formulate the restructuring proposal that Mr. Claesson resigned from the Board in order to pursue. Indeed, the Debtors and SSG recognized throughout the process that the Claesson Entities were the best and most logical candidate to sponsor a restructuring and recapitalization plan for the Debtors.

Unfortunately, the Debtors received no comprehensive or meaningful restructuring proposals from the Claesson Entities as of the Petition Date (nor thereafter), and CBA rejected offers by the Claesson Entities to purchase the CBA Facility due to such offers not being in CBA’s economic best interests. With no viable restructuring alternative and looming defaults under the CBA Facility, the Debtors were required to focus their efforts on maximizing value through a sale of substantially all of their assets, while leaving open the opportunity for the Claesson Entities to propose a viable and more favorable alternative. As described below, the Claesson Entities and their counsel chose to threaten litigation against Nighthawk and its directors, and pursue shareholder governance rights that, in the opinion of the Board, jeopardized Nighthawk’s efforts to maximize value through a proposed sale under Section 363 of the Bankruptcy Code.

⁵ The Claesson Entities are comprised of various entities, including FABK, which purports to be the largest beneficial shareholder in Nighthawk Energy and has appeared in these proceedings through counsel [Docket No. 21].

On April 11, 2018, after extensive negotiations with prospective transaction parties, the Debtors entered into a letter of intent with an energy fund that was to designate an entity to act as stalking horse bidder to purchase substantially all of Nighthawk's assets for \$18 million in a process to be conducted pursuant to Section 363 of the Bankruptcy Code.

5. *Threat of Potentially Value-Destructive Litigation*

Refusing to accept the economic realities of the Debtors, on April 26, 2018, London counsel instructed by FABK sent a "Letter before Claim" (the "**Claim Letter**") to the directors of Nighthawk Energy, threatening to (i) commence litigation against Nighthawk Energy and its Board members, individually, and (ii) seek interim injunctive relief enjoining the filing of any chapter 11 bankruptcy cases in the United States, unless Nighthawk Energy agreed to a series of "undertakings." Those undertakings included, without limitation, a commitment not to file for relief under chapter 11 or the insolvency laws of England and Wales, nor to pursue negotiations for the sale of substantially all of the assets of Nighthawk Production. As referenced above, by this time the Debtors had proceeded in the absence of any meaningful or feasible restructuring proposal from the Claesson Entities or any other source to enter into a letter of intent with the stalking horse, and were actively engaged in negotiation of definitive purchase documents that would serve as the basis for the Nighthawk Production chapter 11 filing and request to authorize a 363 sale process.

Subsequent communications from FABK's counsel continued to threaten the commencement in England of an action for immediate injunctive relief against Nighthawk Energy and the Board that, among other things, would frustrate the Board's ongoing efforts to maximize the value of the Nighthawk enterprise through the 363 sale process. Faced with these escalating threats of value-destructive litigation, and with CBA declining to extend existing deadlines under the Ninth Amendment, Nighthawk Energy and Nighthawk Royalties were forced to decouple and accelerate their chapter 11 filings ahead of the filings for Nighthawk Production and OilQuest. Accordingly, on April 30, 2018, Nighthawk Energy and Nighthawk Royalties commenced chapter 11 cases in this Court. As set forth below, as part of that filing, the Debtors' sought and obtained the Court's approval of the appointment of Chuck Wilson to act as foreign representative for the Debtors in any proceedings to be commenced in England.

6. *Commencement of Ancillary Proceedings in England*

On May 8, 2018, in an effort to prevent FABK (and, potentially other of the Claesson Entities) from undertaking precipitous and potentially value-destructive action in England, the Debtors commenced ancillary proceedings in the High Court of Justice, England and Wales ("**High Court**") seeking recognition of these Chapter 11 Cases under the UNCITRAL Model Law on Cross-Border Insolvency, codified in the UK as the Cross-Border Insolvency Regulations 2006. On May 11, 2018, upon notice and hearing, the High Court recognized these Chapter 11 Cases as foreign main proceedings and enjoined the Claesson entities from commencing any litigation against the Debtors in England and Wales without first seeking leave of the High Court. Since that date there have been no further proceedings of record in the High Court.

7. *Demand for Meeting of Shareholders*

On May 8, 2018, the Board received a letter from counsel representing FABK demanding that the Board call and schedule a special meeting of shareholders. As stated in that demand letter and related documents, the express purpose of the meeting was to remove Richard McCullough and Chuck Wilson from the Board and replace them with Mr. Claesson and his designee Johan Damne. The Debtors viewed the shareholder meeting demand as a clear abuse of the bankruptcy process and a blatant attempt to frustrate their chapter 11 efforts before the Bankruptcy Court.

After extensive negotiation with counsel for FABK regarding the shareholder meeting demand, and only after the Debtors threatened to commence an adversary proceeding to enjoin the shareholder meeting, FABK withdrew its demand for a shareholder meeting.

8. *Purpose of the Chapter 11 Filings*

The Debtors filed chapter 11 in order to maximize value for existing stakeholders by seeking to sell substantially all of their assets pursuant to Section 363 of the Bankruptcy Code and, after any such sale is consummated, to wind down and liquidate any remaining assets, including potential litigation assets and residual royalty interests, and operations as may be necessary and appropriate.

V. THE CHAPTER 11 CASES

A. Commencement of the Chapter 11 Cases

On April 30, 2018, Nighthawk Royalties and Nighthawk Energy (the “**Joint Debtors**”) commenced their cases (the “**Joint Cases**”) by filing voluntary petitions for relief under chapter 11 of the Bankruptcy Code. On May 15, 2018, Nighthawk Production and OilQuest USA (the “**Additional Debtors**”) commenced their cases (the “**Additional Cases**”; together with the Joint Cases, the “**Chapter 11 Cases**”) by filing voluntary petitions for relief under chapter 11 of the Bankruptcy Code. “Petition Date” means, in reference to the Additional Debtors or Additional Cases, May 15, 2018 and, in reference to the Joint Debtors or Joint Cases, April 30, 2018.

The Debtors continued in possession of their properties and managed and operated their businesses as debtors-in-possession pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code, through the closing on July 18, 2018 of the Sale in accordance with the Sale Order (as defined below). Following the Sale, the Debtors continue to be in possession of their remaining assets and are in the process of winding down their operations.

An immediate effect of commencement of the Chapter 11 Cases was the imposition of the automatic stay under the Bankruptcy Code which, with limited exceptions, enjoins the commencement or continuation of all collection efforts by Creditors, the enforcement of Liens against property of the Debtors, and the continuation of litigation against the Debtors during the pendency of the Chapter 11 Cases. The relief provided the Debtors with the breathing room necessary to assess their strategic options, consummate the Sale and prevent Creditors from obtaining an unfair recovery advantage while the Chapter 11 Cases are continuing. The

automatic stay will remain in effect, unless modified by the Bankruptcy Court, until the entry of a final decree closing the Chapter 11 Cases.

B. First Day Relief

The first day hearings (the “**First Day Hearings**”) in these Chapter 11 Cases were held before the Bankruptcy Court on May 1, 2018 and May 17, 2018. At the First Day Hearings, the Bankruptcy Court heard certain requests for immediate relief Filed by the Debtors to facilitate the transition between the Debtors’ prepetition and post-petition business operations and entered the following orders (some initially on an interim basis and then on a final basis, as noted below):

- Orders Directing Joint Administration of the Chapter 11 Cases [Docket Nos. 16 & 54];
- Final Order (I) Authorizing the Debtors to Pay Prepetition Sales, Use, and Similar Taxes and Regulatory Fees in the Ordinary Course of Business, and (II) Authorizing Banks and Financial Institutions to Honor and Process Checks and Transfers Related Thereto [Docket No. 132];
- Final Order (A) Authorizing Debtors to Pay (I) All Prepetition Employee Obligations, and (II) Prepetition Withholding Obligations, and (B) Directing Banks to Honor Related Transfers [Docket No. 128];
- Final Order Under Section 366 of the Bankruptcy Code (A) Prohibiting Utilities from Altering, Refusing, or Discontinuing Service, (B) Deeming Utilities Adequately Assured of Future Performance, and (C) Establishing Procedures for Determining Adequate Assurance of Payment [Docket No. 136];
- Final Order (A) Authorizing the Maintenance of Bank Accounts and Continued Use of Existing Business Forms and Checks, (B) Authorizing the Continued Use of Existing Cash Management System, (C) Waiving Certain Investment and Deposit Guidelines, and (D) Granting Administrative Expense Status to Postpetition Intercompany Claims [Docket No. 135];
- Final Order (A) Authorizing the Debtors to Pay All or a Portion of the Prepetition Claims of Certain Critical Vendors, and (B) Authorizing Financial Institutions to Honor and Process Related Checks and Transfers [Docket No. 127];
- Order Authorizing the Retention and Appointment of JND Corporate Restructuring as Claims and Noticing Agent to the Debtors, *Nunc Pro Tunc* to the Petition Date [Docket No. 63]; and

The Debtors filed their Schedules of Assets and Liabilities and Statements of Financial Affairs (the “**Schedules and Statements**”) on May 29, 2018. Among other things, the Schedules and Statements set forth the Claims of known Creditors against the Debtors as of the Petition Date, based upon the Debtors’ books and records.

Contemporaneously with the filing of this Disclosure Statement, the Debtors have filed a motion seeking conditional approval of this Disclosure Statement and related procedures.

C. Debtors' Use of Cash Collateral and Releases in Favor of CBA

In addition to the various forms of "First Day Relief" set forth above, the Court also entered a *Final Order (I) Authorizing the Limited Use of Cash Collateral, (II) Granting Adequate Protection, (III) Modifying the Automatic Stay, and (IV) Scheduling a Final Hearing* [Docket No. 138] (the "**Cash Collateral Order**"). With the consent of CBA, the Cash Collateral Order authorized, among other things, the Debtors' use of CBA's cash collateral on a limited basis during the course of these Chapter 11 Cases, including the use of cash collateral to facilitate the (i) wind-down of the Debtors, (ii) filing of a plan of liquidation and (iii) funding of a liquidating trust. CBA's cooperation and consent to the Debtors' use of cash collateral during the course of these Chapter 11 Cases helped facilitate the Sale and has been central to the success, thus far, of these Chapter 11 Cases.

D. Retention of Professionals

During the Chapter 11 Cases, the Bankruptcy Court has authorized the retention of various professionals by the Debtors, including:

- Greenberg Traurig, LLP, as bankruptcy counsel [Docket No. 134];
- SSG Advisors, LLC, as investment banker [Docket No. 133]; and
- Ordinary Course Professionals [Docket No. 131].

The fees and expenses of the professionals retained by the Debtors are entitled to be paid by the Debtors subject to approval by the Bankruptcy Court and in accordance with the *Administrative Order Establishing Procedures for Final, Interim and Monthly Compensation and Reimbursement of Expenses of Professionals Retained in These Chapter 11 Cases and Reimbursement of Expenses of Committee Members Appointed in These Chapter 11 Cases* [Docket No. 130].

E. Key Employee Incentive Plans and Key Employee Retention Plans

With the assistance of SSG, the Debtors devised and implemented retention and incentive plans for their employees and management in order to maintain the going concern value of the business during the Sale process. The Court approved the Debtors' key employee plans by Order [ECF No. 145] dated June 8, 2018.

F. The 363 Sale

On the Petition Date, Nighthawk Production entered into a Purchase and Sale Agreement (the "**PSA**") with Polaris Production Partners LLC ("**Polaris**"), an affiliate of Morse Energy Capital Partners, LLC, for the sale of substantially all of the assets (the "**Assets**") of Nighthawk Production (the "**Sale**").

On that same date, the Debtors filed the *Motion for Entry of an Order (I) (A) Approving Bid Procedures Relating to the Sale of All or Substantially All of the Nighthawk Production Assets, (B) Establishing Procedures in Connection with the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, (C) Approving Notice Procedures, and (D) Granting Related Relief Order* [Docket No. 42] (the “**Bid Procedures Motion**”), which sought approval of, among other things, (i) bid procedures in connection with the Sale, (ii) notice procedures to parties in interest, (iii) the PSA, subject to higher and better offers, and (iv) other related relief.

On June 8, 2018, the Court entered an order [Docket No. 144] (the “**Bid Procedures Order**”) approving the bid procedures set forth in the Bid Procedures Motion (the “**Bid Procedures**”), approving Polaris as the “Stalking Horse Bidder” and scheduling a hearing to approve the Sale of the Assets.

Other than the Stalking Horse Bid from Polaris, the Debtors received no other Qualified Bids for the Assets by the June 22, 2018 Bid Deadline. As a result, in accordance with the Bid Procedures Order, the Debtors canceled the Auction scheduled for June 26, 2018 and sought Court authority to proceed with the Sale of the Assets to Polaris.

On June 28, 2018, the Court entered an *Order (A) Authorizing Sale of Assets Free And Clear Of Liens, Claims, Encumbrances And Other Interests, (B) Approving Assumption And Assignment Of Certain Executory Contracts And Unexpired Leases, And (C) Granting Related Relief* [Docket No. 179] (the “**Sale Order**”), which approved the Sale of the Assets to Polaris.

The Sale to Polaris closed on July 18, 2018 (the “**Closing**”). The Debtors have complied with all post-Closing obligations under the PSA.

At or shortly following the Closing, the Debtors remitted \$14,964,087.00 to CBA from the Closing proceeds on account of, and to reduce the amount outstanding on, the Senior Secured Claims. The remaining Senior Secured Claims against the Debtors are classified in the Plan as Class 2 Claims and any unsecured deficiency claims of CBA against the Debtors are classified in the Plan as Unsecured Claims in Class 3A-3D.

G. Post-Closing Activity

Since the Closing, the Debtors have continued to wind down their businesses and preserve their remaining assets for further administration and liquidation. The Debtors have also obtained formal de-listing of the shares of Nighthawk Energy from the AIM sub-market of the London Stock Exchange, with public trading in Nighthawk Energy’s shares suspended in both England and the United States. Finally, the Debtors have also complied with ongoing reporting requirements imposed under Chapter 11.

VI. PROPOSED TIMELINE OF EVENTS RELATED TO PLAN OF LIQUIDATION

The following is the anticipated schedule for the Plan.⁶

Event	Date / Deadline
Voting Record Date	October 10, 2018
Equity Interest Record Date	October 10, 2018
Service Deadline	October 13, 2018 (or within 3 days following entry of the Solicitation Procedures Order)
Voting Deadline	November 18, 2018 at 4:00 p.m. (prevailing Eastern Time)
Disclosure Statement and Plan Objection Deadline	November 18, 2018 at 4:00 p.m. (prevailing Eastern Time)
Deadline for filing (i) Confirmation Brief; (ii) Balloting Report; (iii) Proposed Form of Confirmation Order; and (iv) Response Memoranda	November 23, 2018 at 4:00 p.m. (prevailing Eastern Time)
Combined Hearing on approval of Disclosure Statement and confirmation of the Plan	November 28, 2018, at 11:00 a.m. (prevailing Eastern Time)

VII. DETAILED SUMMARY OF THE JOINT PLAN OF LIQUIDATION

THIS SECTION VII PROVIDES A SUMMARY OF THE STRUCTURE AND IMPLEMENTATION OF THE PLAN AND THE CLASSIFICATION AND TREATMENT OF CLAIMS AND EQUITY INTERESTS UNDER THE PLAN, AND IS QUALIFIED IN ITS ENTIRETY BY REFERENCE TO THE PLAN (WHICH ACCOMPANIES THIS DISCLOSURE STATEMENT) AND THE EXHIBITS ATTACHED TO THE PLAN.

⁶ The dates contained in this section are anticipated dates and are subject to the Court's schedule and availability.

THE PLAN ITSELF AND THE DOCUMENTS REFERRED TO THEREIN WILL CONTROL THE TREATMENT OF CLAIMS AGAINST, AND EQUITY INTERESTS IN, THE DEBTORS UNDER THE PLAN AND WILL, UPON THE EFFECTIVE DATE, BE BINDING UPON HOLDERS OF CLAIMS AGAINST, OR EQUITY INTERESTS IN, THE DEBTORS, THE LIQUIDATING TRUST, AND OTHER PARTIES IN INTEREST. IN THE EVENT OF ANY CONFLICT BETWEEN THIS DISCLOSURE STATEMENT AND THE PLAN OR ANY OTHER OPERATIVE DOCUMENT, THE TERMS OF THE PLAN AND/OR SUCH OTHER OPERATIVE DOCUMENT WILL CONTROL.

A. Overall Structure of the Plan

The Debtors believe that creditors will obtain a more rapid and potentially greater recovery from the Estates through the Plan than the recovery that would be available if the assets of the Debtors were liquidated under Chapter 7 of the Bankruptcy Code. The appointment of a Chapter 7 Trustee would lead to increased administrative costs and a delay in a Distribution to Holders of Allowed Claims, and would therefore result in lower returns to Holders of Allowed Claims. Accordingly, the Plan will maximize the value of the Debtors' assets. The Plan is, therefore, in the best interests of creditors.

The following summary is offered for convenience only; it is not a complete description of the terms of the Plan. Holders of Claims must review the Plan itself for a complete understanding of the Plan and disclosure of its terms. In the event of a discrepancy between the terms of the Plan and anything contained in this Disclosure Statement, the terms of the Plan shall control.

B. Overview of Plan

The consummation of a plan of reorganization or liquidation is the principal objective of a chapter 11 case. A plan of reorganization or liquidation sets forth the means for satisfying claims against and interests in a debtor. Confirmation of a plan of reorganization or liquidation by the Bankruptcy Court makes the plan binding upon the debtor, any issuer of securities under the plan, any person acquiring property under the plan, and any creditor of, or equity security holder in, the debtor, whether or not such creditor or equity security holder (i) is impaired under or has accepted the plan or (ii) receives or retains any property under the plan.

The Plan is a liquidating plan. The terms of the Plan are based upon, among other things, the Debtors' assessment of its ability to make the Distributions contemplated under the Plan, pay its continuing obligations in the ordinary course of its business and negotiations with the creditor constituencies. Under the Plan, Claims against and Equity Interests in the Debtors are divided into Classes according to their relative seniority and other criteria.

If the Plan is confirmed by the Bankruptcy Court and consummated, the Debtors or the Liquidating Trust will distribute Cash and other property in respect of certain Classes of Claims as provided in the Plan. The Classes of Claims against and Equity Interests in the Debtors created under the Plan, the treatment of those Classes under the Plan, and the other property to be distributed under the Plan, are described below.

Post-confirmation, the Liquidating Trustee shall liquidate the Liquidating Trust Assets in accordance with the Plan and shall distribute the proceeds therefrom in accordance with the Plan and Liquidating Trust Agreement.

The Plan anticipates that the Liquidating Trustee will evaluate and determine whether to prosecute post-confirmation litigation against third parties, any recoveries from which could result in additional Distributions to Holders of Allowed Claims. In particular, the Debtors believe that the Nighthawk Production Estate possesses litigation claims against Sigma Cubed Inc. (“**Sigma**”), a reservoir engineering firm, for, without limitation, negligent design, breach of contract and professional malpractice in connection with the failed Waterflooding Pilot Project. While the Debtors believe that the claims against Sigma are material and well-founded, results are not certain and a recovery is not guaranteed.

As referenced above, by way of the Claim Letter certain shareholders of Nighthawk Energy have alleged, *inter alia*, certain breach of fiduciary claims against the pre-petition Board, which claims the Debtors believe are derivative in nature and accordingly property of their estates. While the Debtors encourage the Liquidating Trustee to investigate those threatened claims, the Debtors believe them to be wholly without merit and, therefore, ascribe no value, or prospect of recovery, to those claims.

The Trustee will also evaluate any residual royalty interests of the Debtors that were not included within the Sale, which are believed to be *de minimus*, and determine whether to sell or abandon those interests.

C. Classification, Treatment and Voting of Claims and Equity Interests

Section 1122 of the Bankruptcy Code provides that a plan of reorganization must classify the claims and interests of a debtor’s creditors and equity interest holders. In accordance with Section 1122 of the Bankruptcy Code, the Plan divides Claims against and Equity Interests in the Debtors into Classes and sets forth the treatment for each Class (other than Administrative Claims and Priority Tax Claims, which, pursuant to Section 1123(a)(1), do not need to be classified). The Debtors also are required, under Section 1122 of the Bankruptcy Code, to classify Claims against and Equity Interests in the Debtors into Classes that contain Claims and Equity Interests that are substantially similar to the other Claims and Equity Interests in such Class.

The Debtors believe that the Plan has classified all Claims and Equity Interests in compliance with the provisions of Section 1122 of the Bankruptcy Code and applicable case law; however, it is possible that a Holder of a Claim or Equity Interest may challenge the Debtors’ classification of Claims and Equity Interests and that the Bankruptcy Court may find that a different classification is required for the Plan to be confirmed. In that event, the Debtors intend, to the extent permitted by the Bankruptcy Code, the Plan, and the Bankruptcy Court, to make such reasonable modifications to 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 in the Plan with respect to the aggregate Claims in any Impaired Class. Thus, the value of the property that ultimately will be received by a particular Holder of an Allowed Claim under the Plan may be adversely (or favorably) affected by the aggregate amount of Claims ultimately Allowed in the applicable Class.

The classification of Claims and Equity Interests and the nature of Distributions, if any, to members of each Class are summarized below. The consideration, if any, provided under the Plan to Holders of Claims and Equity Interests reflects an appropriate resolution of their Claims and Equity Interests, taking into account the differing nature and priority (including applicable contractual and statutory subordination) of such Claims and Equity Interests and the fair value of the Liquidating Trust Assets. The Debtors intend to seek Confirmation of the Plan pursuant to the “cramdown” provisions of the Bankruptcy Code, if necessary. Specifically, Section 1129(b) of the Bankruptcy Code permits Confirmation of the Plan in certain circumstances even if the Plan has not been accepted by all Impaired Classes of Claims. *See Section X.D.* 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.

1. Classification

Claims against the Debtors, other than Administrative Claims and Priority Tax Claims are classified for all purposes (unless otherwise specified), including voting and Distribution pursuant to the Plan, as follows:

Class	Designation	Impairment	Entitled to Vote
1	Other Priority Claims	Unimpaired	No (deemed to accept)
2	Senior Secured Claims	Impaired	Yes
3A	Unsecured Claims against Nighthawk Energy	Impaired	Yes
3B	Unsecured Claims against Nighthawk Royalties	Impaired	Yes
3C	Unsecured Claims against Nighthawk Production	Impaired	Yes
3D	Unsecured Claims against OilQuest	Impaired	Yes
4	Intercompany Claims	Impaired	No (deemed to reject)
5	Equity Interests	Impaired	No (deemed to reject)

2. Treatment of Claims and Equity Interests

a. General

Pursuant to Section 1122 of the Bankruptcy Code, a Claim or Equity Interest is classified in a particular Class only to the extent that the Claim or Equity Interest qualifies under the description of the Class, and is classified in a different class to the extent that the Claim or Equity Interest qualifies under the description of that different Class. A Claim or Equity Interest is placed in a particular Class for the purposes of receiving Distributions pursuant to the Plan only to the extent that such Claim or Equity Interest is an Allowed Claim or an Allowed Equity Interest in that Class and such Claim or Equity Interest has not been paid, released, settled or otherwise satisfied prior to the Effective Date.

b. Unclassified Claims

(i) Administrative Claims

Subject to Section 13.01 of the Plan, and except to the extent that any Holder of an Allowed Administrative Claim (other than Allowed Professional Fee Claims) has received payment prior to the Effective Date, agrees with the Debtors or the Liquidating Trustee to different treatment or as otherwise provided for in the Plan, each Holder of an Allowed Administrative Claim shall receive payment in full, in Cash, on or as soon as reasonably practicable following the later of: (i) the Effective Date if due on or before that date, (ii) the date upon which such Administrative Claim becomes an Allowed Claim, or (iii) such other date as may be agreed upon between the Holder of such Allowed Administrative Claim and the Debtors or the Liquidating Trustee, as applicable.

(ii) Professional Fee Claims

Professional Fee Claims shall be paid as set forth in Section 13.02 of the Plan.

(iii) Priority Tax Claims

Except to the extent that an Allowed Priority Tax Claim has been paid prior to the Effective Date or unless otherwise agreed to by the Debtors or the Liquidating Trustee, as applicable, and the Holder of an Allowed Priority Tax Claim, each Holder of an Allowed Priority Tax Claim shall receive: (a) Cash equal to the amount of such Allowed Priority Tax Claim; (b) such other treatment in accordance with 1129(a)(9)(C) of the Bankruptcy Code; or (c) as may be agreed between the Holder of such Allowed Priority Tax Claim and the Debtors or the Liquidating Trustee, as applicable, except to the extent that such Allowed Priority Claim is already liquidated pursuant to a Final Order of the Bankruptcy Court

(iv) U.S. Trustee Fee Claims

The Debtors or the Liquidating Trustee, as applicable, shall pay all U.S. Trustee Fees for each quarter (including any fraction thereof) until these Chapter 11 Cases are converted, dismissed, or closed, whichever occurs first.

3. *Voting Classes of Claims against the Debtors*

a. Senior Secured Claims (“Class 2 Claims”)

Classification: Class 2 Claims consists of the Senior Secured Claims, which Claims are secured by duly perfected and unavoidable liens and security interests in, *inter alia*, all of the remaining Cash of the Estates.

Treatment: The Holder of Senior Secured Claims shall receive, on account of such Allowed Senior Secured Claims without interest or premium: (i) all Available Secured Cash on the later of (A) the Effective Date or (B) such other date as may be agreed upon between CBA and the Debtors or the Liquidating Trustee and (ii) Excess Cash, if any, upon or immediately before termination of the Liquidating Trust, up to the full Allowed amount of such Holder's Senior Secured Claim without interest or premium; *provided, however*, that in each case such payment in Cash shall not settle, release or discharge any Allowed Unsecured Claim held by a holder of Senior Secured Claims.

Voting: The Class 2 Claim is Impaired by the Plan. The Holder of an Allowed Class 2 Claim is entitled to vote to accept or reject the Plan.

b. Unsecured Claims.

- (i) Class 3A – Unsecured Claims against Nighthawk Energy (collectively, the “**Class 3A Claims**”).

Classification: Class 3A Claims consist of all Unsecured Claims against Nighthawk Energy.

Treatment: Unless such Holder agrees to other treatment (in which event, such other agreement shall govern), Holders of Allowed Class 3A Claims shall receive on account of such Allowed Class 3A Claim, a Pro Rata Share from the Liquidating Trust Assets contributed by or attributable to Nighthawk Energy plus any Liquidating Trust Assets contributed by or attributable to Nighthawk Production after payment in full of the Class 3B Claims and Class 3C Claims not to exceed the full amount of such Allowed Class 3A Claim, on or as soon as reasonably practicable following the later of: (i) the Effective Date if due on or before that date, (ii) the date upon which such Allowed Class 3A Claim becomes an Allowed Claim, or (iii) such other date as may be agreed upon between the Holder of such Allowed Unsecured Claim and the Debtors or Liquidating Trustee. Notwithstanding the foregoing, in the event that the Liquidating Trustee determines in his reasonable judgment that there is insufficient Cash to make a Distribution to Holders of Class 3A Claims on such date, then a Distribution shall be made on such Claims on the date on which the Liquidating Trustee determines there is sufficient Cash to make such Distribution.

Voting: Class 3A Claims are Impaired by the Plan. Holders of Allowed Class 3A Claims are entitled to vote to accept or reject the Plan.

- (ii) Class 3B – Unsecured Claims against Nighthawk Royalties (collectively, the “**Class 3B Claims**”).

Classification: Class 3B Claims consist of all Unsecured Claims against Nighthawk Royalties.

Treatment: Unless such Holder agrees to other treatment (in which event, such other agreement shall govern), Holders of Allowed Class 3B Claims shall receive, on account of such Allowed Class 3B Claim, a Pro Rata Share from the Liquidating Trust Assets contributed by or attributable to Nighthawk Royalties plus any Liquidating Trust Assets contributed by or attributable to Nighthawk Production after payment in full of the Class 3C Claims not to exceed the full amount of such Allowed Class 3B Claim, on or as soon as reasonably practicable following the later of: (i) the Effective Date if due on or before that date, (ii) the date upon which such Allowed Class 3B Claim becomes an Allowed Claim, or (iii) such other date as may be agreed upon between the Holder of such Allowed Unsecured Claim and the Debtors or Liquidating Trustee. Notwithstanding the foregoing, in the event that the Liquidating Trustee determines in his reasonable judgment that there is insufficient Cash to make a Distribution to Holders of Class 3B Claims on such date, then a Distribution shall be made on such Claims on the date on which the Liquidating Trustee determines there is sufficient Cash to make such Distribution.

Voting: Class 3B Claims are Impaired by the Plan. Holders of Allowed Class 3B Claims are entitled to vote to accept or reject the Plan.

- (iii) Class 3C – Unsecured Claims against Nighthawk Production (collectively, the “**Class 3C Claims**”).

Classification: Class 3C Claims consist of all Unsecured Claims against Nighthawk Production.

Treatment: Unless such Holder agrees to other treatment (in which event, such other agreement shall govern), Holders of Allowed Class 3C Claims shall receive, on account of such Allowed Class 3C Claim, a Pro Rata Share from the Liquidating Trust Assets contributed by or attributable to Nighthawk Production not to exceed the full amount of such Allowed Class 3C Claim, on or as soon as reasonably practicable following the later of: (i) the Effective Date if due on or before that date, (ii) the date upon which such Allowed Class 3C Claim becomes an Allowed Claim, or (iii) such other date as may be agreed upon between the Holder of such Allowed Unsecured Claim and the Debtors or Liquidating Trustee. Notwithstanding the foregoing, in the event that the Liquidating Trustee determines in his reasonable judgment that there is insufficient Cash to make a Distribution to Holders of Class 3C Claims on such date, then a Distribution shall be made on such Claims on the date on which the Liquidating Trustee determines there is sufficient Cash to make such Distribution.

Voting: Class 3C Claims are Impaired by the Plan. Holders of Allowed Class 3C Claims are entitled to vote to accept or reject the Plan.

- (iv) Class 3D – Unsecured Claims against OilQuest (collectively, the “**Class 3D Claims**”).

Classification: Class 3D Claims consist of all Unsecured Claims against OilQuest.

