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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF MISSOURI**

In re:)
ARMSTRONG ENERGY, INC., *et al.*,) Chapter 11
Debtors.) Case No. 17-47541-659
) (Jointly Administered)
)

**DISCLOSURE STATEMENT FOR
DEBTORS' JOINT CHAPTER 11 PLAN**

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THE DEBTORS ARE PROVIDING THE INFORMATION IN THIS DISCLOSURE STATEMENT TO HOLDERS OF CLAIMS AND INTERESTS FOR PURPOSES OF SOLICITING VOTES TO ACCEPT OR REJECT THE DEBTORS' JOINT CHAPTER 11 PLAN. NOTHING IN THIS DISCLOSURE STATEMENT MAY BE RELIED UPON OR USED BY ANY ENTITY FOR ANY OTHER PURPOSE. BEFORE DECIDING WHETHER TO VOTE FOR OR AGAINST THE PLAN, EACH HOLDER ENTITLED TO VOTE SHOULD CAREFULLY CONSIDER ALL OF THE INFORMATION IN THIS DISCLOSURE STATEMENT, INCLUDING THE RISK FACTORS DESCRIBED HEREIN.

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THIS DISCLOSURE STATEMENT CONTAINS, AMONG OTHER THINGS, SUMMARIES OF THE PLAN, CERTAIN STATUTORY PROVISIONS, AND CERTAIN EVENTS IN THE CHAPTER 11 CASES. ALTHOUGH THE DEBTORS BELIEVE THAT THESE SUMMARIES ARE FAIR AND ACCURATE, THESE SUMMARIES ARE QUALIFIED IN THEIR ENTIRETY TO THE EXTENT THAT THEY DO NOT SET FORTH THE ENTIRE TEXT OF SUCH DOCUMENTS OR STATUTORY PROVISIONS OR EVERY DETAIL OF SUCH EVENTS. IN THE EVENT OF ANY INCONSISTENCY OR DISCREPANCY BETWEEN A DESCRIPTION IN THIS DISCLOSURE STATEMENT AND THE TERMS AND PROVISIONS OF THE PLAN OR ANY OTHER DOCUMENTS INCORPORATED HEREIN BY REFERENCE, THE PLAN OR SUCH OTHER DOCUMENTS WILL GOVERN FOR ALL PURPOSES. FACTUAL INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT HAS BEEN PROVIDED BY THE DEBTORS' MANAGEMENT OR THIRD-PARTY ADVISORS EXCEPT WHERE OTHERWISE SPECIFICALLY NOTED. THE DEBTORS DO NOT REPRESENT OR WARRANT THAT THE INFORMATION CONTAINED HEREIN OR ATTACHED HERETO IS WITHOUT ANY MATERIAL INACCURACY OR OMISSION.

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THIS DISCLOSURE STATEMENT WAS NOT FILED WITH THE SECURITIES AND EXCHANGE COMMISSION OR ANY STATE AUTHORITY AND NEITHER THE SECURITIES AND EXCHANGE COMMISSION NOR ANY STATE AUTHORITY HAS PASSED UPON THE ACCURACY OR ADEQUACY OF THIS DISCLOSURE STATEMENT OR UPON THE MERITS OF THE PLAN.

IN PREPARING THIS DISCLOSURE STATEMENT, THE DEBTORS RELIED ON FINANCIAL DATA DERIVED FROM THE DEBTORS' BOOKS AND RECORDS AND ON VARIOUS ASSUMPTIONS REGARDING THE DEBTORS' BUSINESSES. WHILE THE DEBTORS BELIEVE THAT SUCH FINANCIAL INFORMATION FAIRLY REFLECTS THE FINANCIAL CONDITION OF THE DEBTORS AS OF THE DATE HEREOF AND THAT THE ASSUMPTIONS REGARDING FUTURE EVENTS REFLECT REASONABLE BUSINESS JUDGMENTS, NO REPRESENTATIONS OR WARRANTIES ARE MADE AS TO THE ACCURACY OF THE FINANCIAL INFORMATION CONTAINED HEREIN OR ASSUMPTIONS REGARDING THE DEBTORS' BUSINESSES AND THEIR FUTURE RESULTS AND OPERATIONS. THE DEBTORS EXPRESSLY CAUTION READERS NOT TO PLACE UNDUE RELIANCE ON ANY FORWARD-LOOKING STATEMENTS CONTAINED HEREIN.

THIS DISCLOSURE STATEMENT DOES NOT CONSTITUTE, AND MAY NOT BE CONSTRUED AS, AN ADMISSION OF FACT, LIABILITY, STIPULATION, OR WAIVER.

THE DEBTORS ARE MAKING THE STATEMENTS AND PROVIDING THE FINANCIAL INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT AS OF THE DATE HEREOF, UNLESS OTHERWISE SPECIFICALLY NOTED. ALTHOUGH THE DEBTORS MAY SUBSEQUENTLY UPDATE THE INFORMATION IN THIS DISCLOSURE STATEMENT, THE DEBTORS HAVE NO AFFIRMATIVE DUTY TO DO SO, AND EXPRESSLY DISCLAIM ANY DUTY TO PUBLICLY UPDATE ANY FORWARD-LOOKING STATEMENTS, WHETHER AS A RESULT OF NEW INFORMATION, FUTURE EVENTS, OR OTHERWISE. HOLDERS OF CLAIMS REVIEWING THIS DISCLOSURE STATEMENT SHOULD NOT INFER THAT, AT THE TIME OF THEIR REVIEW, THE FACTS SET FORTH HEREIN HAVE NOT CHANGED SINCE THIS DISCLOSURE STATEMENT WAS FILED. THE LIQUIDATION ANALYSIS, DISTRIBUTION PROJECTIONS, AND OTHER INFORMATION CONTAINED HEREIN AND ATTACHED HERETO ARE ESTIMATES ONLY, AND THE TIMING AND AMOUNT OF ACTUAL DISTRIBUTIONS TO HOLDERS OF ALLOWED CLAIMS MAY BE AFFECTED BY MANY FACTORS THAT CANNOT BE PREDICTED. ANY ANALYSES, ESTIMATES, OR RECOVERY PROJECTIONS MAY OR MAY NOT TURN OUT TO BE ACCURATE. INFORMATION CONTAINED HEREIN IS SUBJECT TO COMPLETION, MODIFICATION, OR AMENDMENT. THE DEBTORS RESERVE THE RIGHT TO FILE AN AMENDED OR MODIFIED PLAN AND RELATED DISCLOSURE STATEMENT FROM TIME TO TIME, SUBJECT TO THE TERMS OF THE PLAN.

THE DEBTORS HAVE NOT AUTHORIZED ANY ENTITY TO GIVE ANY INFORMATION ABOUT OR CONCERNING THE PLAN OTHER THAN THAT WHICH IS CONTAINED IN THIS DISCLOSURE STATEMENT. THE DEBTORS HAVE NOT AUTHORIZED ANY REPRESENTATIONS CONCERNING THE DEBTORS OR THE VALUE OF THEIR PROPERTY OTHER THAN AS SET FORTH IN THIS DISCLOSURE STATEMENT.

IF THE PLAN IS CONFIRMED BY THE BANKRUPTCY COURT, AND THE EFFECTIVE DATE OCCURS, ALL HOLDERS OF CLAIMS AND INTERESTS (INCLUDING THOSE HOLDERS OF CLAIMS WHO DO NOT SUBMIT BALLOTS TO ACCEPT OR REJECT THE PLAN, OR WHO ARE NOT ENTITLED TO VOTE ON THE PLAN) WILL BE BOUND BY THE TERMS OF THE PLAN AND THE TRANSACTIONS CONTEMPLATED THEREBY.

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EXHIBIT A Debtors' Joint Chapter 11 Plan

EXHIBIT B Liquidation Analysis

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**ARTICLE I.
INTRODUCTION¹**

The Debtors submit this disclosure statement (this “Disclosure Statement”) pursuant to section 1125 of the Bankruptcy Code to Holders of Claims against and Interests in the Debtors in connection with the solicitation of acceptances with respect to the *Debtors’ Joint Chapter 11 Plan* (as may be amended, supplemented or modified from time to time, the “Plan”), dated November 1, 2017.² A copy of the Plan is attached hereto as **Exhibit A** and incorporated herein by reference. The Plan constitutes a separate chapter 11 plan for each of the Debtors.

THE PLAN, IF CONSUMMATED, WILL EFFECTUATE THE TERMS OF THE SALE TRANSACTION. THE PLAN AND THE TRANSACTIONS EFFECTUATED THEREIN ARE SUPPORTED BY THE DEBTORS’ PRIMARY STAKEHOLDERS: THE SUPPORTING SENIOR NOTEHOLDERS, THOROUGHbred RESOURCES, L.P. (“THOROUGHbred”), FOR ITSELF AND ON BEHALF OF ITS AFFILIATES AND SUBSIDIARIES, AND RHINO RESOURCE PARTNERS HOLDINGS LLC (“RRPH”). THE PLAN ALSO HAS THE SUPPORT OF KNIGHT HAWK HOLDINGS, LLC (“KNIGHT HAWK”), A CONTEMPLATED INVESTOR IN HOLDCO (AS DEFINED HEREIN) FOR PURPOSES OF CONSUMMATING THE SALE AND RELATED TRANSACTIONS CONTEMPLATED BY THE TRANSACTION AGREEMENT.

EACH OF THE DEBTORS’ BOARDS OF DIRECTORS OR SOLE MEMBER HAS APPROVED THE PLAN AND BELIEVES THE PLAN IS IN THE BEST INTERESTS OF THE DEBTORS’ ESTATES. AS SUCH, THE DEBTORS RECOMMEND THAT ALL HOLDERS OF CLAIMS ENTITLED TO VOTE ACCEPT THE PLAN BY RETURNING THEIR BALLOTS (EACH, A “BALLOT”) SO AS TO BE ACTUALLY RECEIVED BY THE NOTICE AND SOLICITATION AGENT (AS DEFINED HEREIN) NO LATER THAN [●], 2017, AT []:00 P.M. (PREVAILING CENTRAL TIME). ASSUMING THE REQUISITE ACCEPTANCES TO THE PLAN ARE OBTAINED, THE DEBTORS WILL SEEK THE BANKRUPTCY COURT’S APPROVAL OF THE PLAN AT THE CONFIRMATION HEARING ON [●], 2017, AT [] [] .M. (PREVAILING CENTRAL TIME).

THE DEBTORS BELIEVE THAT THE TRANSACTIONS CONTEMPLATED UNDER THE PLAN ARE FAIR AND EQUITABLE, MAXIMIZE THE VALUE OF THE DEBTORS’ ESTATES, AND PROVIDE THE BEST RECOVERY TO HOLDERS OF CLAIMS. ACCORDINGLY, THE DEBTORS BELIEVE THAT THE PLAN IS THE BEST AVAILABLE ALTERNATIVE FOR COMPLETING THE CHAPTER 11 CASES. THE DEBTORS STRONGLY RECOMMEND THAT YOU VOTE TO ACCEPT THE PLAN.

A. *The Plan*

As more fully described below, the Debtors filed voluntary petitions for relief pursuant to chapter 11 on the Petition Date. The purpose of a chapter 11 bankruptcy case is to resolve the affairs of a debtor and distribute the proceeds of the debtor’s estate pursuant to a confirmed chapter 11 plan. To that end, the Debtors filed the Plan, the terms of which are more fully described herein. The Plan contemplates a transfer of substantially all of the Debtors’ assets to NewCo, one, or if designated by the Required Supporting Senior Noteholders and Knight Hawk, more than one newly created Delaware limited liability companies and a wholly-owned subsidiary of HoldCo, a newly created

¹ Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Plan (as defined herein). If the Plan is not confirmed or the Effective Date does not occur, the Debtors reserve all of their rights regarding the Disclosure Statement and the Plan and any statement set forth in the Disclosure Statement and the Plan, as applicable. Furthermore, if the Plan is not confirmed or the Effective Date does not occur, nothing in the Disclosure Statement or the Plan shall be deemed an admission by the Debtors, and the Debtors reserve all such rights regarding the Disclosure Statement and the Plan and any statement set forth in the Disclosure Statement and the Plan, including, without limitation, all rights with respect to the consummation of the Sale Transaction contemplated herein.

² The summary of the Plan provided herein is qualified in its entirety by reference to the Plan. In the case of any inconsistency between this Disclosure Statement and the Plan, the Plan will govern.

Delaware limited liability company and the equity interests of which shall be issued to the Senior Noteholders in satisfaction of certain of their funded indebtedness. The primary objective of the Plan is to maximize the value of recoveries to all Holders of Allowed Claims and to distribute all property of the Estates that is or becomes available for distribution, in each case, generally in accordance with the priorities established by the Bankruptcy Code. The Debtors believe that the Plan accomplishes this objective and is in the best interest of the Estates and therefore seek to confirm the Plan.

Generally speaking, the Plan: (a) provides for the full and final resolution of all funded debt obligations; (b) designates a Plan Administrator to (i) wind down the Debtors' businesses and affairs; (ii) pay and reconcile Claims as provided therein; and (iii) administer the Plan in an effective and efficient manner; (c) provides for 100 percent recoveries for Holders of Allowed Administrative Claims, Priority Tax Claims, Professional Fee Claims, and Other Secured Claims; (d) provides for the distribution of the proceeds of certain unencumbered assets to Holders of General Unsecured Claims; and (e) provides for the Sale Transaction (as defined below). The Debtors believe that Confirmation of the Plan will avoid the lengthy delay and significant cost of liquidation under chapter 7 of the Bankruptcy Code.

The Plan classifies Holders of Claims and Interests according to the type of the Holder's Claim or Interest, as more fully described below. Holders of Claims in Class 3 (Senior Notes Secured Claims), and Class 4 (General Unsecured Claims) are entitled to vote to accept or reject the Plan.

B. *The Plan Structure*

The Plan proposes to fund creditor recoveries from Cash on hand and the proceeds of a Sale Transaction pursuant to which the Debtors intend to transfer substantially all of the assets of the Estates. As set forth in more detail in Article V.B below, following a robust marketing process, on November 1, 2017, the Debtors, the Supporting Senior Noteholders, and Knight Hawk executed a transaction agreement (the "Transaction Agreement"), which contemplates the Sale Transaction. Although the Debtors will continue to market their assets on a postpetition basis, the Transaction Agreement represents a floor bid for the sale of the Debtors' assets. Subject to receiving a higher or otherwise better offer, the Debtors intend to consummate the Sale Transaction as contemplated under the Transaction Agreement and the Plan.

Pursuant to the Plan, the Debtors, Post-Effective Date Debtor, or Plan Administrator shall pay or provide for payments of Claims as follows:

- the Plan Administrator shall establish each of the Distribution Reserve Accounts (as defined in the Plan), which shall be used to make distributions in Cash to Holders of Allowed Claims pursuant to the terms of the Plan;
- Administrative Claims and prepetition Priority Claims (including Priority Tax Claims) will be paid in full upon emergence (or, in the case of Priority Tax Claims, treated in accordance with section 1129(a)(9)(C) of the Bankruptcy Code);
- Holders of Senior Notes Secured Claims will receive equity interests in HoldCo in satisfaction of \$90 million of their Secured Claims and will receive their *pro rata* share of the remaining collateral securing their claims, which the Debtors anticipate will primarily be Cash on hand;
- Other Secured Claims will be treated in such a manner that they are Unimpaired;
- Holders of General Unsecured Claims (including any Senior Notes Deficiency Claims) against each of the Debtors will receive their *pro rata* share of certain residual and unencumbered assets of the Debtors' estates after all senior Claims (including Adequate Protection Claims) have been satisfied; and

- existing Interests in the Debtors will be cancelled without any distribution to the Holders of such Interests.

The Debtors believe that the Plan is in the best interest of the Estates, including Holders of General Unsecured Claims, and urge such Holders to vote to accept the Plan.

C. *The Sale Transaction*

Consistent with the terms of the Restructuring Support Agreement dated as of October 5, 2017, by and among the Debtors, Knight Hawk, RRPB, Thoroughbred, and the Supporting Senior Noteholders (as may be modified, amended, or supplemented from time to time in accordance with the terms thereof, the “RSA”), the Plan and Sale Transaction as contemplated under the Transaction Agreement will be consummated on the Effective Date. Generally, the Transaction Agreement provides that:

- (a) Armstrong will create (i) a new holding company (“HoldCo”), a Delaware limited liability company, which shall be wholly owned by Armstrong, and (ii) one, or, if designated by Knight Hawk and the Required Supporting Senior Noteholders, more than one new Delaware limited liability companies (“NewCo”), which shall be wholly owned by HoldCo to which the Debtors will transfer substantially all of their assets (the “Transferred Assets”) and certain of their liabilities;
- (b) Senior Noteholders, in satisfaction of \$90 million of the Allowed Senior Notes Secured Claims, will acquire (i) 100 percent of the common equity in HoldCo (subject to dilution on account of common equity in HoldCo, if any, issued to Knight Hawk in connection with the Sale Transaction) and (ii) \$10 million in preferred equity of HoldCo (subject to dilution on account of the preferred equity in HoldCo issued to Knight Hawk in connection with the Sale Transaction); and
- (c) Knight Hawk, who will oversee the management of the day-to-day business of NewCo post-closing, will then receive a portion of the economic interests in HoldCo in exchange for (i) indirectly providing NewCo with the funding necessary to pay certain Cure Costs (including prepetition Cure Costs of Assumed Contracts, but excluding Debtor Cure Costs) associated with the assumption and assignment to NewCo of certain of the Debtors’ contracts and leases and other Effective Date obligations as set forth in the Transaction Agreement, (ii) paying to HoldCo the Cash value of certain prepaid expenses included in the Transferred Assets (not to exceed \$600,000), provided that such amount shall immediately thereafter be contributed to NewCo and immediately thereafter, be paid to Armstrong, and (iii) paying the amount of the Inventory Purchase Price (as defined in the Transaction Agreement) (collectively, (i) through (iii), the “Contribution”).

The Transferred Assets generally include: (a) all plants, property, equipment, investments and other non-current assets of the Debtors, but excluding surety bonds and any collateral securing surety bonds; (b) coal inventory at the lower of cost or market, paid in cash at closing; (c) all of the Debtors’ coal mining and related permits; (d) certain contracts and agreements of the Debtors acceptable to the Required Supporting Senior Noteholders and Knight Hawk (the “Assumed Contracts”); and (e) coal leases of the Debtors acceptable to the Required Supporting Senior Noteholders and Knight Hawk, subject to amendment or termination as further set forth in the Transaction Agreement (the “Assumed Leases”). The term “Assumed Leases” includes all Royalty Agreements, as amended. The Transferred Assets do not include certain assets of the Debtors, including, but not limited to, Cash, accounts receivable, and proceeds from the purchase of coal, all as further described in the Transaction Agreement (the “Excluded Assets”). NewCo also intends to hire certain non-officer Debtor employees as part of the Sale Transaction.

Pursuant to and in accordance with the Transaction Agreement, NewCo will make all payments on account of certain Assumed Liabilities (as defined herein), and NewCo will pay all NewCo Cure Costs (if any) required to be paid by NewCo, pursuant to sections 365 or 1123 of the Bankruptcy Code. In addition, NewCo or the Debtors, as

applicable, will pay amounts due under all existing mineral right agreements between certain of the Debtors and Thoroughbred (the “Royalty Agreements”), as the same may be amended as contemplated by the RSA. For the avoidance of doubt, the “Royalty Agreements” do not include that certain Coal Mining Lease and Sublease, dated as of February 28, 2014, between Thoroughbred Resources, L.P., as lessor, and Thoroughfare Mining LLC, as lessee. Lastly, NewCo will assume all asset retirement obligations and reclamation liabilities in respect of the Transferred Assets, including, but not limited to, those associated with the Debtors’ coal mining and related permits, and future contract obligations under the Assumed Contracts (collectively, the “Assumed Liabilities”).

At closing and in exchange for certain economic interests of HoldCo, Knight Hawk will make the Contribution. For the avoidance of doubt, NewCo or the Debtors, as applicable, shall cure all monetary defaults arising under the Royalty Agreements, in full in Cash upon or before closing.

Holders of the Senior Notes Secured Claims will receive \$10 million in preferred equity of HoldCo and an economic interest in HoldCo consistent with the terms of the RSA and as more fully described in a term sheet between Knight Hawk and the Supporting Senior Noteholders, dated as of November 1, 2017, a copy of which is available to the Senior Noteholders at <http://ir.armstrongenergyinc.com/Bondholder-Login>.

ARTICLE II. QUESTIONS AND ANSWERS REGARDING THIS DISCLOSURE STATEMENT

A. *What is Chapter 11?*

Chapter 11 is the principal business restructuring chapter of the Bankruptcy Code. In addition to permitting debtor rehabilitation, chapter 11 promotes equality of treatment for creditors and similarly situated equity interest holders, subject to the priority of distributions prescribed by the Bankruptcy Code.

The commencement of a chapter 11 case creates an estate that comprises all of the legal and equitable interests of the debtor as of the date the chapter 11 case is commenced. The Bankruptcy Code provides that the debtor may continue to operate its business and remain in possession of its property as a “debtor in possession.”

A bankruptcy court’s confirmation of a chapter 11 plan binds the debtor, any person acquiring property under the plan, any creditor or equity interest holder of the debtor, and any other entity as may be ordered by the bankruptcy court. Subject to certain limited exceptions, the order issued by a bankruptcy court confirming a plan provides for the treatment of the debtor’s liabilities in accordance with the terms of the confirmed plan.

B. *Why are the Debtors sending me this Disclosure Statement?*

The Debtors are seeking to obtain Bankruptcy Court approval of the Plan. Before soliciting acceptances of the Plan, section 1125 of the Bankruptcy Code requires the Debtors to prepare a disclosure statement containing adequate information of a kind, and in sufficient detail, to enable a hypothetical reasonable investor to make an informed judgment regarding acceptance of the Plan. The Plan contemplates a sale of the Debtors’ assets to NewCo, and this Disclosure Statement is being submitted to provide information about this transaction and related information concerning the Debtors, all in accordance with the requirements of the Bankruptcy Code.

C. *Am I entitled to vote on the Plan?*

Your ability to vote on, and your distribution under, the Plan, if any, depends on what type of Claim or Interest you hold (if any). Each category of Holders of Claims or Interests in Article III of the Plan pursuant to section 1122(a) of the Bankruptcy Code, is referred to as a “Class.” Each Class’s respective voting status is set forth below.

1. *Summary of Classification*

Class	Claims and Interests	Status	Voting Rights
1	Other Priority Claims	Unimpaired	Not Entitled to Vote (Presumed to Accept)
2	Other Secured Claims	Unimpaired	Not Entitled to Vote (Presumed to Accept)
3	Senior Notes Secured Claims	Impaired	Entitled to Vote
4	General Unsecured Claims	Impaired	Entitled to Vote
5	Intercompany Claims	Impaired	Not Entitled to Vote (Deemed to Reject)
6	Interests in Armstrong	Impaired	Not Entitled to Vote (Deemed to Reject)
7	Intercompany Interests	Impaired	Not Entitled to Vote (Deemed to Reject)
8	Section 510(b) Claims	Impaired	Not Entitled to Vote (Deemed to Reject)

D. *What will I receive from the Debtors if the Plan is Consummated?*

The following table provides a summary of the anticipated recovery to Holders of Allowed Claims and Interests under the Plan. Any estimates of Claims in this Disclosure Statement may vary from the final amounts Allowed by the Bankruptcy Court. Your ability to receive distributions under the Plan depends upon the ability of the Debtors to obtain Confirmation and meet the conditions necessary to consummate the Plan.

Class	Claim/Interest	Estimated Allowed Amount	Anticipated Recovery
1	Other Priority Claims	\$[•]	100%
2	Other Secured Claims	\$[•]	100%
3	Senior Notes Secured Claims	\$[•]	[•]%
4	General Unsecured Claims	\$[•]	[•]%
5	Intercompany Claims	\$[•]	0%
6	Interests in Armstrong	N/A	0%
7	Intercompany Interests	N/A	0%
8	Section 510(b) Claims	\$0	0%

E. *What will I receive from the Debtors if I hold an Allowed Administrative Claim or an Allowed Priority Tax Claim?*

In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Claims and Priority Tax Claims have not been classified and, thus, are excluded from the Classes of Claims and Interests set forth in Article III of the Plan. Administrative Claims and Priority Tax Claims will be satisfied as set forth in Article II of the Plan.

- F. *If the Plan provides that I get a distribution, do I get it upon Confirmation or when the Plan goes effective, and what is meant by "Confirmation," "Effective Date," and "Consummation?"*

"Confirmation" of the Plan refers to approval of the Plan by the Bankruptcy Court. Confirmation of the Plan does not guarantee that you will receive the distribution indicated under the Plan. After Confirmation of the Plan by the Bankruptcy Court, there are conditions that need to be satisfied or waived so that the Plan can go effective. Initial distributions to Holders of Allowed Claims will only be made on the date the Plan becomes effective—the "Effective Date"—or as soon as practicable thereafter, as specified in the Plan. See "Confirmation of the Plan," for a discussion of the conditions to Consummation of the Plan.

- G. *What are the sources of cash and other consideration required to fund the Plan?*

The Plan will be funded by the following sources of cash and consideration: (i) the HoldCo Equity; (ii) the Remaining Collateral; (iii) the Remaining Available Assets; (iv) the Priority Claims Reserve; (v) the Other Secured Claims Reserve; (vi) the GUC Reserve; (vii) the Debtors' rights under the Transaction Agreement; and (viii) all Causes of Action not previously settled, released, or exculpated under the Plan, if any.

- H. *Who Supports the Plan?*

The Plan is supported by the Debtors, the Supporting Senior Noteholders, Thoroughbred, for itself and on behalf of its Affiliates and subsidiaries, and RRPB. The Plan also has the support of Knight Hawk, a contemplated investor in HoldCo, and indirectly, NewCo, for purposes of consummating the Sale Transaction contemplated by the Transaction Agreement.

- I. *Will there be releases and exculpation granted to parties in interest as part of the Plan?*

Yes, the Plan provides for releases and exculpation of the Debtors and other parties in interest as set forth in Article X of the Plan, including the Supporting Senior Noteholders, RRPB, the Senior Notes Trustee, Knight Hawk, Thoroughbred, and their respective Affiliates and representatives. In addition to the releases in favor of those parties and the other Released Parties, there is an injunction against bringing claims and causes of action that were released against the Released Parties.

- J. *What is the deadline to vote on the Plan?*

The Voting Deadline is [____], 2017, at [4:00 p].m., prevailing Central Time.

- K. *How do I vote for or against the Plan?*

Detailed instructions regarding how to vote on the Plan are contained on the ballots distributed to Holders of Claims that are entitled to vote on the Plan. For your vote to be counted, you must complete, date, sign, and properly mail, courier, or personally deliver a paper ballot to the Notice and Solicitation Agent at Armstrong Energy, Inc., c/o Donlin, Recano & Company, Inc., 6201 15th Avenue, Brooklyn, New York 11219. **BALLOTS SENT BY FACSIMILE TRANSMISSION OR E-MAIL ARE NOT ALLOWED AND WILL NOT BE COUNTED.**

Ballots must be submitted so that the Notice and Solicitation Agent must *actually receive* physical original ballots, on or before [____], 2017, at [4:00 p].m., prevailing Central Time, in order for your vote to be counted.

- L. *Why is the Bankruptcy Court holding a Confirmation Hearing, and when is the Confirmation Hearing set to occur?*

Section 1128 of the Bankruptcy Code requires the Bankruptcy Court to hold a hearing on confirmation of the Plan and recognizes that any party in interest may object to confirmation of the Plan.

The Bankruptcy Court has scheduled the Confirmation Hearing for [____], 2017, at [_:__ a/p].m., prevailing Central Time. The Confirmation Hearing may be adjourned from time to time without further notice. At that time, the Bankruptcy Court will also consider whether to approve the Disclosure Statement on a final basis.

Objections to Confirmation of the Plan and Disclosure Statement must be filed and served on the Debtors, and certain other parties, by no later than [____], 2017, at [4:00 p].m., prevailing Central Time, in accordance with the notice of the Confirmation Hearing that accompanies the Disclosure Statement Order.

The Debtors will publish the notice of the Confirmation Hearing, which will contain the deadline for objections to the Plan and the date and time of the Confirmation Hearing, in the *USA Today* (national edition) and the *St. Louis Post-Dispatch* to provide notification to those persons who may not receive notice by mail. The Debtors may also publish the notice of the Confirmation Hearing in such trade or other publications as the Debtors may choose.

M. *What is the purpose of the Confirmation Hearing?*

The confirmation of a chapter 11 plan by a bankruptcy court binds the debtor, any issuer of securities under the chapter 11 plan, any person acquiring property under the chapter 11 plan, any creditor or equity interest holder of a debtor, and any other person or entity as may be ordered by the Bankruptcy Court in accordance with the applicable provisions of the Bankruptcy Code. Subject to certain limited exceptions, the order issued by the bankruptcy court confirming a chapter 11 plan discharges a debtor from any debt that arose before the confirmation of the chapter 11 plan and provides for the treatment of such debt in accordance with the terms of the confirmed chapter 11 plan.

N. *What is the effect of the Plan on the Debtors' ongoing business?*

Subject to receiving a higher or otherwise better offer, upon consummation of the Plan, it is anticipated that substantially all of the Debtors' assets will be transferred to NewCo.

O. *Who do I contact if I have additional questions with respect to this Disclosure Statement or the Plan?*

If you have any questions regarding this Disclosure Statement or the Plan, please contact the Debtors' notice and solicitation agent, Donlin, Recano & Company, Inc.:

By mail, hand delivery, or overnight mail at:
Armstrong Energy, Inc. c/o Donlin, Recano & Company, Inc.
6201 15th Avenue, Brooklyn, New York 11219

By electronic mail at:
DRCVote@DonlinRecano.com

By telephone at:
(866) 416-0556 (U.S. and Canada)
(212) 771-1128 (International)

Copies of the Plan, this Disclosure Statement and any other publicly filed documents in the Chapter 11 Cases are available upon written request to the Debtors' notice and solicitation agent at the address above or by downloading the exhibits and documents from the website of the Debtors' notice and solicitation agent at www.donlinrecano.com/armstrong (free of charge) or the Bankruptcy Court's website at www.moeb.uscourts.gov (for a fee).

P. *Do the Debtors recommend voting in favor of the Plan?*

Yes. The Debtors believe the Plan provides for a larger distribution to the Debtors' creditors than would otherwise result from any other available alternative. The Debtors believe the Plan, which contemplates a sale of

substantially all of the Debtors' assets to NewCo, is in the best interest of all Holders of Claims, and that other alternatives fail to realize or recognize the value inherent under the Plan. As noted above, the Supporting Senior Noteholders, Thoroughbred, RRPB, and Knight Hawk support confirmation of the Plan.

**ARTICLE III.
BUSINESS DESCRIPTION AND BACKGROUND TO THE CHAPTER 11 CASES**

A. *Corporate History*

1. *Formation and Business*

The Debtors are a producer of low chlorine, high sulfur thermal coal from the Illinois Basin, with both surface and underground mines. The Debtors market their coal primarily to investment-grade electric utility companies as fuel for their steam-powered generators. Based on 2016 production, the Debtors are the sixth largest producer in the Illinois Basin and the second largest in Western Kentucky. The Debtors were formed in 2006 to acquire and develop a large coal reserve holding.

Funds managed by Yorktown Partners LLC ("Yorktown") own over 98 percent of the equity interests in Thoroughbred and the Debtors, directly or indirectly, own the remaining interests. As of the Petition Date, Thoroughbred owned an interest in approximately 187 million tons of the Debtors' mineral reserves and leases such reserves to the Debtors. In addition, the Debtors have also leased approximately 250 million tons of mineral reserves wholly-owned by Thoroughbred in exchange for a production royalty.

The Debtors commenced production in the second quarter of 2008 and currently operate five mines, including three surface and two underground. As of March 31, 2017, the Debtors controlled approximately 445 million tons of proven and probable coal reserves. The Debtors also own and operate three coal processing plants, which support their mining operations. From the Debtors' reserves, the Debtors mine coal from multiple seams that, in combination with their coal processing facilities, enhance their ability to meet customer requirements for blends of coal with different characteristics. The locations of the Debtors' coal reserves and operations, adjacent to the Green River, together with their river dock coal handling and rail loadout facilities, allow the Debtors to optimize coal blending and handling, and provide their customers with rail, barge and truck transportation options.

In December 2016, Thoroughbred informed Armstrong of various disputes regarding the calculation of deferred royalties and the valuation of certain jointly owned land and mineral reserves to be transferred from the Debtors to Thoroughbred under a royalty deferment agreement, which may have resulted in the underpayment of production royalties to Thoroughbred. Armstrong promptly notified Thoroughbred that they disputed these claims. Following a series of negotiations, Armstrong and certain of its affiliates, and Thoroughbred and certain of its affiliates, entered into a settlement agreement approved by Armstrong's disinterested directors to resolve all of these claims and to avoid the uncertainties of a potential lengthy arbitration. The settlement agreement became effective on March 29, 2017.

2. *Mining Operations*

As noted above, the Debtors currently operate five active mines, all of which are located in the Illinois Basin coal region in western Kentucky. The Debtors' active operations are comprised of three surface mines and two underground mines, and they have three preparation plants serving these operations. In 2016, approximately 44 percent of the coal that the Debtors produced came from their surface mining operations.

The Debtors' currently operating mines are all located in Muhlenberg and Ohio Counties, Kentucky. The Western Kentucky Parkway crosses their properties from Southwest to Northeast, and the Green River separates their properties in Ohio and Muhlenberg Counties. The Debtors' barge loading facility on the Green River is located near the town of Kirtley, Kentucky. In addition, the Debtors have a network of off-highway truck haul roads, which connect the majority of their active mines and provide access to their barge loading and rail loadout facilities. In general, the Debtors have developed their mines and preparation plants at strategic locations in close proximity to rail or barge shipping facilities.

The Debtors control approximately 445 million tons of proven and probable coal reserves in Ohio, Muhlenberg, McLean, Webster, and Union counties in Western Kentucky, of which they lease or sublease approximately 13 million tons from various unaffiliated landowners. The Debtors' active and recently closed mines include:

- Equality Boot Mine. The Equality Boot mine is a surface mining operation located eight miles southwest of Centertown, Kentucky, which commenced operations in September 2010. The Equality Boot mine produced approximately 1.6 million tons of coal in 2016 and had approximately 11.6 million tons of proven and probable reserves as of December 31, 2016.
- Lewis Creek Mine. The Lewis Creek mine is a surface mine located approximately five miles south of Centertown, Kentucky, and approximately 3.5 miles from the Debtors' Midway Preparation Plant. Lewis Creek produced approximately 0.9 million tons of clean coal in 2016. As of December 31, 2016, there were approximately 7.2 million tons of proven and probable reserves at the Lewis Creek surface mine. Coal mined at the Lewis Creek mine is primarily transported by truck to the Debtors' Midway Preparation Plant for processing and subsequent delivery to the Debtors' customers.
- Kronos Underground Mine. The Kronos underground mine, which commenced operations in September 2011, is located approximately three miles southwest of Centertown, Kentucky. The Kronos underground mine produced approximately 2.1 million clean tons of coal in 2016. There were approximately 30.9 million tons of proven and probable reserves at the Kronos mine as of December 31, 2016. Coal mined at the Kronos underground mine is transported by truck to the Debtors' Midway Preparation Plant and by conveyor to the Armstrong Dock Preparation Plant for processing and delivery to the Debtors' customers.
- Survant Underground Mine. The Survant underground mine, which is located at the Debtors' Parkway complex, came out of development in August 2015. As of December 31, 2016, the Survant underground mine had approximately 55.4 million tons of proven and probable reserves. Coal mined from the Survant underground mine is primarily processed at the Debtors' Parkway Preparation Plant prior to shipment to the Debtors' customers.
- Midway Mine. The Midway mine is a surface mine located two miles southeast of Centertown, Kentucky in Ohio County and is west of and adjacent to the Debtors' Midway Preparation Plant. Coal from the Midway mine was primarily transported by truck to the Midway Preparation Plant for processing, where it is then shipped to customers via truck, rail or barge. On December 31, 2015, production at the Midway mine was temporarily idled due to declining market conditions. The Debtors' reserve studies indicate the Midway mine had approximately 14.2 million tons of proven and probable reserves as of December 31, 2016.
- Parkway Underground Mine (Inactive). The Parkway underground mine is located northeast of Central City, Kentucky in Muhlenberg County. The Parkway underground mine produced approximately 0.5 million tons of clean coal in 2016. In October 2016, production ceased at the Parkway underground mine as the economically recoverable reserves had been depleted.

3. *Coal Preparation Process Overview*

(a) *Coal Preparation Facilities*

The majority of coal produced from each of the Debtors' mining operations is processed at a coal preparation plant located near the mine or connected to the mine by an overland conveyor system. The Debtors have three preparation plants: Midway; Parkway; and Armstrong Dock. These coal preparation plants allow the Debtors to process the coal they extract from their mines to ensure a consistent quality and to enhance its suitability for particular end-users. In 2016, the Debtors' preparation plants processed approximately 96 percent of the raw coal they produced.

The treatments the Debtors employ at their preparation plants depend on the size of the raw coal. For coarse material, the separation process relies on the difference in the density between coal and waste rock where, for the very fine fractions, the separation process relies on the difference in surface chemical properties between coal and the waste minerals. To remove impurities, the Debtors crush raw coal and classify it into various sizes. For the largest size fractions, the Debtors use dense media vessel separation techniques in which they float coal in a tank containing a liquid of a pre-determined specific gravity. The Debtors treat intermediate sized particles with dense medium cyclones, in which a liquid is spun at high speeds to separate coal from rock. Fine coal is treated in spirals, in which the differences in density between coal and rock allow them, when suspended in water, to be separated. Ultra fine coal is recovered in column flotation cells utilizing the differences in surface chemistry between coal and rock. Coarse refuse from the Debtors' preparation plants is back-hauled and disposed of in its mining pits or other locations in accordance with applicable regulations and permits.

4. *Customers*

While the Debtors sometime sell coal to industrial companies, brokers, and other coal producers, the Debtors' primary customers are electric utilities. For the year ended December 31, 2016, approximately 99 percent of the Debtors' coal revenues were derived from sales to electric utilities. The majority of the Debtors' electric utility customers purchase coal for terms of one to four years, but the Debtors also supply coal on a spot basis for some of their customers. In 2016, the Debtors sold coal to six domestic utility customers with operations located in a number of states. The majority of those customers operate power plants in the Midwestern and Southern regions of the United States. For the year ended December 31, 2016, the Debtors derived approximately 45 percent and 40 percent of their total coal revenues from sales to their two largest customers, Louisville Gas & Electric Company and the Tennessee Valley Authority, respectively.

(a) Coal Supply Agreements

As is customary in the coal industry, the Debtors enter into multi-year coal supply agreements with many of their customers. Multi-year coal supply agreements usually have specific volume and pricing arrangements for each year of the agreement. These agreements allow customers to secure a supply for their future needs and provide the Debtors with greater predictability of sales volume and sales prices.

In 2016, the Debtors sold approximately 99 percent of their coal under multi-year coal supply agreements. The majority of the Debtors' multi-year coal supply agreements include a fixed price for the term of the agreement or a pre-determined escalation in price for each year. At December 31, 2016, the Debtors had multi-year coal supply agreements with remaining terms ranging from one to four years, and are contractually committed to sell 5.3 million tons of coal in 2017.

The Debtors typically enter into multi-year coal supply agreements through a "request-for-proposal" process and after competitive bidding and negotiations. Certain of the Debtors' agreements contain clauses that may allow customers to terminate the agreement in the event of certain changes in environmental laws and regulations that affect their operations. The coal supply agreements also establish the quality and volume of coal to be sold. Most of the Debtors' agreements fix annual pricing and volume obligations, though, in certain instances, the volume obligations may change depending on the customer's needs. Most of the Debtors' coal supply agreements contain provisions requiring it to deliver coal within certain ranges for specific coal characteristics, such as heat content, sulfur, ash, and moisture content, as well as others. Failure to meet these specifications can result in economic penalties, suspension, or cancellation of shipments or termination of such agreements.

5. *Employees*

As of the Petition Date, the Debtors had approximately 650 full-time employees, none of whom are under a collective bargaining arrangement. These employees include miners, engineers, truck drivers, mechanics, electricians, administrative support staff, managers, directors, and executives. The Debtors believe that their relations with all employees are good, and, since their inception, have had no history of work stoppages or union organized campaigns. The Debtors provide their employees with health and welfare benefit plans, including medical, prescription drug, dental, and vision plans. The Debtors also contribute to plans established for certain retirees who retired before October 1, 1994 under the Coal Industry Retiree Health Benefits Act of 1992, 26 U.S.C.

§ 9701 et seq. (the “Coal Act”). Like other coal companies, the Debtors also incur costs and make award payments in accordance with the Federal Mine Safety and Health Act of 1977, 30 U.S.C. §§ 901–45 (the “Black Lung Benefits Act”).

B. *Prepetition Capital Structure*

1. *The Debtors’ Prepetition Capital Structure*

Armstrong is the direct or indirect parent of each of the other Debtors. Armstrong is a privately traded corporation, which is majority owned by investment funds managed by RRHP. The Debtors are organized in the states of Delaware, Kentucky, and Nevada. As described in greater detail below, as of the Petition Date, the principal amount of the Debtors’ consolidated funded debt obligations totaled approximately \$200 million under the Senior Secured Notes.

(a) The Senior Notes Secured Claims

Armstrong Energy, Inc., as issuer, and Armstrong Air, LLC, Armstrong Coal Company, Inc., Armstrong Energy Holdings, Inc., Western Diamond LLC, Western Land Company, LLC, Armstrong Coal Sales, LLC, Thoroughfare Mining, LLC, and Armstrong Logistics Services, LLC, as guarantors, are party to that certain indenture dated as of December 21, 2012 (as amended, supplemented, modified, or amended and restated from time to time, the “Indenture”) by and between Armstrong and Wells Fargo Bank, National Association, as indenture trustee, under which Armstrong issued certain senior secured notes (the “Senior Secured Notes”). The Senior Secured Notes mature in 2019 and carry an interest rate of 11.75%. Interest is payable semi-annually, on June 15 and December 15. The Senior Secured Notes are secured by a first lien on the Debtors’ owned and leased real property, coal mines, reserves, inventory, receivables, stock of subsidiaries, and certain other assets, including Cash maintained in controlled accounts. As of the Petition Date, approximately \$200 million aggregate principal amount of Senior Secured Notes were outstanding. On June 15, 2017, the Debtors elected not to make the semi-annual interest payment on the Senior Secured Notes.

(b) The Common Stock

There is no established public trading market for Armstrong’s common stock. Instead, the majority of the issued and outstanding common stock of Armstrong Energy, Inc. is held by members of management or RRHP. As of March 30, 2017, there were approximately 22 holders of record of Armstrong’s common stock and there were 21,883,224 shares of Armstrong Energy, Inc.’s common stock outstanding.

(c) Asset Retirement Obligations

Like other coal companies, Armstrong has asset retirement obligations that include both reclamation and selenium water treatment. Reclamation obligations primarily represent the fair value of future anticipated costs to restore surface land to levels equal to or greater than pre mining conditions, as required by the federal Surface Mining Control and Reclamation Act as well as certain state laws.

The Debtors’ asset retirement obligations primarily consist of spending estimates for surface land reclamation and support facilities at both surface and underground mines in accordance with applicable reclamation laws in the United States, as defined by each mining permit. Asset retirement obligations are determined for each mine using various estimates and assumptions, including, among other items, estimates of disturbed acreage as determined from engineering data, estimates of future costs to reclaim the disturbed acreage and the timing of these cash flows, discounted using a credit-adjusted, risk-free rate.

Asset retirement obligation expenses for the years ended December 31, 2016 and 2015 were \$1.4 million and \$2.0 million, respectively. As of December 31, 2016 and 2015, the Debtors’ balance sheets reflected asset retirement obligation liabilities of \$14.2 million and \$14.1 million, respectively, including amounts classified as a current liability. The Debtors have posted surety bonds to secure their asset retirement obligations.

**ARTICLE IV.
EVENTS LEADING UP TO THE CHAPTER 11 CASES**

A. *Adverse Market Conditions*

During the past several years, coal producers in the United States have encountered a convergence of macroeconomic headwinds, competition, and regulatory obstacles that have distressed the domestic coal industry. These obstacles include: (a) rapidly falling coal prices due to, among other things, the substantially expanded ability of North American energy companies to produce vast quantities of natural gas; (b) weak demand and significant oversupply for both thermal and metallurgical coal due to slower than expected economic growth in both the United States and overseas markets (such as Europe and China, the largest user of thermal and metallurgical coal in the world); (c) the increasing use and government subsidization of renewable energy technologies, both in the United States and abroad; and (d) the imposition of restrictive federal and state regulations on coal producers and operators of coal-fired power plants, which have constrained the use of coal, reduced domestic demand for coal, and sharply increased the costs of maintaining regulatory compliance.

A key factor in the declining demand for coal is the availability of inexpensive natural gas. Current developments in natural gas production processes have lowered the cost and increased the supply, resulting in greater use of natural gas for electricity generation. Because of this, vast quantities of natural gas have become available at economically competitive prices due to discoveries of large shale deposits in the United States as well as advances in extraction technology. This historically low natural gas pricing has made it difficult for any coal basin to compete.

Moreover, because the Debtors sell substantial quantities of coal products to electricity generators, the Debtors' business and results of operations are linked closely to global demand for coal-fueled electricity. In the past few years, thermal and metallurgical coal markets and pricing have become increasingly challenged with oversupply conditions.

In addition, coal's share of the U.S. energy market and prices for thermal and metallurgical coal have both declined markedly. The lethargic economic environment, lack of growth in energy demand generally, and a number of scheduled coal-fired plant retirements have precipitated this decline.

Lastly, the regulatory environment has also contributed to the Debtors' current financial situation. Federal and state regulatory authorities impose obligations on the coal mining industry with respect to employee health and safety, permitting and licensing requirements, environmental protection, the reclamation and restoration of mining properties after mining has been completed, and the effect of mining on surface and groundwater quality. Stricter enforcement of existing laws and the promulgation of new regulations have made it more costly for companies to use coal as an energy source. Other regulations, such as those governing mining and reclamation, have imposed even more direct costs on the coal industry.

B. *Coal Industry Liabilities*

The Debtors' obligations to make payments pursuant to Coal Act and the Black Lung Act continue today. Under the Black Lung Benefits Revenue Act of 1977 and the Black Lung Benefits Reform Act of 1977, as amended in 1981, each coal mine operator must pay federal black lung benefits to eligible current and former employee claimants and also make payments to a trust fund for the payment of benefits and medical expenses to eligible claimants who last worked in the coal industry prior to January 1, 1973. The Debtors recorded \$5.0 million and \$6.3 million of expense related to this excise tax in 2016 and 2015, respectively. With the implementation of the Patient Protection and Affordable Care Act in 2010 and the amendment of federal black lung regulations, the number of claimants who are awarded federal black lung benefits has increased and will likely continue to increase, as will the amounts of those awards. The Debtors' payment obligations for federal black lung benefits are either secured by insurance coverage or paid from a tax exempt trust established for that purpose.

When coupled with the external pricing pressure, increased regulation, and other costs associated with Armstrong's businesses, these liabilities have hindered Armstrong's ability to operate competitively in the current market environment.

C. *The Debtors' Proactive Approach to Addressing Liquidity Constraints*

1. *Operational Changes*

Recognizing the need to reposition the Debtors' business in light of prevailing trends in the U.S. coal market, the Debtors considered numerous proactive actions during 2015 and 2016 to stabilize their financial position, including: (a) actively managing their debt capital structure; (b) minimizing capital expenditures; (c) effectively managing working capital; and (d) improving cash flows from operations.

In response to continued challenges, the Debtors took actions to further reduce their cost structure, including reducing their employee headcount, instituting a hiring freeze, downsizing their operations, renegotiating vendor terms, and rebidding major products.