Treatment: Unless such Holder agrees to other treatment (in which event, such other agreement shall govern), Holders of Allowed Class 3D Claims shall receive, on account of such Allowed Class 3D Claim, a Pro Rata Share from the Liquidating Trust Assets contributed by or

attributable to OilQuest not to exceed the full amount of such Allowed Class 3D Claim, on or as soon as reasonably practicable following the later of: (i) the Effective Date if due on or before that date, (ii) the date upon which such Allowed Class 3D Claim becomes an Allowed Claim, or (iii) such other date as may be agreed upon between the Holder of such Allowed Unsecured Claim and the Debtors or Liquidating Trustee. Notwithstanding the foregoing, in the event that the Liquidating Trustee determines in his reasonable judgment that there is insufficient Cash to make a Distribution to Holders of Class 3D Claims on such date, then a Distribution shall be made on such Claims on the date on which the Liquidating Trustee determines there is sufficient Cash to make such Distribution.

Voting: Class 3D Claims are Impaired by the Plan. Holders of Allowed Class 3D Claims are entitled to vote to accept or reject the Plan.

4. *Non-Voting Classes of Claims in the Debtors*

a. Other Priority Claims (collectively, “Class 1 Claims”)

Classification: Class 1 Claims consist of all Other Priority Claims against the Debtors.

Treatment: Each Holder of an Allowed Class 1 Claim shall receive Cash in the amount of such Allowed Other Priority Claim without interest or premium on or as soon as reasonably practicable following the later of: (i) the Effective Date if due on or before that date, (ii) the date upon which such Other Priority Claim becomes an Allowed Claim, or (iii) such other date as may be agreed upon between the Holder of such Allowed Other Priority Claim and the Debtors or the Liquidating Trustee.

Voting: Class 1 Claims are Unimpaired by the Plan. Holders of Allowed Class 1 Claims are not entitled to vote to accept or reject the Plan.

b. Intercompany Claims (collectively, “Class 4 Intercompany Claims”)

Classification: Class 4 Claims consist of all Intercompany Claims.

Treatment: Any and all Intercompany Claims, all Intercompany Claims shall be eliminated as of the Effective Date, by either offset, cancellation or contribution of such pre-Petition Date Intercompany Claims.

Voting: Class 4 is Impaired under the Plan. Each holder of an Intercompany Claim is deemed to have rejected the Plan and is therefore not entitled to vote to accept or reject the Plan.

c. Equity Interests (collectively, “Class 5 Equity Interests”)

Classification: Class 5 Equity Interests consist of all Equity Interests in the Debtors.

Treatment: Holders of Equity Interests in the Debtors shall not receive a Distribution under the Plan on account of their Equity Interests and such Equity Interests shall be cancelled

under the Plan on the Effective Date, or as soon thereafter as such cancellation can be formally effectuated under applicable law.

Voting: Class 5 Equity Interests are Impaired by the Plan and are receiving no Distribution under the Plan. Class 5 Equity Interests are deemed to reject the Plan and are not entitled to vote to accept or reject the Plan.

5. *Reservation of Rights Regarding Claims*

Except as otherwise explicitly provided in Section VII.K.6 of the Plan, nothing herein shall affect the Debtors' or the Liquidating Trustee's rights and defenses, both legal and equitable, with respect to any Claims or Equity Interests, including, but not limited to, all rights with respect to legal and equitable defenses to alleged rights of setoff or recoupment.

D. Acceptance or Rejection of the Plan

1. *Impaired Classes of Claims Entitled to Vote*

Holders of Allowed Claims in each Impaired Class of Claims receiving a Distribution under the Plan are entitled to vote as a Class to accept or reject the Plan. Accordingly, only the votes of Holders of Claims in Classes 2, 3A, 3B, 3C, and 3D shall be solicited with respect to the Plan.

2. *Acceptance by an Impaired Class*

In accordance with Section 1126(c) of the Bankruptcy Code, and except as provided in Section 1126(e) of the Bankruptcy Code, an Impaired Class of Claims shall have accepted the Plan if the Plan is accepted by the Holders of at least two-thirds (2/3) in dollar amount and more than one-half (1/2) in number of the Allowed Claims in such Class that have timely and properly voted to accept or reject the Plan.

3. *Presumed Acceptances by Unimpaired Classes*

Holders of Class 1 Claims are Unimpaired under the Plan. Under Section 1126(f) of the Bankruptcy Code, Holders of such Unimpaired Claims are conclusively presumed to have accepted the Plan, and the votes of Holders of such Unimpaired Claims shall not be solicited.

4. *Presumed Rejection by Certain Classes*

Holders of Class 4 Intercompany Claims and Class 5 Equity Interests are Impaired under the Plan and are receiving no Distribution on account of their respective Claims and Equity Interests. Holders of such Claims and Equity Interests are conclusively presumed to have rejected the Plan pursuant to Section 1126(g) of the Bankruptcy Code.

5. *Confirmation Pursuant to Section 1129(b) of the Bankruptcy Code*

The Debtors will seek confirmation of the Plan under Section 1129(b) of the Bankruptcy Code by establishing at the Confirmation Hearing that the Plan is fair and equitable and does not

discriminate unfairly with respect to Class 4 Intercompany Claims and Class 5 Equity Interests, and any Class of Claims entitled to vote on the Plan that does not vote to accept the Plan. The Debtors reserve the right to alter, amend, modify, revoke, or withdraw the Plan, the Plan Supplement, or any schedule or exhibit, including to amend or modify it to satisfy the requirements of Section 1129(b) of the Bankruptcy Code, if necessary.

6. *Elimination of Vacant Classes*

Any Class of Claims or Equity Interests that does not contain, as of the date of the commencement of the Confirmation Hearing, a Holder of an Allowed Claim or Equity Interest, or a Holder of a Claim temporarily allowed under Bankruptcy Rule 3018, shall be deemed deleted from the Plan for all purposes, including for purposes of determining acceptance of the Plan by such Class under Section 1129(a)(8) of the Bankruptcy Code.

E. Means for Implementation of the Plan

1. *Establishment of Liquidating Trust*

On or prior to the Effective Date, the Debtors, on their own behalf and on their Estates' behalf and on behalf of the Holders of Claims that are to be satisfied with the Liquidating Trust Assets, will execute the Liquidating Trust Agreement and will take all other steps necessary to establish the Liquidating Trust pursuant to the Liquidating Trust Agreement. On the Effective Date, and in accordance with and pursuant to the terms of the Plan, the Debtors will transfer to the Liquidating Trust all of their, respective, right, title, and interests in all of the Liquidating Trust Assets free and clear of all Liens, Claims and encumbrances except as otherwise set forth in the Plan, and all such Liquidating Trust Assets shall be deemed to vest in the Liquidating Trust pursuant to Section 1141(b) of the Bankruptcy Code. Nothing in the Plan shall constitute a waiver of any privilege claims over any of the documents, including the Privileged Documents that are produced to or received by the Liquidating Trust or Liquidating Trustee. For the avoidance of doubt, on and after the Effective Date, the Liquidating Trustee shall be deemed the Debtors' representative and the judicial substitute for the Debtors as the party-in-interest in these Chapter 11 Cases or any judicial proceeding or appeal to which any Debtor is a party, consistent with Section 1123(b)(3)(B) of the Bankruptcy Code and thus, the transfer of the Privileged Documents as provided herein does not impair or waive any privilege.

The Liquidating Trust Agreement shall contain provisions for the appointment of a successor Liquidating Trustee in the event of a vacancy, resignation, incapacity or removal of the Liquidating Trustee. The Liquidating Trust Agreement shall also provide that the Liquidating Trustee may be removed or replaced for cause, including, without limitation, incapacity or failure or refusal to perform his or her duties under the Plan and Liquidating Trust Agreement; provided, that approval from the Bankruptcy Court shall be required to remove and/or replace the Liquidating Trustee.

2. *Funding for the Plan*

The Plan shall be funded from the Liquidating Trust Assets on the Effective Date.

3. *Funding of Reserves*

On or as soon as reasonably practicable following the Effective Date, the Liquidating Trustee, shall cause to be funded the Professional Fee Reserve and the Liquidating Trust Cost Reserve. To the extent necessary after the Effective Date, the Liquidating Trustee shall fund the Disputed Claims Reserve in accordance with the Liquidating Trust Agreement.

4. *Corporate Action*

Upon the Effective Date, by virtue of the solicitation of votes in favor of the Plan and entry of the Confirmation Order, all actions contemplated by the Plan (including any action to be undertaken by the Liquidating Trustee) shall be deemed authorized, approved, and, to the extent taken prior to the Effective Date, ratified without any requirement for further action by Holders of Claims or Equity Interests, the Debtors, or any other Entity or Person or further Order of the Bankruptcy Court. All matters provided for in the Plan involving the corporate structure of the Debtors, and any corporate action required by the Debtors in connection therewith, shall be deemed to have occurred and shall be in effect, without any requirement of further action by the Debtors or the Estates. The authorizations and approvals contemplated by the Plan shall be effective notwithstanding any requirements under applicable non-bankruptcy law.

5. *Management of the Estates*

As of the Effective Date, the existing board of directors of the Debtors shall be deemed dissolved and all officers and directors of the Debtors shall be deemed to be dismissed (unless previously dismissed or terminated), in each case without any further action required on the part of the Debtors, the shareholders of the Debtors, or the officers and directors of the Debtors. Thereafter, the Liquidating Trustee shall be the sole director and officer of the Debtors. On and after the Effective Date, all of the Liquidating Trust Assets including, without limitation, Causes of Action shall be controlled and managed by the Liquidating Trustee. Compensation for the Liquidating Trustee shall be as set forth in the Liquidating Trust Agreement.

6. *Debtors' Professionals*

On the Effective Date, the Professionals retained by the Debtors shall be deemed to have completed their services as Professionals to the Debtors, but shall be able to file final applications for reasonable compensation and reimbursement of expenses as set forth in Section 13.02 of the Plan. The Professionals to the Debtors may be retained by the Liquidating Trustee for any legally permissible purpose, at his sole discretion, and without the need to file any further application with the Bankruptcy Court.

7. *Effectuating Documents; Further Transactions*

Prior to the Effective Date, the Debtors, and on and after the Effective Date, the Liquidating Trustee, are authorized to and may issue, execute, deliver, file, or record such contracts, securities, instruments, releases, and other agreements or documents and take such actions as may be necessary or appropriate to effectuate, implement, and further evidence the terms and conditions of the Plan, without the need for any further Bankruptcy Court order,

approvals, authorization, or consents, unless such Order is expressly required pursuant to the Plan.

8. *Exemption from Certain Taxes and Fees*

To the maximum extent provided by Section 1146(a) of the Bankruptcy Code, any post-Confirmation transfer from any Entity pursuant to, in contemplation of, or in connection with the Plan or pursuant to: (1) the issuance, Distribution, transfer, or exchange of any debt, equity security, or other interest in the Debtors; or (2) the making, delivery, or recording of any deed or other instrument of transfer under, in furtherance of, or in connection with, the Plan, including any deeds, bills of sale, assignments, or other instruments of transfer executed in connection with any transaction arising out of, contemplated by, or in any way related to the Plan, shall not be subject to any document recording tax, stamp tax, conveyance fee, intangibles or similar tax, mortgage tax, real estate transfer tax, mortgage recording tax, Uniform Commercial Code filing or recording fee, or other similar tax or governmental assessment, in each case to the extent permitted by applicable bankruptcy law, and the appropriate state or local government officials or agents shall forego collection of any such tax or governmental assessment and accept for filing and recordation any of the foregoing instruments or other documents without the payment of any such tax or governmental assessment.

9. *Preservation of Rights of Action*

Other than Causes of Action and Avoidance Actions against an Entity that are expressly waived, relinquished, exculpated, released, compromised, or settled in the Plan or by a Bankruptcy Court order, the Debtors and their Estates reserve and do not waive, any and all Causes of Action and Avoidance Actions, including without limitation any actions specifically enumerated in the Plan Supplement. On and after the Effective Date, the Liquidating Trustee may pursue such Causes of Action and Avoidance Actions.

No Entity may rely on the absence of a specific reference in the Plan, the Plan Supplement, or the Disclosure Statement to any Cause of Action and Avoidance Actions against them as any indication that the Debtors or the Liquidating Trustee will not pursue any and all available Causes of Action and Avoidance Actions against them. No preclusion doctrine, including the doctrines of *res judicata*, collateral estoppel, issue preclusion, claim preclusion (judicial, equitable, or otherwise), or laches, shall apply to such Causes of Action and Avoidance Actions upon, after, or as a consequence of the Confirmation or Consummation. The Debtors or the Liquidating Trustee, as applicable, reserve all rights arising under Section 506(c) of the Bankruptcy Code with respect to all Secured Claims asserted against the Debtors or their Estates.

10. *Cancellation of Existing Agreements and Existing Stock*

On the Effective Date, except to the extent otherwise provided herein, all notes, stock, membership interests, instruments, certificates, and other documents evidencing any Claims or Equity Interests shall be canceled, shall be of no further force, whether surrendered for cancellation or otherwise, and the obligations of the Debtors thereunder or in any way related thereto shall be discharged.

11. *Recognition of Confirmation Order in the High Court; Cancellation of Public Shares in England and Wales*

On or after the Effective Date, Nighthawk Energy plc shall be liquidated and dissolved in accordance with the applicable laws of England and Wales. The Liquidating Trustee shall be appointed as successor Foreign Representative on the Effective Date and, in his discretion, shall be authorized to seek recognition of the Confirmation Order in the High Court, and take all other actions associated with same, without further order of the Bankruptcy Court. The public shares and Equity Interests of Nighthawk Energy shall be cancelled upon the Effective Date and in accordance with the Plan, subject to any additional steps or actions required by the laws of England and Wales.

12. *Operations of the Debtors Between the Confirmation Date and the Effective Date*

During the period from the Confirmation Date through and until the Effective Date, the Debtors shall continue to operate as debtors-in-possession, subject to the oversight of the Bankruptcy Court as provided in the Bankruptcy Code, the Bankruptcy Rules, and all orders of the Bankruptcy Court that are then in full force and effect.

F. *Treatment of Executory Contracts and Unexpired Leases*

1. *Rejection of Executory Contracts and Unexpired Leases*

Other than as expressly set forth below, each Executory Contract or Unexpired Lease of the Debtors that has not expired by its own terms before the Effective Date or previously been rejected pursuant to an order of the Bankruptcy Court, shall be deemed rejected by the Debtors as of the Effective Date pursuant to Sections 365 and 1123 of the Bankruptcy Code. Nothing in this paragraph or any other provision of the Plan shall preclude the Liquidating Trustee from seeking the return of any deposits, commissions, or other outstanding amounts from any party to an executory contract.

2. *Claims Based on Rejection of Executory Contracts and Unexpired Lease*

Unless otherwise provided by an order of the Bankruptcy Court, any Proofs of Claim based on the rejection of the Debtors' Executory Contracts or Unexpired Leases pursuant to the Plan or otherwise, must be Filed with the Claims Agent and served on the Debtors or, after the Effective Date, the Liquidating Trustee, as applicable, no later than thirty (30) days after the earlier of the Effective Date or the effective date of rejection of such Executory Contract or Unexpired Lease. In addition, any objection to the rejection of an Executory Contract or Unexpired Lease must be filed with the Bankruptcy Court and served on the Debtors or, after the Effective Date, the Liquidating Trustee, as applicable, no later than thirty (30) days after service of the Debtors' proposed rejection of such Executory Contract or Unexpired Lease.

Any Holders of Claims arising from the rejection of an Executory Contract or Unexpired Lease for which Proofs of Claims were not timely Filed as set forth in the paragraph above shall not (1) be treated as a creditor with respect to such Claim, (2) be permitted to vote to accept or reject the Plan on account of any Claim arising from such

rejection, or (3) participate in any Distribution in the Chapter 11 Cases on account of such Claim, and any Claims arising from the rejection of an Executory Contract or Unexpired Lease not filed with the Claims Agent within such time will be automatically Disallowed, forever barred from assertion, and shall not be enforceable against the Debtors, the Liquidating Trustee, the Debtors' Estates, or the property for any of the foregoing without the need for any objection by the Debtors or the Liquidating Trustee, as applicable, or further notice to, or action, order, or approval of the Bankruptcy Court or any other Entity, and any Claim arising out of the rejection of the Executory Contract or Unexpired Lease shall be deemed fully compromised, settled, and released, notwithstanding anything in the Schedules or a Proof of Claim to the contrary. All Allowed Claims arising from the rejection of the Debtors' prepetition Executory Contracts or prepetition Unexpired Leases (shall be classified as Unsecured Claims, except as otherwise provided by order of the Bankruptcy Court).

3. *Insurance Policies*

On the Effective Date, all insurance obligations, coverage and benefits shall be deemed preserved, assumed, and shall vest in the Liquidating Trust, and the Liquidating Trustee shall control any claims made under any of the Debtors' insurance policies, including negotiations relating thereto, settlements thereof and any recoveries thereunder. Each insurance policy shall be assumed by the Debtors effective as of the Effective Date, pursuant to Sections 365 and 1123 of the Bankruptcy Code, to the extent such insurance policy is executory, unless such insurance policy previously was rejected by the Debtors or the Debtors' Estates pursuant to a Bankruptcy Court order or is the subject of a motion to reject pending on the Effective Date.

Each insurance company is prohibited from, and the Confirmation Order shall include an injunction against, denying, refusing, altering or delaying coverage on any basis regarding or related to these Chapter 11 Cases, the Plan or any provision within the Plan, including the treatment or means of liquidation set out within the Plan for any insured Claims or retained Causes of Action.

4. *Reservation of Rights*

Nothing contained in the Plan shall constitute an admission by the Debtors that any contract or lease is in fact an Executory Contract or Unexpired Lease or that the Debtors' Estates has any liability thereunder. In the event of a dispute regarding whether a contract or lease is or was executory or unexpired at the time of assumption or rejection, the Liquidating Trustee shall have 90 days following entry of a Final Order resolving such dispute to alter the treatment of such contract or lease as otherwise provided in the Plan.

G. Provisions Governing Distributions

1. *Calculation of Amounts to be Distributed*

Each Holder of an Allowed Claim against the Debtors shall receive the full amount of the Distributions that the Plan provides for Allowed Claims in the applicable Class from the Debtors or the Liquidating Trust. In the event that any payment or act under the Plan is required to be made or performed on a date that is not a Business Day, then the making of such payment or the

performance of such act may be completed on the next succeeding Business Day, in which case such payment shall be deemed to have occurred when due. If and to the extent that there are Disputed Claims, Distributions on account of any such Disputed Claims shall be made pursuant to the provisions set forth in this Article VII of the Plan. Notwithstanding anything to the contrary in the Plan, no Holder of an Allowed Claim shall, on account of such Allowed Claim, receive a Distribution in excess of the Allowed amount of such Claim plus any interest accruing on such Claim that is actually payable in accordance with the Plan.

2. *Rights and Powers of the Debtors and Liquidating Trust*

Other than the Distributions to be made on the Class 2 Claims, which Distributions shall be made by the Debtors on the Effective Date (unless CBA and the Debtors or the Liquidating Trustee agree otherwise), all Distributions under the Plan shall be made on or after the Effective Date by the Liquidating Trustee. After the Effective Date, the Liquidating Trustee shall have the right to object, allow, or otherwise resolve any Claim as provided herein.

The Debtors and the Liquidating Trustee, shall not be required to give any bond or surety or other security for the performance of their duties except as ordered by the Bankruptcy Court. Additionally, in the event that the Debtors or Liquidating Trust, as applicable, is ordered to provide such a bond, insurance or surety, all costs and expenses of procuring any such bond, insurance or surety shall be paid with Cash from the Liquidating Trust Cost Reserve.

The Liquidating Trustee shall be deemed the Estates' representative in accordance with Section 1123 of the Bankruptcy Code, including, without limitation, the powers of a trustee under Sections 704 and 1106 of the Bankruptcy Code and Rule 2004 of the Bankruptcy Rules, including without limitation, the right (subject to the provisions of the Plan and the Liquidating Trust Agreement) to (i) effect all actions and execute all agreements, instruments and other documents necessary to implement the provisions of the Plan; (ii) prosecute, settle, abandon or compromise any Claims or Causes of Action, including Avoidance Actions; (iii) make Distributions contemplated by the Plan, (iv) establish and administer any necessary reserves for Disputed Claims that may be required; (v) object to Claims and prosecute, settle, compromise, withdraw or resolve in any manner approved by the Bankruptcy Court such objections; (vi) employ and compensate professionals, including professionals previously retained by the Debtors; provided, however, that any such compensation shall be made, in the first instance and absent the consent of CBA or further Bankruptcy Court approval, only out of the Liquidating Trust Cost Reserve; and (vii) file all federal, state and local tax returns if necessary.

The Liquidating Trustee shall assume any outstanding responsibility of the Debtors under the Plan.

The Liquidating Trustee has the full authority subject, in each case, to the provisions of the Plan and the Liquidating Trust Agreement, to take any steps necessary to administer the Plan, including without limitation, the duty and obligation to liquidate Liquidating Trust Assets, to make Distributions therefrom and to pursue, settle or abandon any Claims and Causes of Action, including, without limitation, Avoidance Actions, Claims and Causes of Action.

Except as otherwise ordered by the Bankruptcy Court, the fees and expenses incurred by the Liquidating Trustee on or after the Effective Date (including taxes) and any reasonable compensation and expense reimbursement Claims (including reasonable attorneys' fees and expenses) incurred by the Liquidating Trustee shall be paid in Cash and, in the first instance and absent the consent of CBA or further Bankruptcy Court approval, only from the Liquidating Trust Cost Reserve, upon the Filing of a fee summary or invoice and at least 14-days' notice to creditors. Absent the Filing of an objection within 14-days of the Filing of a fee summary or invoice, the Liquidating Trustee shall be authorized to pay such fees and expenses without further order of the Bankruptcy Court.

3. *Delivery of Distributions and Undeliverable or Unclaimed Distributions*

a. Record Date for Distribution

On the Distribution Record Date, the Claims Register shall be closed and the Liquidating Trustee or any other party responsible for making Distributions shall instead be authorized and entitled to recognize only those record Holders listed on the Claims Register as of the close of business on the Distribution Record Date.

b. Delivery of Distributions in General

(i) Special Rules for Distributions to Holders of Disputed Claims

Notwithstanding any provision otherwise in the Plan and except as may be agreed to by, as applicable, the Liquidating Trustee on the one hand, and the Holder of a Disputed Claim, on the other hand, no partial payments and no partial Distributions shall be made with respect to any Disputed Claim, other than with respect to Professional Fee Claims, until all Disputed Claims held by the Holder of such Disputed Claim have become Allowed Claims or have otherwise been resolved by settlement or Final Order.

(ii) Distributions

With the exception of the Class 2 Claims, as set forth in Section VII.G.2 of the Plan, on and after the Effective Date, the Liquidating Trustee shall make the Distributions required to be made on account of Allowed Claims under the Plan. Any Distribution that is not made by the Liquidating Trustee on the Effective Date or on any other date specified in the Plan because the Claim that would have been entitled to receive that Distribution is not an Allowed Claim on such date, shall be held by the Liquidating Trust and distributed on the next Distribution Date that occurs after such Claim is Allowed.

c. Minimum; De Minimis Distributions

Notwithstanding any other provision of the Plan to the contrary (including the treatment of any Claims or Classes), (a) the Debtors or the Liquidating Trustee, as applicable, shall not be required to make Distributions or payments of fractions of dollars, and whenever any Distribution of a fraction of a dollar under the Plan would otherwise be required, the actual Distribution made shall reflect a rounding of such fraction to the nearest whole dollar (up or

down), with half dollars being rounded down, and (b) the Liquidating Trustee shall have no duty to make a Distribution on account of any Allowed Claim (i) if the aggregate amount of all Distributions authorized to be made on such date is less than \$20,000.00, in which case such Distributions shall be deferred to the next Distribution Date, (ii) if the amount to be distributed to that Holder on the particular Distribution Date is less than \$100.00, unless such Distribution constitutes the final Distribution to such Holder, or (iii) the amount of the final Distribution to any such Holder is less than \$75.00, in which case such Distribution shall revert to the Liquidating Trust for distribution on account of other Allowed Claims.

d. Undeliverable Distributions and Unclaimed Property

In the event that any Distribution to any Holder is returned as undeliverable, no Distribution to such Holder shall be made unless and until the Liquidating Trustee has determined the then current address of such Holder, at which time such Distribution shall be made to such Holder; provided, however, such Distributions shall be deemed unclaimed property under Section 347(b) of the Bankruptcy Code at the expiration of 120 days from the date such Distribution is made. After such date, all unclaimed property or interests in property shall revert (notwithstanding any applicable federal or state escheat, abandoned, or unclaimed property laws to the contrary) to the Liquidating Trust automatically and without need for a further order by the Bankruptcy Court for Distribution in accordance with the Plan and the Claim of any Holder to such property or interest in property shall be released, settled, compromised, and forever barred.

e. Manner of Payment Pursuant to the Plan

Cash payments under the Plan shall be in U.S. funds, and shall be made, at the option, and in the sole discretion, of the Debtors or the Liquidating Trustee, as applicable, by (i) checks drawn on or (ii) wire transfers from a domestic bank selected by the Debtors or the Liquidating Trustee, as applicable. Cash payments to foreign creditors may be made, at the option, and in the sole discretion, of the Debtors or the Liquidating Trustee, as applicable, in such funds and by such means as are necessary or customary in a particular foreign jurisdiction. Cash payments made pursuant to the Plan in the form of checks issued by the Debtors or Liquidating Trustee, as applicable, shall be null and void if not cashed within 120 days of the date of the issuance thereof. Requests for reissuance of any check shall be made directly to the Liquidating Trustee.

4. *Compliance with Tax Requirements/Allocations*

In connection with the Plan, to the extent applicable, the Debtors, or the Liquidating Trustee, as applicable, shall comply with all tax withholding and reporting requirements imposed on it by any Governmental Unit, and all Distributions pursuant hereto shall be subject to such withholding and reporting requirements.

Distributions in respect of Allowed Claims shall be allocated first to the principal amount of such Claims (as determined for federal income tax purposes) and then, to the extent the consideration exceeds the principal amount of the Claims, to any portion of such Claims for accrued but unpaid interest.

In connection with the Plan and all Distributions hereunder, to the extent applicable, the Debtors and the Liquidating Trustee are authorized to take any and all actions that may be

necessary or appropriate to comply with all tax withholding and reporting requirements imposed by any federal, state, local or foreign taxing authority, and all Distributions pursuant to the Plan shall be subject to any such withholding and reporting requirements. The Liquidating Trustee is authorized to require each Creditor to provide the Liquidating Trustee with an executed Form W-9 or similar tax form as a condition precedent to being sent a Distribution. If a Holder of an Allowed Claim does not provide the Liquidating Trustee with an executed Form W-9 or similar form within 90 days of written request, said Creditor shall be deemed to have forfeited their Distribution with no further notice required.

5. *Claims Paid or Payable to Third Parties*

a. Claims Paid by Third Parties; Recourse to Collateral

The Liquidating Trustee shall be authorized to reduce in whole or in part a Claim, and such Claim shall be Disallowed without a Claims objection having to be Filed and without any further notice to or action, order, or approval of the Bankruptcy Court, to the extent that the Holder of such Claim receives payment in full on account of such Claim from a party that is not a Debtors or, as applicable, the Liquidating Trustee, including on account of recourse to collateral held by third parties that secure such Claim. To the extent a Holder of a Claim receives a Distribution on account of such Claim and receives payment, in whole or in part, from a party that is not a debtor on account of such Claim, such Holder shall, within 14 days of receipt thereof, repay or return the Distribution to the Debtors or the Liquidating Trustee, to the extent the Holder's total recovery on account of such Claim from the third party and under the Plan exceeds the amount of such Claim as of the date of any such Distribution under the Plan. The failure of such Holder to timely repay or return such Distribution shall result in the Holder owing the Debtors or the Liquidating Trustee, annualized interest at the Federal Judgment Rate on such amount owed for each Business Day after the 14-day grace period specified above until the amount is repaid.

b. Claims Payable by Insurance, Third Parties; Recourse to Collateral

No Distributions under the Plan shall be made on account of an Allowed Claim that is payable pursuant to one of the Debtors' insurance policies, surety agreements, other non-Debtors payment agreements, or collateral held by a third party, until the Holder of such Allowed Claim has exhausted all remedies with respect to such insurance policy, surety agreement, other non-Debtors payment agreement, or collateral, as applicable. To the extent that one or more of the Debtors' insurers, sureties, or non-Debtors payors pays or satisfies in full or in part a Claim (if and to the extent adjudicated by a court of competent jurisdiction), or such collateral or proceeds from such collateral is used to satisfy such Claim, then immediately upon such payment, the applicable portion of such Claim shall be expunged without a Claim objection having to be Filed and without any further notice to or action, order, or approval of the Bankruptcy Court.

c. Applicability of Insurance Policies

Notwithstanding anything to the contrary in the Plan or Confirmation Order, Confirmation and consummation of the Plan shall not limit or affect the rights of any third-party beneficiary of any of the Debtors' insurance policies with respect to such policies.

H. The Liquidating Trust

1. *Liquidating Trust Creation*

On the Effective Date, the Liquidating Trust shall be established and become effective. The Liquidating Trust Agreement shall (i) be in form and substance consistent in all material respects with the Plan, and (ii) contain customary provisions for trust agreements utilized in comparable circumstances, including any and all provisions necessary to ensure continued treatment of the Liquidating Trust as a grantor trust and the beneficiaries as the grantors and owners thereof for federal income tax purposes. All relevant parties (including the Debtors, the Liquidating Trustee, and the beneficiaries) will take all actions necessary to cause title to the Liquidating Trust Assets to be transferred to the Liquidating Trust. The powers, authority, responsibilities, and duties of the Liquidating Trust and the Liquidating Trustee are set forth in and shall be governed by the Liquidating Trust Agreement, the Plan, and the Confirmation Order.

2. *Purpose of the Liquidating Trust*

The Liquidating Trust shall be established for the primary purpose of liquidating the Liquidating Trust Assets and making Distributions in accordance with the Plan, Confirmation Order and the Liquidating Trust Agreement, with no objective to continue or engage in the conduct of a trade or business, except to the extent reasonably necessary to, and consistent with, the liquidating purpose of the Liquidating Trust.

3. *Transfer of Assets to the Liquidating Trust*

The Debtors and the Liquidating Trustee shall establish the Liquidating Trust on behalf of the beneficiaries pursuant to the Liquidating Trust Agreement, with the beneficiaries to be treated as the grantors and deemed owners of the Liquidating Trust Assets. The Debtors will irrevocably transfer, assign, and deliver to the Liquidating Trust, on behalf of the beneficiaries, all of their rights, title, and interests in the Liquidating Trust Assets, including any claims, rights, rights of indemnification, and Causes of Action that the Debtors may hold against any Entity in accordance with the provisions herein, notwithstanding any prohibition on assignment under non-bankruptcy law. The Liquidating Trust will accept and hold the Liquidating Trust Assets in the Liquidating Trust for the benefit of the beneficiaries, subject to the Plan and the Liquidating Trust Agreement.