Ultimately, the Debtors were not able to improve their cash flow position through operational changes alone. During 2016, the Debtors retained Kirkland & Ellis LLP ("Kirkland") as counsel and MAEVA Group, LLC ("MAEVA") as financial advisor, and began exploring strategic restructuring alternatives.

2. *Marketing Process and Restructuring Discussions*

Throughout much of 2016, the Debtors engaged in extensive marketing efforts and discussions with several candidates interested in acquiring the Debtors' assets. After numerous site visits to see the Debtors' operations and management meetings, three of the potential acquirers submitted non-binding letters of interest. Among these interested parties was a third-party mineral operator, Knight Hawk. The Debtors, who had been separately exploring alternative solutions with funds managed by Yorktown and an ad hoc group of the Debtors' senior secured noteholders holding approximately \$156 million in aggregate principal amount (representing approximately 78 percent of the outstanding principal amount) (*i.e.*, the Supporting Senior Noteholders), submitted the letters of interest they had received to Yorktown and advisors to the Supporting Senior Noteholders for consideration in late 2016. In the end, however, these proposals were not viewed as sufficiently attractive. Although the bids the Debtors received were deemed insufficiently attractive, the Debtors and their advisors continued to engage with their stakeholders on a path forward.

Between August 2016 and March 2017, the Debtors submitted three standalone restructuring term sheets to Yorktown and the Supporting Senior Noteholders. While the Supporting Senior Noteholders ultimately submitted a competing term sheet in May 2017, the parties were not able to reach an agreement on a standalone restructuring and instead refocused their efforts on a third-party transaction. The Debtors and the Supporting Senior Noteholders actively engaged with several interested parties during the spring and summer of 2017, including those that had submitted letters of interest during the Debtors' 2016 marketing efforts.

3. *Continued Restructuring Efforts, Appointment of the CRO, and Entry into the RSA*

While the Debtors continued to engage with their stakeholders and interested parties in the first half of 2017, they elected to forgo the interest payment on June 15, 2017 on their senior secured notes (the "Interest Payment") to preserve liquidity. After forgoing the Interest Payment, the Debtors entered into a forbearance agreement with the Supporting Senior Noteholders through August 14, 2017 so that they could continue negotiations towards a consensual deal. During this forbearance period, the Debtors, in consultation with the Supporting Senior Noteholders, selected FTI Consulting, Inc. ("FTI") as its proposed restructuring advisor and Alan Boyko as the Debtors' proposed chief restructuring officer (the "CRO"). The Debtors and the Supporting Senior Noteholders then negotiated a second forbearance through September 15, 2017.

As part of the forbearance agreement, the parties agreed to conduct weekly status calls to discuss both parties' efforts to achieve a comprehensive restructuring transaction. The forbearance agreement was extended a

number of times—ultimately through October 31, 2017—while the Debtors, the Supporting Senior Noteholders, and certain of their other stakeholders continued to work on a global deal. It was during this time that the Supporting Senior Noteholders and Knight Hawk considered a strategic alliance to provide a bid for the Debtors’ assets.

The Debtors’ productive discussions with their stakeholders ultimately resulted in the RSA, which outlined the proposed terms of a value-maximizing transaction. The RSA contemplated a global deal between the Debtors, the Supporting Senior Noteholders, Thoroughbred, Knight Hawk, and RRPB, including the sale of substantially all of the Debtors’ assets in connection with a chapter 11 plan. Following execution of the RSA, the principal parties engaged in further good faith negotiations which resulted in the Transaction Agreement. Pursuant to the Transaction Agreement and the RSA, (a) the Debtors are required to file a motion seeking approval of expense reimbursement for Knight Hawk; (b) the Debtors will market their assets for an additional 45 days postpetition as a supplement to their already extensive prepetition marketing efforts; (c) NewCo will serve as a stalking horse with an offer to acquire substantially all of the Debtors’ assets in satisfaction of \$90 million of the Senior Notes Secured Claims; and (d) Knight Hawk, in exchange for an economic stake in HoldCo, will indirectly provide NewCo with the funding necessary to pay, among other things, Cure Costs (except Debtor Cure Costs) associated with the assumption and assignment of certain of the Debtors’ contracts and leases.

The RSA contains a number of milestones calculated to move the Chapter 11 Cases forward in an efficient and expedient manner. These include that: (a) within seven days of the Petition Date, the Debtors will file the Plan and a related disclosure statement; (b) within 31 days of the Petition Date, the Bankruptcy Court will have approved an expense reimbursement for Knight Hawk; (c) within 60 days of the Petition Date the Bankruptcy Court will have entered an order approving the disclosure statement; (d) within 100 days of the Petition Date the Plan will have been confirmed; and (e) within 15 days of the date of entry of the order confirming the Plan and approving the Sale Transaction, the effective date of the Plan and the closing of the Sale Transaction will have occurred.

**ARTICLE V.
ADMINISTRATION OF THE CHAPTER 11 CASES**

A. *First Day Pleadings and Other Case Matters*

On the Petition Date, or shortly after, in addition to the voluntary petitions for relief filed by the Debtors under chapter 11 of the Bankruptcy Code, the Debtors also filed a number of first day motions and applications (collectively, the “First Day Motions”) with the Bankruptcy Court. On November 2, 2017, the Bankruptcy Court entered orders granting relief to, among other things: (a) prevent interruptions to the Debtors’ businesses; (b) ease the strain on the Debtors’ relationships with certain essential constituents; (c) allow the Debtors to retain certain advisors necessary to assist the Debtors with the administration of the Chapter 11 Cases; and (d) allow the Debtors to have access to cash collateral (each, a “First Day Order”):

1. *Administrative Motions*

To facilitate a smooth and efficient administration of the Chapter 11 Cases, the Debtors filed First Day Motions seeking orders authorizing the joint administration of the Debtors’ Chapter 11 Cases and granting the Debtors an extension of time to file their schedules.

2. *First and Second Day Relief*

The Debtors filed certain motions and applications requesting various types of “first day” and “second day” relief. The relief granted enabled the Debtors to preserve value and efficiently administer the Chapter 11 Cases, including, among other things: (a) an order authorizing the Debtors to use cash collateral during the Chapter 11 Cases, and granting certain adequate protection to certain secured parties; (b) an order authorizing the Debtors to continue using their existing cash management system, honor certain prepetition obligations related thereto, maintain existing business forms, and continue to perform intercompany transactions; (c) an order authorizing the Debtors to pay certain prepetition taxes and fees; (d) an order authorizing the Debtors to pay their obligations under insurance policies entered into prepetition, continue paying brokerage fees, honor the terms of their premium financing agreement and pay premiums thereunder, enter into new premium financing agreements in the ordinary course of business, and renew, supplement, modify, and purchase insurance coverage in the ordinary course of

business; (e) an order granting authority to pay employees' wage Claims and related obligations in the ordinary course of business and continue certain employee benefit programs; (f) an order authorizing the Debtors to make payment on account of prepetition Claims of certain shippers, lienholders, and 503(b)(9) claimants; and (g) an order approving procedures for, among other things, determining adequate assurance for utility providers, prohibiting utility providers from altering, refusing, or discontinuing services, and determining that the Debtors are not required to provide additional adequate assurance.

(a) Employment and Compensation of Advisors

To assist the Debtors in carrying out their duties as debtors-in-possession and to otherwise represent the Debtors' interests in the Chapter 11 Cases, the Debtors filed motions requesting that the Bankruptcy Court authorize the Debtors to retain and employ the following advisors: (a) Donlin, Recano & Company, Inc., as Notice and Solicitation Agent to the Debtors; (b) K&E as counsel to the Debtors; (c) Armstrong Teasdale LLP as co-counsel to the Debtors; (d) MAEVA Group, LLC, as investment banker to the Debtors; and (e) FTI Consulting, Inc. as restructuring advisor to the Debtors. The Debtors anticipate that the Bankruptcy Court will enter orders approving the aforementioned retentions. Further, the Debtors filed motions seeking approval of, and expect the Bankruptcy Court will enter orders approving, procedures for the interim compensation and reimbursement of expenses of retained Professionals in the Chapter 11 Cases.

B. *Expense Reimbursement Motion and Sale Process*

On the Petition Date, the Debtors filed the *Debtors' Motion Seeking Entry of an Order (I) Approving the Expense Reimbursement in Connection With the Transaction Agreement and (II) Granting Related Relief* [Docket No. 43] (the "Expense Reimbursement Motion") seeking approval of the reimbursement of up to \$1 million of Knight Hawk's fees and expenses in connection with the Sale Transaction as a super priority administrative expense of the Debtors, subject to the Carve Out (as such term is defined in the Cash Collateral Order), in the event a competing bid is consummated or the Transaction Agreement is terminated other than by mutual termination or through the fault of Knight Hawk.

After the filing of the Chapter 11 Cases, as described below and in the sale procedures attached to the Expense Reimbursement Motion, the Debtors have a 45-day "go shop" period within which they may continue to market their assets to prospective bidders, to ensure the transaction that is ultimately consummated represents the highest and best.

C. *Postpetition Marketing Process*

As described above, the Debtors are conducting a marketing process for substantially all of their assets. The Debtors began their postpetition marketing process on the Petition Date, and will continue their comprehensive efforts for approximately 45 days following the Petition Date. The Debtors, working with their legal and financial advisors in consultation with representatives of the Supporting Senior Noteholders, believe that this additional marketing period will ensure the transaction that is ultimately consummated represents the highest and best possible offer. Consistent with their fiduciary duty to maximize value for the benefit of all stakeholders, the Debtors reserve all rights to amend the Plan, as necessary, to incorporate the terms of any transaction proposed in connection with the marketing process, and, to the extent permitted by law, seek confirmation of any such amended Plan without resoliciting votes on such amended Plan.

The Debtors intend to supplement this Disclosure Statement in advance of the hearing to consider the adequacy of this Disclosure Statement to provide additional detail on the Debtors' marketing process.

**ARTICLE VI.
SUMMARY OF THE PLAN**

THIS ARTICLE VI IS INTENDED ONLY TO PROVIDE A SUMMARY OF THE KEY TERMS, STRUCTURE, CLASSIFICATION, TREATMENT, AND IMPLEMENTATION OF THE PLAN, AND IS QUALIFIED IN ITS ENTIRETY BY REFERENCE TO THE ENTIRE PLAN AND EXHIBITS THERETO. ALTHOUGH THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT INCLUDE SUMMARIES OF THE PROVISIONS CONTAINED IN THE PLAN AND IN DOCUMENTS REFERRED TO THEREIN, THIS DISCLOSURE STATEMENT DOES NOT PURPORT TO BE A PRECISE OR COMPLETE STATEMENT OF ALL SUCH TERMS AND PROVISIONS, AND SHOULD NOT BE RELIED ON FOR A COMPREHENSIVE DISCUSSION OF THE PLAN. INSTEAD, REFERENCE IS MADE TO THE PLAN AND ALL SUCH DOCUMENTS FOR THE FULL AND COMPLETE STATEMENTS OF SUCH TERMS AND PROVISIONS. THE PLAN ITSELF (INCLUDING ATTACHMENTS) WILL CONTROL THE TREATMENT OF CREDITORS AND EQUITY SECURITY HOLDERS UNDER THE PLAN. TO THE EXTENT THERE ARE ANY INCONSISTENCIES BETWEEN THIS ARTICLE VI AND THE PLAN (INCLUDING ATTACHMENTS), THE LATTER SHALL GOVERN.

A. *General Basis for the Plan*

Each of the Debtors is a proponent of the Plan within the meaning of section 1129 of the Bankruptcy Code. The Plan, though proposed jointly, constitutes a separate chapter 11 plan of reorganization proposed by each Debtor. Therefore, the classifications set forth in Article III of the Plan shall be deemed to apply separately with respect to each Plan proposed by each Debtor.

The terms of the Debtors' Plan are based upon, among other things, the Debtors' assessment of their ability to achieve the goals of their business plan, make the distributions contemplated under the Plan, and pay their continuing obligations in the ordinary course of business. Under the Plan, Claims against and Interests in the Debtors are divided into separate Classes according to their relative seniority, legal nature, and other criteria, and the Plan proposes recoveries for Holders of Claims against and Interests in the Debtors in such Classes, if any. The Debtors believe that the Plan maximizes value for all stakeholders.

B. *Proposed Treatment of Each Class of Claims and Interests*

As set forth in Articles II and III of the Plan, and in accordance with sections 1122 and 1123(a)(1) of the Bankruptcy Code, all Claims and Interests (other than Administrative Claims, Priority Tax Claims, and Professional Fee Claims, which are unclassified Claims under the Plan) are classified into Classes for all purposes, including voting, Confirmation, and distributions pursuant to the Plan. A Claim or Interest is classified in a particular Class only to the extent that the Claim or Interest qualifies within the description of that Class. A Claim or Interest is also classified in a particular Class for the purpose of receiving distributions pursuant to the Plan only to the extent that such Claim or Interest is an Allowed Claim or Allowed Interest in that Class and has not been paid, released, or otherwise satisfied prior to the Effective Date.

1. *Unclassified Claims*

The table below summarizes the treatment of all unclassified Claims under the Plan. The treatment and projected recoveries of unclassified Claims are described in summary form below for illustrative purposes only. To the extent that any inconsistency exists between the summary contained in this Disclosure Statement and the Plan, the terms of the Plan shall govern.

Unclassified Claim	Plan Treatment	Projected Amount of Allowed Claims	Projected Plan Recovery
Administrative Claims	Unimpaired	\$[●]	100%
Professional Fee Claims	Unimpaired	\$[●]	100%

Priority Tax Claims	Unimpaired	\$[●]	100%
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2. *Classified Claims and Interests*

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

The classification, treatment, and projected recoveries of classified Claims are described in summary form below for illustrative purposes only and are subject to material change. *Additionally, recoveries available to Holders of Claims are estimates and actual recoveries may materially differ based on, among other things, whether the amount of Claims actually Allowed exceeds the estimates provided below. In such an instance, the recoveries available to Holders of Allowed Claims could be materially lower when compared to the estimates provided below. To the extent that any inconsistency exists between the summaries contained in this Disclosure Statement and the Plan, the terms of the Plan shall govern.*

Class	Claim or Interest	Plan Treatment	Voting Rights	Projected Amount of Allowed Claims or Interests	Projected Plan Recovery
1	Other Priority Claims	Unimpaired	Not Entitled to Vote (Presumed to Accept)	\$[●]	100%
2	Other Secured Claims	Unimpaired	Not Entitled to Vote (Presumed to Accept)	\$[●]	100%
3	Senior Notes Secured Claims	Impaired	Entitled to Vote	\$[●]	[●]%
4	General Unsecured Claims	Impaired	Entitled to Vote	\$[●]	[●]%
5	Intercompany Claims	Impaired	Not Entitled to Vote (Deemed to Reject)	\$[●]	0%
6	Interests in Armstrong	Impaired	Not Entitled to Vote (Deemed to Reject)	N/A	0%
7	Intercompany Interests	Impaired	Not Entitled to Vote (Deemed to Reject)	N/A	0%
8	Section 510(b) Claims	Impaired	Not Entitled to Vote (Deemed to Reject)	N/A	0%

Except to the extent that the Debtors and a Holder of an Allowed Claim or Interest, as applicable, agree to a less favorable treatment, such Holder shall receive under the Plan the treatment described below in full and final satisfaction, compromise, settlement, and release of and in exchange for such Holder's Allowed Claim or Interest. Unless otherwise indicated, each Holder of an Allowed Claim or Interest, as applicable, shall receive such treatment on the Effective Date or as soon as reasonably practicable thereafter, the timing of which shall be subject to the reasonable discretion of the Debtors or the Plan Administrator, as applicable.

- (a) Class 1—Other Priority Claims
- (i) *Classification:* Class 1 consists of all Other Priority Claims.
 - (ii) *Treatment:* Except to the extent that a Holder of an Allowed Other Priority Claim and the Debtor against which such allowed Other Priority Claim is asserted agree to less favorable treatment for such Holder, in full satisfaction of each allowed Other Priority Claim against the Debtors, each Holder thereof shall receive payment in full in Cash from the Priority Claims Reserve or other treatment rendering such Claim Unimpaired.
 - (iii) *Voting:* Class 1 is Unimpaired. Each Holder of an Allowed Other Priority Claim is conclusively presumed to have accepted the Plan under section 1126(f) of the Bankruptcy Code. Therefore, each Holder of an Allowed Other Priority Claim is not entitled to vote to accept or reject the Plan.
- (b) Class 2—Other Secured Claims
- (i) *Classification:* Class 2 consists of all Other Secured Claims, including all Secured Tax Claims.
 - (ii) *Treatment:* Except to the extent that a Holder of an Allowed Other Secured Claim agrees to a less favorable treatment, in full and final satisfaction, compromise, settlement, and release of and in exchange for each Other Secured Claim, each Holder thereof shall receive, at the Plan Administrator's election:
 - (A) payment in full in Cash of such Holder's Allowed Class 2 Other Secured Claim with a distribution from the Other Secured Claims Reserve;
 - (B) the Post-Effective Date Debtor's interest in the Collateral securing such Holder's Allowed Class 2 Other Secured Claims; or
 - (C) such other treatment rendering such Holder's Allowed Other Secured Claim Unimpaired.
 - (iii) *Voting:* Class 2 is Unimpaired under the Plan. Each Holder of an Allowed Other Secured Claim is conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, each Holder of an Allowed Other Secured Claim is not entitled to vote to accept or reject the Plan.
- (c) Class 3—Senior Notes Secured Claims
- (i) *Classification:* Class 3 consists of all Senior Notes Secured Claims.
 - (ii) *Treatment:* With respect to that portion of the Allowed Senior Notes Claims that are Senior Notes Secured Claims, except to the extent that a Holder of an Allowed Senior Notes Secured Claim agrees to a less favorable treatment, in full and final satisfaction of each Allowed Senior Notes Secured Claim, each Holder of an Allowed Senior Notes Secured Claim will receive, on or as soon as reasonably practicable after the Effective Date, its *pro rata* share of: (i) one hundred (100%) percent of the HoldCo Equity as of the Effective Date (before dilution on account of the HoldCo Equity issued to Knight Hawk in exchange for the Contribution as described in the Transaction Agreement) in satisfaction

of the Noteholder Equity Issuance Consideration, and (ii) the Remaining Collateral Proceeds available for distribution from time to time as provided in Article VIII.G of the Plan, until such Allowed Senior Notes Secured Claims are paid in full.

- (iii) *Voting:* Class 3 is Impaired under the Plan. Each Holder of an Allowed Senior Notes Secured Claim is entitled to vote to accept or reject the Plan.
- (d) Class 4—General Unsecured Claims
 - (i) *Classification:* Class 4 consists of all General Unsecured Claims.
 - (ii) *Treatment:* Except to the extent that a Holder of an Allowed General Unsecured Claim agrees to a less favorable treatment, in full and final satisfaction, compromise, settlement, and release of and in exchange for each General Unsecured Claim, until paid in full, each Holder of a General Unsecured Claim will receive its *pro rata* share of the GUC Distribution Proceeds as provided in Article VIII.G of the Plan.
 - (iii) *Voting:* Class 4 is Impaired. Each Holder of an Allowed General Unsecured Claim is entitled to vote to accept or reject the Plan.
- (e) Class 5—Intercompany Claims
 - (i) *Classification:* Class 5 consists of all Intercompany Claims.
 - (ii) *Treatment:* Intercompany Claims will be canceled, released, and extinguished as of the Effective Date, and will be of no further force or effect, and each Holder of a Class 5 Claim will not receive any distribution on account of such Class 5 Claim.
 - (iii) *Voting:* Class 5 is Impaired. Each Holder of an Intercompany Claim is deemed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code and, therefore, is not entitled to vote to accept or reject the Plan.
- (f) Class 6—Interests in Armstrong
 - (i) *Classification:* Class 6 consists of all Interests in Armstrong.
 - (ii) *Treatment:* Interests in Armstrong will be canceled, released, and extinguished, and will be of no further force or effect, and each Holder of an Interest in Armstrong will not receive any distribution on account of such Interests.
 - (iii) *Voting:* Class 6 is Impaired. Each Holder of an Interest in Armstrong is deemed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code and is not entitled to vote to accept or reject the Plan.

- (g) Class 7—Intercompany Interests
 - (i) *Classification:* Class 7 consists of all Intercompany Interests.
 - (ii) *Treatment:* Intercompany Interests will be canceled, released, and extinguished as of the Effective Date, and will be of no further force or effect, and each Holder of an Intercompany Interest will not receive any distribution on account of such Class 7 Interests.
 - (iii) *Voting:* Class 7 is Impaired. Each Holder of an Intercompany Interest is deemed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code and is not entitled to vote to accept or reject the Plan.
- (h) Class 8—Section 510(b) Claims
 - (i) *Classification:* Class 8 consists of all Section 510(b) Claims.
 - (ii) *Treatment:* Section 510(b) Claims will be canceled, released, and extinguished as of the Effective Date, and will be of no further force or effect, and each Holder of a Section 510(b) Claim will not receive any distribution on account of such Section 510(b) Claim. The Debtors are not aware of any valid Section 510(b) Claims and believe that no such Section 510(b) Claims exist.
 - (iii) *Voting:* Class 8 is Impaired. Each Holder of a Section 510(b) Claim is deemed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code and is not entitled to vote to accept or reject the Plan.

C. *Means for Implementation of the Plan*

1. *Sources of Consideration for Plan Distributions*

The HoldCo Equity, the Remaining Collateral, the Remaining Available Assets, the Priority Claims Reserve, the Other Secured Claims Reserve, the GUC Reserve, the Debtors' rights under the Transaction Agreement, and all Causes of Action not previously settled, released, or exculpated under the Plan, if any, shall be used to fund the distributions to Holders of Allowed Claims against the Debtors in accordance with the treatment of such Claims and subject to the terms provided in the Plan.

2. *Armstrong Sale Transaction*

(a) *Creation of NewCo and HoldCo*

Following the Petition Date, Armstrong shall form or cause to be formed (i) HoldCo, a Delaware limited liability company, which shall be wholly owned by Armstrong, and (ii) NewCo, one or, if designated by Knight Hawk and the Required Supporting Senior Noteholders, more than one new Delaware limited liability companies, which shall be wholly owned by HoldCo.

Pursuant to the Transaction Agreement, Armstrong shall cause (i) HoldCo to be treated as a disregarded entity for U.S. federal and applicable state and local income tax purposes and (ii) NewCo to be treated as a disregarded entity for U.S. federal and applicable state and local income tax purposes unless otherwise directed in writing by the Required Supporting Senior Noteholders and Knight Hawk, in which case Armstrong will cooperate (including by filing an IRS Form 8832 in connection with the Sale Transaction) to elect to treat NewCo as a corporation for U.S. federal and applicable state and local income tax purposes.

(b) Transaction Agreement

Subject to the terms of the Transaction Agreement, on the Effective Date, the Debtors shall consummate the Sale Transaction by, among other things, transferring the Transferred Assets to NewCo free and clear of all Liens, Claims, charges, and other encumbrances (other than the Permitted Encumbrances and Assumed Liabilities) pursuant to section 363 and 1123 of the Bankruptcy Code, the Plan, and the Confirmation and Sale Order. Upon entry of the Confirmation and Sale Order by the Bankruptcy Court, all matters provided for under the Transaction Agreement and the Plan, and any documents in connection therewith shall be deemed authorized and approved without any requirement of further act or action by the Debtors, the Debtors' shareholders or boards of directors, or any other Entity or Person. The Debtors will be authorized to execute and deliver, and to consummate the transactions contemplated by, the Transaction Agreement and the Plan, as well as to execute, deliver, file, record and issue any note, documents, or agreements in connection therewith, without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Entity.

The transactions contemplated by the Transaction Agreement and the Plan are undertaken by the Debtors, HoldCo, NewCo, the Supporting Senior Noteholders and Knight Hawk without collusion and in good faith, as that term is defined in section 363(m) of the Bankruptcy Code, and accordingly, the reversal or modification on appeal of the authorization provided therein to consummate the transactions contemplated thereunder shall not affect the validity of such transactions (including the assumption, assignment and/or transfer of any Executory Contract or Unexpired Lease to NewCo). NewCo is a good faith purchaser within the meaning of section 363(m) of the Bankruptcy Code and, as such, is entitled to the full protections of section 363(m) of the Bankruptcy Code as applicable.

(c) HoldCo Equity

On the Effective Date, HoldCo is authorized to issue or cause to be issued and shall issue the HoldCo Equity for distribution to the holders of Allowed Senior Notes Secured Claims in accordance with the terms of the Plan and to Knight Hawk as set forth in the Transaction Agreement, in each case, without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Person. All of the shares of HoldCo Equity issued pursuant to the Plan, as contemplated by the Transaction Agreement, shall be duly authorized and validly issued. Other than as contemplated through the issuance of HoldCo Equity pursuant to the Plan and the Transaction Agreement, there shall exist on the Effective Date no other equity securities, warrants, options, or other agreements to acquire any equity interest in HoldCo.

(d) Restructuring Transactions

Before, on, and after the Effective Date, the Debtors, or the Post-Effective Date Debtor, as applicable, are authorized, without further order of the Bankruptcy Court, to take all actions as may be necessary or appropriate to effect any transaction described in, approved by, contemplated by, or necessary to effectuate the Restructuring Transactions under or in connection with the Plan, including: (1) the execution and delivery of all appropriate agreements or other documents of merger, consolidation, restructuring, conversion, disposition, transfer, dissolution, or liquidation containing terms that are consistent with the terms of the Plan, and that satisfy the requirements of applicable law and any other terms to which the applicable Entities may agree with the consent (not to be unreasonably withheld) of the Required Supporting Senior Noteholders and Knight Hawk; (2) the execution and delivery of appropriate instruments of transfer, assignment, assumption, or delegation of any asset, property, right, liability, debt, or obligation on terms consistent with the terms of the Plan and having other terms to which the applicable Entities agree with the consent (not to be unreasonably withheld) of the Required Supporting Senior Noteholders and Knight Hawk; (3) rejection or assumption, or assumption and assignment, as applicable, of Executory Contracts and Unexpired Leases; (4) the filing of appropriate certificates or articles of incorporation, reincorporation, merger, consolidation, conversion, or dissolution pursuant to applicable state law; and (5) subject to the occurrence of the Effective Date, the consummation of the transactions contemplated by the Transaction Agreement.

(e) Payment of Cure Costs and Other Amounts

On or as soon as reasonably practicable after the Effective Date, (i) NewCo (or an Affiliate thereof), with funds provided by Knight Hawk, shall pay all NewCo Cure Costs, and (ii) the Debtors shall pay (either directly or through NewCo) all Debtor Cure Costs, in each case that are required to be paid (if any) pursuant to and in accordance with sections 365 or 1123 of the Bankruptcy Code with respect to any Executory Contracts or Unexpired Leases that are assumed by the Debtors and assigned to NewCo pursuant to the Transaction Agreement and the Plan. The Debtors and the Post-Effective Date Debtor (a) shall not have any obligation to make any payment or other distribution on account of any NewCo Cure Costs, and (b) shall have the obligation to pay NewCo for any amounts that are accrued as of the closing under the Transaction Agreement prorated per diem as of such closing not yet due and payable with respect to any Executory Contracts or Unexpired Leases that are assumed by the Debtors and assigned to NewCo pursuant to the Transaction Agreement and the Plan. NewCo, HoldCo, the Supporting Senior Noteholders, and Knight Hawk shall not have any obligation to make any payment or other distribution on account of any Debtor Cure Costs, except for Debtor Cure Costs paid through NewCo. All Royalty Agreements, as amended or restated as contemplated by the Transaction Agreement, shall be assumed and assigned to NewCo or otherwise conveyed to NewCo and all monetary defaults thereunder cured by NewCo or the Debtors, in each case as provided in the Transaction Agreement, on or prior to the Effective Date.

3. *Post-Effective Date Debtor*

On and after the Effective Date, in accordance with the Wind-Down Budget, the Post-Effective Date Debtor shall continue in existence for purposes of (1) winding down the Debtors' businesses and affairs as expeditiously as reasonably possible, (2) resolving Disputed Claims, (3) paying Allowed Priority Tax Claims, Allowed Administrative Claims (including but not limited to Professional Fee Claims), Allowed Priority Claims, Allowed Senior Notes Claims, Allowed Other Secured Claims, Allowed General Unsecured Claims, and Debtor Cure Costs as provided in the Plan, (4) establishing and funding the Distribution Reserve Accounts, (5) enforcing and prosecuting claims, interests, rights, and privileges under the Retained Causes of Action in an efficacious manner and only to the extent the benefits of such enforcement or prosecution are reasonably believed to outweigh the costs associated therewith, (6) filing appropriate tax returns, (7) complying with its continuing obligations under the Transaction Agreement (including with respect to the transfer of permits to NewCo as contemplated therein); and (8) administering the Plan in an efficacious manner. The Post-Effective Date Debtor shall be deemed to be substituted as the party-in-lieu of the Debtors in all matters, including for (a) all motions, contested matters, and adversary proceedings pending in the Bankruptcy Court, and (b) all matters pending in any courts, tribunals, forums, or administrative proceedings outside of the Bankruptcy Court, in each case without the need or requirement for the Plan Administrator to file motions or substitutions of parties or counsel in each such matter.

4. *Plan Administrator*

The Plan Administrator shall act for the Post-Effective Date Debtor in accordance with the Wind-Down Budget in the same fiduciary capacity as applicable to a board of managers, directors, and officers, subject to the provisions hereof (and all certificates of formation, membership agreements, and related documents are deemed amended by the Plan to permit and authorize the same). On the Effective Date, the authority, power, and incumbency of the persons acting as managers and officers of the Post-Effective Date Debtor shall be deemed to have resigned, and a representative of the Plan Administrator shall be appointed as the sole manager and sole officer of the Post-Effective Date Debtor, and shall succeed to the powers of the Post-Effective Date Debtor's managers, directors, and officers. From and after the Effective Date, the Plan Administrator shall be the sole representative of, and shall act for, the Post-Effective Date Debtor in accordance with the Wind-Down Budget as further described in Article VII in the Plan; provided that the Plan Administrator shall use commercially reasonable efforts to operate in a manner consistent with the Wind-Down Budget.

Notwithstanding anything herein to the contrary, the Post-Effective Date Debtor and the Plan Administrator shall be deemed to be fully bound by the terms of the Plan, and the Confirmation and Sale Order.

(a) Powers of the Plan Administrator

The powers of the Plan Administrator shall include any and all powers and authority to implement the Plan and to administer and distribute the Distribution Reserve Accounts and wind down the businesses and affairs of the Debtors and the Post-Effective Date Debtor, including: (1) liquidating, receiving, holding, and investing, supervising, and protecting the Post-Effective Date Debtor Assets; (2) taking all steps to execute all instruments and documents necessary to effectuate the distributions to be made under the Plan from the Distribution Reserve Accounts; (3) making distributions from the Distribution Reserve Accounts as contemplated under the Plan; (4) establishing and maintaining bank accounts in the name of the Post-Effective Date Debtor; (5) subject to the terms set forth herein, employing, retaining, terminating, or replacing professionals to represent it with respect to its responsibilities or otherwise effectuating the Plan to the extent necessary; (6) paying all reasonable fees, expenses, debts, charges, and liabilities of the Post-Effective Date Debtor; (7) administering and paying taxes of the Post-Effective Date Debtor, including filing tax returns; (8) representing the interests of the Post-Effective Date Debtor or the Estates before any taxing authority in all matters, including any action, suit, proceeding or audit; and (9) exercising such other powers as may be vested in it pursuant to order of the Bankruptcy Court or pursuant to the Plan, or as it reasonably deems to be necessary and proper to carry out the provisions of the Plan.

The Plan Administrator may resign at any time upon 30 days' written notice delivered to the Bankruptcy Court; *provided* that such resignation shall only become effective upon the appointment of a permanent or interim successor Plan Administrator. Upon its appointment, the successor Plan Administrator, without any further act, shall become fully vested with all of the rights, powers, duties, and obligations of its predecessor and all responsibilities of the predecessor Plan Administrator relating to the Post-Effective Date Debtor shall be terminated.

(b) Plan Administrator Rights and Powers

The Plan Administrator shall retain and have all the rights, powers and duties necessary to carry out his or her responsibilities under the Plan, and as otherwise provided in the Confirmation and Sale Order. The Plan Administrator shall be the exclusive trustee of the Post-Effective Date Debtor Assets for the purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), as well as the representative of the Estates appointed pursuant to Bankruptcy Code § 1123(b)(3)(B).

(c) Retention of Professionals

The Plan Administrator shall have the right to retain the services of attorneys, accountants, and other professionals that, in the discretion of the Plan Administrator, are necessary to assist the Plan Administrator in the performance of his or her duties. The reasonable fees and expenses of such professionals shall be paid by the Post-Effective Date Debtor from the Wind-Down Reserve upon the monthly submission of statements to the Plan Administrator. The payment of the reasonable fees and expenses of the Plan Administrator's retained professionals shall be made in the ordinary course of business from the Wind-Down Reserve and shall not be subject to the approval of the Bankruptcy Court.

(d) Plan Administrator Compensation and Expenses

The Plan Administrator's compensation, on a post-Effective Date basis, shall be as described in the Plan Supplement and paid out of the Wind-Down Budget Reserve.

All costs, expenses and obligations incurred by the Plan Administrator in administering the Plan, the Post-Effective Date Debtor, or in any manner connected, incidental or related thereto, in effecting distributions from the Post-Effective Date Debtor thereunder (including the reimbursement of reasonable expenses) shall be a charge against the Post-Effective Date Debtor Assets remaining from time to time in the hands of the Plan Administrator. Such expenses shall be paid from the Wind-Down Reserve and paid as they are incurred without the need for Bankruptcy Court approval.

(e) Plan Administrator Oversight

Notwithstanding anything to the contrary contained in the Plan, the Plan Administrator shall consult with the Required Supporting Senior Noteholders with regard to the settlement of any Administrative Claim, Priority Claim, or Other Secured Claim.

(f) Wind Down

On and after the Effective Date, the Plan Administrator will be authorized to implement the Plan and any applicable orders of the Bankruptcy Court, and the Plan Administrator shall have the power and authority to take any action necessary to wind down and dissolve the Debtors' Estates.

As soon as practicable after the Effective Date, the Plan Administrator shall: (1) cause the Debtors and the Post-Effective Date Debtor, as applicable, to comply with, and abide by, the terms of the Transaction Agreement, and any other documents contemplated thereby; (2) file for each of the Debtors, except the Post-Effective Date Debtor, a certificate of dissolution or equivalent document, together with all other necessary corporate and company documents, to effect the dissolution of the Debtors under the applicable laws of their state of incorporation or formation (as applicable), including, but not limited to, any actions contemplated in Sections 275–283 of the DGCL; and (3) take such other actions as the Plan Administrator may determine to be necessary or desirable to carry out the purposes of the Plan. For purposes of clause (2) of the preceding sentence, the Plan shall constitute a plan of distribution as contemplated in the DGCL. The certificate of dissolution or equivalent document may be executed by the Plan Administrator without need for any action or approval by the shareholders or Board of Directors of any Debtor. From and after the Effective Date, except with respect to the Post-Effective Date Debtor as set forth herein, the Debtors (4) for all purposes shall be deemed to have withdrawn their business operations from any state in which the Debtors were previously conducting, or are 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, (5) shall be deemed to have cancelled pursuant to the Plan all Interests, and (6) 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, (7) 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.

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 Plan Administrator.

(g) Exculpation; Indemnification; Insurance; Liability Limitation

The Plan Administrator and all professionals retained by the Plan Administrator, each in their capacities as such, shall be deemed exculpated and indemnified, except for fraud, willful misconduct, or gross negligence, in all respects by the Post-Effective Date Debtor. The Plan Administrator may obtain, at the expense of the Post-Effective Date Debtor and with funds from the Wind-Down Reserve, commercially reasonable liability or other appropriate insurance with respect to the indemnification obligations of the Post-Effective Date Debtor. The Plan Administrator may rely upon written information previously generated by the Debtors.

For the avoidance of doubt, notwithstanding anything to the contrary contained herein, the Plan Administrator, in its capacity as such, shall have no liability whatsoever to any party for the liabilities and/or obligations, however created, whether direct or indirect, in tort, contract, or otherwise, of the Debtors.

(h) Tax Returns

After the Effective Date, the Plan Administrator shall 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 Debtor or its Estate for any tax incurred during the administration of such Debtor's Chapter 11 Case, as determined under applicable tax laws.

(i) Dissolution of the Post-Effective Date Debtor

Upon a certification to be Filed with the Bankruptcy Court by the Plan Administrator of all distributions having been made and completion of all its duties under the Plan and entry of a final decree closing the last of the Chapter 11 Cases, the Post-Effective Date Debtor shall be deemed to be dissolved without any further action by the Post-Effective Date Debtor, including the filing of any documents with the secretary of state for the state in which the Post-Effective Date Debtor is formed or any other jurisdiction. The Plan Administrator, however, shall have authority to take all necessary actions to dissolve the Post-Effective Date Debtor in and withdraw the Post-Effective Date Debtor from applicable state(s).

5. *Reserves Administered by the Plan Administrator*

The Plan Administrator shall establish each of the Distribution Reserve Accounts (which may be affected by either establishing a segregated account or establishing book entry accounts, in the sole discretion of the Plan Administrator).

(a) Undeliverable Distribution Reserve

If a Distribution to any Holder of an Allowed Claim is returned to the Plan Administrator as undeliverable or is otherwise unclaimed, such Distribution shall be deposited in a segregated, interest-bearing account, designated as an "Undeliverable Distribution Reserve," for the benefit of such Holder until such time as such Distribution becomes deliverable, is claimed or is deemed to have been forfeited in accordance with Article I.A.3 of the Plan.

Any Holder of an Allowed Claim that does not assert a Claim pursuant to the Plan for an Undeliverable or Unclaimed Distribution within three months after the first Distribution is made to such Holder shall be deemed to have forfeited its claim for such Undeliverable or Unclaimed Distribution and shall be forever barred and enjoined from asserting any such claim for the Undeliverable or Unclaimed Distribution against any Debtor, any Estate, the Plan Administrator, the Post-Effective Date Debtor, or their respective properties or assets. In such cases, any Cash or other property held by the Post-Effective Date Debtor in the Undeliverable Distribution Reserve for distribution on account of such claims for Undeliverable or Unclaimed Distributions, including the interest that has accrued on such Undeliverable or Unclaimed Distribution while in the Undeliverable Distribution Reserve, shall become the property of the Post-Effective Date Debtor, notwithstanding any federal or state escheat laws to the contrary, and shall promptly be transferred to the General Account to be distributed according to the priority set forth in Article VIII.G of the Plan without further action or order of the Court; provided that any Undeliverable or Unclaimed Distribution on account of an Allowed General Unsecured Claim shall be transferred to the GUC Reserve.

The Plan Administrator and his or her respective agents and attorneys are under no duty to take any action to either (i) attempt to locate any Claim Holder, or (ii) obtain an executed Internal Revenue Service Form W-9 from any Claim Holder; provided that in his or her sole discretion, the Plan Administrator may periodically publish notice of Unclaimed Distributions.

Within fifteen (15) Business Days after the Holder of an Allowed Claim satisfies the requirements of the Plan, such that the distribution(s) attributable to its Claim is no longer an Undeliverable or Unclaimed Distribution (provided that satisfaction occurs within the time limits set forth in Article VIII.A.3 of the Plan), the Plan Administrator shall distribute out of the Undeliverable Distribution Reserve the amount of the Undeliverable or Unclaimed Distribution attributable to such Claim, including the interest that has accrued on such Undeliverable or Unclaimed Distribution while in the Undeliverable Distribution Reserve to the General Account.

(b) Priority Claims Reserve

On the Effective Date, the Plan Administrator shall establish the Priority Claims Reserve by depositing Cash in the amount of the Priority Claims Reserve Amount into the Priority Claims Reserve. The Priority Claims Reserve Amount shall be used to pay Allowed Priority Claims. If all or any portion of a Priority Claim shall become a Disallowed Claim, then the amount on deposit in the Priority Claims Reserve attributable to such surplus or such Disallowed Claim, including the interest that has accrued on said amount while on deposit in the Priority Claims Reserve, shall remain in the Priority Claims Reserve to the extent that the Plan Administrator determines necessary to ensure that the Cash remaining in the Priority Claims Reserve is sufficient to ensure that all Allowed

Priority Claims will be paid in accordance with the Plan, and shall otherwise promptly be transferred to the General Account to be distributed in accordance with the Plan without any further action or order of the Court. Any amounts remaining in the Priority Claims Reserve after payment of all Allowed Priority Claims shall promptly be transferred to the General Account and shall be distributed according to the priority set forth in Article VIII.G of the Plan without any further action or order of the Court.

(c) Wind-Down Reserve

On the Effective Date, the Plan Administrator shall establish the Wind-Down Reserve by depositing Cash in the amount of the Wind-Down Amount into the Wind-Down Reserve. The Wind-Down Reserve shall be used by the Plan Administrator solely to satisfy the expenses of the Post-Effective Date Debtor and the Plan Administrator as set forth in the Plan and the Wind-Down Budget; provided that all costs and expenses associated with the winding up of the Post-Effective Date Debtor and the storage of records and documents shall constitute expenses of the Post-Effective Date Debtor and shall be paid from the Wind-Down Reserve. In no event shall the Plan Administrator be required or permitted to use its personal funds or assets for such purposes. Any amounts remaining in the Wind-Down Reserve after payment of all expenses of the Post-Effective Date Debtor and the Plan Administrator shall promptly be transferred to the General Account and shall be distributed according to the priority set forth in Article VIII.G of the Plan without any further action or order of the Court.

(d) Other Secured Claim Reserve

On the Effective Date, the Plan Administrator shall establish the Other Secured Claims Reserve by depositing Cash in the amount of the Other Secured Claims Reserve Amount into the Other Secured Claims Reserve. The Other Secured Claims Reserve Amount shall be used to pay Allowed Other Secured Claims. If all or any portion of an Other Secured Claim shall become a Disallowed Claim, then the amount on deposit in the Other Secured Claims Reserve attributable to such surplus or such Disallowed Claim, including the interest that has accrued on said amount while on deposit in the Other Secured Claims Reserve, shall remain in the Other Secured Claims Reserve to the extent that the Plan Administrator determines necessary to ensure that the Cash remaining in the Other Secured Claims Reserve is sufficient to ensure that all Allowed Other Secured Claims will be paid in accordance with the Plan, and shall otherwise promptly be transferred to the General Account to be distributed in accordance with the Plan without any further action or order of the Court. Any amounts remaining in the Other Secured Claims Reserve after satisfaction of all Allowed Other Secured Claims shall promptly be transferred to the General Account and shall be distributed according to the priority set forth in Article VIII.G of the Plan without any further action or order of the Court.

(e) GUC Reserve

On the Effective Date, the Plan Administrator shall establish and thereafter maintain the GUC Reserve in a separate, segregated account by depositing the GUC Distribution Proceeds into the GUC Reserve. The GUC Distribution Proceeds shall be used to pay Allowed General Unsecured Claims on a pro rata basis. If all or any portion of a General Unsecured Claim shall become a Disallowed Claim, then the amount on deposit in the GUC Reserve attributable to such surplus or such Disallowed Claim, including the interest that has accrued on said amount while on deposit in the GUC Reserve, shall remain in the GUC Reserve and be distributed to holders of Allowed General Unsecured Claims in accordance with the Plan.

Notwithstanding anything to the contrary in the Plan, neither the Plan Administrator, the Post-Effective Date Debtor nor any other party in interest shall be obligated to fund the GUC Reserve in an aggregate amount in excess of the GUC Distribution Proceeds.

(f) Distribution Proceeds/Priority Waterfall

The Plan Administrator shall deliver to the Senior Note Trustee on a periodic basis all Remaining Collateral Proceeds available for distribution from time to time to the Holders of Allowed Senior Notes Secured Claims pursuant to Article III.B.3 of the Plan, with any balance constituting GUC Distribution Proceeds. All Remaining Available Asset Proceeds shall be allocated and paid to the applicable holders of Claims until paid in full

from time to time in the following priority (in each case on a pro rata basis): (i) *first*, on account of any Adequate Protection Claims remaining after taking into account any distributions received on account thereof pursuant to Article III.B.3 of the Plan or the preceding sentence (the “Remaining Adequate Protection Claims”); and (ii) and *second*, on account of any Allowed General Unsecured Claims (including any Senior Notes Deficiency Claims).

(g) General Account and Distribution Reserve Account Adjustments

Beginning on the first anniversary of the Effective Date or at such other times as the Plan Administrator shall determine as appropriate, and thereafter, on each anniversary of the Effective Date, the Plan Administrator shall determine the amount of Cash required to adequately maintain each of the Distribution Reserve Accounts (other than the GUC Reserve). Other than with respect to amounts held in the GUC Reserve, if after making and giving effect to any determination referred to in the immediately preceding sentence, the Plan Administrator determines that any Distribution Reserve Account (i) contains Cash in an amount in excess of the amount then required to adequately maintain such Distribution Reserve Account, then at any such time the Plan Administrator shall transfer such surplus Cash to the General Account to be used or distributed according to the priority set forth in Article VIII.H of the Plan, or (ii) does not contain Cash in an amount sufficient to adequately maintain such Distribution Reserve Account (other than the GUC Reserve), then at any such time the Plan Administrator shall transfer Cash from the General Account, to the extent Cash is available in the General Account until the deficit in such Distribution Reserve Account is eliminated. Any funds in the General Account not needed to eliminate a Distribution Reserve Account deficit shall be allocated and paid in the following priority (in each case on a pro rata basis): (x) *first*, to each Holder of a Remaining Adequate Protection Claim until such Claim is paid in full; (y) *second*, to the extent such funds constitute Remaining Collateral Proceeds, to each Holder of an Allowed Senior Notes Secured Claim until such Allowed Class 3 Senior Notes Secured Claim is paid in full; and (z) *third*, to each Holder of an Allowed General Unsecured Claim.

D. *Provisions Governing Distributions*

1. *Rights and Powers of the Debtors and the Plan Administrator*

(a) Powers of the Debtors and the Plan Administrator

Except as otherwise set forth herein, all distributions under the Plan shall be made on the Effective Date or as soon as reasonably practicable thereafter by the Debtors or the Plan Administrator (or its designee(s)), the timing of which shall be subject to the reasonable discretion of the Debtors or the Plan Administrator, as applicable.

On and after the Effective Date, the Plan Administrator and its designees or representatives shall have the right to object to, Allow, or otherwise resolve any General Unsecured Claim, Priority Claim, or Other Secured Claim, subject to the terms hereof; *provided* that the Plan Administrator and its designees or representatives shall not have the right to object to the Allowed Senior Notes Deficiency Claims.

The Debtors and the Plan Administrator, as applicable, shall not be required to give any bond or surety or other security for the performance of its duties unless otherwise ordered by the Bankruptcy Court. However, in the event that the Plan Administrator is so ordered after the Effective Date, all costs and expenses of procuring any such bond or surety shall be paid for with Cash from the Wind-Down Reserve.

(b) Fees of Plan Administrator and Expenses Incurred On or After the Effective Date

Except as otherwise ordered by the Bankruptcy Court, the fees and expenses incurred by the Plan Administrator on or after the Effective Date (including taxes) and any reasonable compensation and expense reimbursement Claims (including attorney fees and expenses) made by the Plan Administrator in connection with such Plan Administrator’s duties shall be paid without any further notice to or action, order, or approval of the Bankruptcy Court in Cash from the Wind-Down Reserve if such amounts relate to any actions taken hereunder.

2. *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 Debtors, the Plan Administrator, 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. The Distribution Record Date shall not apply to the Senior Notes Trustee with respect to beneficial holders of the Senior Notes Claims.

(b) Distributions to Beneficial Holders of the Senior Notes Claims

Notwithstanding any provision of the Plan to the contrary, distributions to beneficial holders of the Senior Notes Claims shall be made to or at the direction of the Senior Notes Trustee, which shall act as disbursing agent for distributions to the beneficial holders of the Senior Notes Claims under the Senior Notes Indenture. The Senior Notes Trustee may transfer or direct the transfer of such distributions directly through the facilities of DTC (whether by means of book-entry exchange, free delivery, or otherwise) and will be entitled to recognize and deal for all purposes under the Plan with beneficial holders of Senior Notes Claims to the extent consistent with the customary practices of DTC. Such distributions shall be subject in all respects to the right of the Senior Notes Trustee to assert its charging lien under the Senior Notes Indenture against such distributions. All distributions to be made to beneficial holders of Senior Notes Claims shall be eligible to be distributed through the facilities of DTC and as provided for under the Senior Notes Indenture.

(c) Delivery of Distributions in General

(i) Payments and Distributions on Disputed Claims

Distributions made after the Effective Date to Holders of Disputed Claims that are not Allowed Claims as of the Effective Date but which later become Allowed Claims shall, in the reasonable discretion of the Plan Administrator, be deemed to have been made by the Plan Administrator on the Effective Date unless the Plan Administrator and the Holder of such Claim agree otherwise.

(ii) 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 Debtors or the Plan Administrator, as applicable, 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.

(iii) Distributions

On and after the Effective Date, the Debtors or the Plan Administrator, as applicable, shall make the distributions required to be made on account of Allowed Claims under the Plan. Any distribution that is not made on the Initial Distribution 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 Plan Administrator in reserve by the Plan Administrator in accordance with the Plan, as applicable, and distributed on the next Subsequent Distribution Date that occurs after such Claim is Allowed. Subject to Article VI.E in the Plan, no interest shall accrue or be paid on the unpaid amount of any distribution paid pursuant to the Plan.

(d) Minimum; De Minimis Distributions

No Cash payment of less than \$50, in the reasonable discretion of the Debtors or the Plan Administrator, as applicable, shall be made to a Holder of an Allowed Claim on account of such Allowed Claim.

(e) 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 Debtors or the Plan Administrator, as applicable, has determined the then-current address of such Holder, at which time such distribution shall be made to such Holder without interest; *provided* that such distributions shall be deemed unclaimed property under section 347(b) of the Bankruptcy Code at the expiration of three months from the date the initial 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 Post-Effective Date Debtor 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.

(f) Manner of Payment Pursuant to the Plan

Any payment in Cash to be made pursuant to the Plan shall be made at the election of the Debtors or the Plan Administrator, as applicable, by check or by wire transfer.

3. *Exemption from Securities Laws.*

The issuance of and the distribution under the Plan of the HoldCo Equity to Holders of Allowed Senior Notes Secured Claims (but not the issuance of HoldCo Equity to Knight Hawk as described in the Transaction Agreement) shall be exempt from registration under the Securities Act and any other applicable securities laws pursuant to section 1145 of the Bankruptcy Code. These Securities may be resold without registration under the Securities Act or other federal securities laws pursuant to the exemptions provided by sections 1145(b)(1) and 1145(c) of the Bankruptcy Code, unless the holder is an “underwriter” with respect to such Securities, as that term is defined in section 1145(b) of the Bankruptcy Code, or an “affiliate” of HoldCo within the meaning of Rule 144 under the Securities Act and section 4(a)(2) of the Securities Act. In addition, such section 1145 exempt Securities generally may be resold without registration under state securities laws pursuant to various exemptions provided by the respective laws of the several states. The issuance of HoldCo Equity to Knight Hawk pursuant to the Transaction Agreement is expected to be exempt from registration under the Securities Act and any other applicable securities laws as a private placement by HoldCo under section 4(a)(2) of the Securities Act or any other applicable exemptions.

E. *Settlement, Release, Injunction, and Related Provisions*

1. *Settlement, Compromise, and Release of Claims and Interests*

Pursuant to section 1123 of the Bankruptcy Code and Bankruptcy Rule 9019 and in consideration for the distributions and other benefits provided pursuant to the Plan, the provisions of the Plan shall constitute a good-faith compromise and settlement of all Claims, Interests, and controversies relating to the contractual, legal, and subordination rights that a Holder of a Claim or Interest may have with respect to any Allowed Claim or Interest, or any distribution to be made on account of such Allowed Claim or Interest. The entry of the Confirmation and Sale Order shall constitute the Bankruptcy Court’s approval of the compromise or settlement of all such Claims, Interests, and controversies, as well as a finding by the Bankruptcy Court that such compromise or settlement is in the best interests of the Debtors, their Estates, and Holders of Claims and Interests and is fair, equitable, and reasonable. In accordance with the provisions of the Plan, pursuant to Bankruptcy Rule 9019, without any further notice to or action, order, or approval of the Bankruptcy Court, after the Effective Date, the Plan Administrator may compromise and settle Claims against, and Interests in, the Debtors and their Estates and Causes of Action against other Entities.

2. *Release of Liens*

Except as otherwise specifically provided in the Plan, the Transaction Agreement or in any contract, instrument, release, or other agreement or document created pursuant to the Plan, on the Effective Date and concurrently with the applicable distributions made pursuant to the Plan and the Transaction Agreement, all mortgages, deeds of trust, Liens, pledges, or other security interests against any property of the Estates shall

be fully released, settled, compromised, 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 Debtors and their successors and assigns, in each case, without any further approval or order of the Bankruptcy Court and without any action or Filing being required to be made by the Debtors. In addition, the Senior Notes Trustee shall execute and deliver all documents reasonably requested by the Debtors or Plan Administrator to evidence the release of such mortgages, deeds of trust, Liens, pledges, and other security interests and shall authorize the Debtors to file UCC-3 termination statements (to the extent applicable) with respect thereto.

3. *Releases by the Debtors*

Pursuant to section 1123(b) of the Bankruptcy Code, and except as otherwise specifically provided in the Plan, for good and valuable consideration, including the service of the Released Parties in facilitating the expeditious reorganization of the Debtors and the implementation of the restructuring contemplated by the Plan, effective as of the Effective Date, the Debtors, the Post-Effective Date Debtor, and any Person seeking to exercise the rights of the Estates, including any successor to the Debtors or any estate representative appointed or selected pursuant to section 1123(b)(3) of the Bankruptcy Code shall be deemed to forever release, waive, and discharge the Released Parties of any and all claims, obligations, 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, liquidated or unliquidated, contingent or fixed, existing or hereafter arising, in law, at equity or otherwise, whether for tort, contract, violations of federal or state securities laws or otherwise, including those that any of the Debtors, the Post-Effective Date Debtor, the Estates, or their Affiliates 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 Interest, based on or relating to, or in any manner arising from, in whole or in part, the Debtors, the Estates, the conduct of the Debtors' businesses, the Chapter 11 Cases, the purchase, sale, or rescission of the purchase or sale of any security of the Debtors or the Post-Effective Date Debtor, the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan, the business or contractual arrangements between any of the Debtors and any Released Party, the restructuring of claims and Interests prior to or in the Chapter 11 Cases, the negotiation, formulation, or preparation of the Restructuring Support Agreement, the Transaction Agreement, Plan, the Plan Supplement, the Disclosure Statement, or related agreements, instruments, or other documents, or upon any other act or omission, transaction, or occurrence relating to the foregoing taking place on or before the Effective Date of the Plan.

Notwithstanding anything to the contrary in the foregoing, the releases set forth above do not release any post-Effective Date obligations of any party or Entity: (1) arising under the Plan, the Transaction Agreement, or any document, instrument, or agreement (including those set forth in the Plan Supplement) executed to implement the Plan, or (2) expressly set forth in and preserved by the Plan, the Plan Supplement, or related documents.

Entry of the Confirmation and Sale 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 herein, and further, shall constitute the Bankruptcy Court's finding that the Debtor Release is: (1) in exchange for the good and valuable consideration provided by the Released Parties; (2) a good faith settlement and compromise of the claims released by the Debtor Release; (3) in the best interests of the Debtors and all Holders of Claims and Interests; (4) fair, equitable and reasonable; (5) given and made after reasonable investigation by the Debtors and after notice and opportunity for hearing; and (6) a bar to any of the Debtors asserting any claim released by the Debtor Release against any of the Released Parties.

4. *Releases by Holders of Claims and Interests*

Except as otherwise specifically provided in the Plan, for good and valuable consideration, including the service of the Released Parties in facilitating the expeditious reorganization of the Debtors and the implementation of the restructuring contemplated by the Plan, effective as of the Effective Date, the Releasing Parties (regardless of whether a Releasing Party is a Released Party) shall be deemed to forever release,

waive, and discharge the Released Parties of any and all claims, obligations, 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, liquidated or unliquidated, contingent or fixed, existing or hereafter arising, in law, at equity, or otherwise, whether for tort, contract, violations of federal or state securities laws or otherwise, including those that any of the Debtors, the Estates, or their Affiliates 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 Interest, based on or relating to, or in any manner arising from, in whole or in part, the Debtors, the Estates, the conduct of the Debtors' businesses, the Chapter 11 Cases, the purchase, sale, or rescission of the purchase or sale of any security of the Debtors, the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan, the business or contractual arrangements between any of the Debtors and any Released Party, the restructuring of Claims and Interests prior to or in the Chapter 11 Cases, the negotiation, formulation, or preparation of the Restructuring Support Agreement, the Transaction Agreement, Plan, the Plan Supplement, the Disclosure Statement, or related agreements, instruments, or other documents, or upon any other act or omission, transaction, or occurrence relating to the foregoing taking place on or before the Effective Date.

Notwithstanding anything to the contrary in the foregoing, the releases set forth above do not release any post-Effective Date obligations of any party or Entity under the Plan, the Transaction Agreement, or any document, instrument, or agreement (including those set forth in the Plan Supplement) executed to implement the Plan.

Entry of the Confirmation and Sale 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: (1) in exchange for the good and valuable consideration provided by the Released Parties; (2) a good faith settlement and compromise of the claims released by the Releasing Parties; (3) in the best interests of the Debtors and all Holders of Claims and Interests; (4) fair, equitable and reasonable; (5) given and made after notice and opportunity for hearing; and (6) a bar to any of the Releasing Parties asserting any Claim released by the Third-Party Release against any of the Released Parties.

5. Exculpation

Upon and effective as of the Effective Date, the Debtors and their directors, officers, employees, attorneys, investment bankers, financial advisors, restructuring consultants, and other professional advisors and agents will be deemed to have solicited acceptances of the Plan in good faith and in compliance with the applicable provisions of the Bankruptcy Code, including section 1125(e) of the Bankruptcy Code.

Except with respect to any acts or omissions expressly set forth in and preserved by the Plan, the Plan Supplement, the Transaction Agreement or related documents, the Debtors and the Released Parties (collectively, the "Exculpated Parties") shall neither have nor incur any liability to any Entity for any prepetition or postpetition act taken or omitted to be taken in connection with, or arising from or relating in any way to, the Chapter 11 Cases, including the operation of the Debtors' businesses during the pendency of these Chapter 11 Cases; formulating, negotiating, preparing, disseminating, implementing, and/or effecting the Restructuring Support Agreement, the Transaction Agreement, the Disclosure Statement, and the Plan (including the Plan Supplement and any related contract, instrument, release, or other agreement or document created or entered into in connection therewith); the solicitation of votes for the Plan and the pursuit of Confirmation and Consummation of the Plan; the administration of the Plan and/or the property to be distributed under the Plan; and/or any other prepetition or postpetition act taken or omitted to be taken in connection with or in contemplation of the restructuring of the Debtors. In all respects, each Exculpated Party shall be entitled to rely upon the advice of counsel concerning his, her, or its respective duties under, pursuant to, or in connection with the Plan.

Notwithstanding anything herein to the contrary, nothing in the foregoing "Exculpation" shall exculpate any Person or Entity from any liability resulting from any act or omission constituting fraud, willful misconduct, gross negligence, criminal conduct, malpractice, misuse of confidential information that causes damages, or ultra vires acts as determined by a Final Order.

6. *Injunction*

Except as otherwise provided in the Plan or the Confirmation and Sale Order, all Entities who have held, hold, or may hold Claims, Interests, Causes of Action, or liabilities that: (1) are subject to compromise and settlement pursuant to the terms of the Plan; (2) have been released pursuant to the Plan; (3) are subject to exculpation pursuant to the Plan; or (4) are otherwise stayed or terminated pursuant to the terms of the Plan, are permanently enjoined and precluded, from and after the Effective Date, from: (A) commencing or continuing in any manner any action or other proceeding of any kind, including on account of any Claims, Interests, Causes of Actions, or liabilities that have been compromised or settled against the Debtors, the Post-Effective Date Debtor, or any Entity so released or exculpated (or the property or estate of any Entity, directly or indirectly, so released or exculpated) on account of or in connection with or with respect to any released, settled, compromised, or exculpated Claims, equity Interests, Causes of Action, or liabilities; (B) enforcing, attaching, collecting, or recovering by any manner or means any judgment, award, decree, or order against the Debtors, the Post-Effective Date Debtor, or any Entity so released or exculpated (or the property or estate of the Debtors or any Entity so released or exculpated) on account of or in connection with or with respect to any such released, settled, compromised, or exculpated Claims, equity Interests, Causes of Action, or liabilities; (C) creating, perfecting, or enforcing any lien, claim, or encumbrance of any kind against the Debtors, the Post-Effective Date Debtor, or any Entity so released or exculpated (or the property or estate of the Debtors or any Entity so released or exculpated) on account of or in connection with or with respect to any such released, settled, compromised, or exculpated Claims, equity Interests, Causes of Action, or liabilities; (D) asserting any right of setoff or subrogation of any kind against any obligation due from the Debtors or any Entity so released or exculpated (or the property or estate of the Debtors or any Entity so released or exculpated) on account of or in connection with or with respect to any such released, settled, compromised, or exculpated Claims, equity Interests, Causes of Action, or liabilities unless such Entity has timely asserted such setoff or subrogation right prior to confirmation in a document Filed with the Bankruptcy Court explicitly preserving such setoff or subrogation; and (e) commencing or continuing in any manner any action or other proceeding of any kind against the Debtors, the Post-Effective Date Debtor, or any Entity so released or exculpated (or the property or estate of the Debtors or any Entity so released or exculpated) on account of or in connection with or with respect to any such released, settled, compromised, or exculpated Claims, equity Interests, Causes of Action, or liabilities released, settled, or compromised pursuant to the Plan; provided that nothing contained in the Plan shall preclude an Entity from obtaining benefits directly and expressly provided to such Entity pursuant to the terms of the Plan; provided further that nothing contained in the Plan shall be construed to prevent any Entity from defending against Claims, objections, or collection actions whether be asserting a right of setoff or otherwise to the extent permitted by law.

**ARTICLE VII.
VOTING AND CONFIRMATION**

On November 8, 2017, the Debtors filed a motion seeking entry of a proposed Disclosure Statement Order approving this Disclosure Statement.

A. *Classes Entitled to Vote on the Plan*

The following Classes are the only Classes entitled to vote to accept or reject the Plan (the “Voting Classes”):

Class	Claim	Status
3	Senior Notes Secured Claims	Impaired
4	General Unsecured Claims	Impaired

If your Claim or Interest is not included in the Voting Classes, you are not entitled to vote and you will not receive a Solicitation Package (as defined herein) or a Ballot. If your Claim is included in the Voting Classes, you should read your Ballot and carefully follow the instructions set forth therein. Please use only the Ballot that

accompanies this Disclosure Statement or the Ballot that the Debtors, or the Notice and Solicitation Agent on behalf of the Debtors, otherwise provide to you.

B. *Votes Required for Acceptance by a Class*

Under the Bankruptcy Code, acceptance of a plan of reorganization by a class of claims or interests is determined by calculating the amount and, if a class of claims, the number, of claims and interests voting to accept, as a percentage of the allowed claims or interests, as applicable, that have voted. Each Class of Claims entitled to vote on the Plan will have accepted the Plan if: (a) the Holders of at least two-thirds in dollar amount of the Claims actually voting in each Class vote to accept the Plan; and (b) the Holders of more than one-half in number of the Claims actually voting in each Class vote to accept the Plan.

C. *Certain Factors to Be Considered Prior to Voting*

There are a variety of factors that all holders of Claims entitled to vote on the Plan should consider prior to voting to accept or reject the Plan. These factors may impact recoveries under the Plan, including that:

- the financial information contained in this Disclosure Statement has not been audited and is based on an analysis of data available at the time of the preparation of the Plan and this Disclosure Statement;
- although the Debtors believe that the Plan complies with all applicable provisions of the Bankruptcy Code, the Debtors can neither assure such compliance nor that the Bankruptcy Court will confirm the Plan;
- the Debtors may request Confirmation without the acceptance of all Impaired Classes entitled to vote in accordance with section 1129(b) of the Bankruptcy Code; and
- any delays of either Confirmation or Consummation could result in, among other things, increased Administrative Claims or Professional Fee Claims.

While these factors could affect distributions available to Holders of Allowed Claims under the Plan, the occurrence or impact of such factors will not necessarily affect the validity of the vote of Holders within the Voting Classes or necessarily require a re-solicitation of the votes of Holders of Claims in such Voting Classes.

For a further discussion of risk factors, please refer to Article VIII hereof, entitled “Certain Risk Factors to be Considered Before Voting.”

D. *Classes Not Entitled to Vote on the Plan*

Under the Bankruptcy Code, holders of claims and interests are not entitled to vote if their contractual rights are unimpaired by the proposed plan, in which case they are conclusively presumed to accept the proposed plan, or if they will receive no property under the plan, in which case they are deemed to reject the proposed plan. Accordingly, the following Classes of Claims and Interests are not entitled to vote to accept or reject the Plan:

Class	Claim or Interest	Status	Voting Rights
1	Other Priority Claims	Unimpaired	Presumed to Accept
2	Other Secured Claims	Unimpaired	Presumed to Accept
5	Intercompany Claims	Impaired	Deemed to Reject
6	Interests in Armstrong	Impaired	Deemed to Reject
7	Intercompany Interests	Impaired	Deemed to Reject

8	Section 510(b) Claims	Impaired	Deemed to Reject
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E. *Solicitation Procedures*

1. *Notice and Solicitation Agent*

The Debtors retained Donlin Recano & Company, Inc. (“Donlin Recano”) to act, among other things, as the notice and solicitation agent (the “Notice and Solicitation Agent”) in connection with the solicitation of votes to accept or reject the Plan.

2. *Solicitation Package*

Pursuant to the Disclosure Statement Order, Holders of Claims who are entitled to vote to accept or reject the Plan as of [●], 2017 (the “Voting Record Date”), will receive appropriate solicitation materials (the “Solicitation Package”), which will include, in part, the following:

- the appropriate Ballot(s) and applicable voting instructions, together with a pre-addressed, postage pre-paid return envelope; and
- this Disclosure Statement, including the Plan as an exhibit thereto.

3. *Distribution of the Solicitation Package and Plan Supplement*

The Debtors will cause Donlin Recano to distribute the Solicitation Packages to Holders of Claims in the Voting Classes on or before [●], 2017, which will be at least 28 days before the Voting Deadline (*i.e.*, 4:00 p.m. prevailing Central Time on [●], 2017).

The Solicitation Package (except for the Ballots) may also be obtained: (a) from Donlin Recano by (i) visiting <http://www.donlinrecano.com/armstrong>; (ii) writing to Armstrong Energy, Inc., Ballot Processing Center, c/o Donlin, Recano & Company, Inc., Attn.: Armstrong Energy, Inc., *et al.*, 6201 15th Ave, Brooklyn, NY 11219; or (b) for a fee via PACER at <http://www.moeb.uscourts.gov>.

At least 14 days prior to the Confirmation Hearing, the Debtors intend to file the Plan Supplement. If the Plan Supplement is updated or otherwise modified, such modified or updated documents will be made available at <http://www.donlinrecano.com/armstrong>. The Debtors will not serve paper or CD-ROM copies of the Plan Supplement; however, parties may obtain a copy of the Plan Supplement (a) from Dolin Recano by (i) calling the Debtors’ restructuring hotline at 866-416-0556 (toll free) or 212-771-1128 (international); (ii) visiting the Debtors’ restructuring website at: <http://www.donlinrecano.com/armstrong>; (iii) writing to Donlin, Recano & Company, Inc., Attn: Armstrong Energy, Inc., *et. al.*, Ballot Processing, 6201 15th Ave, Brooklyn, NY 11219; or (b) for a fee via PACER at <http://www.moeb.uscourts.gov>.

As described above, certain Holders of Claims may not be entitled to vote because they are Unimpaired or are otherwise presumed to accept the Plan under section 1126(f) of the Bankruptcy Code. In addition, certain Holders of Claims and Interests may be Impaired but are receiving no distribution under the Plan, and are therefore deemed to reject the Plan and are not entitled to vote. Such Holders will receive only the Confirmation Hearing Notice and a non-voting status notice. The Debtors are only distributing a Solicitation Package, including this Disclosure Statement and a Ballot to be used for voting to accept or reject the Plan, to the Holders of Claims entitled to vote to accept or reject the Plan as of the Voting Record Date.

F. *Voting Procedures*

If, as of the Voting Record Date, you are a Holder of a Claim in Class 3 or 4—the Voting Classes—you may vote to accept or reject the Plan in accordance with the Solicitation Procedures by completing the Ballot and returning it in the envelope provided. If your Claim or Interest is not included in the Voting Classes you are not entitled to vote and you will not receive a Solicitation Package. Except as otherwise set forth herein, 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.

1. *Voting Deadline*

The Voting Deadline is [●], 2017, at 4:00 p.m., prevailing Central Time. To be counted as a vote to accept or reject the Plan, a Ballot must be properly executed, completed, and delivered, whether by first class mail, overnight delivery, or personal delivery, so that the Ballot is **actually received** by Donlin Recano no later than the Voting Deadline.

2. *Voting Instructions*

As described above, the Debtors have retained Donlin Recano to serve as the Notice and Solicitation Agent for purposes of the Plan. Donlin Recano is available to answer questions, provide additional copies of all materials, oversee the voting process, and process and tabulate Ballots for each Class entitled to vote to accept or reject the Plan.

BALLOTS
To be counted, all Ballots must be actually received by Donlin Recano by the Voting Deadline, which is [●], 2017, at 4:00 p.m., prevailing Central Time, at the following address:
Armstrong Energy, Inc. Ballot Processing c/o Donlin, Recano & Company, Inc. 6201 15th Ave Brooklyn, NY 11219
If you have any questions on the procedure for voting on the Plan, please call the Debtors' restructuring hotline maintained by Donlin Recano at: 866-416-0556 (toll free) or 212-771-1128 (international).

More detailed instructions regarding the procedures for voting on the Plan are contained in the Ballots distributed to Holders of Claims that are entitled to vote to accept or reject the Plan. All votes to accept or reject the Plan must be cast by using the appropriate Ballot. All Ballots must be properly executed, completed, and delivered according to their applicable voting instructions by: (a) first class mail, in the return envelope provided with each Ballot; (b) overnight courier; or (c) hand-delivery, so that the Ballots are **actually received** by Donlin Recano no later than the Voting Deadline at the return address set forth in the applicable Ballot. Any Ballot that is properly executed by the Holder of a Claim entitled to vote that does not clearly indicate an acceptance or rejection of the Plan or that indicates both an acceptance and a rejection of the Plan will not be counted.

Each Holder of a Claim entitled to vote to accept or reject the Plan may cast only one Ballot for each Claim in a Voting Class held by such Holder. By signing and returning a Ballot, each Holder of a Claim entitled to vote 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 Claim, such earlier Ballots are superseded and revoked. It is important to follow the specific instructions provided on each Ballot, as failing to do so may result in your Ballot not being counted.

3. *Disputed Claims Procedures*

The Disclosure Statement Order authorizes the Debtors to temporarily allow Claims against which an objection is pending as of the Voting Record Date in an amount that the Bankruptcy Court deems appropriate for purposes of permitting the Holder of such Claim to vote to accept or reject the Plan. Pursuant to the Solicitation Procedures, if a Claim in a Voting Class is subject to an objection other than a "reduce and allow" objection that is Filed with the Court on or prior to seven days before the Voting Deadline: (i) the Debtors shall cause the applicable Holder to be served with a disputed claim notice; and (ii) the applicable Holder shall not be

entitled to vote to accept or reject the Plan on account of such Claim unless a Resolution Event (as defined below) occurs. The Holder of a Claim in a Voting Class that is the subject of a pending objection on a “reduce and allow” basis shall be entitled to vote such Claim in the reduced amount contained in such objection.

If a Claim in a Voting Class is subject to an objection other than a “reduce and allow” objection that is filed with the Court fewer than seven days prior to the Voting Deadline, the applicable Claim shall be deemed temporarily allowed *for voting purposes only*, without further action by the Holder of such Claim and without further order of the Bankruptcy Court, unless the Bankruptcy Court orders otherwise.

A “Resolution Event” means the occurrence of one or more of the following events no later than two business days prior to the Voting Deadline: (i) an order of the Bankruptcy Court is entered allowing such Claim pursuant to section 502(b) of the Bankruptcy Code, after notice and a hearing; (ii) an order of the Bankruptcy Court is entered temporarily allowing such Claim *for voting purposes only* pursuant to Bankruptcy Rule 3018(a), after notice and a hearing; (iii) a stipulation or other agreement is executed between the Holder of such Claim and the Debtors resolving the objection and allowing such Claim in an agreed upon amount; or (v) the pending objection is voluntarily withdrawn by the objecting party. No later than one business day following the occurrence of a Resolution Event, the Debtors shall cause Donlin Recano to distribute via email, hand delivery, or overnight courier service a Solicitation Package and a pre-addressed, postage pre-paid envelope to the relevant Holder.

G. *Plan Objection Deadline*

The Disclosure Statement Order established [●], 2017, at 4:00 p.m., prevailing Central Time, as the deadline to object to Confirmation of the Plan (the “Plan Objection Deadline”). All objections to the Plan must be filed with the Bankruptcy Court and served on the Debtors and certain other parties in interest in accordance with the Disclosure Statement Order so that they are **actually received** on or before the Plan Objection Deadline.

H. *Confirmation Hearing.*

Section 1128(a) of the Bankruptcy Code requires a bankruptcy court, after notice, to conduct a hearing to consider confirmation of a chapter 11 plan. Section 1128(b) of the Bankruptcy Code provides that any party in interest may object to confirmation of the Plan. **The Bankruptcy Court has scheduled a Confirmation Hearing for [●], 2017, at [_:__ a/p].m., prevailing Central Time.** The Confirmation Hearing may be adjourned from time to time by the Bankruptcy Court without further notice except for an announcement of the adjourned date made at the Confirmation Hearing or the filing of a notice of such adjournment served in accordance with the order approving the Disclosure Statement and solicitation procedures. Any objection to the Plan must (1) be in writing; (2) conform to the Bankruptcy Rules and the Bankruptcy Local Rules; (3) state the name, address, phone number, and e-mail address of the objecting party and the amount and nature of the Claim or Interest of such entity, if any; (4) state with particularity the basis and nature of any objection to the Plan and, if practicable, a proposed modification to the Plan that would resolve such objection; and (5) be filed, contemporaneously with a proof of service, with the Bankruptcy Court and served so that it is actually received by the following notice parties set forth in this Disclosure Statement no later than the Plan Objection Deadline. Unless an objection to the Plan is timely served and filed, it may not be considered by the Bankruptcy Court.

I. *Confirmation Standards.*

At a Confirmation Hearing, the Bankruptcy Court will determine whether the Plan satisfies the requirements of section 1129 of the Bankruptcy Code. The Debtors believe that the Plan satisfies or will satisfy all of the statutory requirements of chapter 11 of the Bankruptcy Code and that they have complied or will have complied with all of the requirements of chapter 11 of the Bankruptcy Code. Specifically, the Debtors believe that the Plan satisfies or will satisfy the applicable confirmation requirements of section 1129 of the Bankruptcy Code, including those set forth below.

- The Plan complies with the applicable provisions of the Bankruptcy Code.
- The Debtors, as the Plan proponents, have complied with the applicable provisions of the Bankruptcy Code.
- The Plan has been proposed in good faith and not by any means forbidden by law.
- Any payment made or to be made under the Plan for services or for costs and expenses in, or in connection with, the Chapter 11 Cases, or in connection with the Plan and incident to the Chapter 11 Cases, has been or will be disclosed to the Bankruptcy Court, and any such payment: (1) made before the confirmation of the Plan is reasonable; or (2) is subject to the approval of the Bankruptcy Court as reasonable, if it is to be fixed after confirmation of the Plan.
- With respect to each Class of Claims, each Holder of an Impaired Claim has accepted the Plan or will receive or retain under the Plan on account of such Claim property of a value as of the Effective Date of the Plan that is not less than the amount that such Holder would receive or retain if the Debtors were liquidated on that date under chapter 7 of the Bankruptcy Code. With respect to each Class of Interests, each Holder of an Impaired Interest will have accepted the Plan or will receive or retain under the Plan on account of such Interest property of a value as of the Effective Date of the Plan that is not less than the amount that such Holder would receive or retain if the Debtors were liquidated on that date under chapter 7 of the Bankruptcy Code.
- Each Class of Claims that is entitled to vote on the Plan will have either accepted the Plan or is not Impaired under the Plan, or the Plan can be confirmed without the approval of such voting Class of Claims pursuant to section 1129(b) of the Bankruptcy Code.
- Except to the extent that the Holder of a particular Claim will agree to a different treatment of its Claim, the Plan provides that: (i) Holders of Claims specified in sections 507(a)(2) will receive payment in full, in Cash; (ii) Holders of Claims specified in sections 507(a)(1), 507(a)(4), 507(a)(5), 507(a)(6), or 507(a)(7) of the Bankruptcy Code will receive on account of such Claims payment in full, in Cash; and (iii) Holders of Claims specified in section 507(a)(8) of the Bankruptcy Code will receive on account of such Claim payment in full, in Cash.
- At least one Class of Impaired Claims will have accepted the Plan, determined without including any acceptance of the Plan by any “insider,” as that term is defined by section 101(31) of the Bankruptcy Code, holding a Claim in that Class.
- Confirmation of the Plan is not likely to be followed by the liquidation or the need for further financial restructuring of the Debtors or any successors thereto under the Plan, unless the Plan contemplates such liquidation or restructuring.
- The Debtors have paid or the Plan provides for the payment of the required filing fees pursuant to 28 U.S.C. § 1930 to the clerk of the Bankruptcy Court.

1. *Best Interests of Creditors Test—Liquidation Analysis*

Often called the “best interests” test, section 1129(a)(7) of the Bankruptcy Code requires that a bankruptcy court find, as a condition to confirmation, that a chapter 11 plan provides, with respect to each class, that each holder of a claim or an interest in such class either (a) has accepted the plan or (b) will receive or retain under the plan property of a value, as of the effective date of the plan, that is not less than the amount that such holder would receive or retain if the debtors liquidated under chapter 7 of the Bankruptcy Code.

The Plan satisfies the best interests of creditors test as demonstrated by the liquidation analysis attached hereto as **Exhibit B**. The Plan provides a greater recovery to the holders of Claims than such Holders would receive under a liquidation under chapter 7 of the Bankruptcy Code, primarily because the Plan avoids additional

administrative expenses and commissions associated with the appointment of a chapter 7 trustee, while increasing the efficiency of administering the Debtors' relatively few remaining assets for the benefit of creditors.

2. *Valuation*

The Debtors, with the assistance of MAEVA, have pursued an extensive marketing process for substantially all of the Debtors' assets, on both enterprise level and non-enterprise level bases. Beginning in the second quarter of 2016, the Debtors contacted numerous potential strategic parties. A detailed description of the marketing process is set forth in Article IV.C.2 of this Disclosure Statement.

MAEVA believes the value achieved by the successful consummation of the Sale Transaction and as provided under the Plan is a reasonable measure of the Debtors' value in light of, among other things, (1) the robust and exhaustive nature of the marketing process, both pre and postpetition, and (2) the active bidding that took place during the marketing process.

Nothing herein constitutes an opinion as to the fairness from a financial point of view of the consideration to be received under the Plan or of the terms and provisions of the Plan.

3. *Financial Feasibility*

Section 1129(a)(11) of the Bankruptcy Code requires that the bankruptcy court find that confirmation is not likely to be followed by the liquidation or the need for further financial restructuring, unless the plan contemplates such liquidation or restructuring. The Debtors believe that the Plan meets the financial feasibility requirement. Moreover, the Debtors believe that sufficient funds will exist to make all distributions required by the Plan. The financial projections, attached hereto as **Exhibit C**, were prepared for purposes of determining whether the Plan satisfies feasibility standards. Accordingly, the Debtors believe that the Plan satisfies the feasibility requirement of section 1129(a)(11) of the Bankruptcy Code.

J. *Acceptance by Impaired Classes*

The Bankruptcy Code requires, as a condition to confirmation, that, except as described in the following section, each class of claims or interests that is impaired under a plan accept the plan. A class that is not impaired under a plan is presumed to have accepted the plan and, therefore, solicitation of acceptances with respect to such class is not required. Pursuant to section 1124 of the Bankruptcy Code, a class is impaired unless the plan either: (i) leaves unaltered the legal, equitable, and contractual rights to which the claim or the interest entitles the holder of such claim or interest; or (ii) notwithstanding any contractual provision or applicable law that entitles the holder of such claim or interest to demand or receive accelerated payment of such claim or interest after the occurrence of a default—(A) cures any such default that occurred before or after the commencement of the case under this title, other than a default of a kind specified in section 365(b)(2) of the Bankruptcy Code or of a kind that section 365(b)(2) expressly does not require to be cured; (B) reinstates the maturity of such claim or interest as such maturity existed before such default; (C) compensates the holder of such claim or interest for any damages incurred as a result of any reasonable reliance by such holder on such contractual provision or such applicable law; (D) if such claim or such interest arises from any failure to perform a nonmonetary obligation, other than a default arising from failure to operate a nonresidential real property lease subject to section 365(b)(1)(A) of the Bankruptcy Code, compensates the holder of such claim or such interest (other than the debtor or an insider) for any actual pecuniary loss incurred by such holder as a result of such failure; and (E) does not otherwise alter the legal, equitable, or contractual rights to which such claim or interest entitles the holder of such claim or interest.

Section 1126(c) of the Bankruptcy Code defines acceptance of a plan by a class of impaired creditors as acceptance by holders of at least two-thirds in dollar amount and more than one-half in number of claims in that class, but for that purpose counts only those who actually vote to accept or to reject a plan. Section 1126(d) of the Bankruptcy Code defines acceptance of a plan by a class of impaired interests as acceptance by holders of at least two-thirds in dollar amount of those interests who actually vote to accept or to reject a plan. Votes that have been "designated" under section 1126(e) of the Bankruptcy Code are not included in the calculation of acceptance by a class of creditors or interests.

Claims in Classes 1 and 2 are Unimpaired under the Plan, and, as a result, the Holders of such Claims are deemed to have accepted the Plan. Holders of Claims and Interests in Classes 5, 6, 7, and 8 will receive no distribution under the Plan and are, therefore, presumed deemed to have rejected the Plan.

Claims in Classes 3 and 4 are Impaired under the Plan, and as a result, the Holders of Claims in such Classes are entitled to vote on the Plan. Pursuant to section 1129 of the Bankruptcy Code, the Holders of Claims in the Voting Classes must accept the Plan for the Plan to be confirmed without application of the “fair and equitable test” to such Classes, and without considering whether the Plan “discriminates unfairly” with respect to such Classes, as both standards are described directly below. As stated above, Classes of Claims will have accepted the Plan if the Plan is accepted by at least two-thirds in amount and a majority in number of the Claims of each such Class (other than any Claims of creditors designated under section 1126(e) of the Bankruptcy Code) that have voted to accept or reject the Plan.

K. *Confirmation Without Acceptance by All Impaired Classes*

Section 1129(b) of the Bankruptcy Code allows a bankruptcy court to confirm a plan even if impaired classes entitled to vote on the plan have not accepted it or if an impaired class is deemed to reject the plan; *provided* that the plan is accepted by at least one impaired class (without regard to the votes of insiders). Pursuant to section 1129(b) of the Bankruptcy Code, notwithstanding an impaired class’s rejection or deemed rejection of the plan, such plan will be confirmed, at the plan proponent’s request, in a procedure commonly known as “cram down,” so long as the plan does not “discriminate unfairly” and is “fair and equitable” with respect to each class of claims or interests that is impaired under, and has not accepted, the plan.

If any Impaired Class rejects the Plan, the Debtors reserve the right to seek to confirm the Plan utilizing the “cramdown” provision of section 1129(b) of the Bankruptcy Code. To the extent that any Impaired Class rejects the Plan or is deemed to have rejected the Plan, the Debtors will request Confirmation of the Plan, as it may be modified from time to time, under section 1129(b) of the Bankruptcy Code.

1. *No Unfair Discrimination*

The test for unfair discrimination applies to classes of claims or interests that are of equal priority and are receiving different treatment under the Plan. The test does not require that the treatment be the same or equivalent but that such treatment be “fair.” In general, courts consider whether a plan discriminates unfairly in its treatment of classes of claims of equal rank (*e.g.*, classes of the same legal character). The Debtors do not believe the Plan discriminates unfairly against any Impaired Class of Claims or Interests. The Debtors believe that the Plan and the treatment of all Classes of Claims and Interests satisfy the foregoing requirements for non-consensual Confirmation.

2. *Fair and Equitable Test*

The fair and equitable test applies to classes of different priority and status (*e.g.*, secured versus unsecured) and includes the general requirement that no class of claims receive more than 100 percent of the amount of the allowed claims in such class. As to each non-accepting class, the test sets different standards depending on the type of claims or interests in such class. As set forth below, the Debtors believe that the Plan satisfies the “fair and equitable” requirement because there is no Class receiving more than 100 percent of the amount of the Allowed Claims in such Class, and no Class that is junior to a dissenting Class that will receive or retain any property on account of the Claims or Interests in such junior Class.

(a) *Secured Claims*

The condition that a plan be “fair and equitable” to a non-accepting class of secured claims may be satisfied, among other things, if a debtor demonstrates that: (i) the holders of such secured claims retain the liens securing such claims to the extent of the allowed amount of the claims, whether the property subject to the liens is retained by the debtor or transferred to another entity under the plan; and (ii) each holder of a secured claim in the class receives deferred cash payments totaling at least the allowed amount of such claim with a present value, as of

the effective date of the plan, at least equivalent to the value of the secured claimant's interest in the debtor's property subject to the liens.

(b) *Unsecured Claims*

The condition that a plan be "fair and equitable" to a non-accepting class of unsecured claims includes the requirement that the plan provides either: (i) that each holder of a claim of such class receives or retains on account of such claim property of a value, as of the effective date of the plan, equal to the allowed amount of such claim; or (ii) no holder of any claim or any interest that is junior to the claims of such class will receive or retain any property under the plan on account of such junior claim or junior interest.

(c) *Interests*

The condition that a plan be "fair and equitable" to a non-accepting class of interests includes the requirements that the plan provides that either: (i) each holder of an interest in that class receives or retains under the plan on account of that interest property of a value, as of the effective date of the plan, equal to the greater of: (1) the allowed amount of any fixed liquidation preference to which such holder is entitled; (2) any fixed redemption price to which such holder is entitled; or (3) the value of such interest; or (ii) that no holder of any interest that is junior to the interests of such class will receive or retain any property under the plan on account of such junior interest.

**ARTICLE VIII.
CERTAIN RISK FACTORS TO BE CONSIDERED BEFORE VOTING**

Holders of Claims entitled to vote should read and consider carefully the risk factors set forth below, as well as the other information set forth in this Disclosure Statement and the documents delivered together with this Disclosure Statement, referred to or incorporated by reference in this Disclosure Statement, before voting to accept or reject the Plan. These factors should not be regarded as constituting the only risks present in connection with the Debtors' business or the Plan and its implementation.

A. *Risk Factors that May Affect the Recovery Available to Holders of Allowed Claims Under the Plan.*

1. *Actual Amounts of Allowed Claims May Differ from Estimated Amounts of Allowed Claims, Thereby Adversely Affecting the Recovery of Some Holders of Allowed Claims*

The estimate of Allowed Claims and recoveries for Holders of Allowed Claims set forth in this Disclosure Statement are based on various assumptions. Should one or more of the underlying assumptions ultimately prove to be incorrect, the actual Allowed amounts of Claims may significantly vary from the estimated Claims contained in this Disclosure Statement. Moreover, the Debtors cannot determine with any certainty at this time, the number or amount of Claims that will ultimately be Allowed. Such differences may materially and adversely affect, among other things, the recoveries to Holders of Allowed Claims under the Plan.

2. *The Debtors May Not Be Able to Satisfy the Conditions Precedent to Consummation of the Plan*

To the extent that the Debtors are unable to satisfy the conditions precedent to Consummation of the Plan, the Debtors may be unable to consummate the Plan and parties may terminate their support, financial or otherwise, for the Plan prior to the Confirmation or Consummation of the Plan. Any such loss of support could adversely affect the Debtors' ability to confirm and consummate the Plan.

3. *The Debtors Cannot State with Certainty What Recovery Will Be Available to Holders of Allowed Claims in the Voting Classes*

The Debtors cannot know with certainty, at this time, the number or amount of Claims in the Voting Classes that will ultimately be Allowed and how the amount of Allowed Claims will compare to the estimates provided herein. For example, a number of Proofs of Claim may allege Claims in an unliquidated amount that will

require future resolution, making the amount of any Allowed Claim based on such Proof of Claim entirely speculative as of the date of this Disclosure Statement. In addition, the Debtors are continuing to review the Proofs of Claim filed in their Chapter 11 Cases. As such, the estimated amount of Claims may materially change due to the Debtors' ongoing review. Accordingly, because certain Claims under the Plan will be paid on a Pro Rata basis, the Debtors cannot state with certainty what recoveries will be available to Holders of Allowed Claims in the Voting Classes.

4. *Any Valuation of Any Assets to be Distributed under the Plan Is Speculative and Could Potentially Be Zero*

Any valuation of any of the assets to be distributed under the Plan is necessarily speculative, and the value of such assets could potentially be zero. Accordingly, the ultimate value, if any, of these assets could materially affect, among other things, recoveries to the Debtors' creditors, including Holders of Claims in the Voting Classes.

5. *The Debtors Cannot Guaranty Recoveries or the Timing of Such Recoveries*

Although the Debtors have made commercially reasonable efforts to estimate Allowed Claims, including Administrative Claims, Priority Tax Claims, and Other Priority Claims, it is possible that the actual amount of such Allowed Claims is materially higher than the Debtors' estimates. Creditor recoveries could be materially reduced or eliminated in this instance. In addition, the timing of actual distributions to Holders of Allowed Claims may be affected by many factors that cannot be predicted. Therefore, the Debtors cannot guaranty the timing of any recovery on an Allowed Claim.

6. *Certain Tax Implications of the Debtors' Bankruptcy*

Holders of Allowed Claims should carefully review Article IX of this Disclosure Statement, "Certain United States Federal Tax Income Consequences," in regard to the tax implications of the Plan and the Chapter 11 Cases.

B. *Certain Bankruptcy Law Considerations.*

The occurrence or non-occurrence of any or all of the following contingencies, and any others, may affect distributions available to Holders of Allowed Claims under the Plan but will not necessarily affect the validity of the vote of the Impaired Classes to accept or reject the Plan or necessarily require a re-solicitation of the votes of Holders of Claims in such Impaired Classes:

1. *Parties in Interest May Object to the Plan's Classification of Claims*

Section 1122 of the Bankruptcy Code provides that a plan may place a claim or an interest in a particular class only if such claim or interest is substantially similar to the other claims or interests in such class. The Debtors believe that the classification of the Claims and Interests under the Plan complies with the requirements set forth in the Bankruptcy Code because the Debtors created Classes of Claims and Interests, each encompassing Claims or Interests, as applicable, that are substantially similar to the other Claims and Interests in each such Class. Nevertheless, there can be no assurance that the Bankruptcy Court will reach the same conclusion.

Furthermore, certain parties in interest, including the Debtors, reserve the right, under the Plan, to object to the amount or classification of any Claim. The estimates set forth in this Disclosure Statement cannot be relied upon by any Holder of a Claim when such Claim is or may be subject to an objection or is not yet Allowed. Any Holder of a Claim that is or may be subject to an objection thus may not receive its expected share of the estimated distributions described in this Disclosure Statement.

2. *Failure to Satisfy Vote Requirements*

In the event that votes are received in number and amount sufficient to enable the Bankruptcy Court to confirm the Plan, the Debtors intend to seek, as promptly as practicable thereafter, Confirmation of the Plan. In the

event that sufficient votes are not received, the Debtors may seek to confirm an alternative chapter 11 plan. There can be no assurance that the terms of any such alternative chapter 11 plan would be similar or as favorable to the Holders of Allowed Claims and Allowed Interests as those proposed in the Plan.

3. *The Debtors May Not Be Able to Secure Confirmation of the Plan*

The Debtors will need to satisfy section 1129 of the Bankruptcy Code, which sets forth the requirements for confirmation of a chapter 11 plan and requires, among other things, a finding by a bankruptcy court that: (i) such plan “does not unfairly discriminate” and is “fair and equitable” with respect to any non-accepting classes; (ii) confirmation of such plan is not likely to be followed by a liquidation or a need for further financial restructuring unless such liquidation or restructuring is contemplated by the plan; and (iii) the value of distributions to non-accepting Holders of Claims and Interests within a particular class under such plan will not be less than the value of distributions such holders would receive if the debtors were liquidated under chapter 7 of the Bankruptcy Code.

There can be no assurance that the requisite acceptances to confirm the Plan will be received. Even if the requisite acceptances are received, there can be no assurance that the Bankruptcy Court will confirm the Plan. A non-accepting Holder of an Allowed Claim or an Allowed Interest might challenge either the adequacy of this Disclosure Statement or whether the balloting procedures and voting results satisfy the requirements of the Bankruptcy Code or Bankruptcy Rules. Even if the Bankruptcy Court determines that this Disclosure Statement, the Debtors’ proposed procedures for the solicitation of Ballots from Holders of Allowed Claims, and the voting results are appropriate, the Bankruptcy Court can still decline to confirm the Plan if it finds that any of the statutory requirements for Confirmation have not been met, including the requirement that the terms of the Plan do not “unfairly discriminate” and are “fair and equitable” to non-accepting Classes. If the Plan is not Confirmed, it is unclear what distributions, if any, Holders of Allowed Claims will receive with respect to their Allowed Claims.

The Debtors, subject to the terms and conditions of the Plan, reserve the right to modify the terms and conditions of the Plan as necessary for Confirmation. Any such modifications may result in a less favorable treatment of any Class than the treatment currently provided in the Plan. Such a less favorable treatment may include a distribution of property to the Class affected by the modification of a lesser value than currently provided in the Plan or no distribution of property whatsoever under the Plan.

4. *Nonconsensual Confirmation*

In the event that any impaired class of claims or interests does not accept a chapter 11 plan, a bankruptcy court may nevertheless confirm a plan at the proponents’ request if at least one impaired class has accepted the plan (with such acceptance being determined without including the vote of any “insider” in such class), and, as to each impaired class that has not accepted the plan, the Bankruptcy Court determines that the plan “does not discriminate unfairly” and is “fair and equitable” with respect to the dissenting classes. The Debtors believe that the Plan satisfies these requirements and the Debtors may request such nonconsensual Confirmation in accordance with section 1129(b) of the Bankruptcy Code. Nevertheless, there can be no assurance that the Bankruptcy Court will reach this conclusion. In addition, the pursuit of nonconsensual Confirmation of the Plan may result in, among other things, increased expenses and the expiration of any commitment to provide support for the Plan, financially or otherwise.

5. *Risk of Non-Occurrence of the Effective Date*

Although the Debtors believe that the Effective Date may occur quickly after the Confirmation Date, there can be no assurance as to such timing or as to whether such an Effective Date will, in fact, occur.

6. *Contingencies May Affect Votes of Impaired Classes to Accept or Reject the Plan*

The distributions available to Holders of Allowed Claims under the Plan can be affected by a variety of contingencies, including, without limitation, whether the Bankruptcy Court orders certain Allowed Claims and Allowed Interests to be subordinated to other Allowed Claims and Allowed Interests. The occurrence of any and all such contingencies, which may affect distributions available to Holders of Allowed Claims under the Plan, will not

affect the validity of the vote taken by the Impaired Classes to accept or reject the Plan or require any sort of revote by the Impaired Classes.