On the Effective Date, all Liquidating Trust Assets shall vest and be deemed to vest in the Liquidating Trust in accordance with Section 1141 of the Bankruptcy Code; provided, however, that the Liquidating Trustee, without further order of the Bankruptcy Court, may abandon or otherwise not accept any Liquidating Trust Assets that the Liquidating Trustee believes, in good faith, have no value to the Liquidating Trust. Any Assets the Liquidating Trustee so abandons or otherwise does not accept shall not vest in the Liquidating Trust. As of the Effective Date, all Liquidating Trust Assets vested in the Liquidating Trust shall be free and

clear of all Liens, Claims and Equity Interests except as otherwise specifically provided in the Plan or in the Confirmation Order. Upon the transfer by the Debtors of the Liquidating Trust Assets to the Liquidating Trust or abandonment of Liquidating Trust Assets by the Liquidating Trustee, the Debtors will have no reversionary or further interest in or with respect to any Liquidating Trust Assets or the Liquidating Trust. Notwithstanding anything herein to the contrary, the Liquidating Trust and the Liquidating Trustee shall be deemed to be fully bound by the terms of the Plan and the Confirmation Order.

For the avoidance of doubt, and notwithstanding anything herein to the contrary, the Debtors shall not transfer or be deemed to have transferred to the Liquidating Trust any claims or Causes of Action (1) released pursuant to the Plan or (2) exculpated pursuant to Article XI of the Plan to the extent of any such exculpation.

4. *Tax Treatment of the Liquidating Trust*

For all federal income tax purposes, the beneficiaries of the Liquidating Trust will be treated as grantors and owners thereof and it is intended that the Liquidating Trust be classified as a Liquidating Trust under 26 C.F.R. § 301.7701-4 and that the Liquidating Trust is owned by the beneficiaries. Accordingly, for federal income tax purposes, it is intended that the beneficiaries be treated as if they had received a Distribution of an undivided interest in the Liquidating Trust Assets and then contributed such interests to the Liquidating Trust. Accordingly, the Liquidating Trust shall, in an expeditious but orderly manner, liquidate and convert to Cash the Liquidating Trust Assets, make timely Distributions to the beneficiaries pursuant to the Plan, and not unduly prolong the Liquidating Trust's duration. The Liquidating Trust shall not be deemed a successor in interest of the Debtors for any purpose other than as specifically set forth herein or in the Liquidating Trust Agreement. The Liquidating Trust is intended to qualify as a "grantor trust" for federal income tax purposes with the beneficiaries treated as grantors and owners of the trust.

The Liquidating Trust shall file returns for the Liquidating Trust, except with respect to any Disputed Claims Reserve, as a grantor trust pursuant to Treasury Regulation Section 1.671-4(a) and in accordance with this Section of the Plan. The Liquidating Trust's taxable income, gain, loss, deduction or credit will be allocated to each holder in accordance with their relative beneficial interests in the Liquidating Trust.

As soon as possible after the Effective Date, the Liquidating Trust shall make a good faith valuation of assets of the Liquidating Trust, and such valuation shall be used consistently by all parties for all federal income tax purposes. The Liquidating Trust also shall file (or cause to be filed) any other statements, returns, or disclosures relating to the Liquidating Trust that are required by any Governmental Unit for taxing purposes.

The Liquidating Trust shall file all income tax returns with respect to any income attributable to the Disputed Claims Reserve, if any, and shall pay any federal, state and local income taxes attributable to the Disputed Claims Reserve, based on the items of income, deduction, credit or loss allocable thereto.

The Liquidating Trust may request an expedited determination of Taxes of the Debtors or of the Liquidating Trust, including the Disputed Claims Reserve, under Bankruptcy Code Section 505(b) for all returns filed for, or on behalf of, the Debtors and the Liquidating Trust for all taxable periods through the dissolution of the Liquidating Trust.

The Liquidating Trustee shall be responsible for filing all federal, state, local and foreign tax returns for the Debtors and the Liquidating Trust. The Liquidating Trust shall comply with all withholding and reporting requirements imposed by any federal, state, local, or foreign taxing authority, and all Distributions made by the Liquidating Trust shall be subject to any such withholding and reporting requirements.

The Liquidating Trustee shall send annually to each beneficiary of the Liquidating Trust who is the holder of an Allowed Claim a separate statement stating the beneficiary's share of income, gain, loss, deduction or credit and instructing all such beneficiaries to report such items on their Federal tax returns (and state tax returns if required by applicable law).

5. *Distribution; Withholding*

Notwithstanding anything in the Plan to the contrary, the Liquidating Trustee shall make, or cause to be made, all Distributions under the Plan and the Liquidating Trust Agreement other than those Distributions made by the Debtors on the Effective Date.

The Liquidating Trust may withhold from amounts distributable to any Entity any and all amounts, determined in the Liquidating Trustee's sole discretion, required by the Plan or Liquidating Trust Agreement, or applicable law, regulation, rule, ruling, directive, or other governmental requirement.

6. *Insurance*

The Liquidating Trustee shall be authorized, but not required, to obtain any insurance coverages deemed reasonably necessary, at the Liquidating Trust's sole expense.

7. *Other Rights and Duties of the Liquidating Trustee*

In addition to the Liquidating Trustee's rights and duties with respect to the Liquidating Trust under the Plan, Confirmation Order and Liquidating Trust Agreement, on and after the Effective Date, the Liquidating Trustee shall be (1) authorized to implement the Plan and any applicable orders of the Bankruptcy Court, and (2) shall be deemed to be appointed as successor Foreign Representative, and authorized and empowered to seek such other and further relief in the Foreign Proceeding as may be necessary to effectuate and implement the terms of the Plan, Liquidating Trust Agreement and Confirmation Order.

On the Effective Date, the Liquidating Trust shall also: (1) take possession of all books, records, and files of the Debtors and their Estates, in all forms including electronic and hard copy, other than the Debtors' Professionals' documents; and (2) provide for the retention and storage of such books, records, and files until such time as the Liquidating Trust determines, in accordance with the Liquidating Trust Agreement, that retention of same is no longer necessary or required.

The Liquidating Trustee shall be authorized to collect and liquidate all uncollected and unliquidated Liquidating Trust Assets including tax refunds.

Any and all rights to conduct investigations and institute litigation with respect to Causes of Action, Avoidance Actions or claims not released by the Debtors shall vest with the Liquidating Trust and shall continue until dissolution of the Liquidating Trust, as if neither the Confirmation Date nor the Effective Date had occurred.

The filing of the final monthly report (for the month in which the Effective Date occurs) and all subsequent quarterly reports shall be the responsibility of the Liquidating Trustee.

8. *Disputed Claims Reserve*

The Liquidating Trustee may establish and maintain, in accordance with the Liquidating Trustee's powers and responsibilities under the Plan and the Liquidating Trust Agreement, and to the extent it becomes necessary, a Disputed Claims Reserve. The Liquidating Trustee may, in his or her reasonable discretion, distribute such amounts (net of any expenses, including any taxes relating thereto), as provided herein and in the Liquidating Trust Agreement, as Disputed Claims are resolved, and such amounts may be distributed on account of such Disputed Claims as if such Disputed Claims were Allowed Claims as of the Effective Date.

9. *Wind-Down*

In addition to the Liquidating Trustee's rights and duties with respect to the Liquidating Trust, on and after the Effective Date, the Liquidating Trustee has the power and authority to take any action necessary to wind down and dissolve the Debtors.

As soon as practicable after the Effective Date, the Liquidating Trustee shall: (1) in the Liquidating Trustee's reasonable discretion, complete and file all final or otherwise required federal, state, and local tax returns for each of the Debtors, and pursuant to Section 505(b) of the Bankruptcy Code, may request an expedited determination of any unpaid tax liability of such Debtors or its Estates for any tax incurred during the administration of such Debtor's Chapter 11 Case, as determined under applicable tax laws; and (2) take such other actions as the Liquidating Trustee may determine to be necessary or desirable to carry out the purposes of the Plan. From and after the Effective Date, the Debtors for all purposes shall be deemed to have withdrawn their business operations from any state in which the Debtors was previously conducting, or is registered or licensed to conduct, their business operations, and shall not be required to file any document, pay any sum, or take any other action in order to effectuate such withdrawal, shall be deemed to have cancelled pursuant to the Plan all Equity Interests, and shall not be liable in any manner to any taxing authority for franchise, business, license, or similar taxes accruing on or after the Effective Date. For the avoidance of doubt, the dissolution of the Debtors shall not have any effect, in any manner, on the Causes of Action that the Liquidating Trustee may assert in accordance with the Plan and the Liquidating Trust Agreement and notwithstanding the Debtors' dissolution, the Debtors shall be deemed to remain intact solely with respect to the preparation, filing, review, and resolution of applications for Professional Fee Claims.

10. *Termination of the Liquidating Trust*

The Liquidating Trustee shall be discharged and the Liquidating Trust shall be terminated, at such time as (1) all Disputed Claims have been resolved, (2) all of the Liquidating Trust Assets have been liquidated, (3) all duties and obligations of the Liquidating Trustee hereunder have been fulfilled, (4) all Distributions required to be made by the Liquidating Trust under the Plan and the Liquidating Trust Agreement have been made, and (5) the Chapter 11 Cases of the Debtors has been closed, but in no event shall the Liquidating Trust be dissolved later than five (5) years from the Effective Date unless the Bankruptcy Court, upon motion by the Liquidating Trustee within the six-month period prior, subject to the fifth anniversary (or the end of any extension period approved by the Bankruptcy Court), determines that a fixed period extension (not to exceed three years, together with any prior extensions, without a favorable letter ruling from the Internal Revenue Service, to the extent required under applicable law at that time, that any further extension would not adversely affect the status of the Liquidating Trust as a liquidating trust for federal income tax purposes) is necessary to facilitate or complete the liquidation, recovery and Distribution of the Liquidating Trust Assets.

11. *Transfer of Beneficial Interests*

Notwithstanding anything to the contrary in the Plan, beneficial interests in the Liquidating Trust shall not be transferrable except upon death of the interest holder or by operation of law, including without limitation, pursuant to Federal Rule of Bankruptcy Procedure 3001.

12. *Termination of the Liquidating Trustee*

The duties, responsibilities, and powers of the Liquidating Trustee shall terminate in accordance with the terms of the Liquidating Trust Agreement.

13. *Exculpation; Indemnification*

The Liquidating Trustee, the Liquidating Trust, professionals retained by the Liquidating Trust and representatives of each of the foregoing will be exculpated and indemnified pursuant to the terms of the Liquidating Trust Agreement; provided, that the Liquidating Trust Agreement shall not include indemnification for gross negligence, willful misconduct or fraud and shall not include indemnification or exculpation for breach of contract claims.

14. *Release of Liens*

Except as otherwise provided by the Plan or in any contract, instrument, release or other agreement or document created or assumed in connection with the Plan, on the Effective Date all mortgages, deeds of trust, liens, pledges or other security interests against the property of the Debtors' Estates shall be fully released and discharged, and all of the right, title and interest of any Holder of such mortgages, deeds of trust, liens, pledges or other security interests shall revert to the applicable Estates.

15. Subordination

a. Preservation of Subordination Rights by Estates

Except as otherwise provided herein, all subordination rights and claims relating to the subordination by the Debtors or the Liquidating Trustee of any Allowed Claim or Equity Interest shall remain valid, enforceable and unimpaired in accordance with Section 510 of the Bankruptcy Code or otherwise.

b. Preservation of Subordination Rights of CBA

Except as otherwise provided herein, all subordination rights and claims of CBA relating to the Debtors shall remain valid, enforceable and unimpaired in accordance with Section 510 of the Bankruptcy Code or otherwise.

I. Procedures for Resolving Contingent, Unliquidated and Disputed Claims and Equity Interests.

1. Resolution of Disputed Claims

a. Allowance of Claims

Prior to the Effective Date, the Debtors, and on and after the Effective Date, the Liquidating Trustee, shall have and shall retain any and all rights and defenses that the Debtors had with respect to any Claim, except with respect to any Claim deemed Allowed as of the Effective Date. Except as expressly provided in the Plan or in any order entered in the Chapter 11 Cases prior to the Effective Date (including the Confirmation Order), no Claim shall become an Allowed Claim unless and until such Claim is deemed Allowed under the Plan or the Bankruptcy Code or the Bankruptcy Court has entered a Final Order, including the Confirmation Order, in the Chapter 11 Cases allowing such Claim.

b. Prosecution of Objections to Claims

Subject in all respects to the provisions of the Plan, other than with respect to Professional Fee Claims, prior to the Effective Date, the Debtors, and on or after the Effective Date, the Liquidating Trustee, as provided in Section VII.G.2 of the Plan, shall have the authority to File objections to Claims, and to settle, compromise, withdraw, or litigate to judgment objections on behalf of the Debtors' Estates to any and all Claims, regardless of whether such Claims are in a Class or otherwise.

Subject to the foregoing and the other provisions of the Plan, from and after the Effective Date, the Liquidating Trustee (a) may settle or compromise any Disputed Claim in accordance with the Liquidating Trust Agreement or the approval of the Bankruptcy Court, as provided in Article VII of the Plan; and (b) shall succeed to the Debtors' rights with respect to any objections Filed by the Debtors that remain pending as of the Effective Date. From and after the Effective Date, the Liquidating Trustee shall have the sole authority to administer and adjust the Claims Register to reflect any such settlements or compromises without any further notice to or action, order, or approval of the Bankruptcy Court.

c. Claims Estimation

Prior to the Effective Date, the Debtors, and on and after the Effective Date, the Liquidating Trustee may, at any time, request that the Bankruptcy Court estimate (a) any Disputed Claim pursuant to applicable law and (b) any contingent or unliquidated Claim pursuant to applicable law, including Section 502(c) of the Bankruptcy Code, regardless of whether the Debtors or the Liquidating Trustee have previously objected to such Claim or whether the Bankruptcy Court has ruled on any such objection, and the Bankruptcy Court shall retain jurisdiction under 28 U.S.C. §§ 157 and 1334 to the maximum extent permitted by law as determined by the Bankruptcy Court to estimate any Disputed Claim, contingent Claim, or unliquidated Claim, including during the litigation concerning any objection to any Claim or during the pendency of any appeal relating to any such objection. Notwithstanding any provision otherwise in the Plan to the contrary, a Claim that has been expunged from the Claims Register but that is subject to appeal or has not been the subject of a Final Order, shall be deemed to be estimated at zero dollars, unless otherwise ordered by the Bankruptcy Court.

In the event that the Bankruptcy Court estimates any Disputed Claim, contingent Claim, or unliquidated Claim, that estimated amount shall constitute either the Allowed amount of such Claim or a maximum limitation on such Claim for all purposes under the Plan, including for purposes of Distributions, and the Liquidating Trustee may elect to pursue additional objections to the ultimate Distribution on such Claim. If the estimated amount constitutes a maximum limitation on such Claim, the Liquidating Trustee may elect to pursue any supplemental proceedings to object to any ultimate Distribution on account of such Claim. Notwithstanding Section 502(j) of the Bankruptcy Code, in no event shall any Holder of a Claim that has been estimated pursuant to Section 502(c) of the Bankruptcy Code or otherwise be entitled to seek reconsideration of such estimation unless such Holder has Filed a motion requesting the right to seek such reconsideration on or before 21 days after the date on which such Claim is estimated. All of the aforementioned Claims and objection, estimation, and resolution procedures are cumulative and not exclusive of one another. Claims may be estimated and subsequently compromised, settled, withdrawn, or resolved by any mechanism approved by the Bankruptcy Court.

2. Disallowance of Claims

Any Claim that has been paid, satisfied, or superseded may be expunged on the Claims Register by the Liquidating Trustee and any Claim that has been amended may be adjusted thereon by the Liquidating Trustee without a Claims objection having to be Filed and without any further notice to or action, order, or approval of the Bankruptcy Court.

3. Amendments

After the Confirmation Date, a Claim may not be filed or amended without the authorization of the Bankruptcy Court and any such new or amended Claim Filed shall be deemed Disallowed and expunged without any further notice to or action, order, or approval of the Bankruptcy Court; provided that, even with such Bankruptcy Court authorization, a Claim may be amended by the Holder of such Claim solely to decrease, but not to increase, unless

otherwise provided by the Bankruptcy Court, the amount, number or priority, except as provided in Section 7.03 of the Plan.

4. *No Interest*

Interest shall not accrue or be paid on any Claim, and no Holder of any Claim shall be entitled to interest accruing on and after the Petition Date on account of any Claim.

J. Retention of Jurisdiction

1. *Retention of Jurisdiction by the Bankruptcy Court*

Under Sections 105(a) and 1142 of the Bankruptcy Code, and notwithstanding entry of the Confirmation Order and occurrence of the Effective Date, and except as otherwise ordered by the Bankruptcy Court, the Bankruptcy Court shall retain exclusive jurisdiction over all matters arising out of, and related to, these Chapter 11 Cases and the Plan to the fullest extent permitted by law (provided, however, that notwithstanding the foregoing, with respect to all civil proceedings arising under the Bankruptcy Code or arising in or related to these Chapter 11 Cases and the Plan, the Bankruptcy Court shall have original but not exclusive jurisdiction, in accordance with Section 1334(b) of Title 28 of the United States Code), including, among other things, jurisdiction to:

- i. allow, disallow, determine, liquidate, classify, estimate, or establish the priority, secured, or unsecured status of any Claim or Equity Interest not otherwise Allowed under the Plan (other than personal injury or wrongful death Claims, unless agreed by the Holder), including the resolution of any request for payment of any Administrative Claim and the resolution of any objections to the allowance or priority of Claims or Equity Interests;
- ii. hear and determine all applications for compensation and reimbursement of expenses of Professionals under the Plan or under Sections 327, 328, 330, 331, 503(b), 1103, and 1129(a)(4) of the Bankruptcy Code; *provided, however*, that from and after the Effective Date, the payment of the fees and expenses of the Professionals of the Liquidating Trust and shall be made in the ordinary course of business and, absent objection, shall not be subject to the approval of the Bankruptcy Court;
- iii. hear and determine all matters with respect to the assumption or rejection of any Executory Contract or Unexpired Lease to which a Debtor is a party or with respect to which a Debtor may be liable, including, if necessary, the nature or amount of any required Cure or the liquidation or allowance of any Claims arising therefrom;
- iv. effectuate performance of and payments under the provisions of the Plan and enforce remedies upon any default under the Plan;

- v. hear and determine any and all adversary proceedings, motions, applications, and contested or litigated matters arising out of, under, or related to, these Chapter 11 Cases, any litigation rights or the Plan whether Filed or commenced before or after the Confirmation Hearing;
- vi. enter such orders as may be necessary or appropriate to execute, implement, or consummate the provisions of the Plan and all contracts, instruments, releases, and other agreements or documents created in connection with the Plan, the Disclosure Statement or the Confirmation Order;
- vii. hear and determine any and all disputes arising in connection with the interpretation, implementation, consummation, or enforcement of the Plan, including disputes arising under agreements, documents, or instruments executed in connection with the Plan;
- viii. consider any modifications of the Plan, cure any defect or omission, or reconcile any inconsistency in any order of the Bankruptcy Court, including, without limitation, the Confirmation Order;
- ix. issue injunctions, enter and implement other orders, or take such other actions as may be necessary or appropriate to restrain interference by any Entity with the implementation, consummation, or enforcement of the Plan or the Confirmation Order;
- x. enter and implement such orders as may be necessary or appropriate if the Confirmation Order is for any reason reversed, stayed, revoked, modified, or vacated;
- xi. hear and determine any matters arising in connection with or relating to the Plan, the Plan Supplement, the schedules to the Plan, the Disclosure Statement, the Confirmation Order, or any contract, instrument, release, or other agreement or document created in connection with the Plan, the Plan Supplement, the schedules to the Plan, the Disclosure Statement, or the Confirmation Order;
- xii. enforce, interpret, and determine any disputes arising in connection with any stipulations, orders, judgments, injunctions, releases, exculpations, indemnifications, and rulings entered in connection with these Chapter 11 Cases (whether or not these Chapter 11 Cases have been closed);
- xiii. except as otherwise limited herein, recover all assets of the Debtors and property of the Estates, wherever located;
- xiv. hear and determine matters concerning state, local, and federal taxes in accordance with Sections 346, 505, and 1146 of the Bankruptcy Code;

- xv. hear and determine such other matters as may be provided in the Confirmation Order or as may be authorized under, or not inconsistent with, provisions of the Bankruptcy Code; and
- xvi. enter a final decree closing these Chapter 11 Cases.

2. *Failure of the Bankruptcy Court to Exercise Jurisdiction*

If the Bankruptcy Court abstains from exercising, or declines to exercise, jurisdiction or is otherwise without jurisdiction over any matter arising in, arising under, or related to these Chapter 11 Cases, including the matters set forth in Section 11.01 of the Plan, the provisions of Article X of the Plan shall have no effect upon and shall not control, prohibit, or limit the exercise of jurisdiction by any other court having jurisdiction with respect to such matter.

K. Settlement, Releases, Injunctions and Exculpations

1. *Compromises and Settlements*

Pursuant to Bankruptcy Rule 9019(a), the Debtors may compromise and settle various (a) Claims and (b) Causes of Action that the Debtors has against other Entities up to the Effective Date. After the Effective Date, any such right shall pass to the Liquidating Trustee as contemplated in Section VII.H.3 of the Plan, without the need for further approval of the Bankruptcy Court. Pursuant to Section 363 of the Bankruptcy Code and Bankruptcy Rule 9019 and in consideration for the distributions and other benefits provided pursuant to the Plan or any distribution to be made on account of an Allowed Claim, the provisions of the Plan shall constitute a good faith compromise of all Claims, Equity Interests, and controversies relating to the contractual, legal, and subordination rights that a Holder of a Claim or Equity Interest may have with respect to any Allowed Claim or Allowed Equity Interest. The entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of the compromise or settlement of all such Claims, Equity Interests and controversies, as well as a finding by the Bankruptcy Court that any such compromise or settlement is in the best interests of the Debtors, their Estates, and Holders of Claims and Equity Interests, and is fair, equitable, and reasonable.

2. *Releases by the Debtors*

Pursuant to Section 1123(b) of the Bankruptcy Code, and except as otherwise specifically provided in the Plan, on and after the Effective Date, the Released Parties shall be deemed released and discharged by the Debtors and their Estates from any and all claims, obligations, debts, rights, suits, damages, Causes of Action, remedies, and liabilities whatsoever, including any derivative claims asserted on behalf of the Debtors, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, that the debtors or their respective estates would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the holder of any Claim or Equity Interest or other entity, based on or relating to, or in any manner arising from, in whole or in part, the Debtors, the Chapter 11 Cases, the Senior Secured Credit Documents, the purchase, sale, or rescission of the purchase or sale of any security, loans, or assets of the Debtors, the subject matter of, or the transactions or events giving

rise to, any Claim or Equity Interest that is treated in the Plan, the business or contractual arrangements between any Debtor and any Released Party, the restructuring, liquidation, cancellation, or settlement of Claims and Equity Interests prior to or in the Chapter 11 Cases, the negotiation, formulation, or preparation of the Plan, the Disclosure Statement, or any related motions, orders, supplements, or other documents filed or entered in the Chapter 11 Cases, any other act or omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date, other than claims or liabilities arising out of or relating to any act or omission of a Released Party that constitutes fraud, willful misconduct, or gross negligence; *provided* that the foregoing shall not operate to waive and release any claims, obligations, debts, rights, suits, damages, Causes of Action, or remedies of the Debtors (a) expressly preserved by the Plan or Confirmation Order or (b) arising after the Effective Date under or related to any agreements or documents executed to implement the Plan or assumed pursuant to the Plan.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the Debtor Release, which includes by reference each of the related provisions and definitions contained in the Plan, and further, shall constitute the Bankruptcy Court's finding that the Debtor Release is: (a) in exchange for the good and valuable consideration provided by the Released Parties; (b) a good-faith settlement and compromise of the Claims released by the Debtor Release; (c) in the best interests of the Debtors and all holders of Claims and Equity Interests; (d) fair, equitable, and reasonable; (e) given and made after due notice and opportunity for hearing; and (f) a bar to any of the Debtors, the Debtors' Estates, or the Liquidating Trust asserting any claim or Cause of Action released pursuant to the Debtor Release.

3. *Releases by Holders of Claims and Equity Interests*

As of the Effective Date, the Releasing Parties shall be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever released and discharged the Released Parties from any and all claims, obligations, debts, rights, suits, damages, Causes of Action, remedies, and liabilities whatsoever, including any derivative claims asserted on behalf of a Debtor, whether known or unknown, foreseen or unforeseen, existing or hereafter arising, in law, equity, or otherwise, that such Person would have been legally entitled to assert (whether individually or collectively), based on or relating to, or in any manner arising from, in whole or in part, the Debtors, the Chapter 11 Cases, the Senior Secured Credit Documents, the purchase, sale, or rescission of the purchase or sale of any security, loans, or assets of the Debtors, the subject matter of, or the transactions or events giving rise to, any Claim or Equity Interest that is treated in the Plan, the business or contractual arrangements between any Debtor and any Released Party, the restructuring, liquidation, cancellation, or settlement of Claims and Equity Interests prior to or in the Chapter 11 Cases, the negotiation, formulation, or preparation of the Plan, the Disclosure Statement, or any related motions, orders, supplements, or other documents filed or entered in the Chapter 11 Cases, any other act or omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date, other than claims or liabilities arising out of or relating to any act or omission of a Released Party that constitutes fraud, willful misconduct, or gross negligence; *provided* that the foregoing shall not operate to waive and release any claims, obligations, debts, rights, suits, damages, Causes of Action,

or remedies of the Debtors or Liquidating Trust (a) expressly preserved by the Plan or Confirmation Order or (b) arising after the Effective Date under or related to any agreements or documents executed to implement the Plan or assumed pursuant to the Plan.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the Third-Party Release, which includes by reference each of the related provisions and definitions contained herein, and, further, shall constitute the Bankruptcy Court's finding that the Third-Party Release is: (a) consensual; (b) essential to the confirmation of the Plan; (c) given in exchange for the good and valuable consideration provided by the Released Parties; (d) a good-faith settlement and compromise of the Claims released by the Third-Party Release; (e) in the best interests of the Debtors and their Estates; (f) fair, equitable, and reasonable; (g) given and made after due notice and opportunity for hearing; and (h) a bar to any of the Releasing Parties asserting any claim or Cause of Action released pursuant to the Third-Party Release.

Notwithstanding any language to the contrary contained in the Disclosure Statement, Plan and/or the Confirmation Order, or an abstention from voting on the Plan, no provision of this Plan or the Confirmation Order shall (i) preclude the SEC from enforcing its police or regulatory powers; (ii) release any non-debtor person or entity from liability in connection with any legal action or claim brought by the SEC or, (iii) enjoin, limit, impair or delay the SEC from commencing or continuing any claims, causes of action, proceedings or investigations against any non-debtor person or entity in any forum.

4. *Exculpation*

The Exculpated Parties shall neither have nor incur any liability to any Entity for any Exculpated Claim; provided, however, that the foregoing "exculpation" shall have no effect on the liability of any Entity that results from any such act or omission that is determined in a Final Order to have constituted gross negligence or willful misconduct.

The Exculpated Parties have, and upon Confirmation shall be deemed to have, participated in good faith and in compliance with the applicable provisions of the Bankruptcy Code and, therefore, are not and shall not be liable at any time for the violations of any applicable, law, rule, or regulation governing the solicitation of acceptances or rejections of the Plan or such Distributions made pursuant to the Plan.

5. *Injunction*

The satisfaction and release pursuant to Article XI of the Plan shall act as an injunction, from and after the Effective Date, against any Entity (a) commencing or continuing in any manner or in any place, any action, employment of process, or other proceeding; (b) enforcing, attaching, collecting, or recovering in any manner any judgment, award, decree or order; (c) creating, perfecting, or enforcing any lien or encumbrance; (d) asserting a setoff, right of subrogation, or recoupment of any kind against any debt, liability, or obligation due to the Debtors, except as set forth in Section VII.K.66 of the Plan, in each case with respect to any Claim, or Cause of Action satisfied, released or to be released, exculpated or to be exculpated under the Plan or

pursuant to the Confirmation Order and to the fullest extent authorized or provided by the Bankruptcy Code, including to the extent provided for or authorized by Section 524 thereof; provided, however, that nothing contained herein shall preclude such Entities from exercising their rights pursuant to and consistent with the terms of the Plan or the Confirmation Order.

6. *Setoffs*

Except as otherwise provided in the Plan, prior to the Effective Date, the Debtors, and on and after the Effective Date, the Liquidating Trustee, pursuant to the Bankruptcy Code (including Section 553 of the Bankruptcy Code), applicable non-bankruptcy law, or as may be agreed to by the Holder of a Claim or Equity Interest, may reduce, diminish, discount, compromise, or setoff against, and reduce the amount of, any Allowed Claim or Equity Interest on account of any Proof of Claim or other pleading Filed with respect thereto prior to the Confirmation Hearing and the Distributions to be made pursuant to the Plan on account of such Allowed Claim or Equity Interest (before any Distribution is made on account of such Allowed Claim or Equity Interest), any claims, rights, Causes of Action and Avoidance Actions of any nature that the Debtors' Estates may hold against the Holder of such Allowed Claim or Equity Interest, to the extent such claims, rights, or Causes of Action against such Holder have not been otherwise compromised or settled on or prior to the Effective Date (whether pursuant to the Plan or otherwise), including any rights under Section 502(d) of the Bankruptcy Code, provided that neither the failure to effect such a setoff nor the allowance of any Claim or Equity Interest pursuant to the Plan shall constitute a waiver or release by the Debtors or the Liquidating Trustee, as applicable, of any such claims, rights, Causes of Action and Avoidance Actions that the Debtors' Estates may possess against such Holder. In no event shall any Holder of Claims or Equity Interests be entitled to setoff any Claim or Equity Interest against any claim, right, Cause of Action or Avoidance Actions of the Debtors' Estates unless such Holder has preserved such setoff by timely Filing a Proof of Claim or by such other Filing made prior to the Confirmation Hearing asserting such setoff right. Further, nothing in the Plan shall prejudice or be deemed to have prejudiced the Debtors' or the Liquidating Trustee's right to assert that any Holder's setoff rights were required to have been asserted by motion or pleading filed with the Bankruptcy Court prior to the Effective Date and that the filing of a Proof of Claim was not sufficient.