7. *The Debtors May Lack Sufficient Liquidity to Satisfy Certain Priority and Administrative Claims in Full in Cash*

It is possible that Allowed Administrative Claims, Priority Tax Claims, Other Priority Claims, Professional Compensation Claims and the costs of the wind down may exceed the funding available with respect to such Claims, in which case the Plan will not become effective.

8. *Releases, Injunctions, and Exculpations Provisions May Not Be Approved*

Article X of the Plan provides for certain releases, injunctions, and exculpations. However, all of the releases, injunctions, and exculpations provided in the Plan are subject to objection by parties in interest and may not be approved.

9. *Closing Conditions in the Transaction Agreement May Not Be Satisfied*

It is possible that the Debtors may not satisfy the closing conditions in the Transaction Agreement, which would prevent the Debtors from consummating the Plan. If this occurs, the Chapter 11 Cases may be converted to cases under chapter 7 or dismissed.

C. *Risk Factors Relating to HoldCo Equity Issued Under the Plan.*

1. *HoldCo Equity May Lack Liquidity*

There is currently no market for the HoldCo Equity, and such a market may not develop because, among other things, HoldCo is under no obligation to list any of its securities on any national exchange. Therefore, there can be no assurance as to the liquidity of the HoldCo Equity at any time after the Effective Date. If an active trading market does not develop or is not sustained, holders of the HoldCo Equity may experience difficulty in reselling such securities or may be unable to sell them at all. Even if such a market were to exist, such securities could trade at prices higher or lower than the estimated value depending upon many factors including, without limitation, general market or economic conditions, prevailing interest rates, markets for similar securities, industry conditions, and the performance of, and investor expectations for, HoldCo and NewCo. Accordingly, holders of the HoldCo Equity may bear certain risks associated with holding securities for an indefinite period of time.

2. *Dilution*

The ownership percentage represented by the HoldCo Equity distributed to holders of Senior Notes Claims on the Effective Date under the Plan will be subject to dilution from the HoldCo Equity issued to Knight Hawk in connection with the Sale Transaction. Future equity financings or other equity issuances by HoldCo could also have a dilutive effect on and adversely affect the value of the HoldCo Equity issued to the holders of Senior Notes Claims on the Effective Date. The amount and dilutive effect of any of the foregoing could be material.

3. *Operating Agreement*

Pursuant to the Plan, Knight Hawk and the Required Supporting Senior Noteholders will enter into the Operating Agreement, which will, among other things, contain provisions related to the governance of HoldCo and contain certain restrictions on the rights of holders of HoldCo Equity or such holders' ability to transfer the HoldCo Equity.

4. *Equity Interests Subordinated to any HoldCo Indebtedness*

In any subsequent liquidation, dissolution, or winding up of HoldCo, the HoldCo Equity would rank below all debt claims against HoldCo. As a result, holders of the HoldCo Equity will not be entitled to receive any

payment or other distribution of assets upon the liquidation, dissolution, or winding up of HoldCo until after all of HoldCo's obligations to its debt holders have been satisfied.

D. *Disclosure Statement Disclaimer*

1. *The Financial Information Contained in this Disclosure Statement Has Not Been Audited*

In preparing this Disclosure Statement, the Debtors relied on financial data derived from their books and records that was available at the time of such preparation. Although the Debtors have used their reasonable business judgment to ensure the accuracy of the financial information provided in this Disclosure Statement, and while the Debtors believe that such financial information fairly reflects the financial condition of the Debtors, the Debtors are unable to represent or warrant that the financial information contained in this Disclosure Statement and attached hereto is without inaccuracies.

2. *Information Contained in this Disclosure Statement Is for Soliciting Votes*

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

3. *This Disclosure Statement Was Not Approved by the United States Securities and Exchange Commission*

This Disclosure Statement was not filed with the United States Securities and Exchange Commission under the Securities Act or applicable state securities laws. Neither the United States Securities and Exchange Commission nor any state regulatory authority has passed upon the accuracy or adequacy of this Disclosure Statement, or the exhibits or the statements contained in this Disclosure Statement.

4. *This Disclosure Statement May Contain Forward Looking Statements*

This Disclosure Statement may contain "forward looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995. Such statements consist of any statement other than a recitation of historical fact and can be identified by the use of forward looking terminology such as "may," "will," "might," "expect," "believe," "anticipate," "could," "would," "estimate," "continue," "pursue," or the negative thereof or comparable terminology. All forward looking statements are necessarily speculative, and there are certain risks and uncertainties that could cause actual events or results to differ materially from those referred to in such forward looking statements. The information contained herein is an estimate only, based upon information currently available to the Debtors.

5. *No Legal or Tax Advice Is Provided to You by this Disclosure Statement*

This Disclosure Statement is not legal advice to you. The contents of this Disclosure Statement should not be construed as legal, business, or tax advice. Each Holder of a Claim or an Interest should consult his or her own legal counsel, accountant, or other applicable advisor with regard to any legal, tax, and other matters concerning his or her Claim or Interest. This Disclosure Statement may not be relied upon for any purpose other than to determine how to vote on the Plan or object to Confirmation of the Plan.

6. *No Admissions Made*

The information and statements contained in this Disclosure Statement will neither (a) constitute an admission of any fact or liability by any entity (including, without limitation, the Debtors) nor (b) be deemed evidence of the tax or other legal effects of the Plan on the Debtors, the Senior Noteholders, NewCo, Holders of Allowed Claims or Allowed Interests, or any other parties in interest.

7. *Failure to Identify Litigation Claims or Projected Objections*

No reliance should be placed on the fact that a particular litigation claim or projected objection to a particular Claim or Interest is, or is not, identified in this Disclosure Statement. The Debtors may seek to investigate, file, and prosecute Claims and Interests and may object to Claims or Interests after the Confirmation or Effective Date of the Plan irrespective of whether this Disclosure Statement identifies such Claims or Interests or objections to such Claims or Interests.

8. *No Waiver of Right to Object or Right to Recover Transfers and Assets*

The vote by a Holder of a Claim or Interest for or against the Plan does not constitute a waiver or release of any claims, causes of action, or rights of the Debtors (or any entity, as the case may be) to object to that Holder's Claim or Interest, or recover any preferential, fraudulent, or other voidable transfer of assets, regardless of whether any claims or causes of action of the Debtors or their respective estates are specifically or generally identified in this Disclosure Statement.

9. *Information Was Provided by the Debtors and Was Relied Upon by the Debtors' Advisors*

The Debtors' advisors have relied upon information provided by the Debtors in connection with the preparation of this Disclosure Statement. Although the Debtors' advisors have performed certain limited due diligence in connection with the preparation of this Disclosure Statement, they have not verified independently the information contained in this Disclosure Statement.

10. *Potential Exists for Inaccuracies, and the Debtors Have No Duty to Update*

The statements contained in this Disclosure Statement are made by the Debtors as of the date of this Disclosure Statement, unless otherwise specified in this Disclosure Statement, and the delivery of this Disclosure Statement after the date of this Disclosure Statement does not imply that there has not been a change in the information set forth in this Disclosure Statement since that date. While the Debtors have used their reasonable business judgment to ensure the accuracy of all of the information provided in this Disclosure Statement and in the Plan, the Debtors nonetheless cannot, and do not, confirm the current accuracy of all statements appearing in this Disclosure Statement. Further, although the Debtors may subsequently update the information in this Disclosure Statement, the Debtors have no affirmative duty to do so unless ordered to do so by the Bankruptcy Court.

11. *No Representations Outside this Disclosure Statement Are Authorized*

No representations concerning or relating to the Debtors, the Chapter 11 Cases, or the Plan are authorized by the Bankruptcy Court or the Bankruptcy Code, other than as set forth in this Disclosure Statement. Any representations or inducements made to secure your acceptance or rejection of the Plan that are other than as contained in, or included with, this Disclosure Statement, should not be relied upon by you in arriving at your decision. You should promptly report unauthorized representations or inducements to the counsel to the Debtors.

E. *Liquidation Under Chapter 7*

If no chapter 11 plan can be confirmed, the Debtors' 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 assets of the Debtors for distribution in accordance with the priorities established by the Bankruptcy Code. A discussion of the effects that a chapter 7 liquidation could have on the recoveries of Holders of Claims and the Debtors' liquidation analysis is set forth in Article VII.I.1 of this Disclosure Statement entitled "Best Interests of Creditors Test—Liquidation Analysis."

**ARTICLE IX.
MATERIAL UNITED STATES FEDERAL INCOME TAX CONSEQUENCES**

THERE ARE A NUMBER OF MATERIAL UNITED STATES FEDERAL INCOME TAX CONSIDERATIONS, RISKS AND UNCERTAINTIES ASSOCIATED WITH CONSUMMATION OF THE PLAN. INTERESTED PARTIES SHOULD READ CAREFULLY THE DISCUSSION SET FORTH IN THIS SECTION OF THIS DISCLOSURE STATEMENT FOR A DISCUSSION OF THE MATERIAL UNITED STATES FEDERAL INCOME TAX CONSEQUENCES AND RISKS FOR THE DEBTORS AND FOR HOLDERS OF CLAIMS AND EQUITY INTERESTS THAT ARE ENTITLED TO VOTE TO ACCEPT OR REJECT THE PLAN RESULTING FROM THE TRANSACTIONS OCCURRING IN CONNECTION WITH THE PLAN.

The following discussion summarizes the material federal income tax consequences of the implementation of the Plan to the Debtors and to certain Holders of Claims that are entitled to vote to accept or reject the Plan. The following summary does not address the federal income tax consequences to Holders of Interests or Holders of Claims whose Claims are not Impaired or who are deemed to reject the Plan. This summary does not apply to a Holder of a Claim or Interest that is not a "United States person" (as such phrase is defined in the Internal Revenue Code of 1986, as amended (the "IRC")).

The following summary is based on the IRC, Treasury Regulations promulgated thereunder, judicial decisions, and published administrative rules and pronouncements of the Internal Revenue Service (the "IRS"), all as in effect on the date hereof. Changes in such rules or new interpretations thereof may have retroactive effect and could significantly affect the federal income tax consequences described below.

The federal income tax consequences of the Plan are complex and are subject to significant uncertainties. Except as described below, the Debtors have not requested a ruling or advice from the IRS or an opinion of counsel with respect to any of the tax aspects of the Plan. Thus, no assurance can be given as to the interpretation that the IRS will adopt. In addition, this summary generally does not address foreign, state or local tax consequences of the Plan, nor does it address the federal income tax consequences of the Plan to special classes of taxpayers (such as broker-dealers, banks, mutual funds, insurance companies, other financial institutions, small business investment companies, persons who received their claims in whole or in part as compensation, regulated investment companies, persons holding a Claim as part of an integrated transaction, constructive sale, straddle or as part of a conversion transaction, and investors in pass-through entities). It also does not address the federal income tax consequences to foreign taxpayers and tax-exempt organizations (including certain pension funds) or agreements among Holders of Claims.

ACCORDINGLY, THE FOLLOWING SUMMARY OF MATERIAL 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. ALL HOLDERS OF CLAIMS ARE URGED TO CONSULT THEIR TAX ADVISORS CONCERNING THE FEDERAL, STATE, LOCAL AND FOREIGN TAX CONSEQUENCES APPLICABLE UNDER THE PLAN.

A. *Consequences to the Debtors*

1. *In General*

The transfer of the Transferred Assets by the Debtors pursuant to the Sale Transaction followed by the liquidation of the Debtors may be structured as a taxable transaction or as a tax-free reorganization pursuant to section 368(a)(1)(G) of the IRC. If the transfer constitutes a taxable transaction, the Debtors are expected to recognize income or gain for federal income tax purposes to the extent the fair value of the Transferred Assets exceeds its adjusted tax basis in such Transferred Assets. To the extent the Debtors' gain triggered by the Sale Transaction exceeds its available losses (including net operating loss carryforwards ("NOLs") generated in prior years) it will owe federal income tax, the liability for which will constitute an Administrative Claim. The Debtors have NOLs and expect that such NOLs are sufficient to offset any gain resulting from a taxable transaction. Due to the limitations on the use of NOL carryforwards to reduce alternative minimum tax ("AMT") liability, the Debtors may incur cash AMT liability as a result of a taxable transaction.

If the transfer is pursuant to a tax-free reorganization described in section 368(a)(1)(G) of the IRC, the Debtors are not expected to recognize any income or gain for federal income tax purposes. Furthermore, pursuant to a tax-free reorganization, the Debtors are not expected to recognize income or gain upon the distribution of HoldCo Equity to Holders of Allowed Senior Notes Secured Claims.

2. *Cancellation of Indebtedness and Reduction of Tax Attributes*

In general, absent an exception, a debtor will realize and recognize cancellation of debt income ("COD Income") upon satisfaction of its outstanding indebtedness for total consideration less than the amount of such indebtedness. The amount of COD Income, in general, is the excess of (a) the adjusted issue price of the indebtedness satisfied over (b) the sum of (x) the amount of Cash paid, (y) the issue price of any new indebtedness of the taxpayer issued, and (z) the fair market value of any new consideration given in satisfaction of such indebtedness at the time of the exchange.

A debtor will not, however, be required to include any amount of COD Income in gross income if the debtor is under the jurisdiction of a court in a case under chapter 11 of the Bankruptcy Code and the discharge of debt occurs pursuant to that proceeding. Instead, as a consequence of such exclusion, a debtor must reduce its tax attributes by the amount of COD Income that it excluded from gross income pursuant to section 108 of the IRC. In general, tax attributes will be reduced in the following order: (a) NOLs; (b) most tax credits; (c) capital loss carryovers; (d) tax basis in assets (but not below the amount of liabilities to which the debtor remains subject); (e) passive activity loss and credit carryovers; and (f) foreign tax credits. A debtor with COD Income may elect first to reduce the basis of its depreciable assets pursuant to section 108(b)(5) of the IRC, though it has not been determined whether the Debtors would make this election. In the context of a consolidated group of corporations, the tax rules provide for a complex ordering mechanism in determining how the tax attributes of one member can be reduced by the COD Income of another member.

In the event of a tax-free reorganization pursuant to section 368(a)(1)(G) of the IRC, NewCo will succeed to the tax attributes of the Debtors, but such tax attributes shall be subject to reduction for COD Income according to the rules described above. Because the Plan provides that Holders of certain Claims will receive shares of the HoldCo Equity and the Remaining Collateral, the amount of COD Income, and accordingly the amount of tax attributes required to be reduced, will depend on the fair market value of the HoldCo Equity, the fair market value of the Remaining Collateral, and the issue price of the Senior Notes. This value cannot be known with certainty until after the Effective Date.

3. *Limitation of NOL Carryforwards and Other Tax Attributes*

Under section 382 of the IRC, if a corporation undergoes an "ownership change," the amount of its NOLs and built-in losses (collectively, "Pre-Change Losses") that may be utilized to offset future taxable income generally is subject to an annual limitation. As discussed in greater detail herein, the Debtors anticipate that the issuance of the HoldCo Equity pursuant to the Plan will result in an "ownership change" of the Reorganized Debtors for these

purposes, and that the Debtors' use of their Pre-Change Losses will be subject to limitation unless an exception to the general rules of section 382 of the IRC applies.

(a) General Section 382 Annual Limitation

This discussion refers to the limitation determined under section 382 of the IRC in the case of an "ownership change" as the "Section 382 Limitation." In general, the annual Section 382 Limitation on the use of Pre-Change Losses in any "post-change year" is equal to the product of (a) the fair market value of the stock of the corporation immediately before the "ownership change" (with certain adjustments) multiplied by (b) the "long-term tax-exempt rate" in effect for the month in which the "ownership change" occurs (approximately 1.93 percent for the month of October 2017). If the Company is in a net unrealized built-in gain position, the Section 382 Limitation may be increased to the extent that the Debtors recognize certain built-in gains in their assets during the five-year period following the ownership change, or are treated as recognizing built-in gains pursuant to the safe harbors provided in IRS Notice 2003-65. Section 383 of the IRC applies a similar limitation to capital loss carryforwards and tax credits. Any unused limitation may be carried forward, thereby increasing the annual limitation in the subsequent taxable year. As discussed below, however, special rules may apply in the case of a corporation which experiences an ownership change as the result of a bankruptcy proceeding.

As noted above, in the event of a tax-free reorganization pursuant to section 368(a)(1)(G) of the IRC, NewCo will succeed to the tax attributes of the Debtors, but such tax attributes shall be subject to limitation determined under section 382 of the IRC.

(b) Special Bankruptcy Exceptions

An exception to the foregoing annual limitation rules generally applies when so-called "qualified creditors" of a debtor company in chapter 11 receive, in respect of their claims, at least 50 percent of the vote and value of the stock of the reorganized debtor (or a controlling corporation if also in chapter 11) pursuant to a confirmed chapter 11 plan (the "382(l)(5) Exception"). Under the 382(l)(5) Exception, a debtor's Pre-Change Losses are not limited on an annual basis but, instead, the debtor's NOLs are required to be reduced by the amount of any interest deductions claimed during any taxable year ending during the three-year period preceding the taxable year that includes the effective date of the plan of reorganization, and during the part of the taxable year prior to and including the effective date of the plan of reorganization, in respect of all debt converted into stock in the reorganization. If the 382(l)(5) Exception applies and the debtor undergoes another ownership change within two years after consummation, then the debtor's Pre-Change Losses effectively would be eliminated in their entirety.

Where the 382(l)(5) Exception is not applicable (either because the debtor does not qualify for it or the debtor otherwise elects not to utilize the 382(l)(5) Exception), a second special rule will generally apply (the "382(l)(6) Exception"). When the 382(l)(6) Exception applies, a debtor corporation that undergoes an ownership change generally is permitted to determine the fair market value of its stock after taking into account the increase in value resulting from any surrender or cancellation of creditors' claims in the bankruptcy. This differs from the ordinary rule that requires the fair market value of a debtor corporation that undergoes an ownership change to be determined before the events giving rise to the change. The 382(l)(6) Exception also differs from the 382(l)(5) Exception in that the debtor corporation is not required to reduce its NOLs by interest deductions in the manner described above, and the debtor may undergo a change of ownership within two years without triggering the elimination of its Pre-Change Losses.

In the event of a tax-free reorganization pursuant to section 368(a)(1)(G) of the IRC, whereby NewCo succeeds to the Debtors' tax attributes subject to reduction for COD Income, regardless of whether NewCo takes advantage of the 382(l)(6) Exception or the 382(l)(5) Exception, NewCo's use of any Pre-Change Losses after the Effective Date may be adversely affected if an "ownership change" within the meaning of section 382 of the IRC were to occur after the Effective Date.

B. *Consequences to Holders of Class 3 Senior Notes Secured Claims and Class 4 General Unsecured Claims*

1. *Class 3 Senior Notes Secured Claims*

Pursuant to the Plan, Holders of Allowed Senior Notes Secured Claims will receive their *pro rata* share of (i) HoldCo Equity and (ii) the Remaining Collateral in exchange for such Holders' Claims. In general, the U.S. federal income tax treatment of Holders of Allowed Senior Notes Secured Claims will depend on, among other things whether the Sale Transaction is structured as a taxable transaction or as a tax-free reorganization pursuant to section 368(a)(1)(G) of the IRC. The ability for the Sale Transaction to qualify as a tax-free-reorganization under section 368(a)(1)(G) of the IRC will turn in part on whether the Allowed Senior Notes Secured Claims constitute securities.

Neither the IRC nor the Treasury Regulations promulgated thereunder defines the term "security." Whether a debt instrument constitutes a "security" for U.S. federal income tax purposes is determined based on all the relevant facts and circumstances, but most authorities have held that the length of the term of a debt instrument is an important factor in determining whether such instrument is a security for U.S. federal income tax purposes. These authorities have indicated that a term of less than five years is evidence that the instrument is not a security, whereas a term of ten years or more is evidence that it is a security. There are numerous other factors that could be taken into account in determining whether a debt instrument is a security, including the security for payment, the creditworthiness of the obligor, the subordination or lack thereof to other creditors, the right to vote or otherwise participate in the management of the obligor, convertibility of the instrument into an equity interest of the obligor, whether payments of interest are fixed, variable, or contingent, and whether such payments are made on a current basis or accrued.

- (a) Treatment of a Holder of an Allowed Senior Notes Secured Claims If the Sale Transaction Is Structured as a Reorganization and the Allowed Senior Notes Secured Claims Are Treated as Securities.

In the event the Sale Transaction is structured as a reorganization and the Allowed Senior Notes Secured Claims are treated as securities then the exchange of such Claims should be treated as a reorganization under the IRC. Other than with respect to any amounts received that are attributable to accrued but untaxed interest (or original issue discount ("OID")), and subject to the rules relating to market discount, a Holder of such Claims should recognize no loss and should recognize no gain except to the extent of the cash and the fair market value (or issue price of debt instruments) of "other property" received that is not permitted to be received under sections 354 and 356 of the IRC without recognition of gain.

Such Holders should obtain a tax basis in the HoldCo Equity, other than any such amounts treated as received in satisfaction of accrued but untaxed interest (or OID), and subject to the rules relating to market discount, equal to (a) the tax basis of the Claim surrendered, less (b) the cash received, plus (c) gain recognized (if any). The holding period for such non-cash consideration should include the holding period for the exchanged Claims.

With respect to non-cash consideration that is not treated as a "stock or security" of HoldCo, Holders should obtain a tax basis in such property, other than any amounts treated as received in satisfaction of accrued but untaxed interest (or OID), and subject to the rules relating to market discount, equal to the property's fair market value (or issue price, in the case of debt instruments) as of the date such property is distributed to the Holders. The holding period for any such property should begin on the day following the receipt of such property.

- (b) Treatment of a Holder of an Allowed Senior Notes Secured Claims If the Sale Transaction Is Structured as a Taxable Transaction.

In the event the Sale Transaction is structured as a taxable transaction (or are intended to be a tax-free reorganization but fail to be so because the Senior Notes are determined not to be securities), then the exchange of Allowed Senior Notes Secured Claims should be treated as a taxable exchange pursuant to section 1001 of the IRC. A Holder of an Allowed Senior Notes Secured Claim who is subject to this treatment should recognize gain or loss equal to the difference between (a) the sum of (i) cash and (ii) the fair market value (or issue price, in the case of

debt instruments) of other consideration received and (b) the Holder's adjusted tax basis in its Allowed Senior Notes Secured Claims. Under applicable Treasury Regulations, absent clear and convincing proof to the contrary, the fair market value of the noncash consideration received is presumed to be the principal amount of the secured claim that is bid for the property less the amount of cash received. For the treatment of the exchange to the extent a portion of the consideration received is allocable to accrued but untaxed interest (or OID), see below.

Such Holders should obtain a tax basis in the non-cash consideration received, other than with respect to any amounts received that are attributable to accrued but untaxed interest (or OID), equal to the fair market value (or issue price, in the case of debt instruments) of such non-cash consideration

2. *Class 4 General Unsecured Claims*

Pursuant to the Plan, Holders of Allowed General Unsecured Claims will receive their *pro rata* share of the GUC Reserve Amount. The exchange of such Claims should be treated as a taxable exchange pursuant to section 1001 of the IRC. Such a Holder should recognize gain or loss equal to the difference between (a) the GUC Reserve Amount and (b) the Holder's adjusted tax basis in its Allowed General Unsecured Claim. For the treatment of the exchange to the extent a portion of the consideration received is allocable to accrued but untaxed interest (or OID), see below.

3. *Character of Gain or Loss*

Where gain or loss is recognized by a Holder of a Claim upon the exchange of its Allowed Claim, the character of such gain or loss as long-term or short-term capital gain or loss or as ordinary income or loss will be determined by a number of factors, including, among others, the tax status of the Holder, whether the Allowed Claim constitutes a capital asset in the hands of the Holder and how long it has been held, whether the Allowed Claim was acquired at a market discount (discussed below), whether and to what extent the Holder previously had claimed a bad debt deduction, and the nature and tax treatment of any fees, costs or expense reimbursements to which consideration is allocated. Each Holder of an Allowed Claim is urged to consult its tax advisor to determine the character of any gain or loss recognized with respect to the satisfaction of its Allowed Claim.

Holders of Allowed Claims who recognize capital losses as a result of the distributions under the Plan will be subject to limits on their use of capital losses. For corporate Holders, losses from the sale or exchange of capital assets may only be used to offset capital gains. Corporate Holders who have more capital losses than can be used in a tax year may be allowed to carry over unused capital losses for the five taxable years following the capital loss year and may be allowed to carry back unused capital losses to the three taxable years that precede the capital loss year.

4. *Issue Price*

The determination of "issue price" for purposes of this analysis will depend, in part, on whether the debt instruments issued to a Holder or the property surrendered under the Plan are traded on an "established securities market" at any time during the 60-day period ending thirty (30) days after the Effective Date. In general, a debt instrument (or the stock or securities exchanged therefor) will be treated as traded on an established market if (a) it is listed on (i) a qualifying national securities exchange, (ii) certain qualifying interdealer quotation systems, or (iii) certain qualifying non-U.S. securities exchanges; (b) it appears on a system of general circulation that provides a reasonable basis to determine fair market value; or (c) in certain situations the price quotations are readily available from dealers, brokers or traders. The issue price of a debt instrument that is traded on an established market (or that is issued for stock or securities so traded) would be the fair market value of such debt instrument (or such stock or securities so traded) on the issue date as determined by such trading. The issue price of a debt instrument that is neither so traded nor issued for stock or securities so traded would be its stated principal amount (provided that the interest rate on the debt instrument exceeds the applicable federal rate published by the IRS).

5. *Accrued but Unpaid Interest*

In general, to the extent that any consideration received pursuant to the Plan by a holder of any debt is received in satisfaction of interest or OID that accrued during the holder's holding period, such amount will be taxable to the holder as ordinary interest income if not previously included in the holder's gross income. Conversely, a holder generally recognizes a deductible loss to the extent any accrued interest claimed or amortized OID was previously included in its gross income and is not paid in full.

The extent to which the consideration received by a Holder of a surrendered Allowed Claim will be attributable to accrued interest on the debts constituting the surrendered Allowed Claim is unclear. Certain Treasury Regulations generally treat a payment under a debt instrument first as a payment of accrued and untaxed interest and then as a payment of principal. Application of this rule to a final payment on a debt instrument being discharged at a discount in bankruptcy is unclear. Pursuant to the Plan, all amounts received in exchange for any debt will be allocated first to the principal amount of such debt as determined for federal income tax purposes, and thereafter to accrued but unpaid interest or OID. However, there is no assurance that the IRS would respect such allocation for federal income tax purposes. The tax basis of any property received in exchange for accrued but unpaid interest will be the fair market value of such property and the holding period of such property will begin on the day after receipt. **Holders of Claims are urged to consult their tax advisor regarding the allocation of consideration and the deductibility of accrued but unpaid interest for federal income tax purposes.**

6. *Market Discount*

A holder of any debt acquired after the original issuance of the debt at a market discount (generally defined as the amount, if any, by which a holder's tax basis in the debt immediately after its acquisition is less than the adjusted issue price of the debt at such time, subject to a *de minimis* exception) generally will be required to treat any taxable gain recognized with respect to the debt as ordinary income to the extent of the market discount accrued during the holder's period of ownership, unless the holder elected to include the market discount in income as it accrued.

To the extent that a debt instrument that had been acquired with market discount is exchanged in a tax-free or other reorganization transaction for other property (as may occur here), any market discount that accrued on such debt but was not recognized by the holder may be required to be carried over to the property received therefor and any gain recognized on the subsequent sale, exchange, redemption or other disposition of such property may be treated as ordinary income to the extent of the accrued but unrecognized market discount with respect to the exchanged debt instrument. These rules are complex and the application of the market discount rules to Allowed Claims is uncertain. Holders of Allowed Senior Notes Secured Claims should consult their own tax advisors regarding the application of the market discount rules to their Claims.

C. *Information Reporting and Withholding*

All distributions to Holders of Claims under the Plan are subject to any applicable tax withholding, including employment tax withholding. Under federal income tax law, interest, dividends, and other reportable payments may, under certain circumstances, be subject to "backup withholding" at the then applicable withholding rate (currently 28 percent). Backup withholding generally applies if the holder fails to furnish its social security number or other taxpayer identification number (a "TIN"), furnishes an incorrect TIN, fails properly to report interest or dividends, or under certain circumstances, fails to provide a certified statement, signed under penalty of perjury, that the TIN provided is its correct number and that it is a United States person that is not subject to backup withholding. Backup withholding is not an additional tax but merely an advance payment, which may be refunded to the extent it results in an overpayment of tax and the appropriate information is supplied to the IRS. Certain persons are exempt from backup withholding, including, in certain circumstances, corporations and financial institutions.

In addition, from an information reporting perspective, Treasury Regulations generally require disclosure by a taxpayer on its 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. **Holders of Claims subject to the Plan 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.

THE FOREGOING SUMMARY HAS BEEN PROVIDED FOR INFORMATIONAL PURPOSES ONLY. ALL HOLDERS OF CLAIMS RECEIVING A DISTRIBUTION UNDER THE PLAN ARE URGED TO CONSULT THEIR TAX ADVISORS CONCERNING THE FEDERAL, STATE, LOCAL AND FOREIGN TAX CONSEQUENCES APPLICABLE UNDER THE PLAN.

ARTICLE X.
RECOMMENDATION OF THE DEBTORS

In the opinion of the Debtors, the Plan is extremely preferable to any potential alternatives described in this Disclosure Statement because the Plan provides for a larger distribution to the Holders of Allowed Claims than would otherwise result in a liquidation under chapter 7 of the Bankruptcy Code. In addition, any alternative other than Confirmation of the Plan could result in extensive delays and increased administrative expenses resulting in smaller distributions to Holders of Allowed Claims than proposed under the Plan. **Accordingly, the Debtors recommend that Holders of Claims entitled to vote on the Plan support Confirmation of the Plan and vote to accept the Plan.**

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Dated: November 8, 2017

Armstrong Energy, Inc. (for itself and all Debtors)

By: /s/ Alan Boyko
Name: Alan Boyko
Title: Authorized Signatory

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Exhibit A

Debtors' Joint Chapter 11 Plan

IN THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

In re:)
) Case No. 17-47541-659
) CHAPTER 11
ARMSTRONG ENERGY, INC., *et al.*,¹)
) Joint Administration Requested
)
Debtors.)
)
)

DEBTORS' JOINT CHAPTER 11 PLAN

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¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, include: Armstrong Energy, Inc. (4058); Armstrong Air, LLC (2017); Armstrong Coal Company, Inc. (0349); Armstrong Coal Sales, LLC (8643); Armstrong Energy Holdings, Inc. (5664); Armstrong Logistics Services, LLC (0392); Thoroughfare Mining, LLC (7890); Western Diamond LLC (9356); Western Land Company, LLC (9821). The location of the Debtors' service address is: 7733 Forsyth Boulevard, Suite 1625, St. Louis, Missouri 63105.

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Armstrong Energy, Inc., along with its debtor affiliates, as debtors and debtors in possession, propose the following joint plan pursuant to chapter 11 of title 11 of the United States Code. Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to such terms in Article I.A hereof.

The Plan is supported by the Debtors' three primary stakeholders: the Supporting Senior Noteholders, Thoroughbred Resources, L.P., for itself and on behalf of its Affiliates and subsidiaries, and Rhino Resource Partners Holdings LLC. The Plan also has the support of Knight Hawk Holdings, LLC, a contemplated investor in NewCo for purposes of consummating the sale and related transactions contemplated by the Transaction Agreement and the Restructuring Support Agreement and as further provided for herein. The Plan, if consummated, will effectuate the terms of the Sale Transaction as well as facilitate a wind-down and liquidation of the Debtors' remaining operations and assets.

The Debtors have requested consolidation for procedural purposes only for the Chapter 11 Cases. Holders of Claims and Interests may refer to the Disclosure Statement for a discussion of the Debtors' history, businesses, results of operations, historical financial information, and a summary and analysis of the Plan and certain related matters. Each of the Debtors is a proponent of the Plan within the meaning of section 1129 of the Bankruptcy Code.

ARTICLE I
DEFINED TERMS, RULES OF INTERPRETATION,
COMPUTATION OF TIME, AND GOVERNING LAW

A. *Defined Terms.*

As used in this Plan, capitalized terms have the meanings and effect as set forth below.

1. "Adequate Protection Claims" has the meaning assigned to such term in the Cash Collateral Order.
2. "Administrative Claim" means a Claim for costs and expenses of administration of the Debtors' Estates pursuant to sections 503(b), 507(a)(2), 507(b), or 1114(e)(2) of the Bankruptcy Code, including: (a) the actual and necessary costs and expenses incurred after the Petition Date and through the Effective Date of preserving the Estates and operating the businesses of the Debtors; (b) Allowed Professional Fee Claims; and (c) all Allowed requests for compensation or expense reimbursement for making a substantial contribution in the Chapter 11 Cases pursuant to sections 503(b)(3), (4), and (5) of the Bankruptcy Code. Notwithstanding anything to the contrary herein, any NewCo Cure Costs or Debtor Cure Costs with respect to any Executory Contracts or Unexpired Leases that are assumed by the Debtors and assigned to NewCo pursuant to the Plan and the Transaction Agreement shall not constitute Administrative Claims for any purpose under the Plan.
3. "Administrative Claims Bar Date" means the first Business Day that is 30 days following the Effective Date, except as specifically set forth in the Plan or a Final Order, including the Bar Date Order.
4. "Affiliate" has the meaning set forth in section 101(2) of the Bankruptcy Code.
5. "Allowed" means with reference to any Claim (a) any Claim that has been listed on the Schedules as liquidated in amount and not Disputed or contingent and for which (i) no contrary Proof of Claim has been Filed, (ii) no objection to allowance, request for estimation, or other challenge has been interposed, and (iii) no motion to deem the Schedules amended has been Filed, (b)(1) any Proof of Claim that is timely Filed by the applicable Claims Bar Date, as to which no litigation (whether stayed or unstayed) is pending and to which no objection or other challenge has been or is interposed in accordance with the Plan or such other applicable period of limitation fixed by the Bankruptcy Code, the Bankruptcy Rules, the Bankruptcy Local Rules, or the Bankruptcy Court, if any, and (2) any Claim that is not subject to any applicable Claims Bar Date, as to which no objection or other challenge has been or is interposed in accordance with the Plan or such other applicable period of limitation fixed by the Bankruptcy Code, the Bankruptcy Rules, or the Bankruptcy Court, if any, (c) any Claim expressly allowed by a Final Order or under the Plan, (d) any Claim that is compromised, settled, or otherwise resolved pursuant to the authority granted to the Debtors pursuant to a Final Order or under the Plan, (e) any Claim arising from the recovery of property in accordance with sections 550 and 553 of the Bankruptcy Code and Allowed in accordance with

section 502(h) of the Bankruptcy Code (unless such Claim is otherwise Disputed), and/or (f) any Claim allowed by stipulation approved by the Bankruptcy Court. Notwithstanding anything to the contrary herein and to the maximum extent provided by applicable law, no Claim of any Entity subject to section 502(d) of the Bankruptcy Code shall be deemed Allowed unless and until such Entity pays in full the amount that it owes such Debtor, as applicable. Except as otherwise provided in the Plan, for purposes of determining the amount of an “Allowed Claim,” there shall be deducted therefrom an amount equal to the amount of any Claim that the Debtors may hold against the Holder thereof, to the extent such Claim may be offset pursuant to applicable non-bankruptcy law or subject to recoupment. Claims allowed solely for the purpose of voting to accept or reject the Plan pursuant to an order of the Bankruptcy Court shall not constitute “Allowed Claims” under the Plan unless otherwise specified in the Plan or by order of the Bankruptcy Court. For any purpose under the Plan, unless specifically provided for in the Plan, a Claim that has been Allowed shall not include amounts constituting interest, penalties, or late charges arising from or relating to the period from and after the Petition Date. Any Claim that has been or is hereafter listed in the Schedules as disputed, contingent, or unliquidated for which no Proof of Claim or Interest has been timely Filed and which is not included in subsections (a)-(f) herein, is not considered an Allowed Claim and shall be expunged without further action by the Debtors and without any further notice to or action, order, or approval of the Bankruptcy Court.

6. “Armstrong” means Armstrong Energy, Inc.
7. “Assumed Liabilities” shall have the meaning set forth in the Transaction Agreement.
8. “Avoidance Actions” means any and all actual or potential claims and causes of action to avoid a transfer of property or an obligation incurred by the Debtors pursuant to any applicable section of the Bankruptcy Code, including sections 502, 510, 542, 544, 545, 547–553, and 724(a) of the Bankruptcy Code or under similar or related state or federal statutes and common law, including fraudulent transfer laws.
9. “Bankruptcy Code” means title 11 of the United States Code, 11 U.S.C. §§ 101–1532.
10. “Bankruptcy Court” means the United States Bankruptcy Court for the Eastern District of Missouri having jurisdiction over the Chapter 11 Cases and, to the extent of the withdrawal of any reference under 28 U.S.C. § 157, pursuant to section 151 of the Judicial Code, the United States District Court for the Eastern District of Missouri.
11. “Bankruptcy Rules” means the Federal Rules of Bankruptcy Procedure promulgated under section 2075 of the Judicial Code and the general, local, and chamber rules of the Bankruptcy Court.
12. “Business Day” means any day, other than a Saturday, Sunday, or “legal holiday” (as defined in Bankruptcy Rule 9006(a)).
13. “Cash” means the legal tender of the United States or the equivalent thereof.
14. “Cash Collateral Motion” means the motion seeking approval of the Cash Collateral Order by the Bankruptcy Court, which shall be in form and substance reasonably acceptable to the Required Supporting Senior Noteholders.
15. “Cash Collateral Order” means any order entered in the Chapter 11 Cases authorizing the consensual use of cash collateral (whether interim or final), which shall be in form and substance acceptable to the Required Supporting Senior Noteholders.
16. “Cash Consideration” means any proceeds paid or payable in Cash by NewCo to the Debtors in connection with the Sale Transaction (other than NewCo Cure Costs); *provided* that, for the avoidance of doubt, Cash Consideration includes any Cash or Cash equivalents returned (whether before or after the Effective Date) to the Debtors or their Estates, including, but not limited to, (a) the return of any deposits of Cash or Cash equivalents and (b) the release of Cash or Cash equivalents used to collateralize any of the Debtors’ surety bonds or insurance policies or any of the Debtors’ coal sale or coal supply agreements or other similar contracts or utility contracts.

17. “Causes of Action” means, subject to the releases, exculpations, and injunctions set forth in the Plan, any claim, cause of action (including any Avoidance Action), controversy, right of setoff, cross claim, counterclaim, or recoupment and any claim on contracts or for breaches of duties imposed by law or in equity, demand, right, action, Lien, indemnity, guaranty, suit, obligation, liability, damage, judgment, account, defense, power, privilege, license, and franchise of any kind or character whatsoever, known, unknown, fixed or contingent, matured or unmatured, suspected or unsuspected, liquidated or unliquidated, disputed or undisputed, secured or unsecured, assertable directly or derivatively, whether arising before, on, or after the Petition Date, in contract or in tort, in law or in equity, or pursuant to any other theory of law, which was not conveyed to NewCo in connection with the Sale Transaction and which was property of the Debtors or in which the Debtors held rights as of the Effective Date.

18. “Certificate” means any instrument evidencing a Claim or Interest.

19. “Chapter 11 Cases” means (a) when used with reference to a particular Debtor, the chapter 11 case pending for that Debtor under chapter 11 of the Bankruptcy Code in the Bankruptcy Court and (b) when used with reference to all Debtors, the procedurally consolidated chapter 11 cases pending for the Debtors in the Bankruptcy Court.

20. “Claim” means any “claim” (as defined in section 101(5) of the Bankruptcy Code) against a Debtor.

21. “Claims Bar Date” means the bar date by which a Proof of Claim must be or must have been Filed, as established by (a) a Final Order of the Bankruptcy Court, including the Claims Bar Date Order, or (b) pursuant to the Plan.

22. “Claims Bar Date Order” means the *Order Establishing Bar Dates For Filing Proofs Of Claim And Approving Form And Manner Of Notice Thereof*.

23. “Claims Objection Bar Date” means, for each Claim, the later of (a) 365 days after the Effective Date and (b) such other period of limitation as may be specifically fixed by an order of the Bankruptcy Court for objecting to such Claims, as the same may be modified or extended from time to time by the Bankruptcy Court or on motion of a party in interest approved by the Bankruptcy Court.

24. “Claims Register” means the official register of Claims maintained by the Clerk of the Bankruptcy Court.

25. “Class” means a category of Holders of Claims or Interests as set forth in Article III of the Plan in accordance with section 1122(a) of the Bankruptcy Code.

26. “Collateral” means any property or interest in property of the estate of any Debtor subject to a lien, charge, or other encumbrance to secure the payment or performance of a Claim, which lien, charge, or other encumbrance is not subject to a Final Order ordering the remedy of avoidance on any such lien, charge, or other encumbrance under the Bankruptcy Code.

27. “Committee” means the official committee of unsecured creditors appointed in the Chapter 11 Cases pursuant to section 1102(a) of the Bankruptcy Code, if any.

28. “Confirmation” means the entry of the Confirmation and Sale Order on the docket of the Chapter 11 Cases.

29. “Confirmation Date” means the date upon which the Bankruptcy Court enters the Confirmation and Sale Order.

30. “Confirmation Hearing” means the hearing held by the Bankruptcy Court to consider entry of a Confirmation and Sale Order pursuant to section 1129 of the Bankruptcy Code.

31. “Confirmation Hearing Date” means the date on which the Confirmation Hearing commences.
32. “Confirmation and Sale Order” means the order approving, among other things, the Transaction Agreement and the Sale Transaction, and confirming the Plan pursuant to section 1129 of the Bankruptcy Code, which shall be reasonably acceptable in form and substance to (a) the Required Supporting Senior Noteholders, (b) with respect to those provisions involving the Royalty Agreements, to Thoroughbred, and (c) with respect to those provisions involving the Sale Transaction, to Knight Hawk.
33. “Consummation” means the occurrence of the Effective Date of the Plan.
34. “Contribution” shall have the meaning set forth in the Transaction Agreement.
35. “Cure Costs” means all amounts (or such lesser amount as may be agreed upon by the parties under an Executory Contract or Unexpired Lease) required to cure any monetary defaults and other obligations required to cure any non-monetary defaults (the performance required to cure such non-monetary defaults and the timing of such performance will be described in reasonable detail in a notice of proposed assumption and assignment) under any Executory Contract or Unexpired Lease that is to be assumed or assumed and assigned by the Debtors pursuant to sections 365 or 1123 of the Bankruptcy Code.
36. “Cure Notice” means any notice that sets forth the proposed Cure Costs under any Executory Contract or Unexpired Lease at the time such contract or lease is assumed or assumed and assigned by the Debtors under the Plan pursuant to sections 365 and 1123 of the Bankruptcy Code, as applicable, which notice shall include procedures for objecting to proposed assumptions or assignments and assignments of Executory Contracts and Unexpired Leases, Cure Costs to be paid in connection therewith, and procedures for resolution by the Bankruptcy Court of any related disputes.
37. “D&O Policies” means all insurance policies (including any “tail policy”) of any of the Debtors for directors, members, trustees, officers, and managers’ liability.
38. “Debtor Cure Costs” means any and all Cure Costs payable with funds provided by the Debtors pursuant to the terms and conditions of the Transaction Agreement whether directly or through NewCo.
39. “Debtors” means, collectively: (a) Armstrong; (b) Armstrong Air, LLC; (c) Armstrong Coal Company, Inc.; (d) Armstrong Coal Sales, LLC; (e) Armstrong Energy Holdings, Inc.; (f) Armstrong Logistics Services, LLC; (g) Thoroughfare Mining, LLC; (h) Western Diamond LLC; and (i) Western Land Company, LLC.
40. “Definitive Documents” means the Restructuring Support Agreement, the Cash Collateral Motion, the Cash Collateral Order, the Disclosure Statement, the Expense Reimbursement Motion, the Expense Reimbursement Order, the Plan, the Confirmation and Sale Order, the HoldCo/NewCo Documentation, the Transaction Agreement, and the various agreements and other documentation formalizing the Plan.
41. “Disclosure Statement” means the *Disclosure Statement for the Debtors’ Joint Chapter 11 Plan*, including all exhibits and schedules thereto, as approved by the Bankruptcy Court pursuant to section 1125 of the Bankruptcy Code [Docket No. [●]], as amended, supplemented, or otherwise modified from time to time, including all exhibits and schedules thereto, as approved by the Bankruptcy Court pursuant to section 1125 of the Bankruptcy Code, and which shall be reasonably acceptable to the Required Supporting Senior Noteholders.
42. “Disclosure Statement Order” means the order of the Bankruptcy Court approving the adequacy of the Disclosure Statement and certain procedures for solicitation of votes on the Plan and granting related relief, which shall be reasonably acceptable to the Required Supporting Senior Noteholders.
43. “Distribution Record Date” means the date for determining which Holders of Allowed Claims or Interests, other than Holders of Claims or Interests related to securities, are eligible to receive distributions hereunder, which shall be (a) the Confirmation Date or (b) such other date as designated in a Bankruptcy Court order. The Distribution Record Date for Holders of Allowed Claims related to securities shall be a date selected by

the Debtors to be on or before the Effective Date. Distributions to Holders of Claims or Interests related to securities shall be made to such Holders in exchange for such securities, which, subject to the terms and conditions of this Plan, shall be deemed cancelled as of the Effective Date.

44. “Distribution Reserve Accounts” means the Priority Claims Reserve, the Undeliverable Distribution Reserve, the Wind-Down Reserve, the Other Secured Claims Reserve, and the GUC Reserve established pursuant to this Plan.

45. “Disputed” means, with respect to any Claim or Interest, any Claim or Interest that is not yet Allowed. For the avoidance of doubt, a Disputed Claim or Interest shall not include any Claim or Interest that has been disallowed under the Plan or by Final Order.

46. “Effective Date” means, with respect to the Plan, the date that is a Business Day selected by the Debtors and acceptable to the Required Supporting Senior Noteholders and Knight Hawk on or after the Confirmation Date on which: (a) no stay of the Confirmation and Sale Order is in effect; and (b) all conditions precedent specified in Article XI.A of the Plan have been satisfied (or shall be satisfied simultaneously therewith) or waived (in accordance with the Plan). Any action to be taken on the Effective Date may be taken on or as soon as reasonably practicable after the Effective Date.

47. “Entity” shall have the meaning set forth in section 101(15) of the Bankruptcy Code.

48. “Estate” means, as to each Debtor, the estate created for each Debtor on the Petition Date pursuant to sections 301 and 541 of the Bankruptcy Code.

49. “Excluded Assets” shall have the meaning set forth in the Transaction Agreement.

50. “Executory Contract” means a contract to which a Debtor is a party that is subject to assumption, assumption and assignment, or rejection under sections 365 or 1123 of the Bankruptcy Code.

51. “Expense Reimbursement Motion” means the motion filed with the Bankruptcy Court seeking approval of the Expense Reimbursement Order, which shall be in form and substance reasonably acceptable to the Required Supporting Senior Noteholders and Knight Hawk.

52. “Expense Reimbursement Order” means an order by the Bankruptcy Court approving Expense Reimbursement relating to the Sale Transaction, which shall be in form and substance acceptable to the Required Supporting Senior Noteholders and Knight Hawk.

53. “Federal Judgment Rate” means the federal judgment rate in effect as of the Effective Date.

54. “File,” “Filed,” or “Filing” means file, filed, or filing in the Chapter 11 Cases with the Bankruptcy Court or, with respect to the filing of a Proof of Claim or Proof of Interest, the Notice and Solicitation Agent.

55. “Final Order” means an order or judgment of the Bankruptcy Court (or any other court of competent jurisdiction) entered by the Clerk of the Court (or the clerk of such other court) on the docket in the Chapter 11 Cases (or the docket of such other court), which has not been reversed, stayed, modified, amended, or vacated, and as to which (a) the time to appeal, petition for certiorari, or move for a new trial, stay, reargument, or rehearing has expired and as to which no appeal, petition for certiorari, or motion for new trial, stay, reargument, or rehearing shall be pending or (b) if an appeal, writ of certiorari, new trial, stay, reargument, or rehearing thereof has been sought, such order or judgment of the Bankruptcy Court (or other court of competent jurisdiction) shall have been affirmed by the highest court to which such order was appealed, or certiorari shall have been denied, or a new trial, stay, reargument, or rehearing shall have been denied or resulted in no modification of such order, and the time to take any further appeal, petition for certiorari, or move for a new trial, stay, reargument, or rehearing shall have expired, as a result of which such order shall have become final in accordance with rule 8002 of the Bankruptcy Rules; *provided* that the possibility that a motion under rule 60 of the Federal Rules of Civil Procedure, or any

analogous rule under the Bankruptcy Rules, may be filed relating to such order, shall not cause an order not to be a Final Order.

56. “General Account” means a general account: (a) into which shall be deposited revenues and proceeds of all assets of the Debtors and Cash in an amount in excess of the amount required to adequately maintain the Distribution Reserve Accounts as described in Article VIII.H (*provided* that the General Account shall not include funds required to be deposited into the Distribution Reserve Accounts); (b) from which shall be made payments to any Distribution Reserve Account (other than GUC Reserve) in an amount sufficient to adequately maintain such Distribution Reserve Account as described in Article VIII.H; and (c) from which payments shall be made according to the priority set forth in Article VIII.G.

57. “General Unsecured Claim” means any Claim that is not paid in full during the Chapter 11 Cases and is not: (a) an Other Secured Claim; (b) a Senior Notes Secured Claim; (c) an Administrative Claim; (d) a Priority Tax Claim; (e) an Other Priority Claim; (f) an Intercompany Claim; (g) a Professional Fee Claim; or (h) a Section 510(b) Claim; *provided* that, for the avoidance of doubt, General Unsecured Claims shall include the Senior Notes Deficiency Claims.

58. “Governmental Unit” shall have the meaning set forth in section 101(27) of the Bankruptcy Code.

59. “GUC Distribution Proceeds” means that portion of (a) the Remaining Collateral Proceeds, if any, available for distribution to the Holders of Allowed General Unsecured Claims as provided in Article VIII.G, (b) the Remaining Available Assets Proceeds, if any, available for distribution to the Holders of Allowed General Unsecured Claims as provided in Article VIII.G, and (c) any funds in the General Account, to the extent any such funds are available for distribution to the Holders of Allowed General Unsecured Claims as provided in Article VIII.G, in each case to be distributed by the Plan Administrator in accordance with Article VIII.G hereof.

60. “GUC Reserve” means a separate, segregated account to be established and maintained by the Plan Administrator and funded with the GUC Distribution Proceeds pursuant to Article VIII.F hereof.

61. “HoldCo” means a Delaware limited liability company to be formed by Armstrong, as further described in Article IV.B.

62. “HoldCo/NewCo Documentation” means any and all documentation, filings, forms, and other administrative or ministerial actions relating thereto, that are reasonably necessary or desirable with respect to the formation of HoldCo or NewCo and to effectuate the Sale Transaction, including the Operating Agreement, which HoldCo/NewCo Documentation shall be in form and substance acceptable to the Required Supporting Senior Noteholders and Knight Hawk.

63. “HoldCo Common Equity” means the common equity interests of HoldCo to be authorized pursuant to the Operating Agreement.

64. “HoldCo Equity” means the HoldCo Common Equity and the HoldCo Preferred Equity.

65. “HoldCo Preferred Equity” means the preferred equity interests of HoldCo to be authorized pursuant to the Operating Agreement.

66. “Holder” means any Entity holding a Claim or an Interest.

67. “Impaired” means, with respect to a Class of Claims or Interests, a Class of Claims or Interests that is not Unimpaired.

68. “Initial Distribution Date” means the date on which the Debtors or the Plan Administrator make initial distributions to Holders of Allowed Claims pursuant to the Plan.

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

70. “Intercompany Interest” means an Interest in any Debtor other than Armstrong; *provided that*, for the avoidance of doubt, any Interest held by a Debtor in HoldCo or NewCo shall not constitute an Intercompany Interest.

71. “Interest” means any interest, equity, or share in the Debtors, including all options, warrants, or other rights to obtain such an interest or share in such Debtor, whether or not certificated, transferable, preferred, common, voting, or denominated “stock” or a similar security, including any Claim subject to subordination under section 510(b) of the Bankruptcy Code arising therefrom.

72. “Interim Compensation Order” means the *Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses for Professionals*.

73. “Judicial Code” means title 28 of the United States Code, 28 U.S.C. §§ 1–4001.

74. “Knight Hawk” means Knight Hawk Holdings, LLC.

75. “Lien” shall have the meaning set forth in section 101(37) of the Bankruptcy Code.

76. “NewCo” means one or more a Delaware limited liability companies to be formed by Armstrong, as further described in Article IV.B.

77. “NewCo Cure Costs” means any and all Cure Costs payable by NewCo with funds provided by Knight Hawk pursuant to the Transaction Agreement and does not include any Debtor Cure Costs.

78. “Noteholder Equity Issuance Consideration” shall have the meaning set forth in the Transaction Agreement.

79. “Notice and Solicitation Agent” means Donlin, Recano & Company, Inc., in its capacity as such.

80. “Operating Agreement” means the initial limited liability company operating agreement for HoldCo, as the same shall be amended and restated as of the Effective Date, in a form consistent with the term sheet dated as of the date of the Transaction Agreement (or as otherwise agreed) between Knight Hawk and the Required Supporting Senior Noteholders or otherwise mutually acceptable to Knight Hawk and the Required Supporting Senior Noteholders as contemplated in the Transaction Agreement.

81. “Ordinary Course Professional” means an Entity (other than a Professional) retained and compensated by the Debtors in accordance with the Ordinary Course Professionals Order.

82. “Ordinary Course Professionals Order” means the *Order Authorizing the Debtors to Retain and Compensate Professionals Utilized in the Ordinary Course of Business*.

83. “Other Priority Claim” means any Claim against any Debtor entitled to priority in right of payment under section 507 of the Bankruptcy Code, other than an Administrative Claim, a Priority Tax Claim, a Senior Notes Claim, or a Professional Fee Claim.

84. “Other Secured Claim” means any Secured Claim against any of the Debtors which was senior in priority to or *pari passu* with any Senior Notes Secured Claims (in each case as of the Petition Date), other than an Allowed Senior Notes Secured Claim or an Adequate Protection Claim.

85. “Other Secured Claims Reserve” means the account to be established and maintained by the Plan Administrator and funded with the Other Secured Claims Reserve Amount pursuant to Article VIII.E.

86. “Other Secured Claims Reserve Amount” means Cash in an amount to be determined by the Debtors, in consultation with the Required Supporting Senior Noteholders, which amount shall be funded by the

Debtors and used by the Plan Administrator for the payment of Allowed Other Secured Claims to the extent that such Other Secured Claims have not been satisfied pursuant to Article III.B.2 on or before the Effective Date.

87. “Permitted Encumbrance” shall have the meaning set forth in the Transaction Agreement.

88. “Petition Date” means November 1, 2017.

89. “Plan” means this *Debtors’ Joint Chapter 11 Plan*, including the Plan Supplement which is incorporated herein by reference and made part of this Plan as if set forth herein, as each may be modified, supplemented, or waived from time to time in accordance with the respective terms thereof, which shall be in form and substance reasonably acceptable to the Required Supporting Senior Noteholders, Knight Hawk and, with respect to those provisions of the Plan that involve the Royalty Agreements, to Thoroughbred.

90. “Plan Administrator” means the Debtors’ chief restructuring officer, or such other Person to be agreed upon before the Confirmation Hearing by the Debtors, the Required Supporting Senior Noteholders, and the Committee, if any.

91. “Plan Supplement” means the compilation of documents and forms of documents, schedules, and exhibits to the Plan, as amended, supplemented, or otherwise modified from time to time in accordance with the terms hereof, each of which shall be in form and substance reasonably acceptable to the Required Supporting Senior Noteholders, Knight Hawk and, with respect to those documents that involve the Royalty Agreements, to Thoroughbred, substantially final forms of which shall be filed at least 14 days prior to the Voting Deadline, including: (a) the Schedule of Assumed Executory Contracts and Unexpired Leases; (b) the identity of the Plan Administrator and the compensation of the Plan Administrator; (c) the Retained Causes of Action; (d) the amounts of the Distribution Reserve Accounts; (e) the Wind-Down Budget; and (f) the HoldCo/NewCo Documentation.

92. “Post-Effective Date Debtor” means reorganized Armstrong Air, LLC.

93. “Post-Effective Date Debtor Assets” means: (a) the Remaining Collateral and the Remaining Collateral Proceeds; (b) the Remaining Available Assets; (c) the Remaining Available Assets Proceeds; and (d) the Distribution Reserve Accounts. For the avoidance of doubt, the Post-Effective Date Debtor Assets shall not include: (w) the Transferred Assets; (x) any claims or Causes of Action released pursuant to the Plan; or (y) the Professional Fee Escrow.

94. “Priority Claims” means, collectively the: (a) Priority Tax Claims; and (b) Other Priority Claims.

95. “Priority Claims Reserve” means the account to be established and maintained by the Plan Administrator and funded with the Priority Claims Reserve Amount pursuant to Article VIII.C hereof.

96. “Priority Claims Reserve Amount” means Cash in an amount to be determined by the Debtors, in consultation with the Required Supporting Senior Noteholders, which amount shall be funded by the Debtors and used by the Plan Administrator for the full payment in Cash of Allowed Priority Claims and Allowed Administrative Claims payable pursuant to Article II.A to the extent that such Priority Claims and Administrative Claims have not been paid in full on or before the Effective Date.

97. “Priority Tax Claim” means any Claim of a Governmental Unit of the kind specified in section 507(a)(8) of the Bankruptcy Code.

98. “Professional” means an entity employed pursuant to a Bankruptcy Court order in accordance with sections 327, 363, or 1103 of the Bankruptcy Code and to be compensated for services rendered before or on the Confirmation Date, pursuant to sections 326, 327, 328, 329, 330, 331, or 363 of the Bankruptcy Code.

99. “Professional Fee Claims” means all Administrative Claims for the compensation of Professionals and the reimbursement of expenses incurred by such Professionals through and including the Effective Date to the extent such fees and expenses have not been previously paid.

100. “Professional Fee Escrow” means an interest-bearing escrow account to hold and maintain an amount of Cash equal to the Professional Fee Escrow Amount funded by the Debtors as soon as reasonably practicable after the Confirmation Date and no later than the Effective Date solely for the purpose of paying all remaining Allowed and unpaid Professional Fee Claims. Such Cash shall remain subject to the jurisdiction of the Bankruptcy Court.

101. “Professional Fee Escrow Amount” means the aggregate unpaid Professional Fee Claims through the Effective Date as estimated in accordance with Article II.B of the Plan.

102. “Proof of Claim” means a proof of Claim Filed against any of the Debtors in the Chapter 11 Cases.

103. “Proof of Interest” means a proof of Interest Filed against any of the Debtors in the Chapter 11 Cases.

104. “Reinstated” means, with respect to Claims and Interests, that the Claim or Interest shall be rendered Unimpaired in accordance with section 1124 of the Bankruptcy Code.

105. “Released Party” means collectively, and in each case in its capacity as such: (a) the Debtors and the Post-Effective Date Debtor; (b) the Debtors’ current and former officers and directors; (c) the Creditors’ Committee; (d) the Supporting Senior Noteholders; (e) RRPB; (f) the Senior Notes Trustee; (g) Knight Hawk; (h) Thoroughbred; (i) the parties to the Restructuring Support Agreement; (j) NewCo; (k) HoldCo; and (l) with respect to each of the foregoing entities in clauses (a) through (k), such entities’ predecessors, successors and assigns, subsidiaries, affiliates, managed accounts or funds, current or former officers, directors, principals, shareholders, members, partners, employees, agents, advisory board members, financial advisors, attorneys, accountants, investment bankers, consultants, representatives, management companies, fund advisors and other professionals, and such entities’ respective heirs, executors, estates, servants, and nominees, in each case, solely in their capacity as such.

106. “Releasing Parties” means collectively, and in each case in its capacity as such: (a) the Debtors; (b) the Supporting Senior Noteholders; (c) RRPB; (d) the Senior Notes Trustee; (e) Knight Hawk; (f) Thoroughbred; (g) the parties to the Restructuring Support Agreement (h) all Holders of Claims; (i) all Holders of Interests; (j) NewCo; (k) HoldCo; and (l) with respect to the Debtors, and each of the foregoing Entities in clauses (a) through (k), each such Entity’s current and former Affiliates, and each such Entity’s and their current and former Affiliates’ current and former directors, managers, officers, principals, members, employees, equity holders (regardless of whether such interests are held directly or indirectly), predecessors, successors, assigns, subsidiaries, agents, advisory board members, financial advisors, partners, attorneys, accountants, investment bankers, consultants, representatives, and other professionals.

107. “Remaining Adequate Protection Claims” has the meaning assigned to such term in Article VIII.G.

108. “Remaining Available Assets” means all Excluded Assets that are not Remaining Collateral including, for the avoidance of doubt: (a) certain Causes of Action not previously sold, settled, exculpated, or released by the Debtors or their Estates (including certain Avoidance Actions); (b) the Debtors’ rights under the Transaction Agreement, including all rights of recovery under the Transaction Agreement and any ancillary agreements among parties thereto (other than the Cash Consideration); and (c) all other assets of the Debtors or of the Estates existing on the Effective Date that are not Remaining Collateral. For the avoidance of doubt, the Remaining Available Assets shall not include: (w) the Transferred Assets; (x) any claims or Causes of Action released pursuant to the Plan; or (y) the Professional Fee Escrow.

109. “Remaining Available Assets Proceeds” means the net Cash proceeds of any Remaining Available Assets after payment of all Allowed Administrative Claims and the funding of the Priority Claims Reserve, the Other Secured Claims Reserve, the Professional Fee Escrow, and the Wind-Down Reserve, available for distribution under Article VIII.G hereof.

110. “Remaining Collateral” means the (a) Cash Consideration and (b) all Excluded Assets that constitute Senior Noteholder Collateral.

111. “Remaining Collateral Proceeds” means the net Cash proceeds of any Remaining Collateral after payment of all Allowed Administrative Claims and the funding of the Priority Claims Reserve, the Other Secured Claims Reserve, the Professional Fee Escrow, and the Wind-Down Reserve, available for distribution under Article VIII.G hereof.

112. “Required Supporting Senior Noteholders” means holders of a majority of the principal amount of Senior Notes held by all Supporting Senior Noteholders at any given time.

113. “Restructuring Support Agreement” means that certain Restructuring Support Agreement dated as of October 5, 2017, by and among the Debtors, Knight Hawk, RRPH, Thoroughbred, and the Supporting Senior Noteholders, as may be modified, amended, or supplemented from time to time in accordance with the terms thereof.

114. “Restructuring Transactions” means those mergers, amalgamations, consolidations, arrangements, continuances, restructurings, transfers, conversions, dispositions, liquidations, dissolutions, or other corporate transactions that the Debtors determine, with the consent (not to be unreasonably withheld) of the Required Senior Supporting Noteholders and Knight Hawk, to be necessary or desirable to implement the terms of the Definitive Documents.

115. “Retained Causes of Action” means all claims and causes of action of the Debtors identified in the Plan Supplement.

116. “Royalty Agreements” means all existing mineral right agreements between certain of the Debtors and Thoroughbred (exclusive of that certain Coal Mining Lease and Sublease, dated as of February 28, 2014, by and between Thoroughbred Resources, LLC, as Lessor, and Thoroughfare Mining, LLC, as Lessee), as the same may be amended or restated to the extent contemplated by the Transaction Agreement.

117. “RRPH” means Rhino Resource Partners Holdings LLC.

118. “Sale Transaction” means the transfer of the Transferred Assets to NewCo and the assumption by NewCo of the Assumed Liabilities free and clear of all of all Liens, Claims, charges, and other encumbrances (other than the Permitted Encumbrances, in each case, and Assumed Liabilities) pursuant to sections 363(f) and/or 1123 of the Bankruptcy Code on the terms and conditions set forth in the Transaction Agreement.

119. “Schedule of Assumed Executory Contracts and Unexpired Leases” means the schedule of those Executory Contracts and Unexpired Leases to be assumed by the Debtors or assumed and assigned by the Debtors to NewCo pursuant to the Plan, as set forth in the Plan Supplement, which (with respect to such Executory Contracts and Unexpired Leases to be assumed and assigned by the Debtors to NewCo) shall be in form and substance reasonably acceptable to the Required Supporting Senior Noteholders and Knight Hawk, subject to amendment by the Debtors with the consent of the Required Supporting Senior Noteholders and Knight Hawk (with respect to such Executory Contracts and Unexpired Leases to be assumed and assigned by the Debtors to NewCo) from time to time in accordance with the Transaction Agreement and this Plan. For the avoidance of doubt, the Debtors shall assume and assign to NewCo, as part of the Sale Transaction, the Executory Contracts and Unexpired Leases that are required to be assigned to NewCo pursuant to the Transaction Agreement, including all Royalty Agreements, as amended.

120. “Schedules” means, collectively, the schedules of assets and liabilities, schedules of Executory Contracts and Unexpired Leases, and statements of financial affairs to be Filed by the Debtors pursuant to section 521 of the Bankruptcy Code.

121. “Section 510(b) Claims” means any Claim subject to subordination under section 510(b) of the Bankruptcy Code.

122. “Secured” means, when referring to a Claim, a Claim that is: (a) secured by a Lien on property in which the applicable Estate has an interest, which Lien is valid, perfected, and enforceable pursuant to applicable law or by reason of a Bankruptcy Court order, or that is subject to setoff pursuant to section 553 of the Bankruptcy Code, to the extent of the value of the creditor’s interest in such Estate’s interest in such property or to the extent of the amount subject to setoff, as applicable, as determined pursuant to section 506(a) of the Bankruptcy Code and Bankruptcy Rule 3012, as applicable; or (b) Allowed pursuant to the Plan or a Final Order as a Secured Claim.

123. “Secured Tax Claim” means any Secured Claim that, absent its secured status, would be entitled to priority in right of payment under section 507(a)(8) of the Bankruptcy Code (determined irrespective of time limitations), including any related Secured Claim for penalties.

124. “Security” shall have the meaning set forth in section 101(49) of the Bankruptcy Code.

125. “Senior Noteholders” means the Holders of Senior Notes.

126. “Senior Noteholder Collateral” means “Collateral,” as such term is defined in the Cash Collateral Order.

127. “Senior Notes” means the 11.75% Senior Secured Notes due 2019.

128. “Senior Notes Claim” means any Claim derived from or based upon the Senior Notes Indenture, which Claims shall be Allowed in an aggregate amount not less than \$221,149,347.22, plus all accrued but unpaid interest and fees payable in respect thereof.

129. “Senior Notes Deficiency Claim” means any Senior Notes Claim that is not a Secured Claim.

130. “Senior Notes Indenture” means that certain indenture, dated as of December 21, 2012, as supplemented and in effect from time to time, by and among Armstrong and the Senior Notes Trustee, pursuant to which Armstrong issued \$200,000,000 in aggregate principal amount of the Senior Notes.

131. “Senior Notes Secured Claim” means any Senior Notes Claim that is a Secured Claim.

132. “Senior Notes Trustee” means Wells Fargo Bank, National Association, in its capacity as indenture trustee of the Senior Notes Indenture, and any successor thereto.

133. “Solicitation Date” means the date upon which the Debtors commence the solicitation process in accordance with the Disclosure Statement Order.

134. “Solicitation Procedures” means that form of solicitation procedures approved by and attached as an exhibit to the Disclosure Statement Order.

135. “Subsequent Distribution Date” means the date following the Initial Distribution Date on which the Plan Administrator in its reasonable discretion elects to make distributions to Holders of Allowed Claims pursuant to the Plan.

136. “Supporting Senior Noteholders” means the beneficial holders or investment managers or advisors for such beneficial holders of the Senior Notes that are party to the Restructuring Support Agreement.

137. “Thoroughbred” means, collectively, Thoroughbred Resources, L.P., for itself and its Affiliates and subsidiaries.

138. “Transaction Agreement” means that certain transaction agreement dated as of November 1, 2017, by and among the Debtors, the Supporting Senior Noteholders, and Knight Hawk (including all exhibits and schedules thereto), as the same may be amended, modified, or supplemented from time to time in accordance with the terms thereof.

139. “Transferred Assets” shall have the meaning set forth in the Transaction Agreement.
140. “Undeliverable Distribution Reserve” means a segregated account established by the Plan Administrator established in accordance with Article VIII.B hereof.
141. “Unexpired Lease” means a lease to which one or more of the Debtors is a party that is subject to assumption, assumption and assignment, or rejection under sections 365 or 1123 of the Bankruptcy Code.
142. “Unimpaired” means, with respect to a Class of Claims or Interests, a Claim or an Interest that is unimpaired within the meaning of section 1124 of the Bankruptcy Code.
143. “United States” means the United States of America, its agencies, departments, or agents.
144. “U.S. Trustee” means the Office of the United States Trustee for the Eastern District of Missouri.
145. “U.S. Trustee Fees” means fees arising under 28 U.S.C. § 1930(a)(6) and, to the extent applicable, accrued interest thereon arising under 31 U.S.C. § 3717.
146. “Voting Deadline” means [] prevailing Central Time on [].
147. “Wind Down” means the wind down and dissolution of the Debtors’ Estates following the Effective Date as set forth in Article VIII.B hereof.
148. “Wind-Down Amount” means Cash in an amount to be determined by the Debtors and acceptable to the Required Supporting Senior Noteholders, which amount shall be funded by the Debtors and used by the Plan Administrator to fund the Wind Down in accordance with the Wind-Down Budget.
149. “Wind-Down Budget” means a budget for the reasonable activities and expenses to be incurred in winding down the Chapter 11 Cases and administering the Remaining Collateral and Remaining Available Assets, which budget, activities, and reasonable expenses shall be agreed by the Required Supporting Senior Noteholders and the Debtors and may provide for incentive opportunities for certain of the Debtors’ existing employees that will assist the Plan Administrator. The Wind-Down Budget shall include line item estimates for, among other things, post-Effective Date professional fees and U.S. Trustee fees, and will be financed by the Wind-Down Amount.
150. “Wind-Down Reserve” means a segregated account established by the Plan Administrator established in accordance with Article VIII.D.

B. Rules of Interpretation.

For purposes herein: (1) in the appropriate context, each term, whether stated in the singular or the plural, shall include both the singular and the plural, and pronouns stated in the masculine, feminine, or neuter gender shall include the masculine, feminine, and the neuter gender; (2) except as otherwise provided, any reference herein to a contract, lease, instrument, release, indenture, or other agreement or document being in a particular form or on particular terms and conditions means that the referenced document shall be substantially in that form or substantially on those terms and conditions; (3) except as otherwise provided, any reference herein to an existing document or exhibit having been Filed or to be Filed shall mean that document or exhibit, as it may thereafter be amended, restated, supplemented, or otherwise modified in accordance with the terms of the Plan; (4) unless otherwise specified, all references herein to “Articles” are references to Articles of the Plan or hereto; (5) unless otherwise stated, the words “herein,” “hereof,” and “hereto” refer to the Plan in its entirety rather than to a particular portion of the Plan; (6) captions and headings to Articles are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation hereof; (7) the words “include” and “including,” and variations thereof, shall not be deemed to be terms of limitation, and shall be deemed to be followed by the words “without limitation;” (8) unless otherwise specified, the rules of construction set forth in section 102 of the Bankruptcy Code shall apply; (9) any term used in capitalized form herein that is not otherwise defined but that is used in the Bankruptcy Code or the Bankruptcy Rules shall have the meaning assigned to that term in the

Bankruptcy Code or the Bankruptcy Rules, as the case may be; (10) any docket number references in the Plan shall refer to the docket number of any document Filed with the Bankruptcy Court in the Chapter 11 Cases; (11) references to “Proofs of Claim,” “Holders of Claims,” “Disputed Claims,” and the like shall include “Proofs of Interest,” “Holders of Interests,” “Disputed Interests,” and the like as applicable; (12) references to “shareholders,” “directors,” and/or “officers” shall also include “members” and/or “managers,” as applicable, as such terms are defined under the applicable state limited liability company laws; (13) any immaterial effectuating provisions may be interpreted by the Debtors or the Plan Administrator in such a manner that is consistent with the overall purpose and intent of the Plan all without further notice to or action, order, or approval of the Bankruptcy Court or any other Entity; and (14) except as otherwise provided, any references to the Effective Date shall mean the Effective Date or as soon as reasonably practicable thereafter.

C. Computation of Time.

The provisions of Bankruptcy Rule 9006(a) shall apply in computing any period of time prescribed or allowed in the Plan or Confirmation and Sale Order. If the date on which a transaction may occur pursuant to the Plan shall occur on a day that is not a Business Day, then such transaction shall instead occur on the next succeeding Business Day.

D. Governing Law.

Except to the extent the Bankruptcy Code or Bankruptcy Rules apply, and subject to the provisions of any contract, lease, instrument, release, indenture, or other agreement or document entered into expressly in connection herewith, the rights and obligations arising hereunder shall be governed by, and construed and enforced in accordance with, the laws of the State of Delaware, without giving effect to conflict of laws principles.

E. Reference to Monetary Figures.

All references in the Plan to monetary figures shall refer to the legal tender of the United States, unless otherwise expressly provided.

F. Controlling Document.

In the event of an inconsistency between the Plan and the Disclosure Statement, the terms of the Plan shall control in all respects. In the event of an inconsistency between the Plan, the Disclosure Statement, the Plan Supplement, and the Transaction Agreement, the Transaction Agreement shall control. In the event of any inconsistency between the Transaction Agreement and the Confirmation and Sale Order, the Confirmation and Sale Order shall control.

**ARTICLE II
ADMINISTRATIVE CLAIMS, PROFESSIONAL FEE CLAIMS, AND PRIORITY TAX CLAIMS**

A. Administrative Claims.

Except with respect to Professional Fee Claims or as otherwise set forth herein, subject to the provisions of sections 327, 330(a), and 331 of the Bankruptcy Code, and except to the extent that a Holder of an Allowed Administrative Claim and, as applicable, the Debtors or the Plan Administrator agree to less favorable treatment or such Holder has been paid by any applicable Debtor prior to the Effective Date, the Debtors or the Plan Administrator shall pay each Holder of an Allowed Administrative Claim the full unpaid amount of such Allowed Administrative Claim in Cash: (1) if an Administrative Claim is Allowed on or prior to the Effective Date, on the Effective Date or as soon as reasonably practicable thereafter (or, if not then due, when such Allowed Administrative Claim is due or as soon as reasonably practicable thereafter); (2) if an Administrative Claim is Allowed after the Effective Date, on the date such Administrative Claim is Allowed or as soon as reasonably practicable thereafter (or, if not then due, when such Allowed Administrative Claim is due) with a Cash distribution from the Priority Claims Reserve by the Plan Administrator; (3) at such time and upon such terms as may be agreed upon by such Holder and the Debtors or the Plan Administrator, as applicable; or (4) at such time and upon such

terms as set forth in an order of the Bankruptcy Court; *provided* that any Allowed Administrative Claim that has been expressly assumed by NewCo under the Transaction Agreement shall not be an obligation of the Debtors; *provided further* that notwithstanding anything to the contrary contained herein, the Senior Noteholders shall be entitled to retain all payments made by the Debtors during the Chapter 11 Cases pursuant to the Cash Collateral Order, and the Senior Noteholders shall be entitled to assert the Remaining Adequate Protection Claims, if any, in accordance with Article III.G.

1. Administrative Claims Bar Date.

Except as otherwise provided by a Final Order previously entered by the Bankruptcy Court (including the Bar Date Order) or as provided by this Article II.B, unless previously Filed, requests for payment of Administrative Claims, other than requests for payment of Professional Fee Claims, must be Filed and served on the Debtors no later than the Administrative Claims Bar Date pursuant to the procedures specified in the Confirmation and Sale Order and the notice of entry of the Confirmation and Sale Order. Holders of Administrative Claims that are required to File and serve a request for payment of such Administrative Claims that do not File and serve such a request by the Administrative Claims Bar Date shall be forever barred, estopped, and enjoined from asserting such Administrative Claims against the Debtors, their Estates, or the Plan Administrator, and such Administrative Claims shall be deemed compromised, settled, and released as of the Effective Date. Objections to such requests must be Filed and served on the requesting party by the Administrative Claims Objection Bar Date.

2. Priority Claims Reserve.

As soon as reasonably practicable after the Confirmation Date and no later than the Effective Date, the Debtors shall fund the Priority Claims Reserve in Cash as described in Article VIII.C hereof. Any amounts remaining in the Priority Claims Reserve after payment of all Allowed Priority Claims shall promptly be transferred to the General Account and shall be distributed according to the priority set forth in Article VIII.G without any further action or order of the Court.

B. Professional Compensation.

1. Final Fee Applications and Payment of Professional Fee Claims.

All final requests for payment of Professional Fee Claims incurred during the period from the Petition Date through the Effective Date, shall be Filed no later than 60 days after the Effective Date. All such final requests will be subject to approval by the Court after notice and a hearing in accordance with the procedures established by the Bankruptcy Code, Bankruptcy Rules and prior Bankruptcy Court orders, including the Interim Compensation Order, and once approved by the Court, shall be promptly paid from the Professional Fee Escrow up to the full Allowed amount. To the extent that funds held in the Professional Fee Escrow are unable to satisfy the amount of Professional Fee Claims owing to the Professionals, such Professionals shall have an Allowed Administrative Claim for any such deficiency, which shall be satisfied in accordance with Article II.A of the Plan.

2. Professional Fee Escrow Amount.

On the Effective Date, the Debtors or the Post-Effective Date Debtor, as applicable, shall establish and fund the Professional Fee Escrow with Cash equal to the Professional Fee Escrow Amount. The Professional Fee Escrow shall be maintained in trust for the Professionals. Such funds shall not be considered property of the Debtors' Estates or of the Post-Effective Date Debtor. The amount of Professional Fee Claims owing to the Professionals shall be paid in Cash to such Professionals from funds held in the Professional Fee Escrow as soon as reasonably practicable after such Claims are Allowed by a Final Order. When all such Allowed amounts owing to Professionals have been paid in full, any remaining amount in the Professional Fee Escrow Account shall promptly be transferred to the General Account and shall be distributed according to the priority set forth in Article VIII.G without any further action or order of the Court.

3. Estimation of Fees and Expenses.

Professionals shall reasonably estimate their unpaid Professional Fee Claims and other unpaid fees and expenses incurred before and as of the Effective Date and shall deliver such estimate to the Debtors no later than five Business Days prior to the Effective Date; *provided* that such estimate shall not be considered an admission with respect to the fees and expenses of such Professional and such Professionals are not bound to any extent by the estimates. If a Professional does not provide an estimate, the Debtors may estimate the unbilled fees and expenses of such Professional.

4. Post-Effective Date Fees and Expenses.

Except as otherwise specifically provided in the Plan, from and after the Effective Date, the Debtors shall, in the ordinary course of business and without any further notice to or action, order, or approval of the Bankruptcy Court, pay in Cash the reasonable and documented legal, professional, or other fees and expenses related to implementation and Consummation of the Plan incurred by the Debtors. Upon the Effective Date, any requirement that Professionals and Ordinary Course Professionals comply with sections 327 through 331 and 1103 of the Bankruptcy Code, the Interim Compensation Order, or the Ordinary Course Professionals Order, in seeking retention or compensation for services rendered after such date shall terminate, and the Debtors may employ and pay any Professional or Ordinary Course Professional in the ordinary course of business without any further notice to or action, order, or approval of the Bankruptcy Court.

5. Substantial Contribution.

Except as otherwise specifically provided in the Plan, any Entity that requests compensation or expense reimbursement for making a substantial contribution in the Chapter 11 Cases pursuant to sections 503(b)(3), (4), and (5) of the Bankruptcy Code must file an application and serve such application on counsel for the Debtors and as otherwise required by the Bankruptcy Court, the Bankruptcy Code, and the Bankruptcy Rules on or before the Administrative Claims Bar Date.

C. Costs and Expenses of the Senior Notes Trustee and Supporting Senior Noteholders.

Notwithstanding anything to the contrary contained herein, any Claim related to the reasonable and documented fees and expenses, contribution or indemnification obligations (including, for the avoidance of doubt, those that may accrue before or after the Effective Date (including in any appellate proceedings related to these Chapter 11 Cases)) of the Senior Notes Trustee or the Supporting Senior Noteholders and their respective professionals payable pursuant to the Cash Collateral Order, shall constitute Allowed Administrative Claims and shall be paid on a current basis in full in Cash on the Effective Date, or to the extent accrued after the Effective Date, on a current basis in full in Cash as invoiced. Nothing herein shall require the Senior Notes Trustee or the Supporting Senior Noteholders, or their respective professionals, to file applications, a Proof of Claim or otherwise seek approval of the Court as a condition to the payment of such Allowed Administrative Claims.

D. Priority Tax Claims.

Except to the extent that a Holder of an Allowed Priority Tax Claim agrees to a less favorable treatment, in full and final satisfaction, settlement, and release of and in exchange for each Allowed Priority Tax Claim, each Holder of such Allowed Priority Tax Claim shall be treated in accordance with the terms set forth in section 1129(a)(9)(C) of the Bankruptcy Code. In the event an Allowed Priority Tax Claim is also a Secured Tax Claim, such Claim shall, to the extent it is Allowed, be treated as an Other Secured Claim if such Claim is not otherwise paid in full. On the Effective Date, any Liens securing any Allowed Priority Tax Claims shall be deemed released, terminated, and extinguished, in each case without further notice to or order of the Bankruptcy Court, act, or action under applicable law, regulation, order or rule, or the vote, consent, authorization, or approval of any Person.

E. U.S. Trustee.

The Debtors or the Plan Administrator, as applicable, shall timely pay all U.S. Trustee Fees for each quarter under 28 U.S.C. § 1930(a)(6), plus interest due and payable under 31 U.S.C. § 3717 on all disbursements, including Plan payments and disbursements in and outside the ordinary course of the Debtors’ businesses, until the entry of a Final Order, dismissal of the Chapter 11 Cases, or conversion of the Chapter 11 Cases to cases under chapter 7 of the Bankruptcy Code. Following Confirmation, the Debtors shall file with the Bankruptcy Court quarterly reports in a form reasonably acceptable to the U.S. Trustee.

**ARTICLE III
CLASSIFICATION AND TREATMENT OF CLAIMS AND INTERESTS**

A. Summary of Classification.

This Plan constitutes a separate chapter 11 plan of reorganization for each Debtor. Except for the Claims addressed in Article II above (or as otherwise set forth herein), all Claims against and Interests in a particular Debtor are placed in Classes for each of the Debtors. In accordance with section 1123(a)(1) of the Bankruptcy Code, the Debtors have not classified Administrative Claims, Priority Tax Claims, and Professional Fee Claims as described in Article II.

The categories of Claims and Interests listed below classify Claims and Interests for all purposes, including, voting, Confirmation, and distribution pursuant hereto and pursuant to sections 1122 and 1123(a)(1) of the Bankruptcy Code. The Plan deems a Claim or Interest to be classified in a particular Class only to the extent that the Claim or Interest qualifies within the description of that Class and shall be deemed classified in a different Class to the extent that any remainder of such Claim or Interest qualifies within the description of such different Class. A Claim or an Interest is in a particular Class only to the extent that any such Claim or Interest is Allowed in that Class and has not been paid or otherwise settled prior to the Effective Date.

Class	Claims and Interests	Status	Voting Rights
Class 1	Other Priority Claims	Unimpaired	Not Entitled to Vote (Presumed to Accept)
Class 2	Other Secured Claims	Unimpaired	Not Entitled to Vote (Presumed to Accept)
Class 3	Senior Notes Secured Claims	Impaired	Entitled to Vote
Class 4	General Unsecured Claims	Impaired	Entitled to Vote
Class 5	Intercompany Claims	Impaired	Not Entitled to Vote (Deemed to Reject)
Class 6	Interests in Armstrong	Impaired	Not Entitled to Vote (Deemed to Reject)
Class 7	Intercompany Interests	Impaired	Not Entitled to Vote (Deemed to Reject)
Class 8	Section 510(b) Claims	Impaired	Not Entitled to Vote (Deemed to Reject)

B. Treatment of Claims and Interests.

Except to the extent that the Debtors and a Holder of an Allowed Claim or Interest, as applicable, agrees to a less favorable treatment, such Holder shall receive under the Plan the treatment described below in full and final satisfaction, compromise, settlement, release, and discharge of and in exchange for such Holder’s Allowed Claim or Interest. Unless otherwise indicated, each Holder of an Allowed Claim or Interest, as applicable, shall receive such treatment on the Effective Date (or, if payment is not then due, in accordance with its terms in the ordinary course)

or as soon as reasonably practicable thereafter, the timing of which shall be subject to the reasonable discretion of the Debtors or the Plan Administrator, as applicable.

1. Class 1—Other Priority Claims.

- (a) *Classification:* Class 1 consists of all Other Priority Claims.
- (b) *Treatment:* Except to the extent that a Holder of an Allowed Other Priority Claim and the Debtor against which such allowed Other Priority Claim is asserted agree to less favorable treatment for such Holder, in full satisfaction of each allowed Other Priority Claim against the Debtors, each Holder thereof shall receive payment in full in Cash from the Priority Claims Reserve or other treatment rendering such Claim Unimpaired.
- (c) *Voting:* Class 1 is Unimpaired under the Plan. Each Holder of an Allowed Other Priority Claim is conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, each Holder of an Allowed Other Priority Claim is not entitled to vote to accept or reject the Plan.

2. Class 2—Other Secured Claims.

- (a) *Classification:* Class 2 consists of all Other Secured Claims, including all Secured Tax Claims.
- (b) *Treatment:* Except to the extent that a Holder of an Allowed Other Secured Claim agrees to a less favorable treatment, in full satisfaction of each allowed Other Secured Claim against the Debtors, each Holder thereof shall receive, at the Plan Administrator's election:
 - (i) payment in full in Cash of such Holder's Allowed Class 2 Other Secured Claim with a distribution from the Other Secured Claims Reserve;
 - (ii) the Post-Effective Date Debtor's interest in the Collateral securing such Holder's Allowed Class 2 Other Secured Claims; or
 - (iii) such other treatment rendering such Holder's Allowed Other Secured Claim Unimpaired.
- (c) *Voting:* Class 2 is Unimpaired under the Plan. Each Holder of an Allowed Other Secured Claim is conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, each Holder of an Allowed Other Secured Claim is not entitled to vote to accept or reject the Plan.

3. Class 3—Senior Notes Secured Claims.

- (a) *Classification:* Class 3 consists of all Senior Notes Secured Claims.
- (b) *Treatment:* With respect to that portion of the Allowed Senior Notes Claims that are Senior Notes Secured Claims, except to the extent that a Holder of an Allowed Senior Notes Secured Claim agrees to a less favorable treatment, in full satisfaction of each Allowed Senior Notes Secured Claim, each Holder of an Allowed Senior Notes Secured Claim will receive, on or as soon as reasonably practicable after the Effective Date, its *pro rata* share of: (i) one hundred (100%) percent of the HoldCo Equity as of the Effective Date (before dilution on account of the HoldCo Equity issued to Knight Hawk in exchange for the Contribution as described in the Transaction Agreement) in satisfaction of the Noteholder Equity Issuance Consideration, and (ii) the Remaining

Collateral Proceeds available for distribution from time to time as provided in Article VIII.G hereof, until such Allowed Senior Notes Secured Claims are paid in full.

- (c) *Voting:* Class 3 is Impaired under the Plan. Each Holder of an Allowed Senior Notes Secured Claim is entitled to vote to accept or reject the Plan.

4. Class 4—General Unsecured Claims.

- (a) *Classification:* Class 4 consists of all General Unsecured Claims.
- (b) *Treatment:* Except to the extent that a Holder of an Allowed General Unsecured Claim agrees to a less favorable treatment, in full satisfaction of each allowed General Unsecured Claim, until paid in full, each Holder of a General Unsecured Claim will receive its *pro rata* share of the GUC Distribution Proceeds as provided in Article VIII.G hereof.
- (c) *Voting:* Class 4 is Impaired. Each Holder of an Allowed General Unsecured Claim is entitled to vote to accept or reject the Plan.

5. Class 5—Intercompany Claims.

- (a) *Classification:* Class 5 consists of all Intercompany Claims.
- (b) *Treatment:* Intercompany Claims will be canceled, released, and extinguished as of the Effective Date, and will be of no further force or effect, and each Holder of a Class 5 Claim will not receive any distribution on account of such Claim.
- (c) *Voting:* Class 5 is Impaired. Each Holders of an Intercompany Claim is deemed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code and is not entitled to vote to accept or reject the Plan.

6. Class 6—Interests in Armstrong

- (a) *Classification:* Class 6 consists of all Interests in Armstrong.
- (b) *Treatment:* Interests in Armstrong will be canceled, released, and extinguished, and will be of no further force or effect, and each Holder of an Interest in Armstrong will not receive any distribution on account of such Interest.
- (c) *Voting:* Class 6 is Impaired. Each Holder of an Interest in Armstrong is deemed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code and is not entitled to vote to accept or reject the Plan.

7. Class 7—Intercompany Interests.

- (a) *Classification:* Class 7 consists of all Intercompany Interests.
- (b) *Treatment:* Intercompany Interests will be canceled, released, and extinguished as of the Effective Date, and will be of no further force or effect, and each Holder of an Intercompany Interest will not receive any distribution on account of such Interest.
- (c) *Voting:* Class 7 is Impaired. Each Holder of an Intercompany Interest is deemed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code and is not entitled to vote to accept or reject the Plan.

8. Class 8—Section 510(b) Claims.

- (a) *Classification:* Class 8 consists of all Section 510(b) Claims.
- (b) *Treatment:* Section 510(b) Claims will be canceled, released, and extinguished as of the Effective Date, and will be of no further force or effect, and each Holder of a Section 510(b) Claim will not receive any distribution on account of such Section 510(b) Claim. The Debtors are not aware of any valid Section 510(b) Claims and believe that no such Section 510(b) Claims exist.
- (c) *Voting:* Class 8 is Impaired. Each Holder of a Section 510(b) Claims is deemed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code and is not entitled to vote to accept or reject the Plan.

C. Special Provision Governing Unimpaired Claims.

Except as otherwise provided in the Plan, nothing under the Plan shall affect, diminish, or impair the rights of the Plan Administrator, the Debtors, or the Debtors' Estates in respect of any Unimpaired Claims, including all rights in respect of legal and equitable defenses to or setoffs or recoupments against any such Unimpaired Claims.

D. Acceptance or Rejection of the Plan.

1. Presumed Acceptance of Plan.

Classes 1 and 2 are Unimpaired under the Plan and are, therefore, presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code.

2. Voting Classes.

Each Holder of an Allowed Claim in each of Classes 3 and 4 shall be entitled to vote to accept or reject the Plan.

3. Presumed Rejection of Plan.

Classes 5, 6, 7, and 8 shall receive no distribution under the Plan on account of their Interests and Claims and are, therefore, presumed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code.

4. Controversy Concerning Impairment.

If a controversy arises as to whether any Claims or Interests, or any Class thereof, are Impaired, the Bankruptcy Court shall, after notice and a hearing, determine such controversy on or before the Confirmation Date.

E. Elimination of Vacant Classes.

Any Class of Claims that is not occupied as of the date of commencement of the Confirmation Hearing by the Holder of an Allowed Claim or a Claim temporarily Allowed under Bankruptcy Rule 3018 (*i.e.*, no Ballots are cast in a Class entitled to vote on the Plan) shall be deemed eliminated from the Plan for purposes of voting to accept or reject the Plan and for purposes of determining acceptances or rejection of the Plan by such Class pursuant to section 1129(a)(8) of the Bankruptcy Code.

F. Confirmation Pursuant to Sections 1129(a)(10) and 1129(b) of the Bankruptcy Code

Acceptance of the Plan by either Class 3 or 4 will satisfy section 1129(a)(10) of the Bankruptcy Code. The Debtors shall seek Confirmation of the Plan pursuant to section 1129(b) of the Bankruptcy Code with respect to any rejecting Class of Claims or Interests. The Debtors reserve the right to modify the Plan in accordance with Article

XII hereof to the extent, if any, that Confirmation pursuant to section 1129(b) of the Bankruptcy Code requires modification, including by modifying the treatment applicable to a Class of Claims or Interests to render such Class of Claims or Interests Unimpaired to the extent permitted by the Bankruptcy Code and the Bankruptcy Rules.

G. Subordinated Claims.

The allowance, classification, and treatment of all Allowed Claims and Allowed Interests and the respective distributions and treatments under the Plan take into account and conform to the relative priority and rights of the Claims and Interests in each Class in connection with any contractual, legal, and equitable subordination rights relating thereto, whether arising under general principles of equitable subordination, section 510(b) of the Bankruptcy Code, or otherwise. Pursuant to section 510 of the Bankruptcy Code, the Debtors reserve the right to re-classify any Allowed Claim or Allowed Interest in accordance with any contractual, legal, or equitable subordination relating thereto.

**ARTICLE IV
MEANS FOR IMPLEMENTATION OF THE PLAN**

A. Sources of Plan Consideration.

The HoldCo Equity, the Remaining Collateral, the Remaining Available Assets, the Priority Claims Reserve, the Other Secured Claims Reserve, the GUC Reserve, the Debtors' rights under the Transaction Agreement, and all Causes of Action not previously settled, released, or exculpated under the Plan, if any, shall be used to fund the distributions to Holders of Allowed Claims against the Debtors in accordance with the treatment of such Claims and subject to the terms provided herein.

B. Armstrong Sale Transaction.

1. Creation of NewCo and HoldCo.

Following the Petition Date, Armstrong shall form or cause to be formed (i) HoldCo, a Delaware limited liability company, which shall be wholly owned by Armstrong, and (ii) NewCo, one or, if designated by Knight Hawk and the Required Senior Supporting Noteholders, more than one new Delaware limited liability companies, which shall be wholly owned by HoldCo.

Pursuant to the Transaction Agreement, Armstrong shall cause (i) HoldCo to be treated as a disregarded entity for U.S. federal and applicable state and local income tax purposes and (ii) NewCo to be treated as a disregarded entity for U.S. federal and applicable state and local income tax purposes unless otherwise directed in writing by the Supporting Senior Noteholders and Knight Hawk, in which case Armstrong will cooperate (including by filing an IRS Form 8832 in connection with the Sale Transaction) to elect to treat NewCo as a corporation for U.S. federal and applicable state and local income tax purposes.

2. Transaction Agreement.

Subject to the terms of the Transaction Agreement, on the Effective Date, the Debtors shall consummate the Sale Transaction by, among other things, transferring the Transferred Assets to NewCo free and clear of all Liens, Claims, charges, and other encumbrances (other than Permitted Encumbrances and Assumed Liabilities) pursuant to sections 363 and 1123 of the Bankruptcy Code, this Plan and the Confirmation and Sale Order. Upon entry of the Confirmation and Sale Order by the Bankruptcy Court, all matters provided for under the Transaction Agreement and the Plan, and any documents in connection herewith and therewith, shall be deemed authorized and approved without any requirement of further act or action by the Debtors, the Debtors' shareholders or boards of directors, or any other Entity or Person. The Debtors are authorized to execute and deliver, and to consummate the transactions contemplated by, the Transaction Agreement and this Plan, as well as to execute, deliver, file, record and issue any note, documents, or agreements in connection therewith, without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Entity.

The transactions contemplated by the Transaction Agreement and this Plan are undertaken by the Debtors, HoldCo, NewCo, the Supporting Senior Noteholders and Knight Hawk without collusion and in good faith, as that term is defined in section 363(m) of the Bankruptcy Code, and accordingly, the reversal or modification on appeal of the authorization provided therein to consummate the transactions contemplated thereunder and hereunder shall not affect the validity of such transactions (including the assumption, assignment and/or transfer of any Executory Contract or Unexpired Lease to NewCo). NewCo is a good faith purchaser within the meaning of section 363(m) of the Bankruptcy Code and, as such, is entitled to the full protections of section 363(m) of the Bankruptcy Code as applicable.