7. *Term of Injunctions or Stays*

Unless otherwise provided herein or in the Confirmation Order, all injunctions or stays provided for in these Chapter 11 Cases under Sections 105 or 362 of the Bankruptcy Code or otherwise, and extant on the Confirmation Date (excluding any injunctions or stays contained in the Plan or the Confirmation Order), shall remain in full force and effect until the Debtors' bankruptcy cases are closed except for the injunctions provided in Section 11.05 of the Plan, which shall be permanent injunctions.

L. *Conditions Precedent to Confirmation and Effectiveness of the Plan*

1. *Conditions to Confirmation and Effectiveness*

a. *Conditions to Confirmation Date*

The following conditions precedent to the occurrence of the Confirmation Date must be satisfied unless any such condition shall have been waived by the Debtors in accordance with Section 12.03 of the Plan:

- i. the Bankruptcy Court shall have entered the Confirmation Order; and
- ii. the Liquidating Trust Agreement and Plan Supplement, including any amendments, modifications, or supplements thereto shall be in form and substance materially consistent with the Plan in all respects.

2. *Conditions to Effectiveness*

The following conditions precedent to the occurrence of the Effective Date must be satisfied unless any such condition shall have been waived by the Debtors in accordance with Section 12.03 of the Plan:

- i. the Bankruptcy Court shall have entered the Disclosure Statement Order, in form and substance acceptable to CBA;
- ii. the Confirmation Order, in form and substance acceptable to CBA, shall have become a Final Order not subject to any stay;
- iii. the Debtors shall have paid all reasonable fees and expenses of Paul Hastings LLP and Carl Marks Advisory Group including estimated fees and expenses incurred through the Effective Date, in full, in Cash;
- iv. all actions and all agreements (including the Liquidating Trust Agreement), instruments, or other documents necessary to implement the terms and provisions of the Plan are effected or executed and delivered, as applicable;
- v. the conditions to Confirmation shall have been satisfied or waived;
- vi. the Professional Fee Reserve is funded pursuant to Sections 5.03 and 13.02 of the Plan; and
- vii. the Liquidating Trust Cost Reserve is funded pursuant to Section 5.03 of the Plan.

3. *Notice of Occurrence of the Effective Date*

The Debtors or Liquidating Trustee shall File a notice of the occurrence of the Effective Date within five (5) business days after the Effective Date; provided, however, that failure to timely File such notice shall not affect the occurrence of the Effective Date.

4. *Waiver of Conditions*

Each of the conditions set forth in this Article XII of the plan may be waived in whole or in part by the Debtors, with the prior written consent of CBA, without any notice to parties-in-interest or the Bankruptcy Court and without a hearing.

5. *Consequences of Non-Occurrence of Effective Date*

If the Confirmation Order is vacated, (a) the Plan shall be null and void in all respects; (b) any settlement of Claims or Equity Interests provided for hereby shall be null and void

without further order of the Bankruptcy Court; and (c) to the extent permitted under the Bankruptcy Code, the time within which the Debtors may assume and assign or reject all Executory Contracts and Unexpired Leases shall be extended for a period of forty-five (45) days after the date the Confirmation Order is vacated.

M. Miscellaneous Provisions

1. *Administrative Claims*

All Administrative Claims (other than Professional Fee Claims) that were not required to be Filed on or before a previous Administrative Claims Bar Date must be made by application Filed with the Bankruptcy Court and served on counsel for the Debtors and, if after the Effective Date, the Liquidating Trustee no later than the Administrative Claims Bar Date or their Administrative Claims shall be forever barred. In the event that the Liquidating Trustee or Debtors objects to an Administrative Claim, the Bankruptcy Court shall determine the Allowed amount of such Administrative Claim.

With respect to Administrative Claims, the last day for Filing an objection to any Administrative Claim will be the Claims Objection Deadline.

2. *Professional Fee Claims*

All final requests for payment of Professional Fee Claims pursuant to Sections 327, 328, 330, 331, 503(b), or 1103 of the Bankruptcy Code must be made by application Filed with the Bankruptcy Court and served on the Debtors, their counsel, the Liquidating Trustee, its counsel, and other necessary parties-in-interest no later than forty-five (45) days after the Effective Date, unless otherwise ordered by the Bankruptcy Court. Objections to such applications must be Filed and served on the Debtors, their counsel, Liquidating Trustee, its counsel and the requesting Professional or other Entity on or before the date that is twenty-one (21) days (or such longer period as may be allowed by order of the Bankruptcy Court or by agreement with the requesting Professional) after the date on which the applicable application was served.

All Professional Fee Claims shall be paid by the Liquidating Trust to the extent approved by order of the Bankruptcy Court within seven (7) days after entry of such order. On the Effective Date, the Liquidating Trust shall establish the Professional Fee Reserve. The Professional Fee Reserve shall vest in the Liquidating Trust and shall be maintained by the Liquidating Trustee in accordance with the Plan. The Liquidating Trustee shall fully fund the Professional Fee Reserve on the Effective Date in an amount that is agreed upon by the Debtors prior to the Confirmation Hearing and that approximates the total projected amount of unpaid Professional Fee Claims on the Effective Date. All Professional Fee Claims that have not previously been paid, otherwise satisfied, or withdrawn shall be paid from the Professional Fee Reserve. Any excess funds in the Professional Fee Reserve shall be released to the Liquidating Trust to be used for other purposes consistent with the Plan. For the avoidance of doubt, the Professional Fee Reserve is an estimate and shall not be construed as a cap on the Liquidating Trust's obligation to pay in full Allowed Professional Fee Claims.

The Liquidating Trustee may, subject to the Liquidating Trust Agreement and Section VII.G.2 of the Plan, retain professionals and pay reasonable professional fees and

expenses in connection with services rendered to the Liquidating Trustee after the Effective Date without application to or approval by the Bankruptcy Court.

3. *Modifications and Amendments*

Subject to the limitations contained in the Plan, the Debtors, with the consent of CBA, reserves the right to modify the Plan as to material terms and seek Confirmation consistent with the Bankruptcy Code and, as appropriate, not resolicit votes on such modified Plan. Subject to certain restrictions and requirements set forth in Section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019 and those restrictions on modifications set forth in the Plan, the Debtors expressly reserves their right to alter, amend, or modify materially the Plan, one or more times, after Confirmation, but only until the Effective Date and, to the extent necessary, may initiate proceedings in the Bankruptcy Court to so alter, amend, or modify the Plan, or remedy any defect or omission, or reconcile any inconsistencies in the Plan, the Disclosure Statement, or the Confirmation Order, in such matters as may be necessary to carry out the purposes and intent of the Plan. Any such modification or supplement shall be considered a modification of the Plan and shall be made in accordance with Article XIII of the Plan.

After the Effective Date, the Liquidating Trustee can modify the Plan only in accordance with Section 1127 of the Bankruptcy Code and applicable law.

4. *Severability of Plan Provisions*

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

5. *Successors and Assigns and Binding Effect*

The rights, benefits, and obligations of any Entity named or referred to in the Plan shall be binding on, and shall inure to the benefit of, any heir, executor, administrator, personal representative, successor, or assign of such Entity, including, but not limited to, the Liquidating Trustee and all other parties-in-interest in these Chapter 11 Cases such as Holders of Claims and Equity Interests.

6. *Revocation, Withdrawal or Non-Consummation*

The Debtors reserves their right to revoke or withdraw the Plan at any time prior to the Confirmation Date and to File subsequent plans. If the Debtors revokes or withdraws the Plan prior to the Confirmation Date, or if Confirmation or the Effective Date does not occur, then

(a) the Plan shall be null and void in all respects, (b) any settlement or compromise embodied in the Plan (including the fixing or limiting to an amount certain any Claim or Class of Claims), assumption or rejection of Executory Contracts or Unexpired Leases effected by the Plan, and any document or agreement executed pursuant to the Plan shall be deemed null and void, and (c) nothing contained in the Plan, and no acts taken in preparation for consummation of the Plan, shall (i) constitute or be deemed to constitute a waiver or release of (x) any Claims against, or any Equity Interests in, the Debtors, or (y) any Avoidance Actions, litigation rights or other claims by or against the Debtors or any Entity, (ii) prejudice in any manner the rights of the Debtors or any Entity in any further proceedings involving the Debtors, or (iii) constitute an admission of any sort by the Debtors or any other Entity.

7. *Plan Supplement*

The Plan Supplement shall be Filed with the Bankruptcy Court and posted on the Claims Agent's website at <http://www.jndla.com/cases/nighthawk> (the "**Website**") at least fourteen (14) days prior to the Confirmation Hearing or by such later date as may be established by order of the Bankruptcy Court. Upon such Filing and posting on the Website, all documents set forth in the Plan Supplement may be accessed on the Website or inspected in the office of the Clerk of the Bankruptcy Court during normal business hours. Holders of Claims or Equity Interests may obtain a copy of any document set forth in the Plan Supplement upon written request to the Debtors in accordance with Section 13.10 of the Plan.

8. *Continued Confidentiality Obligations*

Notwithstanding any other provision of the Plan, any holder of a Claim or Equity Interest and their respective predecessors, successors and assigns shall continue to be obligated and bound by the terms of any confidentiality agreement executed by them in connection with these Chapter 11 Cases or the Debtors, to the extent that such agreement, by its terms, may continue in effect after the Confirmation Date for a period of one (1) year.

9. *Termination of Public Reporting and Filings Obligations*

The Plan provides for the liquidation of the Debtors and extinguishment of all Equity Interests in the Debtors on the Effective Date of the Plan. As a publicly listed company in England, Nighthawk Energy may have certain regulatory filing and disclosure obligations English regulatory agencies. Upon the Effective Date, and subject to applicable law, the Debtors, including Nighthawk Energy, and the Liquidating Trustee shall be excused and relieved of any such further or future regulatory filings and disclosure requirements.

10. *Notices*

Any notice, request, or demand required or permitted to be made or provided under the Plan shall be (a) in writing, (b) served by (i) certified mail, return receipt requested, (ii) hand delivery, (iii) overnight delivery service, (iv) first class mail, or (v) facsimile transmission, and (c) deemed to have been duly given or made when actually delivered or, in the case of notice by facsimile transmission, when received and telephonically confirmed, addressed as follows:

If to the Debtors:

Greenberg Traurig, P.A.
Attn: Mark D. Bloom, Esq.
Ari Newman, Esq.
333 S.E. 2nd Avenue
Suite 4400
Miami, FL 33131
Tel: (305) 579-0868
Fax: (305) 579-0717

11. *Computation of Time*

In computing any period of time prescribed or allowed by the Plan, the provisions of Rule 9006(a) of the Bankruptcy Rules shall apply.

12. *Governing Law*

Unless a rule of law or procedure is supplied by federal law (including the Bankruptcy Code and Bankruptcy Rules), the laws of (a) the State of Delaware shall govern the construction and implementation of the Plan and (except as may be provided otherwise in any such agreements, documents, or instruments) any agreements, documents, and instruments executed in connection with the Plan and (b) the laws of the state of incorporation of the Debtors shall govern corporate governance matters with respect to the Debtors; in each case without giving effect to the principles of conflicts of law thereof.

13. *Exhibits*

All exhibits to the Plan and Disclosure Statement or the Plan Supplement are incorporated into and are a part of the Plan as if set forth in full herein, and, to the extent not annexed hereto, such exhibits shall be Filed with the Bankruptcy Court on or before the date of the Filing of the Plan Supplement. Upon such Filing, all exhibits may be accessed through the Website or inspected in the office of the Clerk of the Bankruptcy Court during normal business hours. Holders of Claims or Equity Interests may also obtain a copy of any exhibit upon written request to the Debtors in accordance with Section VII.M.10 of the Plan. To the extent any exhibit is inconsistent with the terms of the Plan, unless otherwise ordered by the Bankruptcy Court, the non-exhibit portion of the Plan shall control.

14. *Conflicts*

To the extent any provision of the Disclosure Statement or any instrument, document or agreement executed in connection with the Plan or any exhibits, schedules, appendices, supplements or amendments to the foregoing conflicts with or is in any way inconsistent with the terms of the Plan, the terms and provisions of the Plan shall govern and control. To the extent of any inconsistency between the Plan and the Confirmation Order, the terms of the Confirmation Order shall govern and control.

15. *Exemption*

Under Section 1145 of the Bankruptcy Code, the issuance of the beneficial interests in the Liquidating Trust and other securities under the Plan shall be exempt from registration under the Securities Act of 1933, as amended and all applicable state and local laws requiring registration of securities. If the Liquidating Trustee determines, with the advice of counsel, that the Liquidating Trust is required to comply with the registration and reporting requirements of the Securities and Exchange Act of 1934, as amended, or the Investment Company Act of 1940, as amended, then the Liquidating Trustee shall take any and all actions to comply with such reporting requirements and file necessary periodic reports with the Securities and Exchange Commission.

16. *Substitution of the Liquidating Trust for the Debtors*

On the Effective Date, the Liquidating Trust shall be deemed to be substituted as the party in lieu of the Debtors in all pending matters including but not limited to (i) motions, contested matters and adversary proceedings pending in the Bankruptcy Court, and (ii) all matters pending in any courts, tribunals, forums or administrative proceedings outside of the Bankruptcy Court without the need or requirement for the Liquidating Trust to file motions or substitutions of parties and counsel.

17. *Termination of Employees and Health Care Plans*

On the Effective Date, any employees and independent contractors of the Debtors, if any, shall be deemed terminated without any further action of the Debtors or the Court. In addition, on the Effective Date, any employee health care plan maintained by the Debtors and still in effect, if any, shall be deemed terminated without any further action of the Debtors or the Court.

VIII. CERTAIN RISK FACTORS TO BE CONSIDERED

THE IMPLEMENTATION OF THE PLAN IS SUBJECT TO A NUMBER OF MATERIAL RISKS, INCLUDING, AMONG OTHERS, THOSE ENUMERATED BELOW. IN EVALUATING WHETHER TO VOTE TO ACCEPT OR REJECT THE PLAN, HOLDERS OF CLAIMS AGAINST THE DEBTORS SHOULD READ AND CAREFULLY CONSIDER THE RISK FACTORS SET FORTH BELOW, 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, OR ALTERNATIVES TO THE PLAN.

A. *Certain Bankruptcy Considerations*

1. *Non-Confirmation or Delay of Confirmation of the Plan*

Section 1129 of the Bankruptcy Code sets forth the requirements for confirmation of a plan of reorganization or liquidation. Although the Debtors believes that the Plan will satisfy all

of the requirements for Confirmation under Section 1129 of the Bankruptcy Code, there can be no assurance that the Bankruptcy Court will reach the same conclusion. Moreover, there can be no assurance that modifications to the Plan will not be required for Confirmation or that such modifications would not be sufficiently material as to require the resolicitation of votes on the Plan.

In the event that any Class of Claims entitled to vote fails to accept the Plan in accordance with Section 1126(c) and 1129(a)(8) of the Bankruptcy Code, the Debtors reserve the right to: (a) request that the Bankruptcy Court confirm the Plan in accordance with Section 1129(b) of the Bankruptcy Code; and/or (b) modify the Plan in accordance with the terms thereof. The Debtors believe that the Plan satisfies the requirements for non-consensual Confirmation set forth in Section 1129(b) of the Bankruptcy Code because it does not “discriminate unfairly” and is “fair and equitable” with respect to the Classes that reject or are deemed to reject the Plan, however, there can be no assurance that the Bankruptcy Court will reach the same conclusion, or that any other party in interest in the Chapter 11 Case will not challenge Confirmation on such grounds.

There can be no assurance that the Plan will be confirmed. If the Plan is not confirmed, there can be no assurance that the Chapter 11 Cases will continue rather than be converted to a chapter 7 liquidation case or that any alternative plan of liquidation would be on terms as favorable to the Holders of Claims against and Equity Interests in the Debtors as the terms of the Plan. If a protracted liquidation of the Debtors’ Estates was to occur, there is a substantial risk that the Debtors’ liquidation value would be substantially eroded to the detriment of all stakeholders.

Likewise, there can be no assurance with respect to timing of the Effective Date, or as to whether the Effective Date will, in fact, occur. The occurrence of the Effective Date is subject to certain conditions precedent as described in the Plan, and consummation of the Plan may not occur if any of these conditions are not met. In the event that the Effective Date does not occur, there can be no assurance that the Chapter 11 Cases will continue rather than be converted to chapter 7 liquidation cases or that any alternative plan of liquidation would be on terms as favorable to the Holders of Claims against or Equity Interests in the Debtors as the terms of the Plan. If a protracted liquidation of the Debtors’ Estates was to occur, there is a substantial risk that the Debtors’ liquidation value would be substantially eroded to the detriment of all stakeholders.

If the Confirmation Order is vacated or the Plan does not become effective, (a) the Plan shall be null and void in all respects; (b) any settlement of Claims or Equity Interests provided for hereby shall be null and void without further order of the Bankruptcy Court; and (c) to the extent permitted under the Bankruptcy Code, the time within which the Debtors may assume and assign or reject all Executory Contracts and Unexpired Leases shall be extended for a period of forty-five (45) days after the date the Confirmation Order is vacated.

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

Section 1122 of the Bankruptcy Code requires that a plan of reorganization or liquidation classify claims against, and interests in, a debtor. The Bankruptcy Code also provides that a plan

of reorganization or liquidation may place a claim or interest in a particular class only if such claim or interest is substantially similar to the other claims or interests of such class. The Debtors believe that all Claims against and Equity Interests in the Debtors have been appropriately classified in the Plan.

To the extent that the Bankruptcy Court finds that a different classification is required for the Plan to be confirmed, the Debtors presently anticipate that they would seek (i) to modify the Plan to provide for any reclassification that may be required for Confirmation and (ii) to use the acceptances received from any Creditor pursuant to this solicitation for the purpose of obtaining the approval of the Class or Classes of which such Creditor ultimately is deemed to be a member. Any such reclassification of Creditors, although subject to the notice and hearing requirements of the Bankruptcy Code, could adversely affect the Class in which such Creditor was initially a member, or any other Class under the Plan, by changing the composition of such Class and, as a result, the votes required for approval of the Plan. There can be no assurance that the Bankruptcy Court, after finding that a classification was inappropriate and requiring a reclassification, would approve the Plan after such reclassification. Except to the extent that a modification of classification in the Plan requires resolicitation, the Debtors will, in accordance with the Bankruptcy Code and the Bankruptcy Rules, seek a determination by the Bankruptcy Court that acceptance of the Plan by any Holder of Claims pursuant to this solicitation will constitute a consent to the Plan's treatment of such Holder regardless of the Class as to which such Holder is ultimately deemed to be a member. The Debtors believe that under the Bankruptcy Rules they would be required to resolicit votes for or against the Plan only when a modification adversely affects the treatment of the Claim of any Creditor or Equity Interest Holder.

The Bankruptcy Code also requires that a plan of reorganization or liquidation provide the same treatment for each claim or interest of a particular class unless the holder of a particular claim or interest agrees to a less favorable treatment of its claim or interest. The Debtors believe that the Plan meets this requirement of equal treatment. To the extent that the Bankruptcy Court finds that the Plan does not satisfy such requirement, the Bankruptcy Court may deny Confirmation of the Plan.

Issues or disputes relating to classification and/or treatment may delay Confirmation and consummation of the Plan, and may increase the risk that the Plan will not be confirmed or consummated.

3. *Claims Estimation*

Prior to the Effective Date, the Debtors, and on and after the Effective Date, the Liquidating Trustee, reserve the right to object to or seek to estimate the amount or classification of any Claim or Equity Interest except any such Claim or Equity 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 will likely differ in some respect from the estimates set forth herein, or in any exhibit attached hereto, including the Plan. 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

differ in some respect from the estimates set forth herein, or in any exhibit attached hereto, including the Plan.

B. Conditions Precedent to Consummation of the Plan

The Plan provides for certain conditions that must be satisfied (or waived) prior to Confirmation and for certain other 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, there can be no assurance that the Plan will be confirmed by the Bankruptcy Court. Further, if the Plan is confirmed, there can be no assurance that the Plan will be consummated.

C. Certain Tax Considerations

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

D. Litigation Risks

The Plan anticipates post-confirmation litigation to be commenced by the Liquidating Trustee for the benefit of beneficiaries of the Liquidating Trust. While the Nighthawk Production Estate is believed to have litigation claims against Sigma, as with any litigation, results are not guaranteed and there are risks associated with pursuing the litigation.

IX. CERTAIN U.S. FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN

The following discussion summarizes certain anticipated U.S. federal income tax consequences of the Plan to the Debtors and Holders of Claims and Equity Interests. This summary is provided for information purposes only and is based on the Internal Revenue Code of 1986, as amended (the “**Tax Code**”), Treasury regulations promulgated thereunder, judicial authorities, and current administrative rulings and practice, all as in effect as of the date hereof, and all of which are subject to change, possibly with retroactive effect, that could adversely affect the U.S. federal income tax consequences described below.

This summary does not address all aspects of U.S. federal income taxation that may be relevant to a particular Holder of a Claim or Equity Interest in the Debtors in light of its particular facts and circumstances or to certain types of Holders of Claims or Equity Interests subject to special treatment under the Tax Code. In addition, this summary does not discuss any aspects of state, local, estate and gift or non-U.S. taxation.

A substantial amount of time may elapse between the date of this Disclosure Statement and the receipt of a final Distribution under the Plan. Events occurring after the date of this Disclosure Statement, such as additional tax legislation, court decisions, or administrative changes, could affect the U.S. federal income tax consequences of the Plan and the transactions contemplated thereunder. There can be no assurance that the IRS will not take a contrary view

with respect to one or more of the issues discussed below. No ruling will be sought from the IRS with respect to any of the tax aspects of the Plan, and no opinion of counsel has been or will be obtained by the Debtors with respect thereto.

Accordingly, the following summary of certain U.S. federal income tax consequences is for informational purposes only and is not a substitute for careful tax planning and advice based upon the individual circumstances pertaining to a Holder of a Claim or Equity Interest in the Debtors. All Holders of Claims or Equity Interests in the Debtors are urged to consult their own tax advisors for the federal, state, local and other tax consequences applicable to them under the Plan.

TO ENSURE COMPLIANCE WITH TREASURY DEPARTMENT CIRCULAR 230, EACH HOLDER IS HEREBY NOTIFIED THAT: (A) ANY DISCUSSION OF U.S. FEDERAL TAX ISSUES IN THIS DISCLOSURE STATEMENT IS NOT INTENDED OR WRITTEN TO BE RELIED UPON, AND CANNOT BE RELIED UPON, BY ANY HOLDER FOR THE PURPOSE OF AVOIDING PENALTIES THAT MAY BE IMPOSED ON A HOLDER UNDER THE TAX CODE; (B) SUCH DISCUSSION IS INCLUDED HEREBY BY THE DEBTORS IN CONNECTION WITH THE PROMOTION OR MARKETING (WITHIN THE MEANING OF CIRCULAR 230) BY THE DEBTORS OF THE TRANSACTIONS OR MATTERS ADDRESSED HEREIN OR THE PLAN; AND (C) EACH HOLDER SHOULD SEEK ADVICE BASED ON ITS PARTICULAR CIRCUMSTANCES FROM AN INDEPENDENT TAX ADVISOR.

A. U.S. Federal Income Tax Consequences to the Liquidating Trust

The Liquidating Trust is a grantor trust and as such, it is not subject to tax, but rather the grantors of the trust recognize the income of the trust as their interests appear. The contributions of the claims to the Liquidating Trust in exchange for the Liquidating Trust units is a taxable exchange measured by the value of the interest received reduced by the basis of the claim contributed. Typically, accrual basis tax payers recognized the income when they rendered their services, and the recognition gives them a basis equal to their claim, thus the receipt of the Liquidating Trust interest or the cash on the redemption of the unit is not taxable. If the claim holder had written off the claim as a bad debt or is a cash basis tax payer, the receipt of the Liquidating Trust unit will be taxable to the amount of the claim and the receipt of the cash on liquidation of the unit will not be taxable.

B. U.S. Federal Income Tax Consequences to the Holders of Claims

The U.S. federal income tax consequences to Holders of Allowed Claims in the Debtors arising from the Distributions to be made in satisfaction of their Claims pursuant to the Plan may vary, depending upon, among other things: (a) the type of consideration received by the Holder of a Claim in the Debtors in exchange for such Claim; (b) the nature of such Claim; (c) whether the Holder has previously claimed a bad debt or worthless security deduction in respect of such Claim; (d) whether such Claim constitutes a security; (e) whether the Holder of such Claim in the Debtors is a citizen or resident of the United States for tax purposes, or otherwise subject to U.S. federal income tax on a net income basis; (f) whether the Holder of such Claim in the Debtors reports income on the accrual or cash basis; and (g) whether the Holder of such Claim in the

Debtors receives Distributions under the Plan in more than one taxable year. For tax purposes, the modification of a Claim may represent an exchange of the Claim for a new Claim, even though no actual transfer takes place. In addition, where gain or loss is recognized by a Holder, the character of such gain or loss as long-term or short-term capital gain or loss or as ordinary income or loss will be determined by a number of factors, including the tax status of the Holder, whether the Claim constitutes a capital asset in the hands of the Holder and how long it has been held or is treated as having been held, whether the Claim was acquired at a market discount, and whether and to what extent the Holder previously claimed a bad debt deduction with respect to the underlying Claim. A Holder who purchased its Claim from a prior Holder at a market discount may be subject to the market discount rules of the Tax Code, as described below.

C. Information Reporting and Backup Withholding

Certain payments, including certain payments of Claims pursuant to the Plan, payments of interest, and the proceeds from the sale or other taxable disposition of the Claims and Equity Interests may be subject to information reporting to the IRS. Moreover, such reportable payments may be subject to backup withholding unless the taxpayer: (i) comes within certain exempt categories (which generally include corporations) or (ii) provides a correct taxpayer identification number and otherwise complies with applicable backup withholding provisions. In addition, Treasury regulations generally require disclosure by a taxpayer on its U.S. federal income tax return of certain types of transactions in which the taxpayer participated, including, among other types of transactions, certain transactions that result in the taxpayer's claiming a loss in excess of specified thresholds.

Backup withholding is not an additional tax. Any amounts withheld under the backup withholding rules will be allowed as a refund or a credit against a Holder's U.S. federal income tax liability, provided that the required information is furnished to the IRS on a timely basis. Holders are urged to consult their tax advisors regarding these regulations and whether the transactions contemplated by the Plan would be subject to these regulations and require disclosure on the Holders' tax returns.

D. Importance of Obtaining Your Own Professional Tax Assistance

THE FOREGOING DISCUSSION IS INTENDED ONLY AS A SUMMARY OF CERTAIN U.S. FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN AND IS NOT A SUBSTITUTE FOR CAREFUL TAX PLANNING WITH A TAX PROFESSIONAL. THE ABOVE DISCUSSION IS FOR INFORMATION PURPOSES ONLY AND IS NOT TAX ADVICE. THE TAX CONSEQUENCES ASSOCIATED WITH THE PLAN ARE IN MANY CASES UNCERTAIN AND MAY VARY DEPENDING ON A HOLDER'S INDIVIDUAL CIRCUMSTANCES. ACCORDINGLY, HOLDERS ARE URGED TO CONSULT THEIR TAX ADVISORS ABOUT THE U.S. FEDERAL, STATE, LOCAL AND NON-U.S. INCOME AND OTHER TAX CONSEQUENCES OF THE PLAN.

X. FEASIBILITY OF THE PLAN AND BEST INTERESTS OF CREDITORS

A. Feasibility of the Plan

Section 1129(a)(11) of the Bankruptcy Code permits a plan to be confirmed if it is not likely to be followed by a liquidation or the need for further financial reorganization of the debtor, unless such liquidation or reorganization is proposed in the plan. Here, the Plan specifically provides for the liquidation of the Debtors and thus satisfies this requirement.

B. Acceptance of the Plan

As a condition to Confirmation, the Bankruptcy Code requires that each Class of Claims that is Impaired, but still receives a Distribution under the Plan vote to accept the Plan, except under certain circumstances set forth in Section 1129(b) of the Bankruptcy Code.

A class is impaired unless the plan of reorganization or liquidation leaves unaltered the legal, equitable and contractual rights of the holder of such claim. Pursuant to Sections 1126(c) and 1126(d) of the Bankruptcy Code, and except as otherwise provided for in Section 1126(e) of the Bankruptcy Code: (i) an impaired class of claims has accepted the plan of reorganization if the holders of at least two-thirds (2/3) in amount and more than half (1/2) in number of the voting allowed claims have voted to accept the plan of reorganization and (ii) an impaired class of interests has accepted the plan of reorganization if the holders of at least two-thirds (2/3) in amount of the allowed interests of such class have voted to accept the plan. Thus, Holders of Claims in Class 2 and Class 3A-3D Claims 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 that Class cast their ballots in favor of acceptance. Holders of Claims who fail to vote are not counted as either accepting or rejecting a plan.

Holders of Claims in Class 1 are Unimpaired by the Plan, and such Holders are conclusively presumed to have accepted the Plan and will not be entitled to vote to accept or reject the Plan. Holders of Intercompany Claims in Class 4 and Equity Interests in Class 5 shall receive no Distribution under the Plan, and such Holders are conclusively presumed to have rejected the Plan and will not be entitled to vote to accept or the Plan.

A vote may be disregarded if the Bankruptcy Court determines, after notice and a hearing, that acceptance or rejection was not solicited or procured in good faith or in accordance with the provisions of the Bankruptcy Code.

C. “Best Interests” of Creditors Test

As noted above, even if a plan of reorganization or liquidation is accepted by each class of claims and interests, the Bankruptcy Code requires a bankruptcy court to determine that such plan of reorganization 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 Section 1129(a)(7) of the Bankruptcy Code, 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 a 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 was converted to a chapter 7 case under the Bankruptcy Code. To determine if a plan of reorganization or liquidation is in the best interests of each impaired class, the present value of the distributions from the proceeds of a liquidation of the debtor's unencumbered assets and properties, after subtracting the amounts attributable to the costs, expenses and administrative claims associated with a chapter 7 liquidation, must be compared with the value offered to such impaired classes under the plan. If the hypothetical liquidation distribution to holders of claims or interests in any impaired class is greater than the distributions to be received by such parties under the plan, then such plan is not in the best interests of the holders of claims or interests in such impaired class.

Because the Plan is a liquidating plan, the "liquidation value" in the hypothetical chapter 7 liquidation analysis for purposes of the "best interests" test is substantially similar to the estimates of the results of the chapter 11 liquidation contemplated by the Plan. In a chapter 7 liquidation, however, there would be additional costs and expenses that the Estates would incur as a result of liquidating the Estates in a chapter 7 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 debtor in its chapter 11 case (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.

In addition, the "learning curve" that the chapter 7 trustee and new professionals would be faced with would come at significant cost to the Estate and with a significant delay compared to the time of distributions under the Plan.

After considering the effects that a chapter 7 liquidation would have on the ultimate proceeds available for, and the timing of, distribution to creditors in the Chapter 11 Cases, including (i) the increased costs and expenses of a liquidation under chapter 7 arising from fees payable to a trustee in bankruptcy and professional advisors to such trustee, (ii) the substantial increases in Claims which would be satisfied on a priority basis or on parity with creditors in the Chapter 11 Case, and (iii) the delay in the liquidation process and ultimate distribution to secured and unsecured creditors, the Debtors have determined that confirmation of the Plan will provide each holder of an Allowed Claim or Equity Interest with a recovery that is not less than such holder would receive pursuant to a liquidation of the Debtors under chapter 7. Accordingly, the Debtors believe that the Plan satisfies the "best interests" test of Section 1129 of the Bankruptcy Code.

D. Confirmation Without Acceptance of All Impaired Classes: The “Cramdown” Alternative

The Debtors seek Confirmation of the Plan pursuant to the “cramdown” provisions of the Bankruptcy Code. Specifically, Section 1129(b) of the Bankruptcy Code provides that a plan of reorganization 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. A bankruptcy court may confirm a plan of reorganization or liquidation at the request of the debtor, 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. Under the Plan all impaired Classes of Claims and Equity Interests are treated in a manner that is consistent with the treatment of other Classes of Claims and Equity Interests that are similarly situated, if any, and no class of Claims or Equity Interests will receive payments or property with an aggregate value greater than the aggregate value of the Allowed Claims or Allowed Equity Interests in such Class. Accordingly, the Plan does not discriminate unfairly.

A plan of reorganization or liquidation is fair and equitable as to a class of unsecured claims that rejects such a plan if the plan provides: (i) for each holder of a claim that is a member of 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 of reorganization or liquidation is fair and equitable as to a class of equity interests that rejects such a plan if the plan provides: (i) that each holder of an interest that is a member of 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 (a) the allowed amount of any fixed liquidation preference to which such holder is entitled, (b) any fixed redemption price to which such holder is entitled, or (c) 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, on account of such junior interest, any property at all.

As discussed above, the distributions provided under the Plan satisfy the absolute priority rule. The Debtors, therefore, believe that it will meet the “fair and equitable” requirements of Section 1129(b) of the Bankruptcy Code with respect to Holders of Claims in Class 2, Class 3A-3D and Class 4 and Equity Interests in Class 5 and that the Plan satisfies the foregoing requirements for nonconsensual Confirmation with respect to those Classes.

XI. ALTERNATIVES TO CONFIRMATION AND CONSUMMATION OF THE PLAN

The Plan affords Holders of Claims in Class 2 and Class 3A-3D the potential for the greatest realization on their Claims 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, certain restructuring alternatives may exist including, but not limited to, (a)

formulation of an alternative plan or (b) liquidation of the Debtors under chapter 7 of the Bankruptcy Code.

A. Alternative Plan(s) of Liquidation

If the requisite acceptances to confirm the Plan are not received from the Holders entitled to vote to accept or reject the Plan, or if the Plan is not confirmed by the Bankruptcy Court, the Debtors could formulate and propose a different plan of liquidation.

The Plan enables Creditors to realize the greatest possible value under the circumstances and has the greatest likelihoods of consummation.

B. Liquidation under Chapter 7

If no plan of liquidation, including the Plan, is confirmed, the 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 Debtors' 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 Equity Interests in the Debtors, as such a conversion would likely increase the cost and risk of recovery to creditors.

As described above, in a liquidation under chapter 7 additional administrative expenses involved with the appointment of a trustee and attorneys, accountants, and other professionals to assist such trustees would cause a substantial diminution in the value of the Estate. 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.

[Signature Page Follows]

RECOMMENDATION AND CONCLUSION

This Disclosure Statement is intended to assist Holders of Claims against and Equity Interests in the Debtors make an informed decision regarding the acceptance of the Plan. For all of the reasons set forth in this Disclosure Statement, the Debtors believe that Confirmation and consummation of the Plan are preferable to all other alternative restructuring options. Consequently, the Debtors urge all Holders of Claims in Class 2 and Class 3A-3D to vote to ACCEPT the Plan, and to complete and return their ballots so that they will be RECEIVED by the Bankruptcy Court before the Voting Deadline.

Nighthawk Royalties LLC and its
Affiliated Debtors and Debtors in
Possession

/s/ Chuck Wilson

By: Chuck Wilson

Title: Chief Operating Officer

Exhibit A

Joint Chapter 11 Plan of Liquidation of Nighthawk Royalties LLC
and its Affiliated Debtors and Debtors in Possession

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

In re:

NIGHTHAWK ROYALTIES LLC, *et al.*¹

Debtors.

Chapter 11

Case No. 18-10989 (BLS)

(Jointly Administered)

**FIRST AMENDED JOINT CHAPTER 11 PLAN OF LIQUIDATION OF
NIGHTHAWK ROYALTIES LLC AND ITS AFFILIATED
DEBTORS AND DEBTORS IN POSSESSION**

GREENBERG TRAURIG, LLP
Dennis A. Meloro, Esq.
The Nemours Building
1007 North Orange Street, Suite 1200
Wilmington, Delaware 19801
Telephone: (302) 661-7000
Facsimile: (302) 661-7360

Mark D. Bloom, Esq.
John R. Dodd, Esq.
Ari Newman, Esq.
333 S.E. 2nd Avenue, Suite 4400
Miami, Florida 33131
Telephone: (305) 579-0500
Facsimile: (305) 579-0717

Counsel for the Debtors and Debtors-in-Possession

¹

The Debtors in these Chapter 11 Cases, along with the last four (4) digits of each Debtor's federal employer identification number, are: Nighthawk Royalties LLC (6709), Nighthawk Energy plc (1701), Nighthawk Production LLC (6709) and OilQuest USA LLC (6070). The business address of the Debtors is 1805 Shea Center Dr., Suite 290, Highlands Ranch, CO 80129.

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INTRODUCTION

Debtors and debtors-in-possession, Nighthawk Energy plc (“**Nighthawk Energy**”), Nighthawk Royalties LLC (“**Nighthawk Royalties**”), Nighthawk Production LLC (“**Nighthawk Production**”) and OilQuest USA LLC (“**OilQuest**,” and collectively with Nighthawk Energy, Nighthawk Royalties and Nighthawk Production, the “**Debtors**”), hereby propose the following Plan of Liquidation pursuant to Section 1121 of Title 11 of the United States Code for the resolution of the outstanding Claims (defined below) against and Equity Interests (defined below) in the Debtors.

Reference is made to the Disclosure Statement (defined below) for a discussion of (i) the Debtors’ history, business and assets, (ii) a summary of this Plan (defined below), and (iii) certain related matters, including risk factors relating to the consummation of this Plan and Distributions (defined below) to be made under this Plan.

Capitalized terms used herein without definition shall have the meanings set forth in Article I hereof. The Debtors is the proponent of the Plan within the meaning of Section 1129 of the Bankruptcy Code.

ALL HOLDERS OF CLAIMS AGAINST OR EQUITY INTERESTS IN THE DEBTORS ARE ENCOURAGED TO READ THE PLAN AND THE DISCLOSURE STATEMENT IN THEIR ENTIRETY BEFORE VOTING TO ACCEPT OR REJECT THE PLAN. SUBJECT TO CERTAIN RESTRICTIONS AND REQUIREMENTS SET FORTH IN SECTION 1127 OF THE BANKRUPTCY CODE, BANKRUPTCY RULE 3019, AND THE PLAN, THE DEBTORS RESERVE THE RIGHT TO ALTER, AMEND, MODIFY, REVOKE OR WITHDRAW THE PLAN PRIOR TO ITS SUBSTANTIAL CONSUMMATION.

ARTICLE I.

DEFINED TERMS AND RULES OF INTERPRETATION

For purposes of the Plan, except as expressly provided herein or unless the context otherwise requires, (a) all capitalized terms used in the Plan and not otherwise defined in the Plan shall have the meanings ascribed to them in the Disclosure Statement (or any exhibit hereto or thereto), (b) any capitalized term used in the Plan that is not defined in the Plan or Disclosure Statement (or any exhibit hereto or thereto), but is defined in the Bankruptcy Code or the Bankruptcy Rules, shall have the meaning ascribed to that term in the Bankruptcy Code or the Bankruptcy Rules, as applicable, (c) whenever the context requires, each term stated in either the singular or the plural shall include the singular and the plural, and pronouns stated in the masculine, feminine, or neuter gender shall include the masculine, feminine, and the neuter gender, (d) any reference in the Plan to a contract, instrument, release, indenture, or other agreement or document being in a particular form or on particular terms and conditions means that such document shall be substantially in such form or substantially on such terms and conditions, (e) any reference in the Plan to an existing document or exhibit means such document or exhibit as it may be amended, modified, or supplemented from time to time, (f) unless otherwise specified, all references in the Plan to sections, articles, schedules, and exhibits are references to sections, articles, schedules, and exhibits of or to the Plan, (g) the words “herein,”

“hereof,” “hereto,” “hereunder,” and other words of similar import refer to the Plan in its entirety rather than to any particular paragraph, subparagraph, or clause contained in the Plan, (h) captions and headings to articles and sections are inserted for convenience of reference only and shall not limit or otherwise affect the provisions hereof or the interpretation of the Plan, and (i) the rules of construction set forth in Section 102 of the Bankruptcy Code and in the Bankruptcy Rules shall apply.

“Administrative Claim” means a Claim for payment of an administrative expense of a kind specified in section 503(b) of the Bankruptcy Code and entitled to priority pursuant to section 507(a)(2) of the Bankruptcy Code, including, but not limited to, (i) the actual, necessary costs and expenses, incurred on or after the Relief Date, of preserving the Estates and operating the business of the Debtors, including wages, salaries, or commissions for services rendered after the commencement of the Chapter 11 Cases, (ii) Section 503(b)(9) Claims, (iii) Professional Fee Claims, and (iv) all fees and charges assessed against the Estates under chapter 123 of title 28 of the United States Code, any Claims that have been designated “Administrative Claims” by order of this Court.

“Administrative Claims Bar Date” means the deadline for filing proofs of or requests for payment of Administrative Claims, which shall be the first day after the date that is fifteen (15) days after the Effective Date or such earlier date fixed by order of the Bankruptcy Court; *provided* that no filing is required for the following: (i) Administrative Claims Allowed by an order of the Bankruptcy Court on or before the Effective Date, or (ii) Administrative Claims that are not Disputed and arose in the ordinary course of business and were paid or are to be paid in accordance with the terms and conditions of the particular transactions giving rise to such Administrative Claims. The foregoing shall not apply to Professional Fee Claims, which shall be addressed as set forth in Section 13.02.

“Affiliate” means “affiliate” as defined in Section 101(2) of the Bankruptcy Code.

“Allowed” means, for distribution purposes, a Claim or Interest, or any portion thereof, or a particular Class of Claims or Interests that has not otherwise been paid and (i) that has been allowed by a Final Order of the Bankruptcy Court (or such other court as the Liquidating Trustee and the Holder of such Claim or Interest agree may adjudicate such Claim or Interest and objections thereto), (ii) which is not the subject of a proof of Claim timely filed with the Bankruptcy Court and is Scheduled as liquidated and noncontingent, other than a Claim that is Scheduled at zero, in an unknown amount, or as disputed, but only to the extent such Claim is Scheduled as liquidated and noncontingent, (iii) for which a proof of Claim in a liquidated amount has been timely filed with the Bankruptcy Court pursuant to the Bankruptcy Code, any Final Order of the Bankruptcy Court or other applicable bankruptcy law, and as to which either (a) no objection to its allowance has been filed within the periods of limitation fixed by this Plan, the Bankruptcy Code or by any order of the Bankruptcy Court or (b) any objection to its allowance has been settled or withdrawn, or has been denied by a Final Order of the Bankruptcy Court, or (c) that is expressly allowed in a liquidated amount pursuant to this Plan. Pursuant to 11 U.S.C. § 503(b)(1)(D), Governmental Units need not file a Claim to request payment of an administrative expense relating to taxes under 11 U.S.C. § 503(b)(1)(B) or (C) as a condition of its being an allowed administrative expense.

“Avoidance Actions” means any and all Causes of Action and the proceeds thereof which a trustee, debtor-in-possession, the estate or other appropriate party in interest may assert under Sections 502(d), 510, 541, 542, 543, 544, 545, 547, 548, 549, 550, 551, or 553 of the Bankruptcy Code or under related state or federal statutes and common law, including, without limitation, fraudulent transfer laws (whether or not litigation is commenced to prosecute such Causes of Action).

“Available Secured Cash” means all Cash of the Debtors existing as of the Effective Date less amounts reserved by the Debtors, and transferred to the Liquidating Trust, for (i) payment in full of all Allowed Administrative Claims, Allowed Professional Fee Claims, Allowed Priority Tax Claims, U.S. Trustee Fee Claims and Class 1 Claims, in each case as of the Effective Date, (ii) funding of the Liquidating Trust Cost Reserve and (iii) funding of the Professional Fee Reserve.

“Ballot” means the form of ballot approved by the Court under the Disclosure Statement Order.

“Bankruptcy Code” means the United States Bankruptcy Code, 11 U.S.C. §§ 101-1532, as in effect on the Petition Date, together with all subsequent amendments and modifications thereto that are made applicable to these Chapter 11 Cases.

“Bankruptcy Court” means the United States Bankruptcy Court for the District of Delaware or such other court as may have jurisdiction over these Chapter 11 Cases or any aspect thereof.

“Bankruptcy Rules” means (i) the Federal Rules of Bankruptcy Procedure and the Official Bankruptcy Forms, as amended and promulgated under Section 2075 of Title 28 of the United States Code, (ii) the applicable Federal Rules of Civil Procedure, as amended and promulgated under Section 2072 of Title 28 of the United States Code, (iii) the applicable Local Rules of Bankruptcy Practice and Procedure for the Bankruptcy Court, and (iv) any standing orders governing practice and procedure issued by the Bankruptcy Court, each as in effect on the Petition Date, together with all amendments and modifications thereto that were subsequently made applicable to these Chapter 11 Cases or proceedings therein, as the case may be.

“Bar Date” means the deadlines set by the Bankruptcy Court pursuant to the Bar Date Order or other Final Order for filing proofs of claim in the Chapter 11 Cases.

“Bar Date Orders” means the order to be entered by the Bankruptcy Court, which shall establish the Bar Date, and any subsequent order supplementing such order or relating thereto.

“Business Day” means any day, excluding Saturdays, Sundays, or “legal holidays” (as defined in Bankruptcy Rule 9006(a)), on which commercial banks are open for business in Wilmington, Delaware.

“Cash or \$” means legal tender of the United States of America including bank deposits, checks and cash equivalents.

“Causes of Action” means any and all actions, causes of action, claims, rights, liabilities, obligations, executions, choses in action, controversies, rights (including rights to legal remedies, rights to equitable remedies, rights to payment), suits, debts, damages, judgments, remedies, demands, setoffs, recoupments, crossclaims, counterclaims, third-party claims, indemnity claims, contribution claims or any other claims whatsoever, whether known or unknown, reduced to judgment or not reduced to judgment, liquidated or unliquidated, fixed or contingent, matured or unmatured, disputed or undisputed, secured or unsecured, choate or inchoate, existing or hereafter arising, suspected or unsuspected, foreseen or unforeseen, and whether asserted or assertable directly, indirectly or derivatively, at law, in equity or otherwise.

“CBA” means Commonwealth Bank of Australia, the Debtors’ senior secured lender, solely in its capacity as such.

“Chapter 11 Cases” means the chapter 11 cases filed by the Debtors in the Bankruptcy Court.

“Claim” or **“Claims”** means a claim or claims against the Debtors, as such term is defined in Section 101(5) of the Bankruptcy Code.

“Claims Agent” means the Debtors’ claims agent, JND Corporate Restructuring.

“Claims Objection Deadline” means the date that is one-hundred and eighty (180) days after the Effective Date or such later date as may be extended by order of the Bankruptcy Court upon the Filing of a motion by the Debtors or Liquidating Trustee seeking to extend such deadline.

“Claims Register” means the official register of Claims maintained by the Claims Agent.

“Class” means a category of Holders of Claims or Equity Interests pursuant to Section 1122(a) of the Bankruptcy Code, as described in Article II and III of this Plan.

“Confirmation” means the entry of the Confirmation Order on the docket of these Chapter 11 Cases, subject to all conditions specified having been (a) satisfied, or (b) waived.

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

“Confirmation Hearing” means the hearing held by the Bankruptcy Court to consider final approval of the Disclosure Statement and Confirmation of the Plan, as such hearing may be adjourned or continued from time to time.

“Confirmation Order” means the order of the Bankruptcy Court confirming the Plan pursuant to, among others, Section 1129 of the Bankruptcy Code.

“Creditor” means any Holder of a Claim against the Debtors or their Estates.

“**Current Directors**” means Richard McCullough, Chuck Wilson, and Drew McManigle, each of whom is a member of the board of directors of Nighthawk Energy as of the date hereof.

“**Debtor Release**” means the releases set forth in Section 11.02 of the Plan.

“**Debtors**” has the meaning ascribed to it in the Introduction.

“**Disallowed**” means, with respect to any Claim, Equity Interest or portion thereof, any Claim against or Equity Interest in the Debtors which: (i) has been disallowed, in whole or part, by a Final Order; (ii) has been withdrawn by agreement of the Holder thereof and the Debtors, in whole or in part; (iii) has been withdrawn, in whole or in part, by the Holder thereof; (iv) if listed in the Schedules as zero or as Disputed, contingent or unliquidated and in respect of which a Proof of Claim has not been Filed or deemed Filed pursuant to the Plan, the Bankruptcy Code or any Final Order or other applicable law in a liquidated non-contingent amount; (v) has been reclassified, expunged, subordinated or estimated to the extent that such reclassification, expungement, subordination or estimation results in a reduction in the Filed amount of any Proof of Claim; (vi) is evidenced by a Proof of Claim which has been Filed, or which has been deemed to be Filed under applicable law or order of the Bankruptcy Court or which is required to be Filed by order of the Bankruptcy Court but as to which such Proof of Claim was not properly Filed; (vii) is unenforceable to the extent provided in Section 502(b) of the Bankruptcy Code; (viii) where the holder of a Claim or Equity Interest is a Person or Entity from which property is recoverable under Sections 542, 543, 550, or 553 of the Bankruptcy Code or that is a transferee of a transfer avoidable under Sections 522(f), 522(h), 544, 545, 547, 548, 549, or 724(a) of the Bankruptcy Code, unless such Person, Entity or transferee has paid the amount, or turned over any such property, for which such Person, Entity or transferee is liable under Section 522(i), 542, 543, 550, or 553 of the Bankruptcy Code; or (ix) is for reimbursement or contribution that is contingent as of the time of allowance or disallowance of such Claim or Equity Interest. In each case, a Disallowed Claim or Equity Interest is Disallowed only to the extent of disallowance, withdrawal, reclassification, expungement, subordination or estimation.

“**Disclosure Statement**” means the disclosure statement for the Plan, as amended, supplemented or modified from time to time, describing the Plan, which is prepared and distributed in accordance with, among others, Sections 1125, 1126(b) and 1145 of the Bankruptcy Code, Bankruptcy Rule 3018 and other applicable law.

“**Disclosure Statement Order**” means the Order entered by the Bankruptcy Court and dated September [●], 2018 conditionally approving the Disclosure Statement as containing adequate information within the meaning of section 1125 of the Bankruptcy Code.

“**Disputed**” means with respect to any Claim or any portion thereof (a) as to which the Debtors or the Liquidating Trustee, as applicable, or any other party in interest, has Filed an objection by the Claims Objection Deadline, and such objection has not been withdrawn or overruled by a Final Order; (b) that is listed on the Debtors’ Schedules as disputed, contingent or unliquidated and as to which no Proof of Claim has been Filed in a non-contingent and liquidated amount; or (c) a tort claim.

“Disputed Claim Amount” means (a) if a liquidated amount is set forth in the Proof of Claim relating to a Disputed Claim, (i) the liquidated amount or any portion thereof set forth in the Proof of Claim relating to the Disputed Claim; (ii) an amount agreed to by the Debtors or the Liquidating Trustee, as applicable, and the Holder of such Disputed Claim; or (iii) if a request for estimation is Filed by any party, the amount at which such Disputed Claim is estimated by the Bankruptcy Court; (b) if no liquidated amount is set forth in the Proof of Claim relating to a Disputed Claim, (i) an amount agreed to by the Debtors or the Liquidating Trustee, as applicable, and the Holder of such Disputed Claim or (ii) the amount estimated by the Bankruptcy Court with respect to such Disputed Claim; or (c) zero, if the Disputed Claim was listed on the Schedules as unliquidated, contingent or disputed and no Proof of Claim was Filed, or deemed to have been Filed, as applicable, and the Claim has not been resolved by written agreement of the parties or an order of the Bankruptcy Court.

“Disputed Claims Reserve” means a Cash reserve sufficient to pay a Pro Rata Share to all Disputed Claim Amounts, which shall be maintained by the Liquidating Trustee and which may be funded with a Cash portion of the Liquidating Trust Assets for distribution to Holders of Disputed Claims to the extent such Disputed Claims become Allowed Claims. The initial amount of the Disputed Claims Reserve shall be determined by the Liquidating Trustee in accordance with the Liquidating Trust Agreement.

“Distribution” means any distribution pursuant to the Plan to the Holders of Allowed Claims.

“Distribution Date” means the date on which a Distribution is made pursuant to this Plan.

“Distribution Record Date” means the date established for determining the Holders of Claims entitled to Distributions pursuant to the Plan, which shall be the Confirmation Date.

“Effective Date” means the first Business Day following the date on which all conditions to consummation set forth in Section 11.01 of the Plan have been satisfied or, if capable of being duly and expressly waived, as provided in Section 12.03 of the Plan, any conditions to the occurrence of consummation set forth in the Plan has been satisfied or waived.

“Entity” shall have the meaning ascribed to such term in Section 101(15) of the Bankruptcy Code.

“Equity Interests” means the legal interests, equitable interests, contractual interests, equity interests or ownership interests, or other rights of any Person in the Debtors including all capital stock, stock certificates, common stock, preferred stock, American depositary receipts, partnership interests, limited liability company or membership interests, rights, treasury stock, options, warrants, contingent warrants, convertible or exchangeable securities, investment securities, subscriptions or other agreements and contractual rights to acquire or obtain such an interest or share in the Debtors, membership interests, partnership interests in the Debtors’ stock appreciation rights, conversion rights, repurchase rights, redemption rights, dividend rights, preemptive rights, subscription rights and liquidation preferences, puts, calls, awards or commitments of any character whatsoever relating to any such equity, common stock, preferred

stock, ownership interests or other shares of capital stock of the Debtors or obligating the Debtors to issue, transfer or sell any shares of capital stock whether or not certificated, transferable, voting or denominated “stock” or a similar security.

“**Estates**” means the estate of the Debtors created by Section 541 of the Bankruptcy Code upon the commencement of these Chapter 11 Cases on the Petition Date.

“**Excess Cash**” means all excess Cash remaining in the Liquidating Trust upon, or immediately before, termination of the Liquidating Trust (including any Cash recovered into the Liquidating Trust on or after the Effective Date) after (i) payment in full of all Allowed Administrative Claims, Allowed Professional Fee Claims, Allowed Priority Tax Claims, U.S. Trustee Fee Claims and Class 1 Claims, (ii) funding of the Liquidating Trust Cost Reserve, (iii) funding of the Professional Fee Reserve, (iv) payment of all Available Secured Cash to holders of Class 2 Claims, (v) funding of any Disputed Claim Reserve, and (vi) payment of any other Distribution by the Liquidating Trustee made in accordance with the Plan or Liquidating Trust Agreement.

“**Exculpated Claim**” means any Claim arising on and after the Petition Date related to any act or omission in connection with, relating to, or arising out of the Debtors’ liquidation, the Chapter 11 Cases, the sale of the Debtors’ assets, formulation, preparation, dissemination, negotiation, or filing of the Disclosure Statement, the Plan, the settlement of Claims or rejection of Executory Contracts or Unexpired Leases or any contract, instrument, release, or other agreement or document created or entered into in connection with the Disclosure Statement or Plan, the filing of the Chapter 11 Cases, the pursuit of Confirmation, the pursuit of consummation of the Plan, the administration, consummation, and implementation of the Plan, the distribution of property under the Plan, or any transaction contemplated by the Plan or Disclosure Statement, or in furtherance thereof. Notwithstanding any of the foregoing, “Exculpated Claim” shall not include any Cause of Action held by a Governmental Unit existing as of the Effective Date based on Sections 1104-1109, 1161-1169, and 1342(d) of ERISA.

“**Exculpated Parties**” means each of the following: (a) the Debtors, and in respect of the Debtors, their respective current and former members, employees, officers, consultants, managers, representatives and agents (b) the Current Directors, (c) any Professionals retained by the Debtors, and in respect of such Professionals, their respective predecessors, successors and assigns, current and former shareholders, members, limited partners, general partners, equity holders, principals, partners, parents, members, employees, agents, officers, directors, managers, trustees, professionals, representatives, advisors, attorneys, financial advisors, accountants, investment bankers, and consultants.

“**Executory Contract**” means a contract to which one or more of the Debtors are a party that is subject to assumption or rejection under Sections 365 or 1123 of the Bankruptcy Code.

“**Federal Judgment Rate**” means the post-judgment interest rate in effect as of the Petition Date established by Section 1961(a) of Title 28 of the United States Code and provided by the Federal Reserve and published every Monday for the preceding week.

“File, Filed or Filing” means, respectively, file, filed, or filing with the Bankruptcy Court or its authorized designee in these Chapter 11 Cases.

“Final Order” means an order, ruling, judgment, the operation or effect of a judgment or other decree issued and entered by the Bankruptcy Court or by any state or other federal court or other court of competent jurisdiction which has not been reversed, vacated, stayed, modified or amended and as to which (i) the time to appeal or petition for review, rehearing, certiorari, reargument or retrial has expired and as to which no appeal or petition for review, rehearing, certiorari, reargument or retrial is pending or (ii) any appeal or petition for review, rehearing, certiorari, reargument or retrial has been finally decided and no further appeal or petition for review, rehearing, certiorari, reargument or retrial can be taken or granted; provided, however, that the possibility that a motion under Rule 59 or Rule 60 of the Federal Rules of Civil Procedure, or any analogous rule under the Bankruptcy Rules, may be filed with respect to such order or judgment shall not cause such order or judgment not to be a Final Order.

“Foreign Proceeding” shall mean that certain ancillary proceeding commenced and pending in the High Court of Justice of England and Wales (the **“High Court”**), CR-2018-003807 and CR-2018-003808, for the purpose of obtaining recognition and relief in connection with these Chapter 11 Cases under the Great Britain Cross-Border Insolvency Regulations of 2006.

“Foreign Representative” shall mean Chuck Wilson, in his capacity as foreign representative appointed by the Debtors and approved by the Bankruptcy Court Order dated May 1, 2018 [Docket No. 17], or any successor appointed under the Plan, Confirmation Order or otherwise in the course or context of these Chapter 11 Cases.

“Governmental Unit” means all governmental units, which shall include all entities defined in Section 101 (27) of the Bankruptcy Code, including such entities that hold a Claim arising from prepetition tax years or periods or prepetition transactions to which this Debtors was a party.

“Holder” or **“Holders”** means the legal or beneficial holder of a Claim or Equity Interest (and, when used in conjunction with a Class or type of Claim or Equity Interest, means a Holder of a Claim or Equity Interest in such Class or of such type).

“Impaired” means, when used with reference to a Claim or Equity Interest, a Claim or Equity Interest that is impaired within the meaning of Section 1124 of the Bankruptcy Code.

“Impaired Class” means a Class of Claims or Equity Interests that are Impaired.

“Intercompany Claim” means any Claim held by a Debtor against another Debtor.

“Lien” means, with respect to any asset or property (or the rents, revenues, income, profits or proceeds therefrom), and in each case, whether the same is consensual or nonconsensual or arises by contract, operation of law, legal process or otherwise: (a) any and all mortgages or hypothecation to secure payment of a debt or performance of an obligation, liens, pledges, attachments, charges, leases evidencing a capitalizable lease obligation, conditional sale or other title retention agreement, or other security interest or encumbrance or other legally

cognizable security devices of any kind in respect of any asset or property, or upon the rents, revenues, income, profits or proceeds therefrom; or (b) any arrangement, express or implied, under which any property is transferred, sequestered or otherwise identified for the purpose of subjecting or making available the same for the payment of debt or performance of any other obligation in priority to the payment of Unsecured Claims; provided, however, that a lien that has or may be avoided pursuant to any Avoidance Action shall not constitute a lien hereunder.

“Liquidating Trust” means the trust to be established on the Effective Date in accordance with this Plan.

“Liquidating Trust Agreement” means the agreement governing, among other things, the retention and duties of the Liquidating Trustee as described therein, which shall be in form and substance materially consistent with the Plan and included as an exhibit to the Plan Supplement.

“Liquidating Trust Assets” means, in the aggregate, all of the assets of the Debtors and their Estates existing as of the Effective Date; provided, however, the Liquidating Trust Assets shall not include (i) Available Secured Cash, (ii) Cash in the Professional Fee Reserve (other than any surplus funds held in the Professional Fee Reserve after payment in full of all Allowed Professional Fees), and (iii) Cash in the Liquidating Trust Cost Reserve (other than any surplus funds held in the Liquidating Trust Cost Reserve after all costs and expenses of the Liquidating Trustee). In addition, notwithstanding anything in the Plan to the contrary, the Debtors’ Professionals’ documents shall not be transferred to the Liquidating Trust and shall not be Liquidating Trust Assets, but shall be made available to the Liquidating Trustee or its counsel upon request.

“Liquidating Trust Cost Reserve” means the Cash reserve established on the Effective Date in an amount sufficient to provide for the payment of the post-Confirmation fees, costs and expenses of the Liquidating Trust, the Liquidating Trustee or the Estates. The initial amount of the Liquidating Trust Cost Reserve shall be set forth in the Plan Supplement. To the extent the Liquidating Trustee proposes to make any additional deposits into the Liquidating Trust Cost Reserve such additional deposits shall be agreed to by CBA or, in the absence of such agreement, subject to the approval of the Bankruptcy Court.

“Liquidating Trustee” means the person identified as the Liquidating Trustee in the Plan Supplement by the Debtors and any successor thereto selected in accordance with the Liquidating Trust Agreement, to act as liquidating trustee as provided in the Plan solely in its capacity as such.

“Opt Out Form” means the Opt Out Form approved by the Court under the Disclosure Statement Order.

“Other Priority Claims” means any and all Allowed Claims accorded priority in right of payment under Section 507(a) of the Bankruptcy Code, other than an Administrative Claim or Priority Tax Claim.