3. HoldCo Equity.

On the Effective Date, HoldCo is authorized to issue or cause to be issued and shall issue the HoldCo Equity for distribution to the holders of Allowed Senior Notes Secured Claims in accordance with the terms of this Plan and to Knight Hawk as set forth in the Transaction Agreement, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Person. All of the shares of HoldCo Equity issued pursuant to the Plan, as contemplated by the Transaction Agreement, shall be duly authorized and validly issued. Other than as contemplated through the issuance of HoldCo Equity pursuant to this Plan and the Transaction Agreement, there shall exist on the Effective Date no other equity securities, warrants, options, or other agreements to acquire any equity interest in HoldCo.

4. Restructuring Transactions.

Before, on, and after the Effective Date, the Debtors, or the Post-Effective Date Debtor, as applicable, are authorized, without further order of the Bankruptcy Court, to take all actions as may be necessary or appropriate to effect any transaction described in, approved by, contemplated by, or necessary to effectuate the Restructuring Transactions under or in connection with the Plan, including: (1) the execution and delivery of all appropriate agreements or other documents of merger, consolidation, restructuring, conversion, disposition, transfer, dissolution, or liquidation containing terms that are consistent with the terms of the Plan, and that satisfy the requirements of applicable law and any other terms to which the applicable Entities may agree with the consent (not to be unreasonably withheld) of the Required Supporting Senior Noteholders and Knight Hawk; (2) the execution and delivery of appropriate instruments of transfer, assignment, assumption, or delegation of any asset, property, right, liability, debt, or obligation on terms consistent with the terms of the Plan and having other terms to which the applicable Entities agree with the consent (not to be unreasonably withheld) of the Required Supporting Senior Noteholders and Knight Hawk; (3) rejection or assumption, or assumption and assignment, as applicable, of Executory Contracts and Unexpired Leases; (4) the filing of appropriate certificates or articles of incorporation, reincorporation, merger, consolidation, conversion, or dissolution pursuant to applicable state law; and (5) subject to the occurrence of the Effective Date, the consummation of the transactions contemplated by the Transaction Agreement.

5. Payment of Cure Costs and Other Amounts.

On or as soon as reasonably practicable after the Effective Date, (i) NewCo (or an Affiliate thereof), with funds provided by Knight Hawk, shall pay all NewCo Cure Costs, and (ii) the Debtors shall pay (either directly or through NewCo) all Debtor Cure Costs, in each case that are required to be paid (if any) pursuant to and in accordance with sections 365 or 1123 of the Bankruptcy Code with respect to any Executory Contracts or Unexpired Leases that are assumed by the Debtors and assigned to NewCo pursuant to the Transaction Agreement and this Plan. The Debtors and the Post-Effective Date Debtor (a) shall not have any obligation to make any payment or other distribution on account of any NewCo Cure Costs, and (b) shall have the obligation to pay NewCo for any amounts that are accrued as of the closing under the Transaction Agreement prorated per diem as of such closing not yet due and payable with respect to any Executory Contracts or Unexpired Leases that are assumed by the Debtors and assigned to NewCo pursuant to the Transaction Agreement and this Plan. NewCo, HoldCo, the Supporting Senior Noteholders, and Knight Hawk shall not have any obligation to make any payment or other distribution on account of any Debtor Cure Costs, except for Debtor Cure Costs paid through NewCo.

C. Vesting of Assets.

Except as otherwise provided in the Plan, the Transaction Agreement, or any agreement, instrument, or other document incorporated herein or therein, on the Effective Date: (a) the Transferred Assets shall be preserved and shall vest in NewCo, free and clear of all Liens, Claims, charges, and other encumbrances (other than the Permitted Encumbrances and the Assumed Liabilities); and (b) the Post-Effective Date Debtor Assets shall vest in the Post-Effective Date Debtor for the purpose of liquidating the Estates, free and clear of all Liens, Claims, charges, and other encumbrances other than the Permitted Encumbrances. On and after the Effective Date, except as otherwise provided in the Plan and subject in all respects to the Transaction Agreement and the Plan, the Debtors and the Post-Effective Date Debtor may operate their businesses and use, acquire, or dispose of property and, as applicable, compromise or settle any Claims, Interests, or Causes of Action without supervision or approval by the Bankruptcy Court and free of any restrictions of the Bankruptcy Code or Bankruptcy Rules. For the avoidance of doubt, following the Effective Date, HoldCo and NewCo may operate their businesses and use, acquire, or dispose of property, including the Transferred Assets, without supervision or approval by the Bankruptcy Court and free of any restrictions of the Bankruptcy Code or Bankruptcy Rules.

D. General Settlement of Claims.

As discussed further in the Disclosure Statement and as otherwise provided herein, pursuant to section 1123 of the Bankruptcy Code and Bankruptcy Rule 9019, and in consideration for the classification, distributions, releases, and other benefits provided under the Plan, upon the Effective Date, the provisions of the Plan shall constitute a good-faith compromise and settlement of all Claims, Interests, Causes of Action, and controversies released, settled, compromised, discharged, or otherwise resolved pursuant to the Plan. The Plan shall be deemed a motion to approve the good-faith compromise and settlement of all such Claims, Interests, Causes of Action, and controversies pursuant to Bankruptcy Rule 9019, and the entry of the Confirmation and Sale Order shall constitute the Bankruptcy Court's approval of such compromise and settlement under section 1123 of the Bankruptcy Code and Bankruptcy Rule 9019, as well as a finding by the Bankruptcy Court that such settlement and compromise is fair, equitable, reasonable, and in the best interests of the Debtors and their Estates. Distributions made to Holders of Allowed Claims in any Class are intended to be final.

E. Senior Notes Indenture.

Effective as of the Effective Date, the Debtors' obligations under the Senior Notes Indenture shall be deemed terminated, canceled, and released. In full and final satisfaction, settlement, and release of and in exchange for each Holder's Allowed Senior Notes Claim, on the Effective Date or as soon as reasonably practicable thereafter, the Debtors or the Plan Administrator, as the case may be, may take such actions as are necessary to effectuate the transactions contemplated by Article III.B and Article VIII.G hereof and the Transaction Agreement, including to execute and deliver such other and further documents as may be reasonably requested by the Senior Notes Trustee. Notwithstanding anything in the Plan to the contrary, the Senior Notes Indenture shall continue in effect solely to the extent necessary to: (1) allow Holders of Allowed Senior Notes Claims to receive distributions pursuant to the Plan; (2) allow the Post-Effective Date Debtor to make distributions pursuant to the Plan; and (3) allow the Senior Notes Trustee to seek compensation, reimbursement, and/or indemnification of fees, expenses, and other costs in accordance with the Plan, the Cash Collateral Order, and the Senior Notes Indenture.

F. Post-Effective Date Debtor.

On and after the Effective Date, in accordance with the Wind-Down Budget, the Post-Effective Date Debtor shall continue in existence for purposes of (1) winding down the Debtors' businesses and affairs as expeditiously as reasonably possible, (2) resolving Disputed Claims, (3) paying Allowed Priority Tax Claims, Allowed Administrative Claims (including but not limited to Professional Fee Claims), Allowed Priority Claims, Allowed Senior Notes Claims, Allowed Other Secured Claims, Allowed General Unsecured Claims, and Debtor Cure Costs as provided hereunder, (4) establishing and funding the Distribution Reserve Accounts, (5) enforcing and prosecuting claims, interests, rights, and privileges under the Retained Causes of Action in an efficacious manner and only to the extent the benefits of such enforcement or prosecution are reasonably believed to outweigh the costs associated therewith, (6) filing appropriate tax returns, (7) complying with its continuing obligations under the Transaction Agreement (including with respect to the transfer of permits to NewCo as contemplated therein); and

(8) administering the Plan in an efficacious manner. The Post-Effective Date Debtor shall be deemed to be substituted as the party-in-lieu of the Debtors in all matters, including (a) motions, contested matters, and adversary proceedings pending in the Bankruptcy Court, and (b) all matters pending in any courts, tribunals, forums, or administrative proceedings outside of the Bankruptcy Court, in each case without the need or requirement for the Plan Administrator to file motions or substitutions of parties or counsel in each such matter.

G. Plan Administrator.

The Plan Administrator shall act for the Post-Effective Date Debtor in the same fiduciary capacity as applicable to a board of managers, directors, and officers, subject to the provisions hereof (and all certificates of formation, membership agreements, and related documents are deemed amended by the Plan to permit and authorize the same). On the Effective Date, the authority, power, and incumbency of the persons acting as managers and officers of the Post-Effective Date Debtor shall be deemed to have resigned, and a representative of the Plan Administrator shall be appointed as the sole manager and sole officer of the Post-Effective Date Debtor, and shall succeed to the powers of the Post-Effective Date Debtor's managers, directors, and officers. From and after the Effective Date, the Plan Administrator shall be the sole representative of, and shall act for, the Post-Effective Date Debtor as further described in Article VII hereof; *provided* that the Plan Administrator shall use commercially reasonable efforts to operate in a manner consistent with the Wind-Down Budget.

Notwithstanding anything herein to the contrary, the Post-Effective Date Debtor and the Plan Administrator shall be deemed to be fully bound by the terms of the Plan and the Confirmation and Sale Order.

H. Cancellation of Notes, Instruments, Certificates, and Other Documents.

On the Effective Date, except as otherwise specifically provided for in the Plan: (1) the obligations of any Debtor under any certificate, share, note, bond, indenture, purchase right, or other instrument or document, directly or indirectly evidencing or creating any indebtedness or obligation of or ownership interest, equity, or portfolio interest in the Debtors or any warrants, options, or other securities exercisable or exchangeable for, or convertible into, debt, equity, ownership, or profits interests in the Debtors giving rise to any Claim or Interest shall be cancelled and deemed surrendered as to the Debtors and shall not have any continuing obligations thereunder; and (2) the obligations of the Debtors pursuant, relating, or pertaining to any agreements, indentures, certificates of designation, bylaws, or certificates or articles of incorporation or similar documents governing the shares, certificates, notes, bonds, indenture, purchase rights, options, warrants, or other instruments or documents evidencing or creating any indebtedness or obligation of the Debtors shall be fully released, settled, and compromised.

I. Corporate Action.

Upon the Effective Date, by virtue of the solicitation of votes in favor of the Plan and entry of the Confirmation and Sale Order, all actions contemplated by the Plan and the Transaction Agreement (including any action to be undertaken by the Plan Administrator) 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 Interests, the Debtors, or any other Entity or Person. All matters provided for in the Plan involving the corporate structure of the Debtors, including the creation of HoldCo and NewCo, the consummation of the Sale Transaction and the issuance of HoldCo Equity to Holders of Allowed Supporting Senior Noteholders and Knight Hawk, in each case in accordance with the Plan and the Transaction Agreement, 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 Debtors' Estates.

Upon the Effective Date or as soon as reasonably practicable thereafter, after making all distributions provided for under the Plan, the Debtors shall be deemed to have been dissolved and terminated, except as necessary satisfy their obligations under the Transaction Agreement. The directors, managers, and officers of the Debtors and the Plan Administrator, as applicable, shall be authorized to execute, deliver, File, or record such contracts, instruments, and other agreements or documents and take such other actions as they may deem necessary or appropriate in their sole discretion to implement the provisions of this Article IV.I.

The authorizations and approvals contemplated by this Article IV.I shall be effective notwithstanding any requirements under applicable nonbankruptcy law.

J. Dissolution and Board of the Debtors.

As of the Effective Date, the existing board of directors or managers, as applicable, of the Debtors shall be dissolved without any further action required on the part of the Debtors or the Debtors' officers, directors, managers, shareholders, or members, and any remaining officers, directors, managers, or managing members of any Debtor shall be dismissed without any further action required on the part of any such Debtor, the equity holders of the Debtors, the officers, directors, or managers, as applicable, of the Debtors, or the members of any Debtor. Subject in all respects to the terms of this Plan, the Debtors shall be dissolved as soon as practicable on or after the Effective Date, but in no event later than the closing of the Chapter 11 Cases.

As of the Effective Date, the Plan Administrator shall act as the sole officer, director, and manager, as applicable, of the Debtors with respect to its affairs other than matters substantially related to the transactions described in Article IV.B.1-2 of the Plan. Subject in all respects to the terms of this Plan, the Plan Administrator shall have the power and authority to take any action necessary to wind down and dissolve any of the Debtors, and shall: (a) file a certificate of dissolution for any of the Debtors, together with all other necessary corporate and company documents, to effect the dissolution of Armstrong under the applicable laws of its state of formation; and (b) complete and file all final or otherwise required federal, state, and local tax returns and shall pay taxes required to be paid for any of the Debtors, and pursuant to section 505(b) of the Bankruptcy Code, request an expedited determination of any unpaid tax liability of any of the Debtors or their Estates for any tax incurred during the administration of such Debtor's Chapter 11 Case, as determined under applicable tax laws.

The filing by the Plan Administrator of any of the Debtors' certificate of dissolution shall be authorized and approved in all respects without further action under applicable law, regulation, order, or rule, including any action by the stockholders, members, board of directors, or board of managers of Armstrong or any of its affiliates.

K. Release of Liens.

Except as otherwise expressly provided herein, on the Effective Date, all Liens on any property of any Debtors or the Post-Effective Date Debtor shall automatically terminate, all property subject to such Liens shall be automatically released, and all guarantees of any Debtors or the Post-Effective Date Debtor shall be automatically discharged and released.

L. Effectuating Documents; Further Transactions.

Prior to the Effective Date, the Debtors are, and on and after the Effective Date, the Post-Effective Date Debtors, the Plan Administrator, and the officers and members thereof 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 approvals, authorizations, notice, or consents, except for those expressly required pursuant to the Plan.

M. 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, the Sale Transaction or the Transaction Agreement 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.

N. Causes of Action.

Other than Causes of Action against an Entity that are waived, relinquished, exculpated, released, compromised, settled, assigned, and/or otherwise conveyed under the Plan, the Transaction Agreement, or any Final Order (including, for the avoidance of doubt, any claims or Causes of Action released pursuant to Article X hereof), the Debtors reserve and, as of the Effective Date, assign to the Post-Effective Date Debtor the Causes of Action, which shall include, for the avoidance of doubt, those Causes of Action identified as being retained in the Plan Supplement. On and after the Effective Date, the Plan Administrator may pursue the Causes of Action on behalf of and for the benefit of the applicable beneficiaries. On the Effective Date, except as expressly set forth in the Plan Supplement, all Avoidance Actions shall be deemed waived, relinquished, and extinguished, and no Avoidance Actions shall revert to creditors of the Debtors.

No Entity may rely on the absence of a specific reference in the Plan, the Plan Supplement, or the Disclosure Statement to any such Cause of Action against them as any indication that the Debtors or the Plan Administrator will not pursue any and all available Causes of 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 upon, after, or as a consequence of the Confirmation or Consummation.

The Debtors or the Post-Effective Date Debtor, as applicable, reserve any such Causes of Action (other than waived Avoidance Actions) being retained by the Debtors as provided herein, notwithstanding the rejection of any Executory Contract or Unexpired Lease during the Chapter 11 Cases or pursuant to the Plan. Prior to the Effective Date, the Debtors, and on and after the Effective Date, the Plan Administrator, shall retain and shall have, including through their authorized agents or representatives, the exclusive right, authority, and discretion to determine and to initiate, file, prosecute, enforce, abandon, settle, compromise, release, withdraw, or litigate to judgment any such Causes of Action and to decline to do any of the foregoing without the consent or approval of any third party or further notice to or action, order, or approval of the Bankruptcy Court.

O. Closing the Chapter 11 Cases.

Upon the occurrence of the Effective Date, the Plan Administrator shall be permitted to close all of the Chapter 11 Cases except for the Chapter 11 Case of Armstrong, and all contested matters relating to each of the Debtors, including objections to Claims, shall be administered and heard in the Chapter 11 Case of Armstrong.

When all Disputed Claims have become Allowed or Disallowed and all remaining Cash has been distributed in accordance with the Plan, the Plan Administrator shall seek authority from the Bankruptcy Court to close the Chapter 11 Case of Armstrong in accordance with the Bankruptcy Code and the Bankruptcy Rules.

**ARTICLE V
TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

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

On the Effective Date, except as otherwise provided herein, each Executory Contract and Unexpired Lease not previously rejected, assumed, or assigned, including any employee benefit plans, severance plans, and other Executory Contracts under which employee obligations arise, shall be deemed automatically rejected pursuant to sections 365 and 1123 of the Bankruptcy Code, unless such Executory Contract or Unexpired Lease: (1) is specifically described in the Plan as to be assumed in connection with confirmation of the Plan, or is specifically scheduled to be assumed or assumed and assigned pursuant to the Plan or the Plan Supplement; (2) is subject to a pending motion to assume such Unexpired Lease or Executory Contract as of the Effective Date; (3) is to be assumed by the Debtors or assumed by the Debtors and assigned to NewCo or another third party, as

applicable, in connection with the Sale Transaction; (4) is a contract, instrument, release, indenture, or other agreement or document entered into in connection with the Plan; (5) is a D&O Policy; or (6) is the Transaction Agreement or the HoldCo/NewCo Documentation. Entry of the Confirmation and Sale Order by the Bankruptcy Court shall constitute approval of such assumptions, assignments, and rejections, including the assumption and assignment of the Executory Contracts or Unexpired Leases as provided in the Transaction Agreement and the Plan Supplement, pursuant to sections 365(a) and 1123 of the Bankruptcy Code. Unless otherwise indicated, assumptions or rejections of Executory Contracts and Unexpired Leases pursuant to the Plan or Transaction Agreement are effective as of the Effective Date. Any motions to assume Executory Contracts or Unexpired Leases pending on the Effective Date shall be subject to approval by a Final Order of the Bankruptcy Court on or after the Effective Date.

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

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 Bankruptcy Court and served on the Debtors or, after the Effective Date, the Plan Administrator, as applicable, no later than 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 Plan Administrator, as applicable, no later than 14 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 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 Bankruptcy Court within such time will be automatically Disallowed, forever barred from assertion, and shall not be enforceable against the Debtors, the Debtors' Estates, the Post-Effective Date Debtor, or the property for any of the foregoing without the need for any objection by the Debtors or the Plan Administrator, 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 General Unsecured Claims against the appropriate Debtor, or upon the Effective Date, the Post-Effective Date Debtor, except as otherwise provided by order of the Bankruptcy Court.

C. Cure of Defaults for Assumed Executory Contracts and Unexpired Leases.

Any monetary defaults under an Executory Contract or Unexpired Lease to be assumed by the Debtors as set forth in Article V.A, as reflected on the Cure Notice shall be satisfied, pursuant to section 365(b)(1) of the Bankruptcy Code, by payment of such Cure Costs in Cash on or about the Effective Date, subject to the limitations described below and the allocation of Cure Costs between the Debtors and NewCo set forth in the Transaction Agreement and Article IV.B herein, or on such other terms as the parties to such Executory Contracts or Unexpired Leases may otherwise agree. In the event of a dispute regarding (1) the Cure Costs, (2) the ability of NewCo or any assignee, to provide "adequate assurance of future performance" (within the meaning of section 365 of the Bankruptcy Code) under the Executory Contract or Unexpired Lease to be assumed, or (3) any other matter pertaining to assumption, the cure payments required by section 365(b)(1) of the Bankruptcy Code shall be made following the entry of a Final Order or orders resolving the dispute and approving the assumption, and the Debtors will retain adequate cash to pay for potential Debtor Cure Costs and other amounts to be paid by the Debtors under the Transaction Agreement.

Unless otherwise provided by an order of the Bankruptcy Court or in the Transaction Agreement, at least 14 days before the Voting Deadline, the Debtors shall cause Cure Notices of proposed assumption to be sent to applicable counterparties. Any objection by such counterparty must be Filed, served, and actually received by the Debtors not later than the deadline by which objections to confirmation of the Plan are due. Any counterparty to an

Executory Contract or Unexpired Lease that fails to object timely to the proposed assumption or cure amount will be deemed to have assented to such assumption.

In any case, if the Bankruptcy Court determines that the Allowed Cure Cost with respect to any Executory Contract or Unexpired Lease is greater than the amount set forth in the applicable Cure Notice, the Debtors or, with respect to those Executory Contracts and Unexpired Leases to be assumed by the Debtors and assigned to NewCo under the Transaction Agreement, the Required Supporting Senior Noteholders and Knight Hawk (in accordance with the Transaction Agreement) will have the right to remove such Executory Contract or Unexpired Lease from the relevant Schedule of Assumed Executory Contracts and Unexpired Leases (and, if applicable, the list of Assigned Contracts (as defined in the Transaction Agreement)), in which case such Executory Contract or Unexpired Lease will be deemed rejected as the Effective Date. Notwithstanding the foregoing, upon the closing under the Transaction Agreement, all Royalty Agreements, as amended or restated as contemplated by the Transaction Agreement, shall be assumed and assigned to NewCo or otherwise conveyed to NewCo and all monetary defaults thereunder cured by NewCo or the Debtors, in each case as provided in the Transaction Agreement.

Assumption (or assumption and assignment) of any Executory Contract or Unexpired Lease pursuant to the Plan or otherwise shall result in the full release and satisfaction of any Claims or defaults, whether monetary or nonmonetary, including defaults of provisions restricting the change in control or ownership interest composition or other bankruptcy-related defaults, arising under any assumed (or assumed and assigned) Executory Contract or Unexpired Lease at any time before the date that the Debtors assume such Executory Contract or Unexpired Lease. **All liabilities reflected in the Schedules and any Proofs of Claim Filed with respect to an Executory Contract or Unexpired Lease that has been assumed shall be deemed Disallowed and expunged, without further notice to or action, order, or approval of the Bankruptcy Court.**

D. D&O Policies.

The D&O Policies shall be assumed by the Debtors on behalf of the applicable Debtor and assigned to the Post-Effective Date Debtor effective as of the Effective Date, pursuant to sections 365 and 1123 of the Bankruptcy Code, 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, and coverage for defense and indemnity under any of the D&O Policies shall remain available to all individuals within the definition of "Insured" in any of the D&O Policies.

E. Modifications, Amendments, Supplements, Restatements, or Other Agreements.

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

Modifications, amendments, supplements, and restatements to prepetition Executory Contracts and Unexpired Leases that have been executed by the Debtors during the Chapter 11 Cases shall not be deemed to alter the prepetition nature of the Executory Contract or Unexpired Lease, or the validity, priority, or amount of any Claims that may arise in connection therewith, absent a Final Order of the Bankruptcy Court to the contrary.

F. Reservation of Rights.

Neither the exclusion nor inclusion of any Executory Contract or Unexpired Lease on the Schedule of Assumed Executory Contracts and Unexpired Leases, nor anything contained in the Plan or Transaction Agreement, shall constitute an admission by the Debtors or any other Entity, as applicable, that any such contract or lease is in fact an Executory Contract or Unexpired Lease or that either any Debtor or any other Entity, as applicable, 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 Debtors or the Plan Administrator, as applicable, 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. Notwithstanding anything else to the contrary herein, all Royalty Agreements, as amended or restated as contemplated by the Transaction Agreement, shall be assumed and assigned to NewCo or otherwise conveyed to NewCo and all monetary defaults thereunder cured by NewCo or the Debtors, in each case as provided in the Transaction Agreement, on or prior to the Effective Date.

G. Nonoccurrence of Effective Date.

In the event that the Effective Date does not occur, the Bankruptcy Court shall retain jurisdiction with respect to any request to extend the deadline for assuming or rejecting Unexpired Leases pursuant to section 365(d)(4) of the Bankruptcy Code.

**ARTICLE VI
PROVISIONS GOVERNING DISTRIBUTIONS**

A. Timing and Calculation of Amounts to Be Distributed.

Unless otherwise provided in the Plan, on the Effective Date or as soon as reasonably practicable thereafter (or, if a Claim is not an Allowed Claim on the Effective Date, on the date that such Claim becomes Allowed or as soon as reasonably practicable thereafter), 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 Plan Administrator on behalf of the Debtors, as applicable. 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 Article IX hereof. 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.

B. Rights and Powers of the Plan Administrator.

1. Powers of the Debtors and the Plan Administrator.

Except as otherwise set forth herein, all distributions under the Plan shall be made on the Effective Date or as soon as reasonably practicable thereafter by the Debtors or the Plan Administrator (or its designee(s)), the timing of which shall be subject to the reasonable discretion of the Debtors or the Plan Administrator, as applicable.

On and after the Effective Date, the Plan Administrator and its designees or representatives shall have the right to object to, Allow, or otherwise resolve any General Unsecured Claim, Priority Claim, or Other Secured Claim, subject to the terms hereof; *provided* that the Plan Administrator and its designees or representatives shall not have the right to object to the Allowed Senior Notes Deficiency Claims.

The Debtors and the Plan Administrator, as applicable, shall not be required to give any bond or surety or other security for the performance of its duties unless otherwise ordered by the Bankruptcy Court. However, in the event that the Plan Administrator is so ordered after the Effective Date, all costs and expenses of procuring any such bond or surety shall be paid for with Cash from the Wind-Down Reserve.

2. Fees of Plan Administrator and Expenses Incurred On or After the Effective Date.

Except as otherwise ordered by the Bankruptcy Court, the fees and expenses incurred by the Plan Administrator on or after the Effective Date (including taxes) and any reasonable compensation and expense reimbursement Claims (including attorney fees and expenses) made by the Plan Administrator in connection with

such Plan Administrator's duties shall be paid without any further notice to or action, order, or approval of the Bankruptcy Court in Cash from the Wind-Down Reserve if such amounts relate to any actions taken hereunder.

C. Delivery of Distributions and Undeliverable or Unclaimed Distributions.

1. Record Date for Distribution.

On the Distribution Record Date, the Claims Register shall be closed and the Debtors, the Plan Administrator, 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. The Distribution Record Date shall not apply to the Senior Notes Trustee with respect to beneficial holders of the Senior Notes Claims.

2. Distributions to Beneficial Holders of the Senior Notes Claims.

Notwithstanding any provision of the Plan to the contrary, distributions to beneficial holders of the Senior Notes Claims shall be made to or at the direction of the Senior Notes Trustee, which shall act as disbursing agent for distributions to the beneficial holders of the Senior Notes Claims under the Senior Notes Indenture. The Senior Notes Trustee may transfer or direct the transfer of such distributions directly through the facilities of DTC (whether by means of book-entry exchange, free delivery, or otherwise) and will be entitled to recognize and deal for all purposes under the Plan with beneficial holders of Senior Notes Claims to the extent consistent with the customary practices of DTC. Such distributions shall be subject in all respects to the right of the Senior Notes Trustee to assert its charging lien under the Senior Notes Indenture against such distributions. All distributions to be made to beneficial holders of Senior Notes Claims shall be eligible to be distributed through the facilities of DTC and as provided for under the Senior Notes Indenture.

3. Delivery of Distributions in General.

(a) Payments and Distributions on Disputed Claims.

Distributions made after the Effective Date to Holders of Disputed Claims that are not Allowed Claims as of the Effective Date but which later become Allowed Claims shall, in the reasonable discretion of the Plan Administrator, be deemed to have been made by the Plan Administrator on the Effective Date unless the Plan Administrator and the Holder of such Claim agree otherwise.

(b) 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 Debtors or the Plan Administrator, as applicable, 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.

(c) Distributions.

On and after the Effective Date, the Debtors or the Plan Administrator, as applicable, shall make the distributions required to be made on account of Allowed Claims under the Plan. Any distribution that is not made on the Initial Distribution 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 Plan Administrator in reserve by the Plan Administrator in accordance with the Plan, as applicable, and distributed on the next Subsequent Distribution Date that occurs after such Claim is Allowed. Subject to Article VI.E hereof, no interest shall accrue or be paid on the unpaid amount of any distribution paid pursuant to the Plan.

4. Minimum; De Minimis Distributions.

No Cash payment of less than \$50, in the reasonable discretion of the Plan Administrator, shall be made to a Holder of an Allowed Claim or Allowed Interest on account of such Allowed Claim or Allowed Interest.

5. 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 Plan Administrator has determined the then current address of such Holder, at which time such distribution shall be made to such Holder without interest; *provided* that such distributions shall be deemed unclaimed property under section 347(b) of the Bankruptcy Code at the expiration of six months from the date the 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 Plan Administrator, automatically and without need for a further order by the Bankruptcy Court and the Claim of any Holder to such property or interest in property shall be released, settled, compromised, and forever barred.

6. Manner of Payment Pursuant to the Plan.

Any payment in Cash to be made pursuant to the Plan shall be made at the election of the Plan Administrator by check or by wire transfer, at the sole and exclusive discretion of the Plan Administrator.

D. Compliance with Tax Requirements/Allocations.

In connection with the Plan, to the extent applicable, the Plan Administrator shall request distributees to provide appropriate documentation that may be required for an exemption from withholding or reporting, and 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 unless an exception applies. Notwithstanding any provision in the Plan to the contrary, the Plan Administrator shall be authorized to take all actions necessary or appropriate to comply with such withholding and reporting requirements, including liquidating a portion of the distribution to be made under the Plan to generate sufficient funds to pay applicable withholding taxes, withholding distributions pending receipt of information necessary to facilitate such distributions, or establishing any other mechanisms it believes is reasonable and appropriate. The Plan Administrator reserves the right to allocate all distributions made under the Plan in compliance with all applicable wage garnishments, alimony, child support, and other spousal awards, liens, and encumbrances. All Persons holding Claims shall be required to provide any information necessary to effect information reporting and the withholding of such taxes. Notwithstanding any other provision of the Plan to the contrary, each Holder of an Allowed Claim shall have the sole and exclusive responsibility for the satisfaction and payment of any tax obligations imposed by any governmental unit, including income, withholding, and other tax obligations, on account of such distribution.

E. Allocation of Plan Distributions Between Principal and Interest.

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 as Allowed therein.

F. Setoffs and Recoupment.

Except as otherwise expressly provided herein, the Debtors or the Post-Effective Date Debtor, may, but shall not be required to, setoff against or recoup from any Claims of any nature whatsoever that the Debtors or the Post-Effective Date Debtor may have against the claimant, but neither the failure to do so nor the allowance of any Claim hereunder shall constitute a waiver or release by the Debtors or the Post-Effective Date Debtor of any such Claim it may have against the Holder of such Claim.

G. Claims Paid or Payable by Third Parties.

1. Claims Paid by Third Parties.

The Plan Administrator shall reduce in full 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 Debtor. Subject to the last sentence of this paragraph, to the extent a Holder of a Claim receives a distribution on account of such Claim and receives payment 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 Plan Administrator 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 Plan Administrator 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.

2. Claims Payable by Insurance, Third Parties.

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-Debtor 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-Debtor payment agreement, or collateral, as applicable. To the extent that one or more of the Debtors' insurers, sureties, or non-Debtor 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.

3. Applicability of Insurance Policies.

Notwithstanding anything to the contrary in the Plan or Confirmation and Sale Order, Confirmation and Consummation of the Plan shall not limit or affect the rights of any third-party beneficiary or other covered party of any of the Debtor's insurance policies with respect to such policies, including the D&O Policies.

H. Indefeasible Distributions.

Any and all distributions made under the Plan shall be indefeasible and not subject to clawback.

I. Exemption from Securities Laws.

The issuance of and the distribution under the Plan of the HoldCo Equity to Holders of Allowed Senior Notes Secured Claims (but not the issuance of HoldCo Equity to Knight Hawk as described in the Transaction Agreement) shall be exempt from registration under the Securities Act and any other applicable securities laws pursuant to section 1145 of the Bankruptcy Code. These Securities may be resold without registration under the Securities Act or other federal securities laws pursuant to the exemptions provided by sections 1145(b)(1) and 1145(c) of the Bankruptcy Code, unless the holder is an "underwriter" with respect to such Securities, as that term is defined in section 1145(b) of the Bankruptcy Code, or an "affiliate" of HoldCo within the meaning of Rule 144 under the Securities Act and section 4(a)(2) of the Securities Act. In addition, such section 1145 exempt Securities generally may be resold without registration under state securities laws pursuant to various exemptions provided by the respective laws of the several states. The issuance of HoldCo Equity to Knight Hawk pursuant to the Transaction Agreement is expected to be exempt from registration under the Securities Act and any other applicable securities laws as a private placement by HoldCo under section 4(a)(2) of the Securities Act or any other applicable exemptions.

**ARTICLE VII
THE PLAN ADMINISTRATOR**

A. *The Plan Administrator.*

The powers of the Plan Administrator shall include any and all powers and authority to implement the Plan and to administer and distribute the Distribution Reserve Accounts and wind down the businesses and affairs of the Debtors and the Post-Effective Date Debtor, including: (1) liquidating, receiving, holding, and investing, supervising, and protecting the Post-Effective Date Debtor Assets; (2) taking all steps to execute all instruments and documents necessary to effectuate the distributions to be made under the Plan from the Distribution Reserve Accounts; (3) making distributions from the Distribution Reserve Accounts as contemplated under the Plan; (4) establishing and maintaining bank accounts in the name of the Post-Effective Date Debtor; (5) subject to the terms set forth herein, employing, retaining, terminating, or replacing professionals to represent it with respect to its responsibilities or otherwise effectuating the Plan to the extent necessary; (6) paying all reasonable fees, expenses, debts, charges, and liabilities of the Post-Effective Date Debtor; (7) administering and paying taxes of the Post-Effective Date Debtor, including filing tax returns; (8) representing the interests of the Post-Effective Date Debtor or the Estates before any taxing authority in all matters, including any action, suit, proceeding or audit; and (9) exercising such other powers as may be vested in it pursuant to order of the Bankruptcy Court or pursuant to the Plan, or as it reasonably deems to be necessary and proper to carry out the provisions of the Plan.

The Plan Administrator may resign at any time upon 30 days' written notice delivered to the Bankruptcy Court; *provided* that such resignation shall only become effective upon the appointment of a permanent or interim successor Plan Administrator. Upon its appointment, the successor Plan Administrator, without any further act, shall become fully vested with all of the rights, powers, duties, and obligations of its predecessor and all responsibilities of the predecessor Plan Administrator relating to the Post-Effective Date Debtor shall be terminated.

1. Plan Administrator Rights and Powers.

The Plan Administrator shall retain and have all the rights, powers and duties necessary to carry out his or her responsibilities under this Plan, and as otherwise provided in the Confirmation and Sale Order. The Plan Administrator shall be the exclusive trustee of the Post-Effective Date Debtor Assets for the purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), as well as the representative of the Estates appointed pursuant to Bankruptcy Code § 1123(b)(3)(B).

2. Retention of Professionals.

The Plan Administrator shall have the right to retain the services of attorneys, accountants, and other professionals that, in the discretion of the Plan Administrator, are necessary to assist the Plan Administrator in the performance of his or her duties. The reasonable fees and expenses of such professionals shall be paid by the Post-Effective Date Debtor from the Wind-Down Reserve upon the monthly submission of statements to the Plan Administrator. The payment of the reasonable fees and expenses of the Plan Administrator's retained professionals shall be made in the ordinary course of business from the Wind-Down Reserve and shall not be subject to the approval of the Bankruptcy Court.

3. Compensation of the Plan Administrator

The Plan Administrator's compensation, on a Post-Effective Date basis, shall be as described in the Plan Supplement and paid out of the Wind-Down Reserve.

4. Plan Administrator Expenses.

All costs, expenses and obligations incurred by the Plan Administrator in administering this Plan, the Post-Effective Date Debtor, or in any manner connected, incidental or related thereto, in effecting distributions from the Post-Effective Date Debtor thereunder (including the reimbursement of reasonable expenses) shall be a charge against the Post-Effective Date Debtor Assets remaining from time to time in the hands of the Plan Administrator.

Such expenses shall be paid from the Wind-Down Reserve and paid as they are incurred without the need for Bankruptcy Court approval.

5. Plan Administrator Oversight.

Notwithstanding anything to the contrary contained herein, the Plan Administrator shall consult with the Required Supporting Senior Noteholders with regard to the settlement of any Administrative Claim, Priority Claim, or Other Secured Claim.

B. Wind-Down.

On and after the Effective Date, the Plan Administrator will be authorized to implement the Plan and any applicable orders of the Bankruptcy Court, and the Plan Administrator shall have the power and authority to take any action necessary to wind down and dissolve the Debtors' Estates.

As soon as practicable after the Effective Date, the Plan Administrator shall: (1) cause the Debtors and the Post-Effective Date Debtor, as applicable, to comply with, and abide by, the terms of the Transaction Agreement and any other documents contemplated thereby; (2) file for each of the Debtors, except the Post-Effective Date Debtor, a certificate of dissolution or equivalent document, together with all other necessary corporate and company documents, to effect the dissolution of the Debtors under the applicable laws of their state of incorporation or formation (as applicable), including, but not limited to, any actions contemplated in Sections 275–283 of the DGCL; and (3) take such other actions as the Plan Administrator may determine to be necessary or desirable to carry out the purposes of the Plan. For purposes of clause (2) of the preceding sentence, the Plan shall constitute a plan of distribution as contemplated in the DGCL. The certificate of dissolution or equivalent document may be executed by the Plan Administrator without need for any action or approval by the shareholders or Board of Directors of any Debtor. From and after the Effective Date, except with respect to the Post-Effective Date Debtor as set forth herein, the Debtors (4) for all purposes shall be deemed to have withdrawn their business operations from any state in which the Debtors were previously conducting, or are 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, (5) shall be deemed to have cancelled pursuant to this Plan all Interests, and (6) 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, (7) 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.

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 Plan Administrator.

C. Exculpation; Indemnification; Insurance; Liability Limitation.

The Plan Administrator, all professionals retained by the Plan Administrator, each in their capacities as such, shall be deemed exculpated and indemnified, except for fraud, willful misconduct, or gross negligence, in all respects by the Post-Effective Date Debtor. The Plan Administrator may obtain, at the expense of the Post-Effective Date Debtor and with funds from the Wind-Down Reserve, commercially reasonable liability or other appropriate insurance with respect to the indemnification obligations of the Post-Effective Date Debtor. The Plan Administrator may rely upon written information previously generated by the Debtors.

For the avoidance of doubt, notwithstanding anything to the contrary contained herein, the Plan Administrator in its capacity as such, shall have no liability whatsoever to any party for the liabilities and/or obligations, however created, whether direct or indirect, in tort, contract, or otherwise, of the Debtors.

D. Tax Returns.

After the Effective Date, the Plan Administrator shall 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 Debtor or its Estate for any tax incurred during the administration of such Debtor's Chapter 11 Case, as determined under applicable tax laws.

E. Dissolution of the Post-Effective Date Debtor.

Upon a certification to be Filed with the Bankruptcy Court by the Plan Administrator of all distributions having been made and completion of all its duties under the Plan and entry of a final decree closing the last of the Chapter 11 Cases, the Post-Effective Date Debtor shall be deemed to be dissolved without any further action by the Post-Effective Date Debtor, including the filing of any documents with the secretary of state for the state in which the Post-Effective Date Debtor is formed or any other jurisdiction. The Plan Administrator, however, shall have authority to take all necessary actions to dissolve the Post-Effective Date Debtor in and withdraw the Post-Effective Date Debtor from applicable state(s).

**ARTICLE VIII
RESERVES ADMINISTERED BY THE PLAN ADMINISTRATOR**

A. Establishment of Reserve Accounts.

The Plan Administrator shall establish each of the Distribution Reserve Accounts (which may be affected by either establishing a segregated account or establishing book entry accounts, in the sole discretion of the Plan Administrator).

B. Undeliverable Distribution Reserve.

1. Deposits.

If a Distribution to any Holder of an Allowed Claim is returned to the Plan Administrator as undeliverable or is otherwise unclaimed, such Distribution shall be deposited in a segregated, interest-bearing account, designated as an "Undeliverable Distribution Reserve," for the benefit of such Holder until such time as such Distribution becomes deliverable, is claimed or is deemed to have been forfeited in accordance with Article I.A.2 of this Plan.

2. Forfeiture.

Any Holder of an Allowed Claim that does not assert a Claim pursuant to this Plan for an Undeliverable or Unclaimed Distribution within three months after the first Distribution is made to such Holder shall be deemed to have forfeited its claim for such Undeliverable or Unclaimed Distribution and shall be forever barred and enjoined from asserting any such claim for the Undeliverable or Unclaimed Distribution against any Debtor, any Estate, the Plan Administrator, the Post-Effective Date Debtor, or their respective properties or assets. In such cases, any Cash or other property held by the Post-Effective Date Debtor in the Undeliverable Distribution Reserve for distribution on account of such claims for Undeliverable or Unclaimed Distributions, including the interest that has accrued on such Undeliverable or Unclaimed Distribution while in the Undeliverable Distribution Reserve, shall become the property of the Post-Effective Date Debtor, notwithstanding any federal or state escheat laws to the contrary, and shall promptly be transferred to the General Account to be distributed according to the priority set forth in Article VIII.G without any further action or order of the Court; *provided* that any Undeliverable or Unclaimed Distribution on account of an Allowed General Unsecured Claim shall be transferred to the GUC Reserve.

3. Disclaimer.

The Plan Administrator and his or her respective agents and attorneys are under no duty to take any action to either (i) attempt to locate any Claim Holder, or (ii) obtain an executed Internal Revenue Service Form W-9 from any Claim Holder; *provided* that in his or her sole discretion, the Plan Administrator may periodically publish notice of Unclaimed Distributions.

4. Distribution from Reserve.

Within fifteen (15) Business Days after the Holder of an Allowed Claim satisfies the requirements of this Plan, such that the distribution(s) attributable to its Claim is no longer an Undeliverable or Unclaimed Distribution (provided that satisfaction occurs within the time limits set forth in Article I.A.2 of this Plan), the Plan Administrator

shall distribute out of the Undeliverable Distribution Reserve the amount of the Undeliverable or Unclaimed Distribution attributable to such Claim, including the interest that has accrued on such Undeliverable or Unclaimed Distribution while in the Undeliverable Distribution Reserve, to the General Account.

C. Priority Claims Reserve.

On the Effective Date, the Plan Administrator shall establish the Priority Claims Reserve by depositing Cash in the amount of the Priority Claims Reserve Amount into the Priority Claims Reserve. The Priority Claims Reserve Amount shall be used to pay Allowed Priority Claims. If all or any portion of a Priority Claim shall become a Disallowed Claim, then the amount on deposit in the Priority Claims Reserve attributable to such surplus or such Disallowed Claim, including the interest that has accrued on said amount while on deposit in the Priority Claims Reserve, shall remain in the Priority Claims Reserve to the extent that the Plan Administrator determines necessary to ensure that the Cash remaining in the Priority Claims Reserve is sufficient to ensure that all Allowed Priority Claims will be paid in accordance with the Plan, and shall otherwise promptly be transferred to the General Account to be distributed in accordance with the Plan without any further action or order of the Court. Any amounts remaining in the Priority Claims Reserve after payment of all Allowed Priority Claims shall promptly be transferred to the General Account and shall be distributed according to the priority set forth in Article VIII.G without any further action or order of the Court.

D. Wind-Down Reserve.

On the Effective Date, the Plan Administrator shall establish the Wind-Down Reserve by depositing Cash in the amount of the Wind-Down Amount into the Wind-Down Reserve. The Wind-Down Reserve shall be used by the Plan Administrator solely to satisfy the expenses of the Post-Effective Date Debtor and the Plan Administrator as set forth in the Plan and the Wind-Down Budget; *provided* that all costs and expenses associated with the winding up of the Post-Effective Date Debtor and the storage of records and documents shall constitute expenses of the Post-Effective Date Debtor and shall be paid from the Wind-Down Reserve. In no event shall the Plan Administrator be required or permitted to use its personal funds or assets for such purposes. Any amounts remaining in the Wind-Down Reserve after payment of all expenses of the Post-Effective Date Debtor and the Plan Administrator shall promptly be transferred to the General Account and shall be distributed according to the priority set forth in Article VIII.G without any further action or order of the Court.

E. Other Secured Claim Reserve.

On the Effective Date, the Plan Administrator shall establish the Other Secured Claims Reserve by depositing Cash in the amount of the Other Secured Claims Reserve Amount into the Other Secured Claims Reserve. The Other Secured Claims Reserve Amount shall be used to pay Allowed Other Secured Claims. If all or any portion of an Other Secured Claim shall become a Disallowed Claim, then the amount on deposit in the Other Secured Claims Reserve attributable to such surplus or such Disallowed Claim, including the interest that has accrued on said amount while on deposit in the Other Secured Claims Reserve, shall remain in the Other Secured Claims Reserve to the extent that the Plan Administrator determines necessary to ensure that the Cash remaining in the Other Secured Claims Reserve is sufficient to ensure that all Allowed Other Secured Claims will be paid in accordance with the Plan, and shall otherwise promptly be transferred to the General Account to be distributed in accordance with the Plan without any further action or order of the Court. Any amounts remaining in the Other Secured Claims Reserve after satisfaction of all Allowed Other Secured Claims shall promptly be transferred to the General Account and shall be distributed according to the priority set forth in Article VIII.G without any further action or order of the Court.

F. GUC Reserve.

On the Effective Date, the Plan Administrator shall establish and thereafter maintain the GUC Reserve in a separate, segregated account by depositing the GUC Distribution Proceeds into the GUC Reserve. The GUC Distribution Proceeds shall be used to pay Allowed General Unsecured Claims on a *pro rata* basis. If all or any portion of a General Unsecured Claim shall become a Disallowed Claim, then the amount on deposit in the GUC Reserve attributable to such surplus or such Disallowed Claim, including the interest that has accrued on said

amount while on deposit in the GUC Reserve, shall remain in the GUC Reserve and be distributed to holders of Allowed General Unsecured Claims in accordance with the Plan.

Notwithstanding anything to the contrary herein, neither the Plan Administrator, the Post-Effective Date Debtor nor any other party in interest shall be obligated to fund the GUC Reserve in an aggregate amount in excess of the GUC Distribution Proceeds.

G. Distribution Proceeds/Priority Waterfall.

The Plan Administrator shall deliver to the Senior Note Trustee on a periodic basis all Remaining Collateral Proceeds available for distribution from time to time to the Holders of Allowed Senior Notes Secured Claims pursuant to Article III.B.3 hereof, with any balance constituting GUC Distribution Proceeds. All Remaining Available Asset Proceeds shall be allocated and paid to the applicable holders of Claims until paid in full from time to time in the following priority (in each case on a *pro rata* basis): (i) *first*, on account of any Adequate Protection Claims remaining after taking into account any distributions received on account thereof pursuant to Article III.B.3 or the preceding sentence (the “Remaining Adequate Protection Claims”); and (ii) and *second*, on account of any Allowed General Unsecured Claims (including any Senior Notes Deficiency Claims).

H. The General Account and Distribution Reserve Account Adjustments.

Beginning on the first anniversary of the Effective Date or at such other times as the Plan Administrator shall determine as appropriate, and thereafter, on each anniversary of the Effective Date, the Plan Administrator shall determine the amount of Cash required to adequately maintain each of the Distribution Reserve Accounts (other than the GUC Reserve). Other than with respect to amounts held in the GUC Reserve, if after making and giving effect to any determination referred to in the immediately preceding sentence, the Plan Administrator determines that any Distribution Reserve Account (i) contains Cash in an amount in excess of the amount then required to adequately maintain such Distribution Reserve Account, then at any such time the Plan Administrator shall transfer such surplus Cash to the General Account to be used or distributed according to the priority set forth in this Article VIIIH, or (ii) does not contain Cash in an amount sufficient to adequately maintain such Distribution Reserve Account (other than the GUC Reserve), then at any such time the Plan Administrator shall transfer Cash from the General Account, to the extent Cash is available in the General Account until the deficit in such Distribution Reserve Account is eliminated. Any funds in the General Account not needed to eliminate a Distribution Reserve Account deficit shall be allocated and paid in the following priority (in each case on a *pro rata* basis): (x) *first*, to each Holder of a Remaining Adequate Protection Claim until such Claim is paid in full ; (y) *second*, to the extent such funds constitute Remaining Collateral Proceeds, to each Holder of an Allowed Senior Notes Secured Claim until such Allowed Senior Notes Secured Claim is paid in full; and (z) *third*, to each Holder of an Allowed General Unsecured Claim.

**ARTICLE IX
PROCEDURES FOR RESOLVING CONTINGENT,
UNLIQUIDATED, AND DISPUTED CLAIMS**

A. Allowance of Claims and Interests.

Prior to the Effective Date, the Debtors, and on and after the Effective Date, the Plan Administrator, shall have and shall retain any and all rights and defenses that the Debtors had with respect to any Claim immediately before the Effective Date. After the Effective Date, the Plan Administrator and, to the extent that any Claim or Interest constitutes a Transferred Asset, NewCo shall have and retain any and all rights and defenses that the applicable Debtor had with respect to any Claim or any Interest immediately before the Effective Date. Except as expressly provided in the Plan or in any order entered in the Chapter 11 Cases before the Effective Date (including the Confirmation and Sale 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 and Sale Order (when it becomes a Final Order), in the Chapter 11 Cases allowing such Claim.

B. Claims and Interests Administration Responsibilities.

Except as otherwise specifically provided in the Plan and notwithstanding any requirements that may be imposed pursuant to Bankruptcy Rule 9019, on and after the Effective Date, the Plan Administrator by order of the Bankruptcy Court, shall have the sole authority, in consultation with the Required Supporting Senior Noteholders with regard to all Claims: (1) to File, withdraw, or litigate to judgment objections to Claims; (2) to settle or compromise any Disputed Claim without any further notice to or action, order, or approval by the Bankruptcy Court; and (3) to administer and adjust the Claims Register to reflect any such settlements or compromises without any further notice to or action, order, or approval by the Bankruptcy Court.

C. Estimation of Claims and Interests.

As of the Effective Date, the Plan Administrator or the Post-Effective Date Debtors, as applicable, may (but is not required to), at any time, request that the Bankruptcy Court estimate any Claim or Interest pursuant to applicable law, including pursuant to section 502(c) of the Bankruptcy Code and/or Bankruptcy Rule 3012, for any reason, regardless of whether any party previously has objected to such Claim or whether the Bankruptcy Court has ruled on any such objection, and the Bankruptcy Court shall retain jurisdiction to estimate any such Claim, including during the litigation of any objection to any Claim or during the pendency of any appeal relating to such objection. Notwithstanding any provision otherwise in the Plan, a Claim that has been expunged from the Claims Register, but that either 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 Claim, that estimated amount shall constitute a maximum limitation on such Claim for all purposes under the Plan (including for purposes of distributions) and may be used as evidence in any supplemental proceedings, and the Plan Administrator may elect to pursue any supplemental proceedings to object to any ultimate distribution on 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 seven (7) days after the date on which such Claim is estimated. Each of the foregoing 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.

D. Adjustment to Claims or Interests without Objection.

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

E. Time to File Objections to Claims.

Any objections to Claims shall be Filed on or before the Claims Objection Bar Date, as such may be extended pursuant to the terms of the Plan.

F. Disallowance of Claims.

Other than with respect to Claims Allowed under the Plan, to the maximum extent provided by section 502(d) of the Bankruptcy Code, any Claims held by Entities from which property is recoverable under section 542, 543, 550, or 553 of the Bankruptcy Code or that is a transferee of a transfer avoidable under section 522(f), 522(h), 544, 545, 547, 548, 549, or 724(a) of the Bankruptcy Code, shall be deemed Disallowed pursuant to section 502(d) of the Bankruptcy Code, and Holders of such Claims may not receive any distributions on account of such Claims until such time as such Causes of Action against that Entity have been settled or a Bankruptcy Court order with respect thereto has been entered and all sums due, if any, to the Debtors by that Entity have been turned over or paid to the Debtors or the Plan Administrator. All Proofs of Claim Filed on account of an indemnification obligation to a director, officer, or employee shall be deemed satisfied and expunged from the Claims Register as of the Effective

Date to the extent such indemnification obligation is assumed (or honored or reaffirmed, as the case may be) pursuant to the Plan, without any further notice to or action, order, or approval of the Bankruptcy Court.

G. Amendments to Claims.

On or after the Effective Date, except as provided in the Plan or the Confirmation and Sale Order, a Claim or Interest may not be Filed or amended without the prior authorization of the Debtors or the Plan Administrator, as applicable, and any such new or amended Claim or Interest Filed shall be deemed disallowed in full and expunged without any further action.

H. No Distributions Pending Allowance.

If an objection to a Claim or Interest or portion thereof is Filed as set forth in Article IX of the Plan, or if such Claim or Interest is scheduled as Disputed, no payment or distribution provided under the Plan shall be made on account of such Claim or Interest or portion thereof unless and until such Disputed Claim or Disputed Interest becomes an Allowed Claim or Allowed Interest.

I. Distributions After Allowance.

To the extent that a Disputed Claim or Disputed Interest ultimately becomes an Allowed Claim or Allowed Interest, distributions (if any) shall be made to the Holder of such Allowed Claim or Allowed Interest in accordance with the provisions of the Plan. As soon as practicable after the date that the order or judgment of the Bankruptcy Court allowing any Disputed Claim or Disputed Interest becomes a Final Order, the Plan Administrator shall provide to the Holder of such Claim or Interest the distribution (if any) to which such Holder is entitled under the Plan as of the Effective Date, less any previous distribution (if any) that was made on account of the undisputed portion of such Claim or Interest, without any interest, dividends, or accruals to be paid on account of such Claim or Interest unless required under applicable bankruptcy law or as otherwise provided in Article III.B of the Plan.

J. Single Satisfaction of Claims

Holders of Allowed Claims may assert such Claims against the Debtors obligated with respect to such Claims, and such Claims shall be entitled to share in the recovery provided for the applicable Class of Claims against the Debtors based upon the full Allowed amount of such Claims. Notwithstanding the foregoing, in no case shall the aggregate value of all property received or retained under the Plan on account of any Allowed Claim exceed 100 percent of the underlying Allowed Claim plus applicable interest, if any.

**ARTICLE X
SETTLEMENT, RELEASE, INJUNCTION, AND RELATED PROVISIONS**

A. Settlement, Compromise, and Release of Claims and Interests.

Pursuant to section 1123 of the Bankruptcy Code and Bankruptcy Rule 9019 and in consideration for the distributions and other benefits provided pursuant to the Plan, the provisions of the Plan shall constitute a good-faith compromise and settlement of all Claims, Interests, and controversies relating to the contractual, legal, and subordination rights that a Holder of a Claim or Interest may have with respect to any Allowed Claim or Interest, or any distribution to be made on account of such Allowed Claim or Interest. The entry of the Confirmation and Sale Order shall constitute the Bankruptcy Court's approval of the compromise or settlement of all such Claims, Interests, and controversies, as well as a finding by the Bankruptcy Court that such compromise or settlement is in the best interests of the Debtors, their Estates, and Holders of Claims and Interests and is fair, equitable, and reasonable. In accordance with the provisions of the Plan, pursuant to Bankruptcy Rule 9019, without any further notice to or action, order, or approval of the Bankruptcy Court, after the Effective Date, the Plan Administrator may compromise and settle Claims against, and Interests in, the Debtors and their Estates and Causes of Action against other Entities.

B. Release of Liens.

Except as otherwise specifically provided in the Plan, the Transaction Agreement or in any contract, instrument, release, or other agreement or document created pursuant to the Plan, on the Effective Date and concurrently with the applicable distributions made pursuant to the Plan and the Transaction Agreement, all mortgages, deeds of trust, Liens, pledges, or other security interests against any property of the Estates shall be fully released, settled, compromised, 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 Debtors and their successors and assigns, in each case, without any further approval or order of the Bankruptcy Court and without any action or Filing being required to be made by the Debtors. In addition, the Senior Notes Trustee shall execute and deliver all documents reasonably requested by the Debtors or Plan Administrator to evidence the release of such mortgages, deeds of trust, Liens, pledges, and other security interests and shall authorize the Debtors to file UCC-3 termination statements (to the extent applicable) with respect thereto.

C. Releases by the Debtors.

Pursuant to section 1123(b) of the Bankruptcy Code, and except as otherwise specifically provided in the Plan, for good and valuable consideration, including the service of the Released Parties in facilitating the expeditious reorganization of the Debtors and the implementation of the restructuring contemplated by the Plan, effective as of the Effective Date, the Debtors, the Post-Effective Date Debtor, and any Person seeking to exercise the rights of the Estates, including any successor to the Debtors or any estate representative appointed or selected pursuant to section 1123(b)(3) of the Bankruptcy Code shall be deemed to forever release, waive, and discharge the Released Parties of any and all claims, obligations, 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, liquidated or unliquidated, contingent or fixed, existing or hereafter arising, in law, at equity or otherwise, whether for tort, contract, violations of federal or state securities laws or otherwise, including those that any of the Debtors, the Post-Effective Date Debtor, the Estates, or their Affiliates 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 Interest, based on or relating to, or in any manner arising from, in whole or in part, the Debtors, the Estates, the conduct of the Debtors' businesses, the Chapter 11 Cases, the purchase, sale, or rescission or the purchase or sale of any security of the Debtors or the Post-Effective Date Debtor, the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan, the business or contractual arrangements between any of the Debtors and any Released Party, the restructuring of claims and Interests prior to or in the Chapter 11 Cases, the negotiation, formulation, or preparation of the Restructuring Support Agreement, the Transaction Agreement, Plan, the Plan Supplement, the Disclosure Statement, or related agreements, instruments, or other documents, or upon any other act or omission, transaction, or occurrence relating to the foregoing taking place on or before the Effective Date of the Plan.

Notwithstanding anything to the contrary in the foregoing, the releases set forth above do not release any post-Effective Date obligations of any party or Entity: (1) arising under the Plan, the Transaction Agreement, or any document, instrument, or agreement (including those set forth in the Plan Supplement) executed to implement the Plan, or (2) expressly set forth in and preserved by the Plan, the Plan Supplement, or related documents.

Entry of the Confirmation and Sale 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 herein, *and further*, shall constitute the Bankruptcy Court's finding that the Debtor Release is: (1) in exchange for the good and valuable consideration provided by the Released Parties; (2) a good faith settlement and compromise of the claims released by the Debtor Release; (3) in the best interests of the Debtors and all Holders of Claims and Interests; (4) fair, equitable and reasonable; (5) given and made after reasonable investigation by the Debtors and after notice and opportunity for hearing; and (6) a bar to any of the Debtors asserting any claim released by the Debtor Release against any of the Released Parties.

D. Releases by Holders of Claims and Interests.

Except as otherwise specifically provided in the Plan, for good and valuable consideration, including the service of the Released Parties in facilitating the expeditious reorganization of the Debtors and the implementation of the restructuring contemplated by the Plan, effective as of the Effective Date, the Releasing Parties (regardless of whether a Releasing Party is a Released Party) shall be deemed to forever release, waive, and discharge the Released Parties of any and all claims, obligations, 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, liquidated or unliquidated, contingent or fixed, existing or hereafter arising, in law, at equity, or otherwise, whether for tort, contract, violations of federal or state securities laws or otherwise, including those that any of the Debtors, the Estates, or their Affiliates 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 Interest, based on or relating to, or in any manner arising from, in whole or in part, the Debtors, the Estates, the conduct of the Debtors' businesses, the Chapter 11 Cases, the purchase, sale, or rescission or the purchase or sale of any security of the Debtors, the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan, the business or contractual arrangements between any of the Debtors and any Released Party, the restructuring of Claims and Interests prior to or in the Chapter 11 Cases, the negotiation, formulation, or preparation of the Restructuring Support Agreement, the Transaction Agreement, Plan, the Plan Supplement, the Disclosure Statement, or related agreements, instruments, or other documents, or upon any other act or omission, transaction, or occurrence relating to the foregoing taking place on or before the Effective Date.

Notwithstanding anything to the contrary in the foregoing, the releases set forth above do not release any post-Effective Date obligations of any party or Entity under the Plan, the Transaction Agreement, or any document, instrument, or agreement (including those set forth in the Plan Supplement) executed to implement the Plan.

Entry of the Confirmation and Sale 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: (1) in exchange for the good and valuable consideration provided by the Released Parties; (2) a good faith settlement and compromise of the claims released by the Releasing Parties; (3) in the best interests of the Debtors and all Holders of Claims and Interests; (4) fair, equitable and reasonable; (5) given and made after notice and opportunity for hearing; and (6) a bar to any of the Releasing Parties asserting any Claim released by the Third-Party Release against any of the Released Parties.

E. Exculpation.

Upon and effective as of the Effective Date, the Debtors and their directors, officers, employees, attorneys, investment bankers, financial advisors, restructuring consultants, and other professional advisors and agents will be deemed to have solicited acceptances of the Plan in good faith and in compliance with the applicable provisions of the Bankruptcy Code, including section 1125(e) of the Bankruptcy Code.

Except with respect to any acts or omissions expressly set forth in and preserved by the Plan, the Plan Supplement, the Transaction Agreement or related documents, the Exculpated Parties shall neither have nor incur any liability to any Entity for any prepetition or postpetition act taken or omitted to be taken in connection with, or arising from or relating in any way to, the Chapter 11 Cases, including the operation of the Debtors' businesses during the pendency of these Chapter 11 Cases; formulating, negotiating, preparing, disseminating, implementing, and/or effecting the Restructuring Support Agreement, the Transaction Agreement, the Disclosure Statement, and the Plan (including the Plan Supplement and any related contract, instrument, release, or other agreement or document created or entered into in connection therewith); the solicitation of votes for the Plan and the pursuit of Confirmation and Consummation of the Plan; the

administration of the Plan and/or the property to be distributed under the Plan; and/or any other prepetition or postpetition act taken or omitted to be taken in connection with or in contemplation of the restructuring of the Debtors. In all respects, each Exculpated Party shall be entitled to rely upon the advice of counsel concerning his, her, or its respective duties under, pursuant to, or in connection with the Plan.

Notwithstanding anything herein to the contrary, nothing in the foregoing “Exculpation” shall exculpate any Person or Entity from any liability resulting from any act or omission constituting fraud, willful misconduct, gross negligence, criminal conduct, malpractice, misuse of confidential information that causes damages, or ultra vires acts as determined by a Final Order.

F. Injunction.

Except as otherwise provided in the Plan or the Confirmation and Sale Order, all Entities who have held, hold, or may hold Claims, Interests, Causes of Action, or liabilities that: (1) are subject to compromise and settlement pursuant to the terms of the Plan; (2) have been released pursuant to the Plan; (3) are subject to exculpation pursuant to the Plan; or (4) are otherwise stayed or terminated pursuant to the terms of the Plan, are permanently enjoined and precluded, from and after the Effective Date, from: (A) commencing or continuing in any manner any action or other proceeding of any kind, including on account of any Claims, Interests, Causes of Actions, or liabilities that have been compromised or settled against the debtors, the Post-Effective Date Debtor, or any Entity so released or exculpated (or the property or estate of any Entity, directly or indirectly, so released or exculpated) on account of or in connection with or with respect to any released, settled, compromised, or exculpated Claims, equity Interests, Causes of Action, or liabilities; (B) enforcing, attaching, collecting, or recovering by any manner or means any judgment, award, decree, or order against the debtors, the Post-Effective Date Debtor, or any Entity so released or exculpated (or the property or estate of the debtors or any Entity so released or exculpated) on account of or in connection with or with respect to any such released, settled, compromised, or exculpated Claims, equity Interests, Causes of Action, or liabilities; (C) creating, perfecting, or enforcing any lien, claim, or encumbrance of any kind against the debtors, the Post-Effective Date Debtor, or any Entity so released or exculpated (or the property or estate of the debtors or any Entity so released or exculpated) on account of or in connection with or with respect to any such released, settled, compromised, or exculpated Claims, equity Interests, Causes of Action, or liabilities; (D) asserting any right of setoff or subrogation of any kind against any obligation due from the Debtors or any Entity so released or exculpated (or the property or estate of the debtors or any Entity so released or exculpated) on account of or in connection with or with respect to any such released, settled, compromised, or exculpated Claims, equity Interests, Causes of Action, or liabilities unless such Entity has timely asserted such setoff or subrogation right prior to confirmation in a document Filed with the Bankruptcy Court explicitly preserving such setoff or subrogation; and (e) commencing or continuing in any manner any action or other proceeding of any kind against the debtors, the Post-Effective Date Debtor, or any Entity so released or exculpated (or the property or estate of the debtors or any Entity so released or exculpated) on account of or in connection with or with respect to any such released, settled, compromised, or exculpated Claims, equity Interests, Causes of Action, or liabilities released, settled, or compromised pursuant to the Plan; *provided* that nothing contained in the Plan shall preclude an Entity from obtaining benefits directly and expressly provided to such Entity pursuant to the terms of the Plan; *provided further* that nothing contained in the Plan shall be construed to prevent any Entity from defending against Claims, objections, or collection actions whether be asserting a right of setoff or otherwise to the extent permitted by law.

G. Recoupment.

In no event shall any Holder of Claims or Interests be entitled to recoup any Claim against any claim, right, or Cause of Action of the Debtors, unless such Holder actually has performed such recoupment and provided notice thereof in writing to the Debtors on or before the Confirmation Date, notwithstanding any indication in any Proof of Claim or otherwise that such Holder asserts, has, or intends to preserve any right of recoupment.

H. Subordination Rights.

Any distributions under the Plan to Holders shall be received and retained free from any obligations to hold or transfer the same to any other Holder and shall not be subject to levy, garnishment, attachment, or other legal process by any Holder by reason of claimed contractual subordination rights. Any such subordination rights shall be waived, and the Confirmation and Sale Order shall constitute an injunction enjoining any Entity from enforcing or attempting to enforce any contractual, legal, or equitable subordination rights to property distributed under the Plan, in each case other than as provided in the Plan.

I. Reimbursement or Contribution.

If the Bankruptcy Court disallows a Claim for reimbursement or contribution of an Entity pursuant to section 502(e)(1)(B) of the Bankruptcy Code, then to the extent that such Claim is contingent as of the time of allowance or disallowance, such Claim shall be forever disallowed and expunged notwithstanding section 502(j) of the Bankruptcy Code, unless before the Confirmation Date: (1) such Claim has been adjudicated as non-contingent or (2) the relevant Holder of a Claim has Filed a non-contingent Proof of Claim on account of such Claim and a Final Order has been entered before the Confirmation Date determining such Claim as no longer contingent.

**ARTICLE XI
CONDITIONS PRECEDENT TO CONFIRMATION AND THE EFFECTIVE DATE**

A. Conditions Precedent to Confirmation.

It shall be a condition to Confirmation of the Plan that the following conditions shall have been satisfied or waived pursuant to the provisions of the Plan: (1) the Bankruptcy Court shall have entered the Confirmation and Sale Order; and (2) the Transaction Agreement shall not have been terminated in accordance with its terms.

B. Conditions Precedent to the Effective Date.

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

1. the Bankruptcy Court shall have entered the Confirmation and Sale Order; *provided* that in accordance with Bankruptcy Rules 3020(e), 6004(h), and 6006(d) (and notwithstanding any other provision of the Bankruptcy Code or the Bankruptcy Rules), the Confirmation and Sale Order shall not be stayed and shall be effective immediately upon its entry;

2. the Sale Transaction shall have closed or shall close substantially contemporaneously with the Effective Date, and all conditions precedent to closing as set forth in the Transaction Agreement shall have been satisfied or waived in accordance with the terms thereof;

3. any account(s) necessary to administer the Remaining Collateral and the Remaining Available Assets shall have been established, and any Cash proceeds of such Remaining Collateral and Remaining available Assets deposited therein;

4. the Other Secured Claims Reserve shall have been established and funded;

5. the Priority Claims Reserve shall have been established and funded;

6. the GUC Reserve shall have been established;

7. NewCo and the Debtors, as determined by the Transaction Agreement, have cured all monetary defaults arising under the Royalty Agreements in full in Cash;

8. the Restructuring Support Agreement and the Transaction Agreement shall not have been terminated and remains in full force and effect and binding;

9. the Debtors have obtained all authorizations, consents, regulatory approvals, rulings, or documents that are necessary to implement and effectuate the Plan and each of the other transaction contemplated by the Restructuring;

10. all allowed Professional Fee Claims approved by the Bankruptcy Court shall have been paid in full or amounts sufficient to pay all Professional Fee Claims that become Allowed after the Effective Date, shall have been placed in the Professional Fee Escrow pending approval of the Professional Fee Claims by the Bankruptcy Court; and

11. all fees and expenses of the Senior Notes Trustee and the Supporting Senior Noteholders payable pursuant to the Cash Collateral Order shall have been paid in full.

On the Effective Date, the Plan shall be deemed substantially consummated under sections 1101 and 1127(b) of the Bankruptcy Code.

C. Waiver of Conditions.

The conditions to Consummation of the Plan set forth in Article XI.B hereof may be waived by the Debtors; *provided* that the condition set forth in Article XI.B.7 may not be waived without the consent of Thoroughbred; and *provided further* that the conditions set forth in Article XI.B.1, Article XI.B.2, Article XI.B.8, Article XI.B.9, and Article XI.B.11 may not be waived without the consent of the Required Supporting Senior Noteholders and Knight Hawk.

D. Substantial Consummation.

“Substantial Consummation” of the Plan, as defined in 11 U.S.C. § 1101(2), shall be deemed to occur on the Effective Date.

E. Effect of Non-Occurrence of Conditions to the Effective Date.

If the Effective Date does not occur, the Plan shall be null and void in all respects and nothing contained in the Plan or the Disclosure Statement shall: (1) constitute a waiver or release of any Claims by or Claims against or Interests in the Debtors; (2) prejudice in any manner the rights of the Debtors, the Debtors’ Estates, any Holders, or any other Entity; or (3) constitute an admission, acknowledgment, offer, or undertaking by the Debtors, the Debtors’ Estates, any Holders, or any other Entity in any respect.

**ARTICLE XII
MODIFICATION, REVOCATION, OR WITHDRAWAL OF THE PLAN**

A. Modification and Amendments.

Subject to the limitations contained in the Plan, the Restructuring Support Agreement, and the Transaction Agreement, the Debtors, with the consent (not to be unreasonably withheld) of the Required Supporting Senior Noteholders and Knight Hawk, reserve 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 Restructuring Support Agreement, and the Transaction Agreement, the Debtors, with the consent (not to be unreasonably withheld) of the Required Supporting Senior Noteholders and Knight Hawk, expressly reserve their rights to alter, amend, or modify materially the Plan with respect to the Debtors, one or more times, after Confirmation, 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 and Sale 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 XII hereof.

B. Effect of Confirmation on Modifications.

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

C. Revocation or Withdrawal of the Plan.

Subject to the terms of the Restructuring Support Agreement and the Transaction Agreement, the Debtors reserve the right to revoke or withdraw the Plan, including the right to revoke or withdraw the Plan for any Debtor or all Debtors, prior to the Confirmation Date. If the Debtors revoke or withdraw the Plan with respect to any Debtor, or if Confirmation or Consummation does not occur with respect to any Debtor, then: (1) the Plan with respect to such Debtor shall be null and void in all respects; (2) any settlement or compromise embodied in the Plan with respect to such Debtor (including the fixing or limiting to an amount certain of any Claim or Interest or Class of Claims or Interests), assumption or rejection of Executory Contracts or Unexpired Leases effected by the Plan with respect to such Debtor, and any document or agreement executed pursuant to the Plan with respect to such Debtor, shall be deemed null and void; and (3) nothing contained in the Plan with respect to such Debtor shall: (a) constitute a waiver or release of any Claims or Interests; (b) prejudice in any manner the rights of the Debtors, the Debtors' Estates, or any other Entity; or (c) constitute an admission, acknowledgement, offer, or undertaking of any sort by the Debtors, the Debtors' Estates, or any other Entity.

**ARTICLE XIII
RETENTION OF JURISDICTION**

Notwithstanding the entry of the Confirmation and Sale Order and the occurrence of the Effective Date, on and after the Effective Date, the Bankruptcy Court shall retain exclusive jurisdiction over the Chapter 11 Cases and all matters, arising out of, or related to, the Chapter 11 Cases and the Plan, including jurisdiction to:

1. Allow, disallow, determine, liquidate, classify, estimate, or establish the priority, Secured or unsecured status, or amount of any Claim or Interest, including the resolution of any request for payment of any Administrative Claim and the resolution of any and all objections to the Secured or unsecured status, priority, amount, or allowance of Claims or Interests;

2. Decide and resolve all matters related to the granting and denying, in whole or in part, any applications for allowance of compensation or reimbursement of expenses to Professionals authorized pursuant to the Bankruptcy Code or the Plan;

3. Resolve any matters related to: (a) the assumption, assumption and assignment, or rejection of any Executory Contract or Unexpired Lease to which a Debtor is party or with respect to which a Debtor may be liable in any manner and to hear, determine, and, if necessary, liquidate, any Claims arising therefrom, including Claims related to the rejection of an Executory Contract or Unexpired Lease, Cure Costs pursuant to section 365 of the Bankruptcy Code, or any other matter related to such Executory Contract or Unexpired Lease; (b) any potential contractual obligation under any Executory Contract or Unexpired Lease that is assumed and/or assigned; (c) the Debtors amending, modifying, or supplementing, after the Effective Date, pursuant to Article V of the Plan, any Executory Contracts or Unexpired Leases to the Schedule of Assumed Executory Contracts or Unexpired Leases or otherwise; and (d) any dispute regarding whether a contract or lease is or was executory or expired;

4. Ensure that distributions to Holders of Allowed Claims and Allowed Interests are accomplished pursuant to the provisions of the Plan;

5. Adjudicate, decide, or resolve any motions, adversary proceedings, contested or litigated matters, and any other matters, and grant or deny any applications involving a Debtor that may be pending on the Effective Date;

6. Adjudicate, decide, or resolve any and all matters related to Causes of Action;
7. Adjudicate, decide, or resolve any and all matters related to section 1141 of the Bankruptcy Code;
8. Enter and implement such orders as may be necessary or appropriate to execute, implement, or consummate the provisions of the Plan and all contracts, instruments, releases, indentures, and other agreements or documents created in connection with the Plan or the Disclosure Statement;
9. Enter and enforce any order for the sale of property pursuant to sections 363, 1123, or 1146(a) of the Bankruptcy Code;
10. Resolve any cases, controversies, suits, disputes, or Causes of Action that may arise in connection with the Consummation, interpretation, or enforcement of the Plan or any Entity's obligations incurred in connection with the Plan;
11. 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 Consummation or enforcement of the Plan;
12. Resolve any cases, controversies, suits, disputes, or Causes of Action with respect to the settlements, compromises, releases, injunctions, exculpations, and other provisions contained in Article X of the Plan and enter such orders as may be necessary or appropriate to implement such releases, injunctions, and other provisions;
13. Resolve any cases, controversies, suits, disputes, or Causes of Action with respect to the repayment or return of distributions and the recovery of additional amounts owed by the Holder of a Claim or Interest for amounts not timely repaid pursuant to Article VI.C.1 of the Plan;
14. Enter and implement such orders as are necessary or appropriate if the Confirmation and Sale Order is for any reason modified, stayed, reversed, revoked, or vacated;
15. Determine any other matters that may arise in connection with or relate to the Plan, the Transaction Agreement, the Disclosure Statement, the Confirmation and Sale Order, or any contract, instrument, release, indenture, or other agreement or document created in connection with the Plan or the Disclosure Statement;
16. Adjudicate any and all disputes arising from or relating to distributions under the Plan or any transactions contemplated therein;
17. Consider any modifications of the Plan, to cure any defect or omission, or to reconcile any inconsistency in any Bankruptcy Court order, including the Confirmation and Sale Order;
18. Determine requests for the payment of Claims and Interests entitled to priority pursuant to section 507 of the Bankruptcy Code;
19. Hear and determine matters concerning state, local, and federal taxes in accordance with sections 346, 505, and 1146 of the Bankruptcy Code;
20. Hear and determine disputes arising in connection with the interpretation, implementation, or enforcement of the Plan, or the Confirmation and Sale Order, including disputes arising under agreements, documents, or instruments executed in connection with the Plan;
21. Hear and determine matters concerning state, local, and federal taxes in accordance with sections 346, 505, and 1146 of the Bankruptcy Code;
22. Hear and determine matters concerning section 1145 of the Bankruptcy Code;

23. Hear and determine all disputes involving the existence, nature, or scope of the Debtors' release, including any dispute relating to any liability arising out of the termination of employment or the termination of any employee or retiree benefit program, regardless of whether such termination occurred before or after the Effective Date;
24. Enforce all orders previously entered by the Bankruptcy Court;
25. To resolve any disputes arising under the Transaction Agreement or other documents related to the Sale Transaction;
26. Hear any other matter not inconsistent with the Bankruptcy Code;
27. Enter an order concluding or closing the Chapter 11 Cases; and
28. Enforce the injunction, release, and exculpation provisions set forth in Article X of the Plan.

ARTICLE XIV MISCELLANEOUS PROVISIONS

A. Immediate Binding Effect.

Subject to Article IX of the Plan and notwithstanding Bankruptcy Rules 3020(e), 6004(h), or 7062 or otherwise, upon the occurrence of the Effective Date, the Plan and the Plan Supplement shall be immediately effective and enforceable and deemed binding upon the Debtors, any and all Holders of Claims or Interests (irrespective of whether the Holders of such Claims or Interests accepted or rejected the Plan), all Entities that are parties to or are subject to the settlements, compromises, releases, and injunction described in the Plan, each Entity acquiring property under the Plan, and any and all non-Debtor parties to Executory Contracts and Unexpired Leases with the Debtors. All Claims and debts shall be as fixed, adjusted, or compromised, as applicable, pursuant to the Plan regardless of whether any Holder of a Claim or debt has voted on the Plan.

B. Additional Documents.

On or before the Effective Date, the Debtors may File with the Bankruptcy Court such agreements and other documents as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan. The Debtors, all Holders of Claims or Interests receiving distributions pursuant to the Plan, and all other parties in interest shall, from time to time, prepare, execute, and deliver any agreements or documents and take any other actions as may be necessary or advisable to effectuate the provisions and intent of the Plan.

C. Payment of Statutory Fees.

All fees payable pursuant to section 1930(a) of the Judicial Code shall be paid by the Debtors for each quarter (including any fraction thereof) until the Chapter 11 Cases are converted, dismissed, or closed, whichever occurs first.

D. Dissolution of Statutory Committees.

On the Effective Date, any statutory committee appointed in the Chapter 11 Cases (including the Committee) shall dissolve and members thereof shall be released and discharged from all rights and duties from or related to the Chapter 11 Cases on the Effective Date; *provided* that the Committee shall be deemed to remain in existence solely with respect to, and shall not be heard on any issue except, applications filed by the Committee pursuant to sections 330 and 331 of the Bankruptcy Code. The Debtors, the Post-Effective Date Debtor, and the Plan Administrator shall no longer be responsible for paying any fees or expenses incurred by the members of or advisors to the Committee after the Effective Date.

E. Reservation of Rights.

The Plan shall have no force or effect unless the Bankruptcy Court shall enter the Confirmation and Sale Order. Neither the Plan, any statement or provision contained in the Plan, nor any action taken or not taken by the Debtors or any Debtor with respect to the Plan, the Disclosure Statement, the Confirmation and Sale Order, or the Plan Supplement shall be or shall be deemed to be an admission or waiver of any rights of the Debtors or any Debtor with respect to the Holders of Claims or Interests prior to the Effective Date.

F. Successors and Assigns.

The rights, benefits, and obligations of any Entity named or referred to in the Plan or the Confirmation and Sale Order shall be binding on, and shall inure to the benefit of any heir, executor, administrator, successor, or assign, Affiliate, officer, director, manager, trustee, agent, representative, attorney, beneficiaries, or guardian, if any, of each Entity.

G. Service of Documents.

Any pleading, notice, or other document required by the Plan to be served on or delivered to the Debtors shall be served on:

1. the Debtors:

Armstrong Energy, Inc.
7733 Forsyth Boulevard, Suite 1625
St. Louis, Missouri 63105
Attention: Eric Waller
Email address: ewaller@armstrongcoal.com

with copies to:

Kirkland & Ellis LLP
300 North LaSalle Street
Chicago, IL 60654
Attention: Ross Kwasteniet, Will Guerrieri, and Travis Bayer
Email address: rkwasteniet@kirkland.com; wguerrieri@kirkland.com; travis.bayer@kirkland.com

and

Armstrong Teasdale LLP
7700 Forsyth Boulevard, Suite 1800
St. Louis, Missouri 63105
Attention: Richard W. Engel, Jr.
Email address: rengel@armstrongteasdale.com

2. the Senior Noteholders:

Paul, Weiss, Rifkind, Wharton & Garrison LLP
1285 Avenue of the Americas
New York, New York 10019
Attention: Brian S. Hermann, Elizabeth R. McColm and Adam M. Denhoff
Email addresses: bhermann@paulweiss.com; emccolm@paulweiss.com;
adenhoff@paulweiss.com

and

Carmody MacDonald P.C.
120 S. Central Avenue
Suite 1800
St. Louis, Missouri 63105
Attention: Christopher J. Lawhorn
Email address: cjl@carmodymacdonald.com

3. the Committee:

[]

4. Knight Hawk:

Jackson Kelly PLLC
221 N.W. Fifth Street
Evansville, Indiana 47708
Attention: Charles A. Compton
Email address: charles.compton@jacksonkelly.com

5. RRPB:

Thompson & Knight LLP
1722 Routh Street, Suite 1500
Dallas, Texas 75201
Attention: Ann Marie Cowdrey and David M. Bennett
Email addresses: AnnMarie.Cowdrey@tklaw.com; David.Bennett@tklaw.com

6. Thoroughbred:

Thoroughbred Resources, L.P.
3033 East First Avenue
Suite 837
Denver, CO 80206
Attention: Aaron Bowlds
Email address: abowlds@thoroughbredlp.com

with copies to:

Willkie Farr & Gallagher LLP
787 Seventh Avenue
New York, NY 10019
Attention: Matthew A. Feldman and Debra C. McElligott

Email address: mfeldman@willkie.com; dmcelligott@willkie.com

After the Effective Date, the Debtors have authority to send a notice to Entities that to continue to receive documents pursuant to Bankruptcy Rule 2002, such Entity must file a renewed request to receive documents pursuant to Bankruptcy Rule 2002. After the Effective Date, the Debtors are authorized to limit the list of Entities receiving documents pursuant to Bankruptcy Rule 2002 to those Entities who have Filed such renewed requests.

H. Enforcement of Confirmation and Sale Order.

On and after the Effective Date, the Debtors, the Post-Effective Date Debtors, the Plan Administrator, HoldCo, and NewCo, as applicable, shall be entitled to enforce the terms of the Confirmation and Sale Order and the Plan.

I. Term of Injunctions or Stays.

Unless otherwise provided in the Plan or in the Confirmation and Sale Order, all injunctions or stays in effect in the Chapter 11 Cases pursuant to sections 105 or 362 of the Bankruptcy Code or any order of the Bankruptcy Court, and extant on the Confirmation Date (excluding any injunctions or stays contained in the Plan or the Confirmation and Sale Order) shall remain in full force and effect until the Effective Date. All injunctions or stays contained in the Plan or the Confirmation and Sale Order (including the injunction set forth in Article X.F of this Plan) shall remain in full force and effect in accordance with their terms.

J. Entire Agreement.

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

K. Exhibits.

All exhibits and documents included in the Plan Supplement are incorporated into and are a part of the Plan as if set forth in full in the Plan. After the exhibits and documents are Filed, copies of such exhibits and documents shall be available upon written request to the Debtors' counsel at the address above or by downloading such exhibits and documents from the Debtors' restructuring website at <http://www.donlinrecano.com/armstrong> or the Bankruptcy Court's website at www.moeb.uscourts.gov.

L. Nonseverability 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 shall not alter or interpret such term or provision to make it valid or enforceable, *provided* that at the request of the Debtors (in their sole discretion), the Bankruptcy Court 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 terms or provision shall then be applicable as altered or interpreted, *provided further* that any such alteration or interpretation shall be acceptable to the Debtors. The Confirmation and Sale 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: (1) valid and enforceable pursuant to its terms; (2) integral to the Plan and may not be deleted or modified without the consent of the Debtors; and (3) nonseverable and mutually dependent.

M. Votes Solicited in Good Faith.

Upon entry of the Confirmation and Sale Order, the Debtors will be deemed to have solicited votes on the Plan in good faith and in compliance with the Bankruptcy Code, and pursuant to section 1125(e) of the Bankruptcy Code, the Debtors and each of their respective Affiliates, agents, representatives, members, principals, shareholders, officers, directors, employees, advisors, and attorneys will be deemed to have participated in good faith and in compliance with the Bankruptcy Code in the offer, issuance, sale, and purchase of Securities offered and sold under

the Plan and any previous plan, and, therefore, neither any of such parties or individuals will have any liability for the violation of any applicable law, rule, or regulation governing the solicitation of votes on the Plan or the offer, issuance, sale, or purchase of the Securities offered and sold under the Plan and any previous plan.

N. *Waiver.*

Each Holder of a Claim or an Interest shall be deemed to have waived any right to assert any argument, including the right to argue that its Claim or Interest should be Allowed in a certain amount, in a certain priority, Secured or not subordinated by virtue of an agreement made with the Debtors or their counsel, or any other Entity, if such agreement was not disclosed in the Plan, the Disclosure Statement, or papers Filed with the Bankruptcy Court before the Confirmation Date.

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Respectfully submitted, as of the date first set forth above,

Dated: November 1, 2017

Armstrong Energy, Inc.

By: /s/ Alan Boyko
Name: Alan Boyko
Title: Chief Restructuring Officer

Prepared by:

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Erin M. Edelman (MO 67374)
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Email: jonathan.henes@kirkland.com

Co-Counsel for the Debtors and Debtors in Possession

Exhibit B

Liquidation Analysis

[TO COME]

Exhibit C

Financial Projections

[TO COME]

Exhibit D

Transaction Agreement

TRANSACTION AGREEMENT
DATED AS OF NOVEMBER 1, 2017
BY AND AMONG
ARMSTRONG ENERGY, INC.,
THE SUBSIDIARIES OF ARMSTRONG ENERGY, INC. LISTED ON SCHEDULE 1 HERETO,
SUPPORTING HOLDERS
AND
KNIGHT HAWK HOLDINGS, LLC

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Transaction Agreement

THIS TRANSACTION AGREEMENT (this “Agreement”), dated as of November 1, 2017 (the “Execution Date”), is by and among Armstrong Energy, Inc., a Delaware corporation (“Company”), the Subsidiaries (as defined below) of Company set forth on Schedule 1 hereto (such Subsidiaries together with the Company, collectively, the “Debtors” and individually, a “Debtor”), the Noteholders (as defined below) party hereto (the “Supporting Holders”), and Knight Hawk Holdings, LLC, an Illinois limited liability company (“Knight Hawk”). Capitalized terms used but not otherwise defined herein have the meanings set forth in Article I. Debtors, the Supporting Holders, and Knight Hawk are sometimes referred to collectively herein as the “Parties” and individually as a “Party.”

Recitals

WHEREAS, Debtors are engaged in the business of mining, producing, selling, marketing and blending thermal coal in the Illinois Basin coal region in Western Kentucky (such business, the “Business”);

WHEREAS, the Debtors will be filing voluntary petitions for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101, et seq. (the “Bankruptcy Code”) on or about the date hereof (the “Petition Date”) in the United States Bankruptcy Court for the Eastern District of Missouri (the “Bankruptcy Court”);

WHEREAS, Company, certain of the other Debtors set forth on Schedule 1 hereto, as guarantors (the “Guarantors”), and Trustee (as defined below), as trustee, are parties to that certain Indenture, dated December 21, 2012 (as amended, modified or otherwise supplemented from time to time, the “Notes Indenture”), pursuant to which the Company issued \$200,000,000 in aggregate principal amount of 11.75% Senior Secured Notes due 2019 (the “Notes,” and the holders thereof, the “Noteholders”);

WHEREAS, the Indenture Obligations are secured by a first priority lien and security interest upon substantially all of the assets of Company and the Guarantors;

WHEREAS, on or after the Petition Date, in accordance with the Restructuring Support Agreement, the Debtors intend to file the Plan, under which Plan and this Agreement, Debtors will, among other things, transfer the Transferred Assets to NewCo and NewCo will acquire such Transferred Assets free and clear of all Encumbrances and Liabilities (other than Permitted Encumbrances and Assumed Liabilities or Encumbrances created under the Operating Agreement or U.S. securities laws) on the Effective Date, in each case, in accordance with the terms herein (the “Transfer and Assumption”);

WHEREAS, as contemplated by the Plan and this Agreement, immediately upon the Transfer and Assumption, in satisfaction of a portion of the Indenture Obligations, the Noteholders will receive 100% of HoldCo Common Equity and HoldCo Preferred Equity with a liquidation preference of \$10,000,000 (the “Noteholder Equity Issuance”) on a pro rata basis (based on their respective Indenture Obligations) free and clear of all Encumbrances and Liabilities (other than Permitted Encumbrances and Assumed Liabilities or Encumbrances created under the Operating Agreement or U.S. securities laws);

WHEREAS, as contemplated by the Plan and this Agreement, immediately upon the Noteholder Equity Issuance, HoldCo will issue to Knight Hawk HoldCo Equity in exchange for the Contribution (the “Knight Hawk Equity Issuance” and, together with the Transfer and Assumption and the Noteholder Equity Issuance, the “Sale Transaction”);

WHEREAS, the board of directors (or similar governing body) of each Debtor has determined that it is advisable and in the best interests of such Debtor and its constituencies to enter into this Agreement and to pursue the transactions provided for herein and in the Plan, and the other Parties hereto are prepared to consummate the transactions contemplated hereunder, in each case subject to the terms and conditions herein and in the Plan.

NOW, THEREFORE, in consideration of the premises, the mutual promises herein made, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE I

Definitions

1.1 Definitions.

For purposes of this Agreement, the following terms have the meanings specified or referenced below.

“Accounts Receivable” means, with respect to the Debtors, all accounts receivable, notes receivable, purchase orders, negotiable instruments, completed work or services that have not been billed, chattel paper, notes and other rights to payment, including those consisting of all accounts receivable in respect of services rendered or products sold to customers by such Debtor, any other miscellaneous accounts receivable of such Debtor, and any claim, remedy or other right of such Debtor related to any of the foregoing, together with all unpaid financing charges accrued thereon and any payments with respect thereto.

“Accrued PTO” has the meaning set forth in Section 8.4(e).

“Action” means any legal action, suit or arbitration, or any inquiry, proceeding or investigation, by or before any Governmental Authority.

“Affiliate” has the meaning set forth in Rule 12b-2 of the regulations promulgated under the Securities Act.

“Agreement” has the meaning set forth in the introductory paragraph.

“Allocation Notice of Comment” has the meaning set forth in Section 8.2(a).

“Applicable Rate” means, for a particular day, the prime rate as reported in *The Wall Street Journal* published for such day or, if such rate is regularly reported in *The Wall Street Journal* but is not reported on such day, such rate as most recently reported in *The Wall Street Journal* (or, if such rate is no longer reported in *The Wall Street Journal*, a comparable rate), calculated on a daily basis based on a 365-day year.

“Assigned Contracts” has the meaning set forth in Section 2.2(b)(vi).

“Assigned Leases” has the meaning set forth in Section 2.2(b)(ii).

“Assignment” means one or more Assignment, Bill of Sale, Deed and/or Conveyance Agreement containing customary terms and conditions as reasonably agreed in good faith among the Parties in accordance with Section 8.15 and covering all of the Transferred Assets, an original master counterpart of which shall be executed by Company and each of the other Debtors transferring or assigning any Transferred Assets or Assumed Liabilities and NewCo, and separate original counterparts of which shall be executed by Company and each such other Debtor and NewCo for each recording district in which any of the Transferred Assets are located and shall be filed in such recording districts, as appropriate; *provided that* such form may be modified by NewCo, at the direction of the Required Supporting Holders or Knight Hawk, to comply with the specific recording requirements of any applicable Legal Requirements in the jurisdiction in which the Transferred Assets are located.

“Assumed Liabilities” has the meaning set forth in Section 2.4.

“Assumption Agreement” has the meaning set forth in Section 2.4.

“Avoidance Actions” means any and all claims and causes of action that any of the Debtors may assert under chapter 5 of the Bankruptcy Code.

“Bankruptcy Code” has the meaning set forth in the recitals.

“Bankruptcy Court” has the meaning set forth in the recitals.

“Benefit Plans” means (i) all “employee benefit plans,” as defined in section 3(3) of ERISA (whether or not such plan is subject thereto) and (ii) all bonus or other incentive, equity or equity-based compensation, deferred or other compensation, profit sharing, pension, change-in-control, severance pay, separation, retention, sick leave, vacation pay, day or dependent care, salary continuation, disability, hospitalization, medical, life insurance, retiree healthcare, retiree life insurance, other retirement, scholarship, legal services, cafeteria, life, health, accident, disability, workers’ compensation, paid time off, fringe benefit or other insurance or employee benefit programs, plans, policies or arrangements, whether written or oral, single employer, multiemployer or multiple employer, or whether for the benefit of a single individual or more than one individual, as to which Company or any of its ERISA Affiliates contributes, has an obligation to contribute, or has any Liability, contingent or otherwise, with respect to, or otherwise provides to, any current or former Employee or Service Provider.

“Bid Protections Order” shall mean an order in form and substance reasonably acceptable to the Required Supporting Holders and Knight Hawk approving the Expense Reimbursement and the related provisions of Section 12.2 hereof.

“Black Lung Benefits Act” means the Black Lung Benefits Act of 1972, the MSHA, the Black Lung Benefits Reform Act of 1977, and the Black Lung Benefits Amendments of 1981, in each case as amended.

“Black Lung Liability” means any liability or benefit obligations related to black lung claims and benefits under the Black Lung Benefits Act, and liabilities and benefits related to pneumoconiosis, silicosis, exposure to isocyanates or other lung disease arising under any federal or state law.

“Budget” means the budget approved pursuant to the Cash Collateral Order as the same may be amended from time to time in accordance with the terms of the Cash Collateral Order.

“Business” has the meaning set forth in the recitals.

“Business Day” means any day that is not a Saturday, Sunday or other day on which banking institutions in New York, New York are authorized or required by Legal Requirements to close.

“Cash Collateral Order” means any order entered in the Chapter 11 Cases authorizing the use of cash collateral (whether interim or final), which shall be acceptable in form and substance to the Required Supporting Holders and Knight Hawk.

“Casualty” means any loss, damage, or destruction of or to any Transferred Assets, whether by act of God, fire, explosion, collision, earthquake, windstorm, flood, terrorism, or other casualty or condemnation taking under the right of eminent domain, but, for the avoidance of doubt, excluding any loss, damage, or destruction as a result of depreciation, ordinary wear and tear, and any change in condition of the Transferred Assets for production of coals through normal depletion.

“CAT Lease” means that certain Master Equipment Lease Agreement by and between Caterpillar Financial Services Corporation and Armstrong Coal Company, dated as of August 30, 2012, as amended from time to time.

“Central Prevailing Time” means the prevailing time (i.e., Standard Time or Daylight Saving Time) on any given day in the Central Time Zone.

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

“Closing” has the meaning set forth in Section 4.1.

“Closing Date” means the date and time as of which the Closing occurs as set forth in Section 4.1.

“Coal Act” means the Coal Industry Retiree Health Benefit Act of 1992, 26 U.S.C. §§ 9701, et seq.

“COBRA” means the Consolidated Omnibus Budget Reconciliation Act of 1985.

“Company” has the meaning set forth in the introductory paragraph.

“Company’s Obligations” has the meaning set forth in Section 8.3(b).

“Competing Transaction” means any transaction (or series of transactions) involving the direct or indirect sale, transfer or other disposition of all or a material portion of the Transferred Assets to a purchaser or purchasers other than pursuant to this Agreement and/or the Plan (as each may be amended) or effecting any other transaction the consummation of which would be materially inconsistent with the transactions contemplated by this Agreement and the Plan (as each may be amended in accordance herewith).

“Confidentiality Agreements” has the meaning set forth in Section 13.2.

“Confirmation Order” means an Order of the Bankruptcy Court, which shall be in form and substance reasonably acceptable to the Required Supporting Holders and, solely with respect to those provisions that involve the Sale Transaction, Knight Hawk, confirming the Plan and, among other things, authorizing and approving the Sale Transaction and the other transactions contemplated hereby and by the Plan.