“Person” shall have the meaning provided in Section 101 (41) of the Bankruptcy Code.

“**Petition Date**” means April 30, 2018 in reference to the chapter 11 cases of Nighthawk Energy and Nighthawk Royalties, and May 15, 2018 in reference to Nighthawk Production and OilQuest USA.

“**Plan**” means this joint plan of liquidation under chapter 11 of the Bankruptcy Code, as it may be altered, amended, modified or supplemented from time to time including in accordance with its terms and the Bankruptcy Code or the Bankruptcy Rules.

“**Plan Supplement**” means the supplement to the Plan to be Filed as provided for herein.

“**Priority Tax Claim**” means any and all Claims of a Governmental Unit of the kind specified in Section 507(a)(8) of the Bankruptcy Code.

“**Privileged Documents**” means all documents and communications maintained by the Debtors subject to attorney-client, work product, or common interest privilege claims.

“**Professional**” means any professional employed in these Chapter 11 Cases pursuant to Bankruptcy Code Sections 327, 328, 1103, 105(a), 363(c) or other order of the Bankruptcy Court.

“**Professional Fee Claim**” means a Claim of a Professional for compensation for services rendered or reimbursement of costs, expenses, or other charges incurred after the Petition Date and on or before the Effective Date.

“**Professional Fee Reserve**” means the reserve established and funded by the Liquidation Trust pursuant to Section 13.02 of the Plan to provide sufficient funds to satisfy in full all unpaid Allowed Professional Fee Claims.

“**Proof of Claim**” means a proof of a Claim Filed with the Bankruptcy Court or the Claims Agent in these Chapter 11 Cases.

“**Pro Rata Share**” means with respect to any Distribution to a Class of Claims under the Plan, the ratio (expressed as a percentage) of the amount of an Allowed Claim in such Class to the aggregate amount of all Allowed Claims plus the Disputed Claim Amount of all Disputed Claims that are Disputed in the same Class; provided, however, that to the extent any Disputed Claims are not Allowed by the Bankruptcy Court in whole or in part, the Pro Rata Share of all Allowed Claims in such Class shall be adjusted to take into account the Disputed Claim Amount that are Disputed (or portion thereof) associated with the Disputed Claim that was not Allowed.

“**Released Parties**” means, collectively, and in each case solely in its capacity as such: CBA and its current and former affiliates, and such entities’ and such affiliates’ partners, subsidiaries, predecessors, current and former directors, managers, officers, equity holders (regardless of whether such interests are held directly or indirectly), members, officers, principals, employees, agents, managed accounts or funds, advisors, attorneys, accountants, investment bankers, consultants, representatives, management companies, fund advisors, and other professionals, together with their respective successors and assigns.

“Releasing Parties” means, collectively, and in each case solely in its capacity as such: (a) the Debtors; (b) CBA; (c) each Holder of a Claim entitled to vote to accept or reject the Plan that does not affirmatively elect to “opt out” of the releases in Section 11.03 of the Plan by checking the appropriate box on the Ballot and timely returning such Ballot to the Debtors in accordance with the Disclosure Statement Order; (d) each Holder of a Claim that is Unimpaired and presumed to accept the Plan; (e) each Holder of a Claim or Equity Interest that is deemed to reject the Plan that does not affirmatively elect to “opt out” of the releases in Section 11.03 of the Plan by checking the appropriate box on the Opt Out Form and timely returning such Opt Out Form to the Debtors in accordance with the Disclosure Statement Order; and (f) with respect to each of the foregoing entities identified in clauses (a) and (b), such entities’ current and former affiliates, and such entities’ and such affiliates’ partners, subsidiaries, predecessors, current and former directors, managers, officers, equity holders (regardless of whether such interests are held directly or indirectly), members, officers, principals, employees, agents, managed accounts or funds, advisors, attorneys, accountants, investment bankers, consultants, representatives, management companies, fund advisors, and other professionals, together with their respective successors and assigns.

“Schedules” means the schedules of assets and liabilities, schedules of Executory Contracts and Unexpired Leases and statements of financial affairs Filed by the Debtors pursuant to Section 521 of the Bankruptcy Code and in substantial accordance with the Official Bankruptcy Forms, as the same may have been amended, modified or supplemented from time to time.

“Section 503(b)(9) Claim” means any Claim asserted under Section 503(b)(9) of the Bankruptcy Code equal to the value of any goods received by the Debtors within 20 days before the Petition Date in which the goods have been sold to the Debtors in the Debtors’ ordinary course of business.

“Secured Claim” means a Claim that is secured by a Lien which is not subject to avoidance under the Bankruptcy Code or otherwise invalid under the Bankruptcy Code or applicable state law, on property in which the Estates has an interest, or a Claim that is subject to setoff under Section 553 of the Bankruptcy Code; to the extent of the value of the Holder’s interest in the Estates’ interest in such property or to the extent of the amount subject to setoff, as applicable; as determined by a Final Order pursuant to Section 506(a) of the Bankruptcy Code, or in the case of setoff, pursuant to Section 553 of the Bankruptcy Code, or in either case as otherwise agreed upon in writing by the Liquidating Trust and the Holder of such Claim. If the amount of any Claim exceeds the value of the Holder’s interest in the Estates’ interest in property or the amount subject to setoff, it shall be treated as an Unsecured Claim.

“Senior Secured Claims” means all Claims held by CBA arising under the Senior Secured Credit Agreement or other Senior Secured Credit Documents.

“Senior Secured Credit Agreement” means that certain Credit Agreement, dated as of September 26, 2014, among Nighthawk Production LLC as Borrower, Nighthawk Energy PLC as Parent, CBA as Administrative Agent, Technical Bank, and Documentation Agent, and the lenders party thereto (as amended, restated, supplemented, and otherwise modified from time to time).

“**Senior Secured Credit Documents**” means the Senior Secured Credit Agreement, the Senior Secured Guarantee and Collateral Agreement, and each of the other Loan Documents (as defined in the Senior Secured Credit Agreement).

“**Senior Secured Guarantee and Collateral Agreement**” means that certain Guarantee and Collateral Agreement, dated as of September 27, 2014, by and among the Debtors and CBA.

“**Subordinated**” means any Claim against the Debtors that is subordinated pursuant to either Section 510(b) or 510(c) of the Bankruptcy Code.

“**Third-Party Release**” means the releases set forth in Section 11.03 of the Plan.

“**Unexpired Lease**” means a lease to which one or more of the Debtors is a party that is subject to assumption or rejection under Section 365 of the Bankruptcy Code.

“**Unimpaired**” means Claims that are unimpaired within the meaning of Section 1124 of the Bankruptcy Code.

“**Unimpaired Class**” means a Class containing Unimpaired Claims.

“**Unsecured Claim**” means a Claim arising prior to the Petition Date against the Debtors that is neither a Secured Claim nor entitled to priority under Section 507 of the Bankruptcy Code or any order of the Bankruptcy Court.

“**U.S. Trustee**” means the Office of the United States Trustee for the District of Delaware.

“**U.S. Trustee Fee Claims**” means fees arising under 28 U.S.C. § 1930(a)(6) of Title 28 of the United States Code with respect to these Chapter 11 Cases.

ARTICLE II.

CLASSIFICATION AND VOTING OF CLAIMS AND EQUITY INTERESTS

Section 2.01 Classification

Claims against the Debtors, other than Administrative Claims and Priority Tax Claims are classified for all purposes (unless otherwise specified), including voting and Distribution pursuant to the Plan, as follows:

Class	Designation	Impairment	Entitled to Vote
1	Other Priority Claims	Unimpaired	No (deemed to accept)
2	Senior Secured Claims	Impaired	Yes
3A	Unsecured Claims in Nighthawk Energy	Impaired	Yes
3B	Unsecured Claims in Nighthawk Royalties	Impaired	Yes

3C	Unsecured Claims in Nighthawk Production	Impaired	Yes
3D	Unsecured Claims in OilQuest	Impaired	Yes
4	Intercompany Claims	Impaired	No (deemed to reject)
5	Equity Interests	Impaired	No (deemed to reject)

ARTICLE III.
TREATMENT OF CLAIMS AND EQUITY INTERESTS

Section 3.01 General

Pursuant to Section 1122 of the Bankruptcy Code, a Claim or Equity Interest is classified in a particular Class only to the extent that the Claim or Equity Interest qualifies under the description of the Class, and is classified in a different class to the extent that the Claim or Equity Interest qualifies under the description of that different Class. A Claim or Equity Interest is placed in a particular Class for the purposes of receiving Distributions pursuant to the Plan only to the extent that such Claim or Equity Interest is an Allowed Claim or an Allowed Equity Interest in that Class and such Claim or Equity Interest has not been paid, released, settled or otherwise satisfied prior to the Effective Date.

Section 3.02 Unclassified Claims

(a) *Administrative Claims*

Subject to Section 13.01, and except to the extent that any Holder of an Allowed Administrative Claim (other than Allowed Professional Fee Claims) has received payment prior to the Effective Date, agrees with the Debtors or the Liquidating Trustee to different treatment or as otherwise provided for in the Plan, each Holder of an Allowed Administrative Claim shall receive in full, in Cash, on or as soon as reasonably practicable following the later of: (i) the Effective Date if due on or before that date, (ii) the date upon which such Administrative Claim becomes an Allowed Claim, or (iii) such other date as may be agreed upon between the Holder of such Allowed Administrative Claim and the Debtors or the Liquidating Trustee, as applicable.

(b) *Professional Fee Claims*

Professional Fee Claims shall be paid as set forth in Section 13.02 of the Plan.

(c) *Priority Tax Claims*

Except to the extent that an Allowed Priority Tax Claim has been paid prior to the Effective Date or unless otherwise agreed to by the Debtors or the Liquidating Trustee, as applicable, and the Holder of an Allowed Priority Tax Claim, each Holder of an Allowed Priority Tax Claim shall receive (a) Cash equal to the amount of such Allowed Priority Tax Claim; (b) such other treatment in accordance with 1129(a)(9)(C) of the Bankruptcy Code; or (c) as may be agreed between the Holder of such Allowed Priority Tax Claim and the Debtors or the Liquidating Trustee, as applicable, except to the extent that such Allowed Priority Claim is already liquidated pursuant to a Final Order of the Bankruptcy Court.

(d) *U.S. Trustee Fee Claims*

The Debtors or the Liquidating Trustee, as applicable, shall pay all U.S. Trustee Fees for each quarter (including any fraction thereof) until these Chapter 11 Cases are converted, dismissed, or closed, whichever occurs first.

Section 3.03 Voting Classes of Claims against the Debtors

(a) *Senior Secured Claims (“Class 2 Claims”)*

Classification: Class 2 Claims consists of the Senior Secured Claims, which Claims are secured by duly perfected and unavoidable liens and security interests in, *inter alia*, all of the remaining Cash of the Estates.

Treatment: The Holder of Senior Secured Claims shall receive, on account of such Allowed Senior Secured Claims, without interest or premium: (i) all Available Secured Cash on the later of (A) the Effective Date or (B) such other date as may be agreed upon between CBA and the Debtors or the Liquidating Trustee and (ii) Excess Cash, if any, upon or immediately before termination of the Liquidating Trust, up to the full Allowed amount of such Holder’s Senior Secured Claim without interest or premium; *provided, however*, that in each case such payment in Cash shall not settle, release or discharge any Allowed Unsecured Claim held by a holder of Senior Secured Claims.

Voting: The Class 2 Claim is Impaired by the Plan. The Holder of an Allowed Class 2 Claim is entitled to vote to accept or reject the Plan.

(b) *Unsecured Claims.*

1. Class 3A – Unsecured Claims against Nighthawk Energy (collectively, the “**Class 3A Claims**”).

Classification: Class 3A Claims consist of all Unsecured Claims against Nighthawk Energy.

Treatment: Unless such Holder agrees to other treatment (in which event, such other agreement shall govern), Holders of Allowed Class 3A Claims shall receive, on account of such Allowed Class 3A Claim, a Pro Rata Share from the Liquidating Trust Assets contributed by or attributable to Nighthawk Energy plus any Liquidating Trust Assets contributed by or attributable to Nighthawk Production after payment in full of the Class 3B Claims and Class 3C Claims not to exceed the full amount of such Allowed Class 3A Claim, on or as soon as reasonably practicable following the later of: (i) the Effective Date if due on or before that date, (ii) the date upon which such Allowed Class 3A Claim becomes an Allowed Claim, or (iii) such other date as may be agreed upon between the Holder of such Allowed Unsecured Claim and the Debtors or Liquidating Trustee. Notwithstanding the foregoing, in the event that the Liquidating Trustee determines in his reasonable judgment that there is insufficient Cash to make a Distribution to Holders of Class 3A Claims on such date, then a Distribution shall be made on such Claims on the date on which the Liquidating Trustee determines there is sufficient Cash to make such Distribution.

Voting: Class 3A Claims are Impaired by the Plan. Holders of Allowed Class 3A Claims are entitled to vote to accept or reject the Plan.

2. Class 3B – Unsecured Claims against Nighthawk Royalties (collectively, the “Class 3B Claims”).

Classification: Class 3B Claims consist of all Unsecured Claims against Nighthawk Royalties.

Treatment: Unless such Holder agrees to other treatment (in which event, such other agreement shall govern), Holders of Allowed Class 3B Claims shall receive, on account of such Allowed Class 3B Claim, a Pro Rata Share from the Liquidating Trust Assets contributed by or attributable to Nighthawk Royalties plus any Liquidating Trust Assets contributed by or attributable to Nighthawk Production after payment in full of the Class 3C Claims not to exceed the full amount of such Allowed Class 3B Claim, on or as soon as reasonably practicable following the later of: (i) the Effective Date if due on or before that date, (ii) the date upon which such Allowed Class 3B Claim becomes an Allowed Claim, or (iii) such other date as may be agreed upon between the Holder of such Allowed Unsecured Claim and the Debtors or Liquidating Trustee. Notwithstanding the foregoing, in the event that the Liquidating Trustee determines in his reasonable judgment that there is insufficient Cash to make a Distribution to Holders of Class 3B Claims on such date, then a Distribution shall be made on such Claims on the date on which the Liquidating Trustee determines there is sufficient Cash to make such Distribution.

Voting: Class 3B Claims are Impaired by the Plan. Holders of Allowed Class 3B Claims are entitled to vote to accept or reject the Plan.

3. Class 3C – Unsecured Claims against Nighthawk Production (collectively, the “Class 3C Claims”).

Classification: Class 3C Claims consist of all Unsecured Claims against Nighthawk Production.

Treatment: Unless such Holder agrees to other treatment (in which event, such other agreement shall govern), Holders of Allowed Class 3C Claims shall receive, on account of such Allowed Class 3C Claim, a Pro Rata Share from the Liquidating Trust Assets contributed by or attributable to Nighthawk Production not to exceed the full amount of such Allowed Class 3C Claim, on or as soon as reasonably practicable following the later of: (i) the Effective Date if due on or before that date, (ii) the date upon which such Allowed Class 3C Claim becomes an Allowed Claim, or (iii) such other date as may be agreed upon between the Holder of such Allowed Unsecured Claim and the Debtors or Liquidating Trustee. Notwithstanding the foregoing, in the event that the Liquidating Trustee determines in his reasonable judgment that there is insufficient Cash to make a Distribution to Holders of Class 3C Claims on such date, then a Distribution shall be made on such Claims on the date on which the Liquidating Trustee determines there is sufficient Cash to make such Distribution.

Voting: Class 3C Claims are Impaired by the Plan. Holders of Allowed Class 3C Claims are entitled to vote to accept or reject the Plan.

4. Class 3D – Unsecured Claims against OilQuest (collectively, the “Class 3D Claims”).

Classification: Class 3D Claims consist of all Unsecured Claims against OilQuest.

Treatment: Unless such Holder agrees to other treatment (in which event, such other agreement shall govern), Holders of Allowed Class 3D Claims shall receive, on account of such Allowed Class 3D Claim, a Pro Rata Share from the Liquidating Trust Assets contributed by or attributable to OilQuest not to exceed the full amount of such Allowed Class 3D Claim, on or as soon as reasonably practicable following the later of: (i) the Effective Date if due on or before that date, (ii) the date upon which such Allowed Class 3D Claim becomes an Allowed Claim, or (iii) such other date as may be agreed upon between the Holder of such Allowed Unsecured Claim and the Debtors or Liquidating Trustee. Notwithstanding the foregoing, in the event that the Liquidating Trustee determines in his reasonable judgment that there is insufficient Cash to make a Distribution to Holders of Class 3D Claims on such date, then a Distribution shall be made on such Claims on the date on which the Liquidating Trustee determines there is sufficient Cash to make such Distribution.

Voting: Class 3D Claims are Impaired by the Plan. Holders of Allowed Class 3D Claims are entitled to vote to accept or reject the Plan.

Section 3.04 Non-Voting Classes of Claims in the Debtors

- (a) *Other Priority Claims (collectively, “Class 1 Claims”)*

Classification: Class 1 Claims consist of all Other Priority Claims against the Debtors.

Treatment: Each Holder of an Allowed Class 1 Claim shall receive Cash in the amount of such Allowed Other Priority Claim without interest or premium on or as soon as reasonably practicable following the later of: (i) the Effective Date if due on or before that date, (ii) the date upon which such Other Priority Claim becomes an Allowed Claim, or (iii) such other date as may be agreed upon between the Holder of such Allowed Other Priority Claim and the Debtors or the Liquidating Trustee.

Voting: Class 1 Claims are Unimpaired by the Plan. Holders of Allowed Class 1 Claims are not entitled to vote to accept or reject the Plan.

- (b) *Intercompany Claims (collectively, “Class 4 Intercompany Claims”)*

Classification: Class 4 Claims consist of all Intercompany Claims.

Treatment: Any and all Intercompany Claims shall be eliminated as of the Effective Date, by either offset, cancellation or contribution of such pre-Petition Date Intercompany Claims.

Voting: Class 4 is Impaired under this Plan. Each holder of an Intercompany Claim is deemed to have rejected this Plan and is therefore not entitled to vote to accept or reject this Plan.

(c) *Equity Interests (collectively, “Class 5 Equity Interests”)*

Classification: Class 5 Equity Interests consist of all Equity Interests in the Debtors.

Treatment: Holders of Equity Interests in the Debtors shall not receive a Distribution under the Plan on account of their Equity Interests and such Equity Interests shall be cancelled under the Plan on the Effective Date, or as soon thereafter as such cancellation can be formally effectuated under applicable law.

Voting: Class 5 Equity Interests are Impaired by the Plan and are receiving no Distribution under the Plan. Class 5 Equity Interests are deemed to reject the Plan and are not entitled to vote to accept or reject the Plan.

(d) *Reservation of Rights Regarding Claims*

Except as otherwise explicitly provided in Section 11.06, nothing herein shall affect the Debtors’ or the Liquidating Trustee’s rights and defenses, both legal and equitable, with respect to any Claims or Equity Interests, including, but not limited to, all rights with respect to legal and equitable defenses to alleged rights of setoff or recoupment.

ARTICLE IV.
ACCEPTANCE OR REJECTION OF THE PLAN

Section 4.01 Impaired Classes of Claims Entitled to Vote

Holders of Allowed Claims in each Impaired Class of Claims receiving a Distribution under the Plan are entitled to vote as a Class to accept or reject the Plan. Accordingly, only the votes of Holders of Claims in Classes 2, 3A, 3B, 3C, and 3D shall be solicited with respect to the Plan.

Section 4.02 Acceptance by an Impaired Class

In accordance with Section 1126(c) of the Bankruptcy Code, and except as provided in Section 1126(e) of the Bankruptcy Code, an Impaired Class of Claims shall have accepted the Plan if the Plan is accepted by the Holders of at least two-thirds (2/3) in dollar amount and more than one-half (1/2) in number of the Allowed Claims in such Class that have timely and properly voted to accept or reject the Plan.

Section 4.03 Presumed Acceptances by Unimpaired Classes

Holders of Class 1 Claims are Unimpaired under the Plan. Under Section 1126(f) of the Bankruptcy Code, Holders of such Unimpaired Claims are conclusively presumed to have accepted the Plan, and the votes of Holders of such Unimpaired Claims shall not be solicited.

Section 4.04 Presumed Rejection by Certain Classes

Holders of Class 4 Intercompany Claims and Class 5 Equity Interests are Impaired under the Plan and are receiving no Distribution on account of their respective Claims and Equity

Interests. Holders of such Claims and Equity Interests are conclusively presumed to have rejected the Plan pursuant to Section 1126(g) of the Bankruptcy Code.

Section 4.05 Confirmation Pursuant to Section 1129(b) of the Bankruptcy Code

The Debtors will seek confirmation of the Plan under Section 1129(b) of the Bankruptcy Code by establishing at the Confirmation Hearing that the Plan is fair and equitable and does not discriminate unfairly with respect to Class 4 Intercompany Claims and Class 5 Equity Interests, and any Class of Claims entitled to vote on the Plan that does not vote to accept the Plan. The Debtors reserve the right to alter, amend, modify, revoke, or withdraw the Plan, the Plan Supplement, or any schedule or exhibit, including to amend or modify it to satisfy the requirements of Section 1129(b) of the Bankruptcy Code, if necessary.

Section 4.06 Elimination of Vacant Classes

Any Class of Claims or Equity Interests that does not contain, as of the date of the commencement of the Confirmation Hearing, a Holder of an Allowed Claim or Equity Interest, or a Holder of a Claim temporarily allowed under Bankruptcy Rule 3018, shall be deemed deleted from the Plan for all purposes, including for purposes of determining acceptance of the Plan by such Class under Section 1129(a)(8) of the Bankruptcy Code.

**ARTICLE V.
MEANS FOR IMPLEMENTATION OF THE PLAN**

Section 5.01 Establishment of Liquidating Trust

On or prior to the Effective Date, the Debtors, on their own behalf and on their Estates' behalf and on behalf of the Holders of Claims that are to be satisfied with the Liquidating Trust Assets, will execute the Liquidating Trust Agreement and will take all other steps necessary to establish the Liquidating Trust pursuant to the Liquidating Trust Agreement. On the Effective Date, and in accordance with and pursuant to the terms of the Plan, the Debtors will transfer to the Liquidating Trust all of their, respective, right, title, and interests in all of the Liquidating Trust Assets free and clear of all Liens, Claims and encumbrances except as otherwise set forth in this Plan, and all such Liquidating Trust Assets shall be deemed to vest in the Liquidating Trust pursuant to Section 1141(b) of the Bankruptcy Code. Nothing in the Plan shall constitute a waiver of any privilege claims over any of the documents, including the Privileged Documents that are produced to or received by the Liquidating Trust or Liquidating Trustee. For the avoidance of doubt, on and after the Effective Date, the Liquidating Trustee shall be deemed the Debtors' representative and the judicial substitute for the Debtors as the party-in-interest in these Chapter 11 Cases or any judicial proceeding or appeal to which any Debtor is a party, consistent with Section 1123(b)(3)(B) of the Bankruptcy Code and thus, the transfer of the Privileged Documents as provided herein does not impair or waive any privilege.

The Liquidating Trust Agreement shall contain provisions for the appointment of a successor Liquidating Trustee in the event of a vacancy, resignation, incapacity or removal of the Liquidating Trustee. The Liquidating Trust Agreement shall also provide that the Liquidating Trustee may be removed or replaced for cause, including, without limitation, incapacity or failure or refusal to perform his or her duties under the Plan and Liquidating Trust Agreement;

provided, that approval from the Bankruptcy Court shall be required to remove and/or replace the Liquidating Trustee.

Section 5.02 Funding for the Plan

This Plan shall be funded from the Liquidating Trust Assets on the Effective Date.

Section 5.03 Funding of Reserves

On or as soon as reasonably practicable following the Effective Date, the Liquidating Trustee, shall cause to be funded the Professional Fee Reserve and the Liquidating Trust Cost Reserve. To the extent necessary after the Effective Date, the Liquidating Trustee shall fund the Disputed Claims Reserve in accordance with the Liquidating Trust Agreement.

Section 5.04 Corporate Action

Upon the Effective Date, by virtue of the solicitation of votes in favor of this Plan and entry of the Confirmation Order, all actions contemplated by the Plan (including any action to be undertaken by the Liquidating Trustee) shall be deemed authorized, approved, and, to the extent taken prior to the Effective Date, ratified without any requirement for further action by Holders of Claims or Equity Interests, the Debtors, or any other Entity or Person or further Order of the Bankruptcy Court. All matters provided for in the Plan involving the corporate structure of the Debtors, and any corporate action required by the Debtors in connection therewith, shall be deemed to have occurred and shall be in effect, without any requirement of further action by the Debtors or the Estates. The authorizations and approvals contemplated by this Plan shall be effective notwithstanding any requirements under applicable non-bankruptcy law.

Section 5.05 Management of the Estates

As of the Effective Date, the existing board of directors of the Debtors shall be deemed dissolved and all officers and directors of the Debtors shall be deemed to be dismissed (unless previously dismissed or terminated), in each case without any further action required on the part of the Debtors, the shareholders of the Debtors, or the officers and directors of the Debtors. Thereafter, the Liquidating Trustee shall be the sole director and officer of the Debtors. On and after the Effective Date, all of the Liquidating Trust Assets including, without limitation, Causes of Action shall be controlled and managed by the Liquidating Trustee. Compensation for the Liquidating Trustee shall be as set forth in the Liquidating Trust Agreement.

Section 5.06 Debtors' Professionals

On the Effective Date, the Professionals retained by the Debtors shall be deemed to have completed their services as Professionals to the Debtors, but shall be able to file final applications for reasonable compensation and reimbursement of expenses as set forth in Section 13.02 of the Plan. The Professionals to the Debtors may be retained by the Liquidating Trustee for any legally permissible purpose, at his sole discretion, and without the need to file any further application with the Bankruptcy Court.

Section 5.07 Effectuating Documents; Further Transactions

Prior to the Effective Date, the Debtors, and on and after the Effective Date, the Liquidating Trustee, are authorized to and may issue, execute, deliver, file, or record such contracts, securities, instruments, releases, and other agreements or documents and take such actions as may be necessary or appropriate to effectuate, implement, and further evidence the terms and conditions of the Plan, without the need for any further Bankruptcy Court order, approvals, authorization, or consents, unless such Order is expressly required pursuant to the Plan.

Section 5.08 Exemption from Certain Taxes and Fees

To the maximum extent provided by Section 1146(a) of the Bankruptcy Code, any post-Confirmation transfer from any Entity pursuant to, in contemplation of, or in connection with the Plan or pursuant to: (1) the issuance, Distribution, transfer, or exchange of any debt, equity security, or other interest in the Debtors; or (2) the making, delivery, or recording of any deed or other instrument of transfer under, in furtherance of, or in connection with, the Plan, including any deeds, bills of sale, assignments, or other instruments of transfer executed in connection with any transaction arising out of, contemplated by, or in any way related to the Plan, shall not be subject to any document recording tax, stamp tax, conveyance fee, intangibles or similar tax, mortgage tax, real estate transfer tax, mortgage recording tax, Uniform Commercial Code filing or recording fee, or other similar tax or governmental assessment, in each case to the extent permitted by applicable bankruptcy law, and the appropriate state or local government officials or agents shall forego collection of any such tax or governmental assessment and accept for filing and recordation any of the foregoing instruments or other documents without the payment of any such tax or governmental assessment.

Section 5.09 Preservation of Rights of Action

Other than Causes of Action and Avoidance Actions against an Entity that are expressly waived, relinquished, exculpated, released, compromised, or settled in the Plan or by a Bankruptcy Court order, the Debtors and their Estates reserve and do not waive, any and all Causes of Action and Avoidance Actions, including without limitation any actions specifically enumerated in the Plan Supplement. On and after the Effective Date, the Liquidating Trustee may pursue such Causes of Action and Avoidance Actions.

No Entity may rely on the absence of a specific reference in the Plan, the Plan Supplement, or the Disclosure Statement to any Cause of Action and Avoidance Actions against them as any indication that the Debtors or the Liquidating Trustee will not pursue any and all available Causes of Action and Avoidance Actions against them. No preclusion doctrine, including the doctrines of *res judicata*, collateral estoppel, issue preclusion, claim preclusion (judicial, equitable, or otherwise), or laches, shall apply to such Causes of Action and Avoidance Actions upon, after, or as a consequence of the Confirmation or Consummation. The Debtors or the Liquidating Trustee, as applicable, reserve all rights arising under Section 506(c) of the Bankruptcy Code with respect to all Secured Claims asserted against the Debtors or their Estates.

Section 5.10 Cancellation of Existing Agreements and Existing Stock

On the Effective Date, except to the extent otherwise provided herein, all notes, stock, membership interests, instruments, certificates, and other documents evidencing any Claims or Equity Interests shall be canceled, shall be of no further force, whether surrendered for cancellation or otherwise, and the obligations of the Debtors thereunder or in any way related thereto shall be discharged.

Section 5.11 Recognition of Confirmation Order in the High Court; Cancellation of Public Shares in England and Wales

On or after the Effective Date, Nighthawk Energy plc shall be liquidated and dissolved in accordance with the applicable laws of England and Wales. The Liquidating Trustee shall be appointed as successor Foreign Representative on the Effective Date and, in his discretion, shall be authorized to seek recognition of the Confirmation Order in the High Court, and take all other actions associated with same, without further order of the Bankruptcy Court. The public shares and Equity Interests of Nighthawk Energy shall be cancelled upon the Effective Date and in accordance with the Plan, subject to any additional steps or actions required by the laws of England and Wales.

Section 5.12 Operations of the Debtors Between the Confirmation Date and the Effective Date

During the period from the Confirmation Date through and until the Effective Date, the Debtors shall continue to operate as debtors-in-possession, subject to the oversight of the Bankruptcy Court as provided in the Bankruptcy Code, the Bankruptcy Rules, and all orders of the Bankruptcy Court that are then in full force and effect.

**ARTICLE VI.
TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

Section 6.01 Rejection of Executory Contracts and Unexpired Leases

Other than as expressly set forth below, each Executory Contract or Unexpired Lease of the Debtors that has not expired by its own terms before the Effective Date or previously been rejected pursuant to an order of the Bankruptcy Court, shall be deemed rejected by the Debtors as of the Effective Date pursuant to Sections 365 and 1123 of the Bankruptcy Code. Nothing in this paragraph or any other provision of this Plan shall preclude the Liquidating Trustee from seeking the return of any deposits, commissions, or other outstanding amounts from any party to an executory contract.

Section 6.02 Claims Based on Rejection of Executory Contracts and Unexpired Lease

Unless otherwise provided by an order of the Bankruptcy Court, any Proofs of Claim based on the rejection of the Debtors' Executory Contracts or Unexpired Leases pursuant to the Plan or otherwise, must be Filed with the Claims Agent and served on the Debtors or, after the Effective Date, the Liquidating Trustee, as applicable, no later than thirty (30) days after the earlier of the Effective Date or the effective date of rejection of such Executory Contract or

Unexpired Lease. In addition, any objection to the rejection of an Executory Contract or Unexpired Lease must be filed with the Bankruptcy Court and served on the Debtors or, after the Effective Date, the Liquidating Trustee, as applicable, no later than thirty (30) days after service of the Debtors' proposed rejection of such Executory Contract or Unexpired Lease.

Any Holders of Claims arising from the rejection of an Executory Contract or Unexpired Lease for which Proofs of Claims were not timely Filed as set forth in the paragraph above shall not (1) be treated as a creditor with respect to such Claim, (2) be permitted to vote to accept or reject the Plan on account of any Claim arising from such rejection, or (3) participate in any Distribution in the Chapter 11 Cases on account of such Claim, and any Claims arising from the rejection of an Executory Contract or Unexpired Lease not filed with the Claims Agent within such time will be automatically Disallowed, forever barred from assertion, and shall not be enforceable against the Debtors, the Liquidating Trustee, the Debtors' Estates, or the property for any of the foregoing without the need for any objection by the Debtors or the Liquidating Trustee, as applicable, or further notice to, or action, order, or approval of the Bankruptcy Court or any other Entity, and any Claim arising out of the rejection of the Executory Contract or Unexpired Lease shall be deemed fully compromised, settled, and released, notwithstanding anything in the Schedules or a Proof of Claim to the contrary. All Allowed Claims arising from the rejection of the Debtors' prepetition Executory Contracts or prepetition Unexpired Leases (shall be classified as Unsecured Claims, except as otherwise provided by order of the Bankruptcy Court).

Section 6.03 Insurance Policies

On the Effective Date, all insurance obligations, coverage and benefits shall be deemed preserved, assumed, and shall vest in the Liquidating Trust, and the Liquidating Trustee shall control any claims made under any of the Debtors' insurance policies, including negotiations relating thereto, settlements thereof and any recoveries thereunder. Each insurance policy shall be assumed by the Debtors effective as of the Effective Date, pursuant to Sections 365 and 1123 of the Bankruptcy Code, to the extent such insurance policy is executory, unless such insurance policy previously was rejected by the Debtors or the Debtors' Estates pursuant to a Bankruptcy Court order or is the subject of a motion to reject pending on the Effective Date.

Each insurance company is prohibited from, and the Confirmation Order shall include an injunction against, denying, refusing, altering or delaying coverage on any basis regarding or related to these Chapter 11 Cases, this Plan or any provision within this Plan, including the treatment or means of liquidation set out within this Plan for any insured Claims or retained Causes of Action.

Section 6.04 Reservation of Rights

Nothing contained in the Plan shall constitute an admission by the Debtors that any contract or lease is in fact an Executory Contract or Unexpired Lease or that the Debtors' Estates has any liability thereunder. In the event of a dispute regarding whether a contract or lease is or was executory or unexpired at the time of assumption or rejection, the Liquidating Trustee shall

have 90 days following entry of a Final Order resolving such dispute to alter the treatment of such contract or lease as otherwise provided in the Plan.

ARTICLE VII.

PROVISIONS GOVERNING DISTRIBUTIONS

Section 7.01 Calculation of Amounts to be Distributed

Each Holder of an Allowed Claim against the Debtors shall receive the full amount of the Distributions that the Plan provides for Allowed Claims in the applicable Class from the Debtors or the Liquidating Trust. In the event that any payment or act under the Plan is required to be made or performed on a date that is not a Business Day, then the making of such payment or the performance of such act may be completed on the next succeeding Business Day, in which case such payment shall be deemed to have occurred when due. If and to the extent that there are Disputed Claims, Distributions on account of any such Disputed Claims shall be made pursuant to the provisions set forth in this Article VII. Notwithstanding anything to the contrary in the Plan, no Holder of an Allowed Claim shall, on account of such Allowed Claim, receive a Distribution in excess of the Allowed amount of such Claim plus any interest accruing on such Claim that is actually payable in accordance with the Plan.

Section 7.02 Rights and Powers of the Debtors and Liquidating Trust

Other than the Distributions to be made on the Class 2 Claims, which Distributions shall be made by the Debtors on the Effective Date (unless CBA and the Debtors or the Liquidating Trustee agree otherwise), all Distributions under the Plan shall be made on or after the Effective Date by the Liquidating Trustee. After the Effective Date, the Liquidating Trustee shall have the right to object, allow, or otherwise resolve any Claim as provided herein.

The Debtors and the Liquidating Trustee, shall not be required to give any bond or surety or other security for the performance of their duties except as ordered by the Bankruptcy Court. Additionally, in the event that the Debtors or Liquidating Trust, as applicable, is ordered to provide such a bond, insurance or surety, all costs and expenses of procuring any such bond, insurance or surety shall be paid with Cash from the Liquidating Trust Cost Reserve.

The Liquidating Trustee shall be deemed the Estates' representative in accordance with Section 1123 of the Bankruptcy Code, including, without limitation, the powers of a trustee under Sections 704 and 1106 of the Bankruptcy Code and Rule 2004 of the Bankruptcy Rules, including without limitation, the right (subject to the provisions of the Plan and the Liquidating Trust Agreement) to (i) effect all actions and execute all agreements, instruments and other documents necessary to implement the provisions of the Plan; (ii) prosecute, settle, abandon or compromise any Claims or Causes of Action, including Avoidance Actions; (iii) make Distributions contemplated by the Plan, (iv) establish and administer any necessary reserves for Disputed Claims that may be required; (v) object to Claims and prosecute, settle, compromise, withdraw or resolve in any manner approved by the Bankruptcy Court such objections; (vi) employ and compensate professionals, including professionals previously retained by the Debtors; provided, however, that any such compensation shall be made, in the first instance and

absent the consent of CBA or further Bankruptcy Court approval, only out of the Liquidating Trust Cost Reserve; and (vii) file all federal, state and local tax returns if necessary.

The Liquidating Trustee shall assume any outstanding responsibility of the Debtors under the Plan.

The Liquidating Trustee has the full authority subject, in each case, to the provisions of the Plan and the Liquidating Trust Agreement, to take any steps necessary to administer the Plan, including without limitation, the duty and obligation to liquidate Liquidating Trust Assets, to make Distributions therefrom and to pursue, settle or abandon any Claims and Causes of Action, including, without limitation, Avoidance Actions, Claims and Causes of Action.

Except as otherwise ordered by the Bankruptcy Court, the fees and expenses incurred by the Liquidating Trustee on or after the Effective Date (including taxes) and any reasonable compensation and expense reimbursement Claims (including reasonable attorneys' fees and expenses) incurred by the Liquidating Trustee shall be paid in Cash and, in the first instance and absent the consent of CBA or further Bankruptcy Court approval, only from the Liquidating Trust Cost Reserve, upon the Filing of a fee summary or invoice and at least 14-days' notice to creditors. Absent the Filing of an objection within 14-days of the Filing of a fee summary or invoice, the Liquidating Trustee shall be authorized to pay such fees and expenses without further order of the Bankruptcy Court.

Section 7.03 Delivery of Distributions and Undeliverable or Unclaimed Distributions

(a) Record Date for Distribution

On the Distribution Record Date, the Claims Register shall be closed and the Liquidating Trustee or any other party responsible for making Distributions shall instead be authorized and entitled to recognize only those record Holders listed on the Claims Register as of the close of business on the Distribution Record Date.

(b) Delivery of Distributions in General

1. Special Rules for Distributions to Holders of Disputed Claims

Notwithstanding any provision otherwise in the Plan and except as may be agreed to by, as applicable, the Liquidating Trustee on the one hand, and the Holder of a Disputed Claim, on the other hand, no partial payments and no partial Distributions shall be made with respect to any Disputed Claim, other than with respect to Professional Fee Claims, until all Disputed Claims held by the Holder of such Disputed Claim have become Allowed Claims or have otherwise been resolved by settlement or Final Order.

2. Distributions

With the exception of the Class 2 Claims, as set forth in Section 7.02 above, on and after the Effective Date, the Liquidating Trustee shall make the Distributions required to be made on account of Allowed Claims under the Plan. Any Distribution that is not made by the Liquidating Trustee on the Effective Date or on any other date specified in the Plan because the Claim that

would have been entitled to receive that Distribution is not an Allowed Claim on such date, shall be held by the Liquidating Trust and distributed on the next Distribution Date that occurs after such Claim is Allowed.

(c) *Minimum; De Minimis Distributions*

Notwithstanding any other provision of the Plan to the contrary (including the treatment of any Claims or Classes), (a) the Debtors or the Liquidating Trustee, as applicable, shall not be required to make Distributions or payments of fractions of dollars, and whenever any Distribution of a fraction of a dollar under the Plan would otherwise be required, the actual Distribution made shall reflect a rounding of such fraction to the nearest whole dollar (up or down), with half dollars being rounded down, and (b) the Liquidating Trustee shall have no duty to make a Distribution on account of any Allowed Claim (i) if the aggregate amount of all Distributions authorized to be made on such date is less than \$20,000.00, in which case such Distributions shall be deferred to the next Distribution Date, (ii) if the amount to be distributed to that Holder on the particular Distribution Date is less than \$100.00, unless such Distribution constitutes the final Distribution to such Holder, or (iii) the amount of the final Distribution to any such Holder is less than \$75.00, in which case such Distribution shall revert to the Liquidating Trust for distribution on account of other Allowed Claims.

(d) *Undeliverable Distributions and Unclaimed Property*

In the event that any Distribution to any Holder is returned as undeliverable, no Distribution to such Holder shall be made unless and until the Liquidating Trustee has determined the then current address of such Holder, at which time such Distribution shall be made to such Holder; provided, however, such Distributions shall be deemed unclaimed property under Section 347(b) of the Bankruptcy Code at the expiration of 120 days from the date such Distribution is made. After such date, all unclaimed property or interests in property shall revert (notwithstanding any applicable federal or state escheat, abandoned, or unclaimed property laws to the contrary) to the Liquidating Trust automatically and without need for a further order by the Bankruptcy Court for Distribution in accordance with the Plan and the Claim of any Holder to such property or interest in property shall be released, settled, compromised, and forever barred.

(e) *Manner of Payment Pursuant to the Plan*

Cash payments under this Plan shall be in U.S. funds, and shall be made, at the option, and in the sole discretion, of the Debtors or the Liquidating Trustee, as applicable, by (i) checks drawn on or (ii) wire transfers from a domestic bank selected by the Debtors or the Liquidating Trustee, as applicable. Cash payments to foreign creditors may be made, at the option, and in the sole discretion, of the Debtors or the Liquidating Trustee, as applicable, in such funds and by such means as are necessary or customary in a particular foreign jurisdiction. Cash payments made pursuant to this Plan in the form of checks issued by the Debtors or Liquidating Trustee, as applicable, shall be null and void if not cashed within 120 days of the date of the issuance thereof. Requests for reissuance of any check shall be made directly to the Liquidating Trustee.

Section 7.04 Compliance with Tax Requirements/Allocations

In connection with the Plan, to the extent applicable, the Debtors, or the Liquidating Trustee, as applicable, shall comply with all tax withholding and reporting requirements imposed on it by any Governmental Unit, and all Distributions pursuant hereto shall be subject to such withholding and reporting requirements.

Distributions in respect of Allowed Claims shall be allocated first to the principal amount of such Claims (as determined for federal income tax purposes) and then, to the extent the consideration exceeds the principal amount of the Claims, to any portion of such Claims for accrued but unpaid interest.

In connection with the Plan and all Distributions hereunder, to the extent applicable, the Debtors and the Liquidating Trustee are authorized to take any and all actions that may be necessary or appropriate to comply with all tax withholding and reporting requirements imposed by any federal, state, local or foreign taxing authority, and all Distributions pursuant to the Plan shall be subject to any such withholding and reporting requirements. The Liquidating Trustee is authorized to require each Creditor to provide the Liquidating Trustee with an executed Form W-9 or similar tax form as a condition precedent to being sent a Distribution. If a Holder of an Allowed Claim does not provide the Liquidating Trustee with an executed Form W-9 or similar form within 90 days of written request, said Creditor shall be deemed to have forfeited their Distribution with no further notice required.

Section 7.05 Claims Paid or Payable to Third Parties

(a) Claims Paid by Third Parties; Recourse to Collateral

The Liquidating Trustee shall be authorized to reduce in whole or in part a Claim, and such Claim shall be Disallowed without a Claims objection having to be Filed and without any further notice to or action, order, or approval of the Bankruptcy Court, to the extent that the Holder of such Claim receives payment in full on account of such Claim from a party that is not a Debtors or, as applicable, the Liquidating Trustee, including on account of recourse to collateral held by third parties that secure such Claim. To the extent a Holder of a Claim receives a Distribution on account of such Claim and receives payment, in whole or in part, from a party that is not a debtor on account of such Claim, such Holder shall, within 14 days of receipt thereof, repay or return the Distribution to the Debtors or the Liquidating Trustee, to the extent the Holder's total recovery on account of such Claim from the third party and under the Plan exceeds the amount of such Claim as of the date of any such Distribution under the Plan. The failure of such Holder to timely repay or return such Distribution shall result in the Holder owing the Debtors or the Liquidating Trustee, annualized interest at the Federal Judgment Rate on such amount owed for each Business Day after the 14-day grace period specified above until the amount is repaid.

(b) Claims Payable by Insurance, Third Parties; Recourse to Collateral

No Distributions under the Plan shall be made on account of an Allowed Claim that is payable pursuant to one of the Debtors' insurance policies, surety agreements, other non-Debtors payment agreements, or collateral held by a third party, until the Holder of such Allowed Claim

has exhausted all remedies with respect to such insurance policy, surety agreement, other non-Debtors payment agreement, or collateral, as applicable. To the extent that one or more of the Debtors' insurers, sureties, or non-Debtors payors pays or satisfies in full or in part a Claim (if and to the extent adjudicated by a court of competent jurisdiction), or such collateral or proceeds from such collateral is used to satisfy such Claim, then immediately upon such payment, the applicable portion of such Claim shall be expunged without a Claim objection having to be Filed and without any further notice to or action, order, or approval of the Bankruptcy Court.

(c) *Applicability of Insurance Policies*

Notwithstanding anything to the contrary in the Plan or Confirmation Order, Confirmation and consummation of the Plan shall not limit or affect the rights of any third-party beneficiary of any of the Debtors' insurance policies with respect to such policies.

ARTICLE VIII. THE LIQUIDATING TRUST

Section 8.01 Liquidating Trust Creation

On the Effective Date, the Liquidating Trust shall be established and become effective. The Liquidating Trust Agreement shall (i) be in form and substance consistent in all material respects with this Plan, and (ii) contain customary provisions for trust agreements utilized in comparable circumstances, including any and all provisions necessary to ensure continued treatment of the Liquidating Trust as a grantor trust and the beneficiaries as the grantors and owners thereof for federal income tax purposes. All relevant parties (including the Debtors, the Liquidating Trustee, and the beneficiaries) will take all actions necessary to cause title to the Liquidating Trust Assets to be transferred to the Liquidating Trust. The powers, authority, responsibilities, and duties of the Liquidating Trust and the Liquidating Trustee are set forth in and shall be governed by the Liquidating Trust Agreement, the Plan, and the Confirmation Order.

Section 8.02 Purpose of the Liquidating Trust

The Liquidating Trust shall be established for the primary purpose of liquidating the Liquidating Trust Assets and making Distributions in accordance with the Plan, Confirmation Order and the Liquidating Trust Agreement, with no objective to continue or engage in the conduct of a trade or business, except to the extent reasonably necessary to, and consistent with, the liquidating purpose of the Liquidating Trust.

Section 8.03 Transfer of Assets to the Liquidating Trust

The Debtors and the Liquidating Trustee shall establish the Liquidating Trust on behalf of the beneficiaries pursuant to the Liquidating Trust Agreement, with the beneficiaries to be treated as the grantors and deemed owners of the Liquidating Trust Assets. The Debtors will irrevocably transfer, assign, and deliver to the Liquidating Trust, on behalf of the beneficiaries, all of their rights, title, and interests in the Liquidating Trust Assets, including any claims, rights, rights of indemnification, and Causes of Action that the Debtors may hold against any Entity in accordance with the provisions herein, notwithstanding any prohibition on assignment under

non-bankruptcy law. The Liquidating Trust will accept and hold the Liquidating Trust Assets in the Liquidating Trust for the benefit of the beneficiaries, subject to the Plan and the Liquidating Trust Agreement.

On the Effective Date, all Liquidating Trust Assets shall vest and be deemed to vest in the Liquidating Trust in accordance with Section 1141 of the Bankruptcy Code; provided, however, that the Liquidating Trustee, without further order of the Bankruptcy Court, may abandon or otherwise not accept any Liquidating Trust Assets that the Liquidating Trustee believes, in good faith, have no value to the Liquidating Trust. Any Assets the Liquidating Trustee so abandons or otherwise does not accept shall not vest in the Liquidating Trust. As of the Effective Date, all Liquidating Trust Assets vested in the Liquidating Trust shall be free and clear of all Liens, Claims and Equity Interests except as otherwise specifically provided in the Plan or in the Confirmation Order. Upon the transfer by the Debtors of the Liquidating Trust Assets to the Liquidating Trust or abandonment of Liquidating Trust Assets by the Liquidating Trustee, the Debtors will have no reversionary or further interest in or with respect to any Liquidating Trust Assets or the Liquidating Trust. Notwithstanding anything herein to the contrary, the Liquidating Trust and the Liquidating Trustee shall be deemed to be fully bound by the terms of the Plan and the Confirmation Order.

For the avoidance of doubt, and notwithstanding anything herein to the contrary, the Debtors shall not transfer or be deemed to have transferred to the Liquidating Trust any claims or Causes of Action (1) released pursuant to this Plan or (2) exculpated pursuant to Article XI hereof to the extent of any such exculpation.

Section 8.04 Tax Treatment of the Liquidating Trust

For all federal income tax purposes, the beneficiaries of the Liquidating Trust will be treated as grantors and owners thereof and it is intended that the Liquidating Trust be classified as a Liquidating Trust under 26 C.F.R. § 301.7701-4 and that the Liquidating Trust is owned by the beneficiaries. Accordingly, for federal income tax purposes, it is intended that the beneficiaries be treated as if they had received a Distribution of an undivided interest in the Liquidating Trust Assets and then contributed such interests to the Liquidating Trust. Accordingly, the Liquidating Trust shall, in an expeditious but orderly manner, liquidate and convert to Cash the Liquidating Trust Assets, make timely Distributions to the beneficiaries pursuant to the Plan, and not unduly prolong the Liquidating Trust's duration. The Liquidating Trust shall not be deemed a successor in interest of the Debtors for any purpose other than as specifically set forth herein or in the Liquidating Trust Agreement. The Liquidating Trust is intended to qualify as a "grantor trust" for federal income tax purposes with the beneficiaries treated as grantors and owners of the trust.

The Liquidating Trust shall file returns for the Liquidating Trust, except with respect to any Disputed Claims Reserve, as a grantor trust pursuant to Treasury Regulation Section 1.671-4(a) and in accordance with this Section of the Plan. The Liquidating Trust's taxable income, gain, loss, deduction or credit will be allocated to each holder in accordance with their relative beneficial interests in the Liquidating Trust.

As soon as possible after the Effective Date, the Liquidating Trust shall make a good faith valuation of assets of the Liquidating Trust, and such valuation shall be used consistently by all parties for all federal income tax purposes. The Liquidating Trust also shall file (or cause to be filed) any other statements, returns, or disclosures relating to the Liquidating Trust that are required by any Governmental Unit for taxing purposes.

The Liquidating Trust shall file all income tax returns with respect to any income attributable to the Disputed Claims Reserve, if any, and shall pay any federal, state and local income taxes attributable to the Disputed Claims Reserve, based on the items of income, deduction, credit or loss allocable thereto.

The Liquidating Trust may request an expedited determination of Taxes of the Debtors or of the Liquidating Trust, including the Disputed Claims Reserve, under Bankruptcy Code Section 505(b) for all returns filed for, or on behalf of, the Debtors and the Liquidating Trust for all taxable periods through the dissolution of the Liquidating Trust.

The Liquidating Trustee shall be responsible for filing all federal, state, local and foreign tax returns for the Debtors and the Liquidating Trust. The Liquidating Trust shall comply with all withholding and reporting requirements imposed by any federal, state, local, or foreign taxing authority, and all Distributions made by the Liquidating Trust shall be subject to any such withholding and reporting requirements.

The Liquidating Trustee shall send annually to each beneficiary of the Liquidating Trust who is the holder of an Allowed Claim a separate statement stating the beneficiary's share of income, gain, loss, deduction or credit and instructing all such beneficiaries to report such items on their Federal tax returns (and state tax returns if required by applicable law).

Section 8.05 Distribution; Withholding

Notwithstanding anything in the Plan to the contrary, the Liquidating Trustee shall make, or cause to be made, all Distributions under the Plan and the Liquidating Trust Agreement other than those Distributions made by the Debtors on the Effective Date.

The Liquidating Trust may withhold from amounts distributable to any Entity any and all amounts, determined in the Liquidating Trustee's sole discretion, required by the Plan or Liquidating Trust Agreement, or applicable law, regulation, rule, ruling, directive, or other governmental requirement.

Section 8.06 Insurance

The Liquidating Trustee shall be authorized, but not required, to obtain any insurance coverages deemed reasonably necessary, at the Liquidation Trust's sole expense.

Section 8.07 Other Rights and Duties of the Liquidating Trustee

In addition to the Liquidating Trustee's rights and duties with respect to the Liquidating Trust under the Plan, Confirmation Order and Liquidating Trust Agreement, on and after the Effective Date, the Liquidating Trustee shall be (1) authorized to implement the Plan and any

applicable orders of the Bankruptcy Court, and (2) shall be deemed to be appointed as successor Foreign Representative, and authorized and empowered to seek such other and further relief in the Foreign Proceeding as may be necessary to effectuate and implement the terms of the Plan, Liquidating Trust Agreement and Confirmation Order.

On the Effective Date, the Liquidating Trust shall also: (1) take possession of all books, records, and files of the Debtors and their Estates, in all forms including electronic and hard copy, other than the Debtors' Professionals' documents; and (2) provide for the retention and storage of such books, records, and files until such time as the Liquidating Trust determines, in accordance with the Liquidating Trust Agreement, that retention of same is no longer necessary or required.

The Liquidating Trustee shall be authorized to collect and liquidate all uncollected and unliquidated Liquidating Trust Assets including tax refunds.

Any and all rights to conduct investigations and institute litigation with respect to Causes of Action, Avoidance Actions or claims not released by the Debtors shall vest with the Liquidating Trust and shall continue until dissolution of the Liquidating Trust, as if neither the Confirmation Date nor the Effective Date had occurred.

The filing of the final monthly report (for the month in which the Effective Date occurs) and all subsequent quarterly reports shall be the responsibility of the Liquidating Trustee.

Section 8.08 Disputed Claims Reserve

The Liquidating Trustee may establish and maintain, in accordance with the Liquidating Trustee's powers and responsibilities under the Plan and the Liquidating Trust Agreement, and to the extent it becomes necessary, a Disputed Claims Reserve. The Liquidating Trustee may, in his or her reasonable discretion, distribute such amounts (net of any expenses, including any taxes relating thereto), as provided herein and in the Liquidating Trust Agreement, as Disputed Claims are resolved, and such amounts may be distributed on account of such Disputed Claims as if such Disputed Claims were Allowed Claims as of the Effective Date.

Section 8.09 Wind-Down

In addition to the Liquidating Trustee's rights and duties with respect to the Liquidating Trust, on and after the Effective Date, the Liquidating Trustee has the power and authority to take any action necessary to wind down and dissolve the Debtors.

As soon as practicable after the Effective Date, the Liquidating Trustee shall: (1) in the Liquidating Trustee's reasonable discretion, complete and file all final or otherwise required federal, state, and local tax returns for each of the Debtors, and pursuant to Section 505(b) of the Bankruptcy Code, may request an expedited determination of any unpaid tax liability of such Debtors or its Estates for any tax incurred during the administration of such Debtor's Chapter 11 Case, as determined under applicable tax laws; and (2) take such other actions as the Liquidating Trustee may determine to be necessary or desirable to carry out the purposes of the Plan. From and after the Effective Date, the Debtors for all purposes shall be deemed to have withdrawn their business operations from any state in which the Debtors was previously conducting, or is

registered or licensed to conduct, their business operations, and shall not be required to file any document, pay any sum, or take any other action in order to effectuate such withdrawal, shall be deemed to have cancelled pursuant to this Plan all Equity Interests, and shall not be liable in any manner to any taxing authority for franchise, business, license, or similar taxes accruing on or after the Effective Date. For the avoidance of doubt, the dissolution of the Debtors shall not have any effect, in any manner, on the Causes of Action that the Liquidating Trustee may assert in accordance with the Plan and the Liquidating Trust Agreement and notwithstanding the Debtors' dissolution, the Debtors shall be deemed to remain intact solely with respect to the preparation, filing, review, and resolution of applications for Professional Fee Claims.

Section 8.10 Termination of the Liquidating Trust

The Liquidating Trustee shall be discharged and the Liquidating Trust shall be terminated, at such time as (1) all Disputed Claims have been resolved, (2) all of the Liquidating Trust Assets have been liquidated, (3) all duties and obligations of the Liquidating Trustee hereunder have been fulfilled, (4) all Distributions required to be made by the Liquidating Trust under the Plan and the Liquidating Trust Agreement have been made, and (5) the Chapter 11 Cases of the Debtors has been closed, but in no event shall the Liquidating Trust be dissolved later than five (5) years from the Effective Date unless the Bankruptcy Court, upon motion by the Liquidating Trustee within the six-month period prior, subject to the fifth anniversary (or the end of any extension period approved by the Bankruptcy Court), determines that a fixed period extension (not to exceed three years, together with any prior extensions, without a favorable letter ruling from the Internal Revenue Service, to the extent required under applicable law at that time, that any further extension would not adversely affect the status of the Liquidating Trust as a liquidating trust for federal income tax purposes) is necessary to facilitate or complete the liquidation, recovery and Distribution of the Liquidating Trust Assets.

Section 8.11 Transfer of Beneficial Interests

Notwithstanding anything to the contrary in the Plan, beneficial interests in the Liquidating Trust shall not be transferrable except upon death of the interest holder or by operation of law, including without limitation, pursuant to Federal Rule of Bankruptcy Procedure 3001.

Section 8.12 Termination of the Liquidating Trustee

The duties, responsibilities, and powers of the Liquidating Trustee shall terminate in accordance with the terms of the Liquidating Trust Agreement.

Section 8.13 Exculpation; Indemnification

The Liquidating Trustee, the Liquidating Trust, professionals retained by the Liquidating Trust and representatives of each of the foregoing will be exculpated and indemnified pursuant to the terms of the Liquidating Trust Agreement; provided, that the Liquidating Trust Agreement shall not include indemnification for gross negligence, willful misconduct or fraud and shall not include indemnification or exculpation for breach of contract claims.

Section 8.14 Release of Liens

Except as otherwise provided by the Plan or in any contract, instrument, release or other agreement or document created or assumed in connection with the Plan, on the Effective Date all mortgages, deeds of trust, liens, pledges or other security interests against the property of the Debtors' Estates shall be fully released and discharged, and all of the right, title and interest of any Holder of such mortgages, deeds of trust, liens, pledges or other security interests shall revert to the applicable Estates.

Section 8.15 Subordination

(a) *Preservation of Subordination Rights by Estates*

Except as otherwise provided herein, all subordination rights and claims relating to the subordination by the Debtors or the Liquidating Trustee of any Allowed Claim or Equity Interest shall remain valid, enforceable and unimpaired in accordance with Section 510 of the Bankruptcy Code or otherwise.

(b) *Preservation of Subordination Rights of CBA*

Except as otherwise provided herein, all subordination rights and claims of CBA relating to the Debtors shall remain valid, enforceable and unimpaired in accordance with Section 510 of the Bankruptcy Code or otherwise.

ARTICLE IX.
PROCEDURES FOR RESOLVING CONTINGENT, UNLIQUIDATED,
AND DISPUTED CLAIMS AND EQUITY INTERESTS

Section 9.01 Resolution of Disputed Claims

(a) *Allowance of Claims*

Prior to the Effective Date, the Debtors, and on and after the Effective Date, the Liquidating Trustee, shall have and shall retain any and all rights and defenses that the Debtors had with respect to any Claim, except with respect to any Claim deemed Allowed as of the Effective Date. Except as expressly provided in the Plan or in any order entered in the Chapter 11 Cases prior to the Effective Date (including the Confirmation Order), no Claim shall become an Allowed Claim unless and until such Claim is deemed Allowed under the Plan or the Bankruptcy Code or the Bankruptcy Court has entered a Final Order, including the Confirmation Order, in the Chapter 11 Cases allowing such Claim.

(b) *Prosecution of Objections to Claims*

Subject in all respects to the provisions hereof, other than with respect to Professional Fee Claims, prior to the Effective Date, the Debtors, and on or after the Effective Date, the Liquidating Trustee, as provided in Section 7.02 above, shall have the authority to File objections to Claims, and to settle, compromise, withdraw, or litigate to judgment objections on

behalf of the Debtors' Estates to any and all Claims, regardless of whether such Claims are in a Class or otherwise.

Subject to the foregoing and the other provisions of the Plan, from and after the Effective Date, the Liquidating Trustee (a) may settle or compromise any Disputed Claim in accordance with the Liquidating Trust Agreement or the approval of the Bankruptcy Court, as provided in Section 7.02 above; and (b) shall succeed to the Debtors' rights with respect to any objections Filed by the Debtors that remain pending as of the Effective Date. From and after the Effective Date, the Liquidating Trustee shall have the sole authority to administer and adjust the Claims Register to reflect any such settlements or compromises without any further notice to or action, order, or approval of the Bankruptcy Court.

(c) *Claims Estimation*

Prior to the Effective Date, the Debtors, and on and after the Effective Date, the Liquidating Trustee may, at any time, request that the Bankruptcy Court estimate (a) any Disputed Claim pursuant to applicable law and (b) any contingent or unliquidated Claim pursuant to applicable law, including Section 502(c) of the Bankruptcy Code, regardless of whether the Debtors or the Liquidating Trustee have previously objected to such Claim or whether the Bankruptcy Court has ruled on any such objection, and the Bankruptcy Court shall retain jurisdiction under 28 U.S.C. §§ 157 and 1334 to the maximum extent permitted by law as determined by the Bankruptcy Court to estimate any Disputed Claim, contingent Claim, or unliquidated Claim, including during the litigation concerning any objection to any Claim or during the pendency of any appeal relating to any such objection. Notwithstanding any provision otherwise in the Plan to the contrary, a Claim that has been expunged from the Claims Register but that is subject to appeal or has not been the subject of a Final Order, shall be deemed to be estimated at zero dollars, unless otherwise ordered by the Bankruptcy Court.

In the event that the Bankruptcy Court estimates any Disputed Claim, contingent Claim, or unliquidated Claim, that estimated amount shall constitute either the Allowed amount of such Claim or a maximum limitation on such Claim for all purposes under the Plan, including for purposes of Distributions, and the Liquidating Trustee may elect to pursue additional objections to the ultimate Distribution on such Claim. If the estimated amount constitutes a maximum limitation on such Claim, the Liquidating Trustee may elect to pursue any supplemental proceedings to object to any ultimate Distribution on account of such Claim. Notwithstanding Section 502(j) of the Bankruptcy Code, in no event shall any Holder of a Claim that has been estimated pursuant to Section 502(c) of the Bankruptcy Code or otherwise be entitled to seek reconsideration of such estimation unless such Holder has Filed a motion requesting the right to seek such reconsideration on or before 21 days after the date on which such Claim is estimated. All of the aforementioned Claims and objection, estimation, and resolution procedures are cumulative and not exclusive of one another. Claims may be estimated and subsequently compromised, settled, withdrawn, or resolved by any mechanism approved by the Bankruptcy Court.

Section 9.02 Disallowance of Claims

Any Claim that has been paid, satisfied, or superseded may be expunged on the Claims Register by the Liquidating Trustee and any Claim that has been amended may be adjusted thereon by the Liquidating Trustee without a Claims objection having to be Filed and without any further notice to or action, order, or approval of the Bankruptcy Court.

Section 9.03 Amendments

After the Confirmation Date, a Claim may not be filed or amended without the authorization of the Bankruptcy Court and any such new or amended Claim Filed shall be deemed Disallowed and expunged without any further notice to or action, order, or approval of the Bankruptcy Court; provided that, even with such Bankruptcy Court authorization, a Claim may be amended by the Holder of such Claim solely to decrease, but not to increase, unless otherwise provided by the Bankruptcy Court, the amount, number or priority, except as provided in Section 7.03 of this Plan.

Section 9.04 No Interest

Interest shall not accrue or be paid on any Claim, and no Holder of any Claim shall be entitled to interest accruing on and after the Petition Date on account of any Claim.

**ARTICLE X.
RETENTION OF JURISDICTION**

Section 10.01 Retention of Jurisdiction

Under Sections 105(a) and 1142 of the Bankruptcy Code, and notwithstanding entry of the Confirmation Order and occurrence of the Effective Date, and except as otherwise ordered by the Bankruptcy Court, the Bankruptcy Court shall retain exclusive jurisdiction over all matters arising out of, and related to, these Chapter 11 Cases and the Plan to the fullest extent permitted by law (provided, however, that notwithstanding the foregoing, with respect to all civil proceedings arising under the Bankruptcy Code or arising in or related to these Chapter 11 Cases and the Plan, the Bankruptcy Court shall have original but not exclusive jurisdiction, in accordance with Section 1334(b) of Title 28 of the United States Code), including, among other things, jurisdiction to:

(I) allow, disallow, determine, liquidate, classify, estimate, or establish the priority, secured, or unsecured status of any Claim or Equity Interest not otherwise Allowed under the Plan (other than personal injury or wrongful death Claims, unless agreed by the Holder), including the resolution of any request for payment of any Administrative Claim and the resolution of any objections to the allowance or priority of Claims or Equity Interests;

(II) hear and determine all applications for compensation and reimbursement of expenses of Professionals under the Plan or under Sections 327, 328, 330, 331, 503(b), 1103, and 1129(a)(4) of the Bankruptcy Code; provided, however, that from and after the Effective Date, the payment of the fees and expenses

of the Professionals of the Liquidating Trust and shall be made in the ordinary course of business and, absent objection, shall not be subject to the approval of the Bankruptcy Court;

(III) hear and determine all matters with respect to the assumption or rejection of any Executory Contract or Unexpired Lease to which a Debtor is a party or with respect to which a Debtor may be liable, including, if necessary, the nature or amount of any required Cure or the liquidation or allowance of any Claims arising therefrom;

(IV) effectuate performance of and payments under the provisions of the Plan and enforce remedies upon any default under the Plan;

(V) hear and determine any and all adversary proceedings, motions, applications, and contested or litigated matters arising out of, under, or related to, these Chapter 11 Cases, any litigation rights or the Plan whether Filed or commenced before or after the Confirmation Hearing;

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

(VII) hear and determine any and all disputes arising in connection with the interpretation, implementation, consummation, or enforcement of the Plan, including disputes arising under agreements, documents, or instruments executed in connection with the Plan;

(VIII) consider any modifications of the Plan, cure any defect or omission, or reconcile any inconsistency in any order of the Bankruptcy Court, including, without limitation, the Confirmation Order;

(IX) issue injunctions, enter and implement other orders, or take such other actions as may be necessary or appropriate to restrain interference by any Entity with the implementation, consummation, or enforcement of the Plan or the Confirmation Order;

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

(XI) hear and determine any matters arising in connection with or relating to the Plan, the Plan Supplement, the schedules to the Plan, the Disclosure Statement, the Confirmation Order, or any contract, instrument, release, or other agreement or document created in connection with the Plan, the Plan Supplement, the schedules to the Plan, the Disclosure Statement, or the Confirmation Order;

(XII) enforce, interpret, and determine any disputes arising in connection with any stipulations, orders, judgments, injunctions, releases, exculpations, indemnifications, and rulings entered in connection with these Chapter 11 Cases (whether or not these Chapter 11 Cases have been closed);

(XIII) except as otherwise limited herein, recover all assets of the Debtors and property of the Estates, wherever located;

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

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

(XVI) enter a final decree closing these Chapter 11 Cases.

Section 10.02 Failure of the Bankruptcy Court to Exercise Jurisdiction

If the Bankruptcy Court abstains from exercising, or declines to exercise, jurisdiction or is otherwise without jurisdiction over any matter arising in, arising under, or related to these Chapter 11 Cases, including the matters set forth in Section 11.01 below, the provisions of this Article X shall have no effect upon and shall not control, prohibit, or limit the exercise of jurisdiction by any other court having jurisdiction with respect to such matter.

ARTICLE XI.

SETTLEMENT, RELEASES, INJUNCTIONS AND EXCULPATIONS

Section 11.01 Compromises and Settlements

Pursuant to Bankruptcy Rule 9019(a), the Debtors may compromise and settle various (a) Claims and (b) Causes of Action that the Debtors has against other Entities up to the Effective Date. After the Effective Date, any such right shall pass to the Liquidating Trustee as contemplated in Section 8.03 above, without the need for further approval of the Bankruptcy Court.

Pursuant to Section 363 of the Bankruptcy Code and Bankruptcy Rule 9019 and in consideration for the distributions and other benefits provided pursuant to the Plan or any distribution to be made on account of an Allowed Claim, the provisions of the Plan shall constitute a good faith compromise of all Claims, Equity Interests, and controversies relating to the contractual, legal, and subordination rights that a Holder of a Claim or Equity Interest may have with respect to any Allowed Claim or Allowed Equity Interest. The entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of the compromise or settlement of all such Claims, Equity Interests and controversies, as well as a finding by the Bankruptcy Court that any such compromise or settlement is in the best interests of the Debtors, their Estates, and Holders of Claims and Equity Interests, and is fair, equitable, and reasonable.

Section 11.02 Releases by the Debtors

Pursuant to Section 1123(b) of the Bankruptcy Code, and except as otherwise specifically provided in the Plan, on and after the Effective Date, the Released Parties shall be deemed released and discharged by the Debtors and their Estates from any and all claims, obligations, debts, rights, suits, damages, Causes of Action, remedies, and liabilities whatsoever, including any derivative claims asserted on behalf of the Debtors, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, that the debtors or their respective estates would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the holder of any Claim or Equity Interest or other entity, based on or relating to, or in any manner arising from, in whole or in part, the Debtors, the Chapter 11 Cases, the Senior Secured Credit Documents, the purchase, sale, or rescission of the purchase or sale of any security, loans, or assets of the Debtors, the subject matter of, or the transactions or events giving rise to, any Claim or Equity Interest that is treated in the Plan, the business or contractual arrangements between any Debtor and any Released Party, the restructuring, liquidation, cancellation, or settlement of Claims and Equity Interests prior to or in the Chapter 11 Cases, the negotiation, formulation, or preparation of the Plan, the Disclosure Statement, or any related motions, orders, supplements, or other documents filed or entered in the Chapter 11 Cases, any other act or omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date, other than claims or liabilities arising out of or relating to any act or omission of a Released Party that constitutes fraud, willful misconduct, or gross negligence; *provided* that the foregoing shall not operate to waive and release any claims, obligations, debts, rights, suits, damages, Causes of Action, or remedies of the Debtors (a) expressly preserved by the Plan or Confirmation Order or (b) arising after the Effective Date under or related to any agreements or documents executed to implement the Plan or assumed pursuant to the Plan.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the Debtor Release, which includes by reference each of the related provisions and definitions contained in the Plan, and further, shall constitute the Bankruptcy Court's finding that the Debtor Release is: (a) in exchange for the good and valuable consideration provided by the Released Parties; (b) a good-faith settlement and compromise of the Claims released by the Debtor Release; (c) in the best interests of the Debtors and all holders of Claims and Equity Interests; (d) fair, equitable, and reasonable; (e) given and made after due notice and opportunity for hearing; and (f) a bar to any of the Debtors, the Debtors' Estates, or the Liquidating Trust asserting any claim or Cause of Action released pursuant to the Debtor Release.

Section 11.03 Releases by Holders of Claims and Equity Interests

As of the Effective Date, the Releasing Parties shall be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever released and discharged the Released Parties from any and all claims, obligations, debts, rights, suits, damages, Causes of Action, remedies, and liabilities whatsoever, including any derivative claims asserted on behalf of a Debtor, whether known or unknown, foreseen or unforeseen, existing or hereafter arising, in law, equity, or otherwise, that such Person would have been legally entitled to assert

(whether individually or collectively), based on or relating to, or in any manner arising from, in whole or in part, the Debtors, the Chapter 11 Cases, the Senior Secured Credit Documents, the purchase, sale, or rescission of the purchase or sale of any security, loans, or assets of the Debtors, the subject matter of, or the transactions or events giving rise to, any Claim or Equity Interest that is treated in the Plan, the business or contractual arrangements between any Debtor and any Released Party, the restructuring, liquidation, cancellation, or settlement of Claims and Equity Interests prior to or in the Chapter 11 Cases, the negotiation, formulation, or preparation of the Plan, the Disclosure Statement, or any related motions, orders, supplements, or other documents filed or entered in the Chapter 11 Cases, any other act or omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date, other than claims or liabilities arising out of or relating to any act or omission of a Released Party that constitutes fraud, willful misconduct, or gross negligence; *provided* that the foregoing shall not operate to waive and release any claims, obligations, debts, rights, suits, damages, Causes of Action, or remedies of the Debtors or Liquidating Trust (a) expressly preserved by the Plan or Confirmation Order or (b) arising after the Effective Date under or related to any agreements or documents executed to implement the Plan or assumed pursuant to the Plan.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the Third-Party Release, which includes by reference each of the related provisions and definitions contained herein, and, further, shall constitute the Bankruptcy Court's finding that the Third-Party Release is: (a) consensual; (b) essential to the confirmation of the Plan; (c) given in exchange for the good and valuable consideration provided by the Released Parties; (d) a good-faith settlement and compromise of the Claims released by the Third-Party Release; (e) in the best interests of the Debtors and their Estates; (f) fair, equitable, and reasonable; (g) given and made after due notice and opportunity for hearing; and (h) a bar to any of the Releasing Parties asserting any claim or Cause of Action released pursuant to the Third-Party Release.

Notwithstanding any language to the contrary contained in the Disclosure Statement, Plan and/or the Confirmation Order, or an abstention from voting on the Plan, no provision of this Plan or the Confirmation Order shall (i) preclude the United States Securities and Exchange Commission ("SEC") from enforcing its police or regulatory powers; (ii) release any non-debtor person or entity from liability in connection with any legal action or claim brought by the SEC or, (iii) enjoin, limit, impair or delay the SEC from commencing or continuing any claims, causes of action, proceedings or investigations against any non-debtor person or entity in any forum.

Section 11.04 Exculpation

The Exculpated Parties shall neither have nor incur any liability to any Entity for any Exculpated Claim; provided, however, that the foregoing "exculpation" shall have no effect on the liability of any Entity that results from any such act or omission that is determined in a Final Order to have constituted gross negligence or willful misconduct.

The Exculpated Parties have, and upon Confirmation shall be deemed to have, participated in good faith and in compliance with the applicable provisions of the

Bankruptcy Code and, therefore, are not and shall not be liable at any time for the violations of any applicable, law, rule, or regulation governing the solicitation of acceptances or rejections of the Plan or such Distributions made pursuant to the Plan.

Section 11.05 Injunction

The satisfaction and release pursuant to this Article XI shall act as an injunction, from and after the Effective Date, against any Entity (a) commencing or continuing in any manner or in any place, any action, employment of process, or other proceeding; (b) enforcing, attaching, collecting, or recovering in any manner any judgment, award, decree or order; (c) creating, perfecting, or enforcing any lien or encumbrance; (d) asserting a setoff, right of subrogation, or recoupment of any kind against any debt, liability, or obligation due to the Debtors, except as set forth in Section 11.066 below, in each case with respect to any Claim, or Cause of Action satisfied, released or to be released, exculpated or to be exculpated under this Plan or pursuant to the Confirmation Order and to the fullest extent authorized or provided by the Bankruptcy Code, including to the extent provided for or authorized by Section 524 thereof; provided, however, that nothing contained herein shall preclude such Entities from exercising their rights pursuant to and consistent with the terms of this Plan or the Confirmation Order.

Section 11.06 Setoffs

Except as otherwise provided in the Plan, prior to the Effective Date, the Debtors, and on and after the Effective Date, the Liquidating Trustee, pursuant to the Bankruptcy Code (including Section 553 of the Bankruptcy Code), applicable non-bankruptcy law, or as may be agreed to by the Holder of a Claim or Equity Interest, may reduce, diminish, discount, compromise, or setoff against, and reduce the amount of, any Allowed Claim or Equity Interest on account of any Proof of Claim or other pleading Filed with respect thereto prior to the Confirmation Hearing and the Distributions to be made pursuant to the Plan on account of such Allowed Claim or Equity Interest (before any Distribution is made on account of such Allowed Claim or Equity Interest), any claims, rights, Causes of Action and Avoidance Actions of any nature that the Debtors' Estates may hold against the Holder of such Allowed Claim or Equity Interest, to the extent such claims, rights, or Causes of Action against such Holder have not been otherwise compromised or settled on or prior to the Effective Date (whether pursuant to the Plan or otherwise), including any rights under Section 502(d) of the Bankruptcy Code, provided that neither the failure to effect such a setoff nor the allowance of any Claim or Equity Interest pursuant to the Plan shall constitute a waiver or release by the Debtors or the Liquidating Trustee, as applicable, of any such claims, rights, Causes of Action and Avoidance Actions that the Debtors' Estates may possess against such Holder. In no event shall any Holder of Claims or Equity Interests be entitled to setoff any Claim or Equity Interest against any claim, right, Cause of Action or Avoidance Actions of the Debtors' Estates unless such Holder has preserved such setoff by timely Filing a Proof of Claim or by such other Filing made prior to the Confirmation Hearing asserting such setoff right. Further, nothing in the Plan shall prejudice or be deemed to have prejudiced the Debtors' or the Liquidating Trustee's right to assert that any Holder's setoff rights were required to have been asserted by motion or pleading filed with the Bankruptcy Court prior to the Effective Date and that the filing of a Proof of Claim was not sufficient.

Section 11.07 Term of Injunctions or Stays

Unless otherwise provided herein or in the Confirmation Order, all injunctions or stays provided for in these Chapter 11 Cases under Sections 105 or 362 of the Bankruptcy Code or otherwise, and extant on the Confirmation Date (excluding any injunctions or stays contained in the Plan or the Confirmation Order), shall remain in full force and effect until the Debtors' bankruptcy cases are closed except for the injunctions provided in Section 11.055 above, which shall be permanent injunctions.

ARTICLE XII.
CONDITIONS PRECEDENT TO CONFIRMATION
AND EFFECTIVENESS OF THE PLAN

Section 12.01 Conditions to Confirmation and Effectiveness

(a) *Conditions to Confirmation Date*

The following conditions precedent to the occurrence of the Confirmation Date must be satisfied unless any such condition shall have been waived by the Debtors in accordance with Section 12.03 of the Plan:

1. the Bankruptcy Court shall have entered the Confirmation Order; and
2. the Liquidating Trust Agreement and Plan Supplement, including any amendments, modifications, or supplements thereto shall be in form and substance materially consistent with this Plan in all respects.

(b) *Conditions to Effectiveness*

The following conditions precedent to the occurrence of the Effective Date must be satisfied unless any such condition shall have been waived by the Debtors in accordance with Section 12.03 below:

1. the Bankruptcy Court shall have entered the Disclosure Statement Order, in form and substance acceptable to CBA;
2. the Confirmation Order, in form and substance acceptable to CBA, shall have become a Final Order not subject to any stay;
3. the Debtors shall have paid all reasonable fees and expenses of Paul Hastings LLP and Carl Marks Advisory Group, including estimated fees and expenses incurred through the Effective Date, in full, in Cash;
4. all actions and all agreements (including the Liquidating Trust Agreement), instruments, or other documents necessary to implement the terms and provisions of the Plan are effected or executed and delivered, as applicable;

5. the conditions to Confirmation shall have been satisfied or waived;
6. the Professional Fee Reserve is funded pursuant to Section 13.02 hereof; and
7. the Liquidating Trust Cost Reserve is funded pursuant to Section 5.03 above.

Section 12.02 Notice of Occurrence of the Effective Date

The Debtors or Liquidating Trustee shall File a notice of the occurrence of the Effective Date within five (5) business days after the Effective Date; provided, however, that failure to timely File such notice shall not affect the occurrence of the Effective Date.

Section 12.03 Waiver of Conditions

Each of the conditions set forth in this Article XII may be waived in whole or in part by the Debtors, with the prior written consent of CBA, without any notice to parties-in-interest or the Bankruptcy Court and without a hearing.

Section 12.04 Consequences of Non-Occurrence of Effective Date

If the Confirmation Order is vacated, (a) the Plan shall be null and void in all respects; (b) any settlement of Claims or Equity Interests provided for hereby shall be null and void without further order of the Bankruptcy Court; and (c) to the extent permitted under the Bankruptcy Code, the time within which the Debtors may assume and assign or reject all Executory Contracts and Unexpired Leases shall be extended for a period of forty-five (45) days after the date the Confirmation Order is vacated.

**ARTICLE XIII.
MISCELLANEOUS PROVISIONS**

Section 13.01 Administrative Claims

All Administrative Claims (other than Professional Fee Claims) that were not required to be Filed on or before a previous Administrative Claims Bar Date must be made by application Filed with the Bankruptcy Court and served on counsel for the Debtors and, if after the Effective Date, the Liquidating Trustee no later than the Administrative Claims Bar Date or their Administrative Claims shall be forever barred. In the event that the Liquidating Trustee or Debtors objects to an Administrative Claim, the Bankruptcy Court shall determine the Allowed amount of such Administrative Claim.

With respect to Administrative Claims, the last day for Filing an objection to any Administrative Claim will be the Claims Objection Deadline.

Section 13.02 Professional Fee Claims

All final requests for payment of Professional Fee Claims pursuant to Sections 327, 328, 330, 331, 503(b), or 1103 of the Bankruptcy Code must be made by application Filed with the Bankruptcy Court and served on the Debtors, their counsel, the Liquidating Trustee, its counsel, and other necessary parties-in-interest no later than forty-five (45) days after the Effective Date, unless otherwise ordered by the Bankruptcy Court. Objections to such applications must be Filed and served on the Debtors, their counsel, Liquidating Trustee, its counsel and the requesting Professional or other Entity on or before the date that is twenty-one (21) days (or such longer period as may be allowed by order of the Bankruptcy Court or by agreement with the requesting Professional) after the date on which the applicable application was served.

All Professional Fee Claims shall be paid by the Liquidation Trust to the extent approved by order of the Bankruptcy Court within seven (7) days after entry of such order. On the Effective Date, the Liquidation Trust shall establish the Professional Fee Reserve. The Professional Fee Reserve shall vest in the Liquidation Trust and shall be maintained by the Liquidation Trustee in accordance with the Plan. The Liquidation Trustee shall fully fund the Professional Fee Reserve on the Effective Date in an amount that is agreed upon by the Debtors prior to the Confirmation Hearing and that approximates the total projected amount of unpaid Professional Fee Claims on the Effective Date. All Professional Fee Claims that have not previously been paid, otherwise satisfied, or withdrawn shall be paid from the Professional Fee Reserve. Any excess funds in the Professional Fee Reserve shall be released to the Liquidation Trust to be used for other purposes consistent with the Plan. For the avoidance of doubt, the Professional Fee Reserve is an estimate and shall not be construed as a cap on the Liquidation Trust's obligation to pay in full Allowed Professional Fee Claims.

The Liquidating Trustee may, subject to the Liquidating Trust Agreement and Section 7.02, retain professionals and pay reasonable professional fees and expenses in connection with services rendered to the Liquidating Trustee after the Effective Date without application to or approval by the Bankruptcy Court.

Section 13.03 Modifications and Amendments

Subject to the limitations contained in the Plan, the Debtors, with the consent of CBA, reserves the right to modify the Plan as to material terms and seek Confirmation consistent with the Bankruptcy Code and, as appropriate, not resolicit votes on such modified Plan. Subject to certain restrictions and requirements set forth in Section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019 and those restrictions on modifications set forth in the Plan, the Debtors expressly reserves their right to alter, amend, or modify materially the Plan, one or more times, after Confirmation, but only until the Effective Date and, to the extent necessary, may initiate proceedings in the Bankruptcy Court to so alter, amend, or modify the Plan, or remedy any defect or omission, or reconcile any inconsistencies in the Plan, the Disclosure Statement, or the Confirmation Order, in such matters as may be necessary to carry out the purposes and intent of the Plan. Any such modification or supplement shall be considered a modification of the Plan and shall be made in accordance with Article XIII hereof.

After the Effective Date, the Liquidating Trustee can modify the Plan only in accordance with Section 1127 of the Bankruptcy Code and applicable law.

Section 13.04 Severability of Plan Provisions

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

Section 13.05 Successors and Assigns and Binding Effect

The rights, benefits, and obligations of any Entity named or referred to in the Plan shall be binding on, and shall inure to the benefit of, any heir, executor, administrator, personal representative, successor, or assign of such Entity, including, but not limited to, the Liquidating Trustee and all other parties-in-interest in these Chapter 11 Cases such as Holders of Claims and Equity Interests.

Section 13.06 Revocation, Withdrawal or Non-Consummation

The Debtors reserves their right to revoke or withdraw the Plan at any time prior to the Confirmation Date and to File subsequent plans. If the Debtors revokes or withdraws the Plan prior to the Confirmation Date, or if Confirmation or the Effective Date does not occur, then (a) the Plan shall be null and void in all respects, (b) any settlement or compromise embodied in the Plan (including the fixing or limiting to an amount certain any Claim or Class of Claims), assumption or rejection of Executory Contracts or Unexpired Leases effected by the Plan, and any document or agreement executed pursuant to the Plan shall be deemed null and void, and (c) nothing contained in the Plan, and no acts taken in preparation for consummation of the Plan, shall (i) constitute or be deemed to constitute a waiver or release of (x) any Claims against, or any Equity Interests in, the Debtors, or (y) any Avoidance Actions, litigation rights or other claims by or against the Debtors or any Entity, (ii) prejudice in any manner the rights of the Debtors or any Entity in any further proceedings involving the Debtors, or (iii) constitute an admission of any sort by the Debtors or any other Entity.

Section 13.07 Plan Supplement

The Plan Supplement shall be Filed with the Bankruptcy Court and posted on the Claims Agent's website at <http://www.jndla.com/cases/nighthawk> (the "Website") at least fourteen (14) days prior to the Confirmation Hearing or by such later date as may be established by order of the Bankruptcy Court. Upon such Filing and posting on the Website, all documents set forth in the Plan Supplement may be accessed on the Website or inspected in the office of the Clerk of

the Bankruptcy Court during normal business hours. Holders of Claims or Equity Interests may obtain a copy of any document set forth in the Plan Supplement upon written request to the Debtors in accordance with Section 13.10 of this Plan.

Section 13.08 Continued Confidentiality Obligations

Notwithstanding any other provision of the Plan, any holder of a Claim or Equity Interest and their respective predecessors, successors and assigns shall continue to be obligated and bound by the terms of any confidentiality agreement executed by them in connection with these Chapter 11 Cases or the Debtors, to the extent that such agreement, by its terms, may continue in effect after the Confirmation Date for a period of one (1) year.

Section 13.09 Termination of Public Reporting and Filings Obligations

This Plan provides for the liquidation of the Debtors and extinguishment of all Equity Interests in the Debtors on the Effective Date of the Plan. As a publicly listed company in England, Nighthawk Energy may have certain regulatory filing and disclosure obligations English regulatory agencies. Upon the Effective Date and subject to applicable law, the Debtors, including Nighthawk Energy, and the Liquidating Trustee shall be excused and relieved of any such further or future regulatory filings and disclosure requirements.

Section 13.10 Notices

Any notice, request, or demand required or permitted to be made or provided under the Plan shall be (a) in writing, (b) served by (i) certified mail, return receipt requested, (ii) hand delivery, (iii) overnight delivery service, (iv) first class mail, or (v) facsimile transmission, and (c) deemed to have been duly given or made when actually delivered or, in the case of notice by facsimile transmission, when received and telephonically confirmed, addressed as follows:

If to the Debtors:

Greenberg Traurig, P.A.
Attn: Mark D. Bloom, Esq.
Ari Newman, Esq.
333 S.E. 2nd Avenue
Suite 4400
Miami, FL 33131
Tel: (305) 579-0868
Fax: (305) 579-0717

Section 13.11 Computation of Time

In computing any period of time prescribed or allowed by the Plan, the provisions of Rule 9006(a) of the Bankruptcy Rules shall apply.

Section 13.12 Governing Law

Unless a rule of law or procedure is supplied by federal law (including the Bankruptcy Code and Bankruptcy Rules), the laws of (a) the State of Delaware shall govern the construction and implementation of the Plan and (except as may be provided otherwise in any such agreements, documents, or instruments) any agreements, documents, and instruments executed in connection with the Plan and (b) the laws of the state of incorporation of the Debtors shall govern corporate governance matters with respect to the Debtors; in each case without giving effect to the principles of conflicts of law thereof.

Section 13.13 Exhibits

All exhibits to the Plan and Disclosure Statement or the Plan Supplement are incorporated into and are a part of this Plan as if set forth in full herein, and, to the extent not annexed hereto, such exhibits shall be Filed with the Bankruptcy Court on or before the date of the Filing of the Plan Supplement. Upon such Filing, all exhibits may be accessed through the Website or inspected in the office of the Clerk of the Bankruptcy Court during normal business hours. Holders of Claims or Equity Interests may also obtain a copy of any exhibit upon written request to the Debtors in accordance with Section 13.10 of this Plan. To the extent any exhibit is inconsistent with the terms of the Plan, unless otherwise ordered by the Bankruptcy Court, the non-exhibit portion of the Plan shall control.

Section 13.14 Conflicts

To the extent any provision of the Disclosure Statement or any instrument, document or agreement executed in connection with the Plan or any exhibits, schedules, appendices, supplements or amendments to the foregoing conflicts with or is in any way inconsistent with the terms of the Plan, the terms and provisions of the Plan shall govern and control. To the extent of any inconsistency between the Plan and the Confirmation Order, the terms of the Confirmation Order shall govern and control.

Section 13.15 Exemption

Under Section 1145 of the Bankruptcy Code, the issuance of the beneficial interests in the Liquidating Trust and other securities under this Plan shall be exempt from registration under the Securities Act of 1933, as amended and all applicable state and local laws requiring registration of securities. If the Liquidating Trustee determines, with the advice of counsel, that the Liquidating Trust is required to comply with the registration and reporting requirements of the Securities and Exchange Act of 1934, as amended, or the Investment Company Act of 1940, as amended, then the Liquidating Trustee shall take any and all actions to comply with such reporting requirements and file necessary periodic reports with the Securities and Exchange Commission.

Section 13.16 Substitution of the Liquidating Trust for the Debtors

On the Effective Date, the Liquidating Trust shall be deemed to be substituted as the party in lieu of the Debtors in all pending matters including but not limited to (i) motions, contested matters and adversary proceedings pending in the Bankruptcy Court, and (ii) all

matters pending in any courts, tribunals, forums or administrative proceedings outside of the Bankruptcy Court without the need or requirement for the Liquidating Trust to file motions or substitutions of parties and counsel.

Section 13.17 Termination of Employees and Health Care Plans

On the Effective Date, any employees and independent contractors of the Debtors, if any, shall be deemed terminated without any further action of the Debtors or the Court. In addition, on the Effective Date, any employee health care plan maintained by the Debtors and still in effect, if any, shall be deemed terminated without any further action of the Debtors or the Court.

Dated: October 10, 2018

NIGHTHAWK ROYALTIES LLC, AND ITS
AFFILIATED DEBTORS AND DEBTORS IN
POSSESSION

/s/ Chuck Wilson

Name: Chuck Wilson

Title: Chief Operating Officer of the Debtors

GREENBERG TRAURIG, LLP

/s/ Dennis A. Meloro

Dennis A. Meloro (DE Bar No. 4435)

The Nemours Building

1007 North Orange Street, Suite 1200

Wilmington, Delaware 19801

Telephone: (302) 661-7000

Facsimile: (302) 661-7360

Email: melorod@gtlaw.com

-and-

Mark D. Bloom (*pro hac vice pending*)

John R. Dodd (*pro hac vice pending*)

Ari Newman (*pro hac vice pending*)

Greenberg Traurig, P.A.

333 S.E. 2nd Avenue, Suite 4400

Miami, FL 33131

Telephone: (305) 579-0500

Facsimile: (305) 579-0717

Email: bloomm@gtlaw.com

doddj@gtlaw.com

newmanar@gtlaw.com

*Counsel for the Debtors
and Debtors-in-Possession*