“Contract” means any legally binding written agreement, contract, obligation, promise, undertaking, lease (including Leases and Lessor Leases), sublease, purchase order, arrangement, license, commitment, or other binding arrangement or understanding set forth in writing, and any amendments, modifications or supplements thereto.

“Contract Notice” has the meaning set forth in Section 2.6(e).

“Contribution” has the meaning set forth in Section 4.4(a).

“Copyrights” means all United States and foreign copyright rights in any original works of authorship, whether registered or unregistered, including all copyright registrations and applications.

“Cure Costs” has the meaning set forth in Section 2.6(b).

“Debtor” and “Debtors” has the meaning set forth in the introductory paragraph.

“Debtor HoldCo Equity Conveyance” means an instrument of conveyance or other documentation in form reasonably acceptable to the Required Supporting Holders to transfer 100% of the HoldCo Equity to the Supporting Holders as agreed in accordance with Section 8.15.

“Designation Deadline” means 5:00 p.m., Central Prevailing Time, on the date that is the earlier of (a) five (5) Business Days prior to the Closing Date or (b) thirty (30) days before the Outside Date, or such later date as the Required Supporting Holders, Knight Hawk and Company shall mutually agree or the Bankruptcy Court may authorize.

“Effective Date” means the time and date on which all conditions to effectiveness of the Plan have been satisfied or waived in accordance therewith and no stay of the Confirmation Order is in effect.

“Employee” means any employee of a Debtor.

“Encumbrance” means any charge, lien, claim, cause of action, mortgage, lease, sublease, hypothecation, deed of trust, pledge, security interest, option, right of use or possession, right of first offer or first refusal, right of setoff, successor liability, easement, servitude, restrictive covenant, encroachment, encumbrance, third party interest or other restriction or limitation of any kind.

“Engineer” means Associated Engineers Inc.

“Environmental Defect” means any condition of, in, on or under any of the Transferred Assets that either (i) requires monitoring, reporting, removal, restoration, remediation or resolution under applicable Environmental Laws or (ii) if known by a federal or state regulatory agency of competent jurisdiction, would reasonably be expected to cause such federal or state regulatory agency to assert that the Transferred Asset requires monitoring, reporting, removal, restoration, remediation or resolution under applicable Environmental Laws.

“Environmental Laws” means any federal, state, or local Legal Requirement relating to the prevention of pollution, protection of health or the environment or natural resources, restoration of environmental quality, or Releases of or exposure to Hazardous Substances or the handling, generation, treatment, transportation, storage, use, arrangement for disposal or disposal, manufacture, distribution, formulation, packaging or labeling of Hazardous Substances, including the following federal statutes and the regulations promulgated thereunder: the Comprehensive Environmental Response, Compensation and Liability Act of 1980; the Emergency Planning and Community Right-To-Know Act; the Resources Conservation and Recovery Act; the Clean Air Act; the Clean Water Act; the Safe Drinking Water Act; the Oil Pollution Act; the Toxic Substances Control Act; the Hazardous Materials Transportation Act; the Federal Insecticide, Fungicide, and Rodenticide Act; any Mining and Mining Safety Law and the regulations promulgated pursuant thereto and analogous State and local Legal Requirements.

“Equity Interests” means equity securities (as defined in section 101(16) of the Bankruptcy Code).

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended.

“ERISA Affiliate” means any entity that, together with any Debtor, may be treated as a single employer under section 4001 of ERISA or section 414 of the Tax Code.

“ERISA Affiliate Liability” means any actual or contingent Liability of the Debtors or their ERISA Affiliates under or in respect of any employee benefit plan pursuant to any statute or regulation that imposes Liability on a “controlled group” or similar basis as a result of being an ERISA Affiliate or successor prior to the Closing Date with respect to any other Person.

“Excluded Assets” has the meaning set forth in Section 2.3.

“Excluded Contracts” means those Contracts described on Schedule 2.2(g) and (except for the Assigned Contracts, including the Royalty Agreements, and the Transferred Real Property Interests) all other Contracts to which any Debtor is a party.

“Excluded Employee Liabilities” means each of the following:

(a) any and all Liabilities arising out of, relating to or resulting from any Action or Proceeding with respect to any current or former Employee or Service Provider, based on facts occurring prior to or as of the Closing (even if not known until after the Closing), including relating to his/her employment or services, or termination of employment or services, with Company or any of its Affiliates, including as a result of the consummation of the transactions contemplated by this Agreement;

(b) any and all actual or contingent Liabilities under, arising out of, relating to or resulting from any Benefit Plans;

(c) any ERISA Affiliate Liability;

(d) any and all Liabilities to provide continuation coverage pursuant to COBRA under any plan that is a “group health plan” (as defined in section 5000(b)(1) of the Tax Code) with respect to a COBRA qualifying event that occurs prior to or on the Closing Date (or, if later, the date such Employee becomes a Transferred Employee);

(e) any and all Liabilities resulting from or relating to the misclassification of any Person performing services for or on behalf of any Debtor or any of their Affiliates prior to the Closing as an independent contractor rather than as an employee;

(f) any and all other Liabilities arising out of, relating to or resulting from any current, former or prospective Employees prior to or as of the Closing (including Inactive Employees and whether or not any such Employee becomes a Transferred Employee (including any Employee who does not accept an offer of employment with NewCo)) or Service Providers prior to or as of the Closing, including any Liability under any employee benefits or compensation arrangement, other than Liabilities that are Assumed Liabilities under Section 2.4(e); and

(g) subject to Section 2.4(e), all Black Lung Liabilities and Workers' Compensation Liabilities related to the Transferred Assets, including to and with respect to Employees and former employees who worked or who were employed at the Transferred Assets, including any such Black Lung Liabilities and Workers' Compensation Liabilities of the Debtors or any of their respective Affiliates with respect to any of their respective predecessors.

“Excluded Liabilities” has the meaning set forth in Section 2.5.

“Excluded Pre-Closing Fines” has the meaning set forth in Section 2.4(f).

“Excluded Unrelated Environmental Liabilities” has the meaning set forth in Section 2.5(q).

“Execution Date” has the meaning set forth in the introductory paragraph.

“Executory Contract” means any executory Contract related to the Business to which any Debtor is a party, including, for the avoidance of doubt, any Royalty Agreements.

“Expense Reimbursement” means an amount not to exceed \$1,000,000, but otherwise equal to the reasonable out-of-pocket, documented third party costs, fees and expenses of Knight Hawk (including reasonable costs, fees and expenses for legal, financial advisory, accounting, engineering, environmental and other services and all filing fees, court costs and other regulatory fees and expenses) related to due diligence and other investigation of the Business, negotiation of this Agreement and the Plan and other agreements and documents contemplated hereby and thereby, including the Bid Protections Order and the Confirmation Order (or the Sale Order, if applicable), which amount shall constitute a super priority administrative expense of the Debtors having priority over, except with respect to the Carve Out (as such term is defined in the Cash Collateral Order) any and all administrative expenses of any kind, including those specified in Sections 503(b) or 507(b) of the Bankruptcy Code.

“FASB 410” has the meaning set forth in Section 5.7(d).

“FCPA” has the meaning set forth in Section 5.30.

“Final Allocation Statement” has the meaning set forth in Section 8.2(a).

“Final Order” means an Action taken or Order issued by the applicable Governmental Authority as to which: (i) no request for stay of the Action or Order is pending, no such stay is in effect and, if any deadline for filing any such request is designated by statute or regulation, it is passed, including any extensions thereof; (ii) no petition for rehearing or reconsideration of the Action or Order, or protest of any kind, is pending before the Governmental Authority, and the time for filing any such petition or protest is passed; (iii) the Governmental Authority does not have the Action or Order under reconsideration or review on its own motion, and the time for such reconsideration or review has passed; and (iv) the Action or Order is not then under judicial review, there is no notice of appeal or other application for judicial review pending, and the deadline for filing such notice of appeal or other application for judicial review has passed, including any extensions thereof.

“Financial Statements” has the meaning set forth in Section 5.9.

“GAAP” means generally accepted accounting principles in the United States, applied throughout the specified period and the immediately prior comparable period in a manner consistent with Company’s historical accounting policies.

“Geological and Geophysical Information” means all of the Debtors’ proprietary and (to the extent transferable without payment of a fee or other penalty to any third party) non-proprietary geophysical, seismic and related technical data, including data, core and fluid samples and other engineering, geological and/or geophysical studies (including seismic data, studies, analyses, interpretations and information), and other similar information and records, in each case relating to the Transferred Real Property Interests.

“Governing Document” means the legal document(s) by which any Person (other than an individual) establishes its legal existence or which govern its internal affairs. For example, the “Governing Documents” of a corporation would be its certificate of incorporation and bylaws, the “Governing Documents” of a limited partnership would be its certificate of formation and its limited partnership agreement and the “Governing Documents” of a limited

liability company would be its certificate of formation and its limited liability company agreement or operating agreement.

“Governmental Authority” means any government or governmental or regulatory body thereof, or political subdivision thereof, or any agency, authority, department, commission, board, bureau, official or instrumentality of such body, whether foreign, federal, tribal, state, or local, or any agency, instrumentality or authority thereof, or any court or arbitrator thereof (public or private) of competent jurisdiction.

“Governmental Authorization” means any approval, consent, license, permit, waiver or other authorization issued, granted or otherwise made available by or under the authority of any Governmental Authority.

“Guarantors” has the meaning set forth in the recitals.

“Hazardous Substance” means petroleum and its byproducts, asbestos and any other material or substance that is defined as a “hazardous waste,” “hazardous substance,” “hazardous material,” “restricted hazardous waste,” “industrial waste,” “solid waste,” “contaminant,” “pollutant,” “toxic waste” or “toxic substance,” or a substance that is otherwise regulated under any Environmental Law or for which Liability can be imposed under any Environmental Law.

“Hedge Contracts” means any agreement with respect to any futures contract, forward contract, commodity swap agreement, commodity option agreement, or other similar agreement or arrangement in respect of coals purchased, used, produced, processed or sold by a Person and designed to protect such Person against fluctuations in coal prices.

“HoldCo” has the meaning set forth in Section 2.1(a).

“HoldCo Common Equity” means the common Equity Interests in HoldCo, as authorized pursuant to the Operating Agreement.

“HoldCo Equity” means HoldCo Common Equity and HoldCo Preferred Equity.

“HoldCo Preferred Equity” means the preferred Equity Interests in HoldCo, as authorized pursuant to the Operating Agreement.

“Improvements” means any buildings (including field offices), plants, structures, fixtures, systems, facilities, rail sidings, machinery, infrastructure and other improvements affixed or appurtenant to or located on the Owned Real Property or Leased Real Property.

“Inactive Employee” means Employees who are on an employer-approved leave of absence on the Closing Date as a result of military service, pregnancy or parental leave, disability leave, medical leave, jury duty or any other leave provided under applicable Legal Requirements.

“Indebtedness” of any Person means, without duplication, (i) the principal of and premium (if any) in respect of (A) indebtedness of such Person for money borrowed and

(B) indebtedness evidenced by notes, debentures, bonds or other similar instruments for the payment of which such Person is responsible or liable; (ii) all obligations of such Person issued or assumed as the deferred purchase price of property, all carry obligations, all conditional sale obligations of such Person and all obligations of such Person under any title retention agreement (but excluding trade accounts payable and other accrued current liabilities arising in the ordinary course of business); (iii) all obligations of such Person under leases required to be capitalized in accordance with GAAP; (iv) all obligations of such Person for the reimbursement of any obligor on any letter of credit, banker's acceptance or similar credit transaction; (v) any accrued interest, premiums, penalties, breakages, "make whole amounts" and other obligations relating to the foregoing that would be payable in connection with the repayment of the foregoing; (vi) all obligations of the type referred to in clauses (i) through (v) of any Persons for the payment of which such Person is responsible or liable, directly or indirectly, as obligor, guarantor, surety or otherwise, including guarantees of such obligations; and (vii) all obligations of the type referred to in clauses (i) through (vi) of other Persons secured by any Encumbrance on any property or asset of such Person (whether or not such obligation is assumed by such Person).

"Indenture Obligations" means, as of any date of determination, the aggregate amount of the obligations then outstanding and owing to the Noteholders on the outstanding Notes under the Notes Indenture.

"Intellectual Property" means all intellectual property, including all Copyrights, Patents, Trademarks, industrial designs, trade secrets, proprietary know-how and confidential business information owned, used or licensed by any Debtor and used or held for use in conducting the Business.

"Interim Permit Operating Agreement" means that certain permit operating agreement to be executed by NewCo, the applicable Debtors, and, to the extent necessary, Knight Hawk and any other parties, by which NewCo will operate the Transferred Assets during the Transfer Period, with customary terms and conditions reasonably agreed to in accordance with Section 8.15.

"Inventory" has the meaning set forth in Section 2.2(b)(i).

"Inventory Purchase Price" has the meaning set forth in Section 3.2.

"IRS" means the Internal Revenue Service.

"Knight Hawk Equity Issuance" has the meaning set forth in the recitals.

"Knowledge" means (i) with respect to any Debtor, the actual knowledge (after reasonable inquiry) of any of the following individuals: J. Hord Armstrong, Martin D. Wilson, Eric R. Waller, Jeffrey F. Winnick, Richard L. Craig, and Dennie Grider and (ii) with respect to Knight Hawk, the actual knowledge (after reasonable inquiry) of Steve Carter and Jim Smith.

"Labor Laws" means Legal Requirements relating to employment, employment standards and practices, employment of minors, employment discrimination, employee classification, immigration, workplace health and safety, labor relations, tax withholding, wages, hours, family and medical and other leave of absence, workplace insurance or pay equity.

“Lease” has the meaning set forth in the definition of “Leased Real Property.”

“Leased Real Property” means the interests in real property let, leased or subleased by any Debtor, as tenant, subtenant, lessee or sublessee, or in which a Debtor has been granted a possessory interest or right to use or occupy all or any portion of the same including, as the same are evidenced by any and all mining leases, coal leases, coal mining leases, underground coal mining and gob gas leases, coal land leases, coal degasification leases, use agreements, haul road agreement, or other occupancy agreements and all short form leases, memoranda and amendments relating to the foregoing, together with, to the extent let, leased, used or occupied by any Debtor in connection with the Business or the Transferred Assets, any and all underground and surface coal reserves, mineral rights, oil and gas rights and interests, mining rights, surface rights, water rights, rights of way, unrecouped minimum, advance or prepaid production royalties, all buildings and other structures, facilities or Improvements located thereon (and any present or future rights, title and interests arising from or related to the foregoing) (each such lease, a “Lease,” and collectively, the “Leases”).

“Legal Requirement” means any federal, state, provincial, local, municipal, foreign, international, multinational, or other administrative Order, constitution, law, ordinance, principle of common law, regulation, statute or treaty, including Mining and Mining Safety Law.

“Lessor Leases” has the meaning set forth in Section 5.6(b).

“LG&E/KU” means Louisville Gas and Electric Company and/or Kentucky Utilities Company.

“LG&E/KU Contracts” means the existing Contracts for the sale of coal between Armstrong Coal Sales, Inc. or other applicable Debtor, as seller, and LG&E/KU, as purchaser.

“Liability” means any debt, loss, claim (including “claim” as defined in the Bankruptcy Code), damage, demand, Tax, fine, judgment, penalty, liability, expense, commitment or obligation (including those arising out of any action, such as any settlement or compromise thereof or judgment or award therein), whether known or unknown, asserted or unasserted, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, or due or to become due, and whether in contract, tort, strict liability or otherwise, and whether or not resulting from third party claims.

“Material Adverse Effect” means any change, event, condition, circumstance or occurrence (regardless of whether such event, change, effect, condition, circumstance or occurrence constitutes a breach of any representation, warranty or covenant of any Debtor hereunder) that individually or in the aggregate (taking into account all other such changes, events, conditions, circumstances and occurrences) has had, or would be reasonably likely to have, (i) a material adverse change in or material adverse effect on the Transferred Assets or the Business or the value thereof, in each case taken as a whole, or (ii) the effect of preventing the consummation of the transactions contemplated by this Agreement, but in the case of the foregoing clause (i), excluding any event, change, effect, condition, circumstance or occurrence to the extent that it results from or arises out of (1) the commencement or pendency of the Chapter 11 Cases, (2) changes in Legal Requirements (other than with respect to changes caused by any Bankruptcy Court decision affecting the Chapter 11 Cases), GAAP and other accounting

rules to the extent occurring after the Execution Date; (3) the announcement of this Agreement or the Transaction Documents or transactions contemplated hereby or thereby of the entry into this Agreement; (4) any change or effect generally applicable to the industries and markets applicable to or related to the Business or to economic or political conditions or the securities or financial markets in any country or region; (5) any outbreak or escalation of hostilities or war, any act of terrorism, any national emergency, or any act of God, flood, drought, earthquake or other natural disaster, (6) any action taken (or omitted to be taken) at the express written request of the Required Supporting Holders and Knight Hawk, (7) any failure by the Company or other Debtors to meet any projections or forecasts related to the Business, provided that the underlying causes of such failure may be considered in determining whether there has been a Material Adverse Effect, (8) the departure of officers or directors of the Company or any other Debtor not in contravention of the terms and conditions of this Agreement or the other Transaction Documents (but not the underlying facts giving rise to such departure unless such facts are otherwise excluded pursuant to the other exceptions to Material Adverse Effect set forth in this definition) and (9) any litigation or similar action against any Debtor which arises from or relates to the restructuring and recapitalization transactions of the Debtors or the Chapter 11 Cases generally, if such litigation is being defended by such Debtor in good faith, except, in the case of clauses (2), (4) and (5), to the extent any such event, change, effect, condition, circumstance or occurrence that disproportionately affects the Transferred Assets or the Business or the value thereof, in each case taken as a whole, relative to other industry or market participants.

“Material Contracts” means the following Contracts (i) to which any Debtor is a party and such Contracts relate to the Transferred Assets or the Business, or (ii) as to which any portion of any Transferred Asset is subject:

(a) any Contract that can reasonably be expected to result in aggregate payments by or revenues to any party thereto of more than \$100,000 during the current or any subsequent fiscal year (based solely on the terms thereof and without regard to any expected increase in volumes or revenues);

(b) coal purchase and sale, exchange, marketing, transportation, processing, and similar Contracts (in each case) that are not terminable without penalty or further obligation on sixty (60) days or less notice (including any Contract providing for volumetric or monetary commitments or indemnification therefor or for dedication of future production);

(c) any Contract to sell, lease, or otherwise dispose of or encumber any Transferred Assets, other than conventional rights of reassignment arising in connection with the Debtors’ surrender or release of any of the Transferred Assets pursuant hereto;

(d) any Contract that is a disposal contract, injection contract, or similar Contract;

(e) any Contract that constitutes a non-competition agreement or any agreement that purports to restrict, limit, or prohibit the manner in which, or the locations in which, the Business can be conducted, including areas of mutual interest;

(f) any Contract providing for any call upon, option to purchase, or similar rights with respect to any of the Transferred Assets or to the production therefrom or the processing thereof, or is a dedication of production or otherwise requires production to be transported, processed, or sold in a particular fashion;

(g) any Contract that constitutes a partnership agreement, participation agreement, joint venture agreement, or similar Contract;

(h) any Contract that is a Hedge Contract;

(i) any Contract relating to Indebtedness (excluding Permitted Encumbrances, Accounts Receivable in the Ordinary Course of Business, trade or accounts payable and other accrued current liabilities in the Ordinary Course of Business);

(j) any Contract that requires the posting of a security deposit, letter of credit, performance bond or surety;

(k) any Contract that is a collective bargaining agreement;

(l) any Contract under which any Debtor has continuing material indemnification obligations to any Person or under which any Debtor is required to assume any Liability, other than those entered into in the Ordinary Course of Business;

(m) any Contract involving any resolution or settlement of any actual or threatened Proceeding that imposes material continuing obligations on any Debtor that is not fully covered by insurance or that will not have been fully performed prior to the Closing Date;

(n) any Contract that constitutes a lease or license under which any Debtor is the lessor or the lessee of real property;

(o) any Contract that constitutes a lease or license under which any Debtor is the lessor or the lessee of personal property, which lease cannot be terminated by such Debtor upon thirty (30) days or less notice without penalty or further obligation;

(p) any Contract that is a seismic or other geophysical acquisition or sharing agreement or license;

(q) any Contract between any Debtor and any Affiliate of such Debtor;
and

(r) any employment Contract between any Debtor and an employee of Debtor; and

(s) any Contract pursuant to which any Debtor (i) uses any Intellectual Property that is material to the Business (other than “shrinkwrap” and “clickwrap” or other off-the-shelf licenses for generally commercially available software) or (ii) has granted to a third party any right in or to any Intellectual Property that is material to the Business.

“Mining” means the exploration, extraction, processing, storage and transportation of coal and non-coal minerals and to the Reclamation of lands used for such activities.

“Mining and Mining Safety Law” means all Legal Requirements relating to Mining and Mining safety, including (i) SMCRA (including its implementing regulations and any state analogs); (ii) MSHA; (iii) OSHA; (iv) acid and toxic mine drainage requirements; and (v) regulations relating to Mining operations and activities, including Reclamation.

“Mining Financial Assurances” has the meaning set forth in Section 5.7(c).

“MSHA” means the Federal Mine Safety and Health Act of 1977, 30 U.S.C. §§ 801, et seq.

“Multiemployer Plan” means a plan as defined in section 3(37) of ERISA or section 4001(a)(3) of ERISA.

“NewCo” has the meaning set forth in Section 2.1(a).

“Noteholders” has the meaning set forth in the recitals.

“Noteholder HoldCo Equity Conveyance” means an instrument of conveyance or other documentation in form reasonably acceptable to Knight Hawk to issue the HoldCo Equity issuable to Knight Hawk in the Knight Hawk Equity Issuance as agreed in accordance with Section 8.15.

“Noteholder Equity Issuance” has the meaning set forth in the recitals.

“Noteholder Equity Issuance Consideration” has the meaning set forth in Section 3.1.

“Notes Indenture” has the meaning set forth in the recitals.

“Notes Indenture Documents” means the Notes Indenture and all other security agreements and other agreements, documents and instruments executed pursuant thereto, as each may be amended, restated, supplemented, or modified from time to time.

“Offered Employees” has the meaning set forth in Section 8.4(b).

“Operating Agreement” means the limited liability company agreement of HoldCo as amended and restated in connection with the Sale Transaction, in a form consistent with the term sheet dated as of the date hereof (or as otherwise agreed) between Knight Hawk and the Required Supporting Holders, and agreed in accordance with Section 8.15.

“Order” means any award, writ, injunction, judgment, order or decree entered, issued, made, or rendered by any Governmental Authority.

“Ordinary Course of Business” means the ordinary course of business in compliance with applicable Legal Requirements, consistent with past practice (including with respect to quantity and frequency).

“OSHA” means the Occupational Safety and Health Act of 1970, 29 U.S.C. §§ 651 et. seq.

“Outside Date” has the meaning set forth in Section 12.1(c).

“Owned Real Property” means all real property owned by any Debtor, and all right, title and interest of such Debtor therein, together with all of such Debtor’s right, title and interest in and to the following: (i) all buildings, structures, systems, hereditaments and Improvements located on such real property owned by such Debtor; (ii) all Improvements owned by such Debtor; and (iii) all easements, if any, in or upon such real property owned by such Debtor, licenses and all rights-of-way, beneficial easements, licenses, and other rights, privileges and appurtenances belonging or in any way pertaining to such real property owned by such Debtor (including the right, title and interest of such Debtor in and to any coal reserves, mineral rights, underground and surface coal and mining rights, royalty rights, support rights and waivers of the same, subsidence rights, water and water rights relating or appurtenant to such real property owned by such Debtor).

“Party” or “Parties” has the meaning set forth in the introductory paragraph.

“Patents” means United States and foreign patents and patent applications, as well as any continuations, continuations-in-part, divisions, extensions, reexaminations, reissues, renewals and patent disclosures related thereto.

“Permits” means any and all permits, licenses, approvals, consents, waivers, franchises, filings, accreditations, registrations, certifications, certificates of occupancy, easements, rights of way, notifications, exemptions, clearances, and authorizations, together with all modifications, renewals, amendments, supplements and extensions thereof and applications therefor, of or from any Governmental Authority.

“Permitted Encumbrances” means those (i) zoning, building codes and other land use Legal Requirements regulating the use or occupancy of Real Property or the activities conducted thereon which are imposed by any Governmental Authority having jurisdiction over such Real Property; (ii) easements, covenants, conditions, restrictions, minor title defects and other similar matters that are of record affecting title to Real Property which do not materially impair the use or occupancy of such Real Property; (iii) matters which would be disclosed by an accurate survey or physical inspection of the Real Property; (iv) Encumbrances specifically permitted by the Confirmation Order (or the Sale Order, if applicable) (v) overriding royalty agreements that encumber real property, are in existence as of the date hereof, and are set forth on Schedule 1.1A; (vi) production payments, royalties, dedication of reserves under supply agreements, mining leases or similar rights or interests granted, taken subject to, or otherwise imposed on properties that are set forth on Schedule 1.1B; and (vii) rights of owners of interests in overlying, underlying or intervening strata and/or mineral interests not owned by the Debtors with respect to tracts of real property where the Debtors’ ownership is only surface or severed mineral or is otherwise subject to mineral severances in favor of one or more third parties..

“Person” means any individual, corporation (including any non-profit corporation), partnership, limited liability company, joint venture, estate, trust, association, organization or other entity or Governmental Authority.

“Petition Date” has the meaning set forth in the recitals.

“Phase I Environmental Site Assessment” means a Phase I environmental property assessment of the Transferred Assets that satisfies the assessment requirements set forth under the current ASTM International Standard Practice for Environmental Site Assessments (Designation E1527-13).

“Plan” means that certain plan under chapter 11 of the Bankruptcy Code (together with all exhibits, schedules, supplements, appendices, annexes and attachments thereto), substantially in the form attached hereto as Exhibit A, which shall, together with any amendments, modifications, or supplements thereto, be in form and substance reasonably acceptable to the Required Supporting Holders and Knight Hawk and, with respect to those provisions of the Plan that involve the Royalty Agreements, to Thoroughbred.

“Post-Petition Cure Costs” has the meaning set forth in Section 2.6(b).

“Prepaid Expenses” means all deposits (including customer deposits and security deposits (whether maintained in escrow or otherwise) for rent, electricity, telephone or otherwise), advances, prepaid expenses, prepayments, rights under warranties or guarantees, vendor rebates and other refunds of every kind and nature (whether or not known or unknown or contingent or non-contingent), except that the deposit pursuant to the CAT Lease, professional fee retainers and prepaid deposits related thereto shall not be included in the definition of “Prepaid Expenses.”

“Pre-Petition Cure Costs” has the meaning set forth in Section 2.6(a).

“Preferential Purchase Right” means any right or agreement that enables any Person to purchase or acquire any Transferred Asset or any interest therein or portion thereof as a result of or in connection with the execution or delivery of this Agreement or the consummation of the transactions contemplated hereby.

“Proceeding” means any Action, arbitration, audit, hearing, cessation order, investigation, litigation, notice of violation or suit (whether civil, criminal, administrative or investigative) commenced, brought, conducted, or heard by or before, or otherwise involving, any Governmental Authority.

“Proposed Allocation Statement” has the meaning set forth in Section 8.2(a).

“Real Property” and “Real Properties” means (i) the Owned Real Property; (ii) the Leased Real Property; (iii) all strips and gores and any land lying in the bed of any public road, highway or other access way, open or proposed, adjoining any Owned Real Property; and (iv) all easements, licenses, rights and appurtenances relating to the foregoing to the extent that any Debtor has a legally recognized interest therein.

“Reclamation” means reclamation, revegetation, recontouring, abatement, or control of adverse effects of mining activities.

“Records” has the meaning set forth in Section 2.2(b)(ix).

“Release” means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing of a Hazardous Substance into the environment (including the abandonment or discharging of barrels, containers and other closed receptacles containing any Hazardous Substance).

“Representative” means, with respect to a particular Person, any director, officer, employee, agent, consultant, advisor or other representative of such Person, including legal counsel, accountants and financial advisors.

“Required Supporting Holders” means Supporting Holders that hold, in the aggregate, more than 50% of the aggregate principal amount of the Notes held by the Supporting Holders.

“Restructuring Support Agreement” means that certain Restructuring Support Agreement, dated as of October 5, 2017, by and among the Debtors, the Supporting Holders, Knight Hawk, Rhino Resource Partners Holdings LLC, and Thoroughbred Resources, L.P., for itself and on behalf of its affiliates and subsidiaries, as the same may be amended, restated, or otherwise modified in accordance with its terms, together with all exhibits, schedules and attachments thereto.

“Retained Financial Deposit” means a portion of the deposit under the CAT Lease equal to \$1,078,867.

“Review Deadline” has the meaning set forth in Section 8.12.

“Royalty Agreements” means all existing mineral right agreements between certain of the Debtors and Thoroughbred Resources, L.P. set forth on Schedule 1.1C, which will not include that certain Coal Mining Lease and Sublease dated as of February 28, 2014, by and between Thoroughbred Resources, LLC, as Lessor and Thoroughfare Mining, LLC, as Lessee.

“Royalty Deferment Agreement” means that certain Lease Structure and Royalty Deferment Agreement to be entered into between Thoroughbred Resources, L.P., and NewCo based on the principal terms as attached to the Restructuring Support Agreement and containing such final terms reasonably acceptable, and in a form acceptable, to the Required Supporting Holders, Knight Hawk and Thoroughbred.

“Saleable Coal Inventory” has the meaning set forth in Section 3.2.

“Sale Order” means, if applicable, an Order of the Bankruptcy Court, in form and substance reasonably acceptable to the Required Supporting Holders and Knight Hawk, and, with respect to those provisions that involve the Royalty Agreements, to Thoroughbred, pursuant to, *inter alia*, Sections 105, 363 and 365 of the Bankruptcy Code (i) authorizing and approving, *inter alia*, the Sale Transaction free and clear of all Encumbrances and Liabilities (other than Permitted Encumbrances and Assumed Liabilities), (ii) authorizing and approving the

assumption and assignment of the Assigned Contracts to NewCo, (iii) containing a finding that the Supporting Holders and Knight Hawk have acted in “good faith” within the meaning of, and is entitled to the protections of, Section 363(m) of the Bankruptcy Code, (iv) containing a finding that this Agreement was negotiated, proposed and entered into by the Parties without collusion, in good faith and from arm’s length bargaining positions, (v) containing a finding that the Debtors, the Supporting Holders and Knight Hawk have not engaged in any conduct that would cause or permit this Agreement to be avoidable under Section 363(n) of the Bankruptcy Code, (vi) providing that this Agreement and the transactions contemplated hereby may, subject to the terms set forth herein, be specifically enforced against and binding upon, and not subject to rejection or avoidance by any Debtor or their respective estates or any chapter 7 or chapter 11 trustee of the Debtors or other representative of their respective estates, (vii) providing that the Bankruptcy Court shall retain jurisdiction to resolve any controversy or claim arising out of or relating to this Agreement or the breach thereof, (viii) providing that neither the Supporting Holders, Knight Hawk nor any of their respective Affiliates shall be deemed a successor in interest to the Debtors, and (ix) providing that, upon the release of a portion of the Indenture Obligations in an amount equal to the Noteholder Equity Issuance Consideration, the Debtors shall have received fair and reasonably equivalent value for the Transferred Assets.

“Sale Transaction” has the meaning set forth in the recitals.

“Schedule Update” has the meaning set forth in Section 8.12.

“Section 363 Sale” has the meaning set forth in Section 11.1.

“Securities Act” means the Securities Act of 1933, as amended.

“Security Arrangements” has the meaning set forth in Section 8.3(b).

“Service Provider” means any individual engaged to provide services to any of the Debtors, pursuant to a consulting or other independent contractor relationship, directly related to the performance of the Business.

“SMCRA” means the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. §§1201, et seq.

“Subsidiary” means any entity with respect to which a specified Person directly or indirectly (through one or more intermediaries) has the power, through the direct or indirect ownership of securities or otherwise, to elect a majority of the directors or similar managing body.

“Supporting Holders” has the meaning set forth in the introductory paragraph.

“Surface Interest Instruments” has the meaning set forth in Section 5.6(c).

“Surface Interests” means all rights-of-way, water rights, licenses and easements applicable to, or used or held in connection with the Business or the ownership, operation, maintenance or repair of, or the production, treatment, processing, storing, sale or disposal of coals or produced water from the Transferred Real Property Interests.

“Suspense Funds” means proceeds of production and interest in respect of any of the Transferred Assets that are payable to third parties and are being held in suspense by any Debtor or any of their Affiliates as the operator of such Transferred Assets.

“Tax” or “Taxes” (and with correlative meaning, “Taxable” and “Taxing”) means (i) any and all federal, state, provincial, local, foreign or other taxes, charges, levies, fees, imposts, assessments or similar governmental charges (including any interest, penalties, fines, assessments, additions to tax or additional amounts imposed in connection therewith or with respect thereto), including all net income, gross receipts, capital gains, sales, goods and services, use, ad valorem, value added, franchise, premium, profits, windfall profits, environmental (including taxes under section 59A of the Tax Code), customs duties, inventory, capital stock, license, withholding, branch, payroll, employment, social security, escheat, unclaimed property, unemployment, compensation, utility, production, excise, severance, stamp, occupation, premium, windfall profits, real or personal property, transfer, registration, alternative or add-on minimum and estimated taxes; (ii) any and all liability for the payment of any items described in clause (i) above as a result of being (or ceasing to be) a member of an affiliated, consolidated, combined, unitary or aggregate group (or being included (or being required to be included) in any Tax Return related to such group) and (iii) any and all liability for the payment of any amounts as a result of any express or implied obligation to indemnify any other person, or any successor or transferee liability, in respect of any items described in clause (i) or (ii) above.

“Tax Code” means the Internal Revenue Code of 1986, as amended.

“Tax Return” means any and all returns, declarations, reports, estimates, elections, disclosures, information reports or returns or statements required to be filed with any Governmental Authority in respect of any Taxes, including any claims for refunds of Taxes and any amendments, schedules, attachments or supplements of any of the foregoing.

“TECO Claim” means any negotiation, suit or settlement with respect to any dispute involving the Coal Purchase Agreement, dated January 1, 2017, by and between Armstrong Coal Sales, LLC and Tampa Electric Company.

“Thoroughbred” means Thoroughbred Resources, L.P., for itself and on behalf of its affiliates and subsidiaries.

“Trademarks” means United States, state and foreign trademarks, service marks, logos, slogans, trade dress and trade names, Internet domain names and any other similar designations of source of goods or services, whether registered or unregistered, and registrations and pending applications to register the foregoing, and all goodwill related to or symbolized by the foregoing.

“Transaction Documents” means this Agreement, including the exhibits and schedules hereto, the Plan and any other agreements, instruments or documents entered into between the Parties pursuant to this Agreement or the Plan.

“Transfer and Assumption” has the meaning set forth in the recitals.

“Transfer Period” has the meaning set forth in Section 8.8.

“Transfer Taxes” has the meaning set forth in Section 8.1(a).

“Transferred Assets” has the meaning set forth in Section 2.2(b).

“Transferred Employee” or “Transferred Employees” has the meaning set forth in Section 8.4(b).

“Transferred Equipment” has the meaning set forth in Section 2.2(b)(iv).

“Transferred Financial Deposit” means a portion of the deposit under the CAT Lease equal to \$1,597,312.

“Transferred Permits” has the meaning set forth in Section 2.2(b)(v).

“Transferred Real Property Interests” has the meaning set forth in Section 2.2(b)(ii).

“Transition Services Agreement” has the meaning set forth in Section 7.3.

“Treasury Regulations” means the United States Treasury Regulations promulgated under the Tax Code, as amended from time to time, including the corresponding provisions of any successor regulations.

“Trustee” means Wells Fargo Bank, N.A., in its capacity as trustee and collateral agent under the Notes Indenture Documents.

“Update Date” has the meaning set forth in Section 8.12.

“Unpaid Post-Petition Amounts” has the meaning set forth in Section 2.6(b).

“Unwritten Agreement” means any legally binding agreement, contract, obligation, promise, undertaking, lease, sublease, purchase order, arrangement, license, commitment, or other binding arrangement or understanding that is oral or otherwise not in writing.

“WARN Act” means the Worker Adjustment and Retraining Notification Act of 1988, as amended, any similar Legal Requirement and the rules and regulations thereunder.

“Wind Down Date” has the meaning set forth in Section 8.14.

“Workers’ Compensation Liabilities” means any liabilities or benefit obligations related to workers' compensation claims and benefits arising under Legal Requirements.

1.2 Other Definitions and Interpretive Matters.

(a) Unless otherwise expressly provided, for purposes of this Agreement, the following rules of interpretation shall apply:

Calculation of Time Period. When calculating the period of time before which, within which or following which any act is to be done or step taken pursuant to this Agreement, the date that is the reference date in calculating such period shall be excluded. If the last day of such period (or if any other date specified in this Agreement for giving any notice or taking any action) is a day other than a Business Day, then the period (or date) in question shall end on (or be deemed to be) the next succeeding Business Day.

Dollars. Any reference in this Agreement to \$ means United States dollars.

Exhibits/Schedules/Disclosure Schedules. All Exhibits, Schedules and Disclosure Schedules attached or annexed hereto or referred to herein are hereby incorporated in and made a part of this Agreement as if set forth in full herein. Any capitalized terms used in any Exhibit, Schedule or Disclosure Schedule but not otherwise defined therein shall be defined as set forth in this Agreement.

Gender and Number. Any reference in this Agreement to gender includes all genders, and words imparting only the singular number include the plural and vice versa.

Headings. The provision of a table of contents, the division of this Agreement into Articles, Sections and other subdivisions and the insertion of headings are for convenience of reference only and shall not affect or be utilized in the construction or interpretation of this Agreement. All references in this Agreement to any "Section" or "Article" are to the corresponding Section or Article of this Agreement unless otherwise specified.

Herein. Words such as "herein," "hereof" and "hereunder" refer to this Agreement as a whole and not merely to a subdivision in which such words appear, unless the context otherwise requires.

Including. The word "including" or any variation thereof means "including, without limitation," and shall not be construed to limit any general statement that it follows to the specific or similar items or matters immediately following it.

(b) No Strict Construction. The Parties participated jointly in the negotiation and drafting of this Agreement, and, in the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as jointly drafted by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any provision of this Agreement. Without limitation as to the foregoing, no rule of strict construction construing ambiguities against the draftsperson shall be applied against any Person with respect to this Agreement.

ARTICLE II

Organization and Transfer and Assumption

2.1 Organization of HoldCo and NewCo. Prior to effecting the transactions contemplated by Section 2.2 through Section 2.5:

(a) Company shall form or cause to be formed (i) a new Delaware limited liability company (“HoldCo”), which shall be wholly owned by Company and (ii) one or, if designated by the Required Supporting Holder and Knight Hawk, more than one new Delaware limited liability companies (“NewCo”), which shall be wholly owned by HoldCo. Other than as provided in clauses (i) and (ii) hereunder, neither HoldCo nor NewCo will have any other equity interests or third party debt outstanding other than Assumed Contracts to the extent such Assumed Contracts constitute Indebtedness.

(b) Company shall cause (i) HoldCo to be treated as a disregarded entity for U.S. federal and applicable state and local income tax purposes and (ii) NewCo to be treated as a disregarded entity for U.S. federal and applicable state and local income tax purposes unless otherwise directed in writing by the Required Supporting Holders and Knight Hawk, in which case Company will cooperate (including by filing an IRS Form 8832 in connection with the Transfer and Assumption) to elect to treat NewCo as a corporation for U.S. federal and applicable state and local income tax purposes.

2.2 Transferred Assets.

(a) Pursuant to Sections 363 or 1123(b)(4) of the Bankruptcy Code, among other provisions, upon the terms and subject to the conditions of this Agreement and the Plan, at the Closing, the Debtors shall transfer, assign, convey and/or deliver, or cause to be transferred, assigned, conveyed and/or delivered, as appropriate, to NewCo (or a designated purchaser as directed by the Required Supporting Holders and Knight Hawk), free and clear of all Encumbrances and Liabilities (other than Permitted Encumbrances and Assumed Liabilities), all of the Transferred Assets.

(b) The “Transferred Assets” means all right, title and interest of the Debtors in, to and under all assets, properties, rights and interests of every kind and description, tangible or intangible, used or held for use in the conduct of the Business, as the same shall exist as of immediately prior to the Closing, but in each case, expressly excluding all Excluded Assets, but otherwise including for the avoidance of doubt:

(i) all inventory (other than coal inventory) of any kind or nature, merchandise and goods, related to the Business or the Transferred Assets and maintained, held or stored by or for the Debtors, whether or not prepaid, and wherever located, held or owned, and any prepaid deposits for any of the same, including all coal inventory located upon or within real property of the Debtors or belonging to the Debtors and disposables and consumables used, or held for use, in connection with the Business, including any goods in transit (“Inventory”);

(ii) (A) all Owned Real Property described on Schedule 2.2(b)(ii) attached hereto (collectively, the “Transferred Owned Real Property”), (B) all Leased Real Property to the extent the Leases related thereto are Assigned Contracts, including all advance royalty balances and other rights under such Leases (collectively, the “Assigned Leases”), and (C) all Surface Interests to the extent such Surface Interests are Assigned Contracts (together with the Transferred Owned Real Property and Assigned Leases, the “Transferred Real Property Interests”);

(iii) all coal inventory or related minerals produced or mined from or attributable to the Transferred Real Property Interests, including all Saleable Coal Inventory;

(iv) all Improvements, equipment, machinery and other tangible personal property located on, used or held for use or obtained in connection with the ownership or operation of the Transferred Real Property Interests, including tanks, boilers, plants, buildings, field offices and other structures, fixtures, injection facilities, saltwater disposal facilities, pumping units, machinery, power and other utility lines, roads, computer and automation equipment, telecommunications equipment, field radio telemetry and associated frequencies and licenses, pressure transmitters, central processing equipment, tools, spare parts, warehouse stock, all vehicles and other rolling stock (and all equipment used in connection with such rolling stock, including safety equipment, special tools, dynamometers, hand tools and fluid level equipment), and all other appurtenances, improvements, facilities materials, supplies, machinery, equipment, furniture, fixtures and other personal property located on any property owned or leased by the Debtors or used or held for use in the Business or obtained in connection with the ownership, maintenance or operation of the Transferred Real Property Interests, including the items described on Schedule 2.2(b)(iv) (collectively, the “Transferred Equipment”) and any rights of the Debtors to the warranties and licenses received from manufacturers of such Transferred Equipment or any component thereof;

(v) to the extent transferable pursuant to applicable Legal Requirements, all Permits held by the Debtors and related to the ownership, operation or use of the Transferred Assets or the conduct of the Business (collectively, the “Transferred Permits”)

(vi) the Contracts listed on Schedule 2.6(c) attached hereto, including all Royalty Agreements, as such Exhibit may be subsequently amended pursuant to Section 2.6 (collectively, the “Assigned Contracts”);

(vii) all Geological and Geophysical Information;

(viii) all claims, refunds, abatements, variances, allocations, causes of action, claims for relief, choses in action, insurance policies and benefits and rights to proceeds thereunder, rights of recovery, rights of setoff, rights of indemnity, contribution or recoupment, warranties, guarantees, counter-claims, cross-claims and defenses of the Debtors, in each case, to the extent related to the Business or the Transferred Assets, except to the extent related solely to any Excluded Assets or Excluded Liabilities;

(ix) all information, books, databases, files, records and data (whether in written or electronic format) relating to any Transferred Assets, Transferred Employees or to any Assumed Liabilities except for (A) records that any Debtor is prohibited from disclosing or transferring under any applicable Legal Requirement, (B) information entitled to legal privilege, including attorney work product and attorney client communications (except for title opinions, which shall be included in the Records), and (C) economic projections and records of offers from, or negotiations with, the Supporting Holders or third parties with respect to any proposed transfer of any of the Transferred Assets and economic analyses associated therewith, including, subject to the exceptions set forth above in clauses (A), (B) and (C), all: (1) reserve, land, operation, production, engineering, preparation, marketing, transportation and other files and records, including all lease records, division order records, property ownership reports and files, contract files and records, title records (including abstracts of title, title opinions and memoranda, and title curative documents), correspondence, production records, prospect files and other prospect information, supplier lists and files, customer lists and files, regulatory files, environmental and health and safety files (excluding employee medical records), and Tax and financial accounting records and (2) data including proprietary and non-proprietary engineering, geological, geophysical and seismic data, files and records (but only to the extent transferable without material restriction (including a material restriction against assignment without prior consent), other than restrictions that are unenforceable under the Bankruptcy Code or that are removed by the Confirmation Order (or the Sale Order, if applicable)), inclusive of maps, logs, core analysis, formation tests, cost estimates, studies, plans, prognoses, surveys and reports, and including raw data and any interpretive data or information relating to the foregoing, and any other proprietary data in the actual possession or control of any Debtor or which any Debtor has the right to obtain (either without the payment of money or delivery of other consideration or unreasonable burdensome effort) and, in each case, relating to the ownership, operation, development, maintenance or repair of, or the production, treatment, processing, storing, sale or disposal of coals or produced water from, the Transferred Assets; *provided*, that if any Records can only be assigned with a fee or penalty owed to any third party, no Debtor shall have any obligation to bear such fee or penalty (collectively, the “Records”);

(x) all rights to subsidence lands associated with Mining operations and all rights to the waiver of and release from subsidence liability and indemnity rights under any and all conveyances, representations and instruments or agreements of any kind and nature applicable to the Debtors’ coal Mining activities and interests, except to the extent related to the Excluded Assets or the Excluded Liabilities;

(xi) all Intellectual Property, except to the extent related to the Excluded Assets or the Excluded Liabilities;

(xii) all Suspense Funds;

(xiii) the Transferred Financial Deposit;

(xiv) all Prepaid Expenses, except to the extent related to the Excluded Assets or the Excluded Liabilities; and

(xv) cash in an amount equal to all Unpaid Post-Petition Amounts.

Between the Execution Date and the Closing, the Debtors shall use commercially reasonable efforts and seek in good faith to obtain any consent or waiver required from a third party or Governmental Authority that is necessary to transfer any asset that would otherwise be a Transferred Asset but for such failure to obtain the applicable consent or waiver, provided that in no event shall Company be required to incur out-of-pocket, third party costs or make a payment to a third party (including a Governmental Authority) in exchange for such consent or approval of such transfer; provided further that at the written request of the Required Supporting Holders and Knight Hawk, the Company shall complete any applicable customary applications or filings with Governmental Authorities and pay any fees and expenses related thereto at such cost to be borne 50-50 between the Company on the one hand, and NewCo on the other hand. It is the intention of the Parties that NewCo acquires, leases or subleases all assets, properties and rights necessary for the operation of the Business as currently conducted, including all mining, processing, loading, transporting, marketing, and selling of coal and all reclamation activities, but excluding the Excluded Assets. Subject to Section 2.6, if, at any time after the Closing, it is discovered that certain assets, properties or rights, including rights under Contracts and fractional real property interests, owned, leased or subleased by the Debtors or any of their Affiliates, other than the Excluded Assets, were not included in the Transferred Assets to be conveyed to NewCo, and such assets, properties or rights are needed by NewCo in the operation of the Business, including all mining, processing, loading, transporting, marketing, and selling of coal and all reclamation activities, then to the extent assignable, the Debtors or their Affiliates shall assign, convey, lease or sublease, as applicable, such assets, properties, or rights to NewCo, in each case upon the reasonable request of NewCo; *provided, however*, that this obligation shall not include the assignment, conveyance, lease or sublease of any Excluded Asset other than Contracts that the Parties mutually agree were omitted from Schedule 2.2(b)(vi) in error.

Notwithstanding anything in this Agreement to the contrary, any such assets, properties, rights and interests that cannot be assigned or otherwise transferred as a result of any applicable Legal Requirement or otherwise cannot be transferred without third party consent (including any applicable consent from a Governmental Authority) shall not be transferred at the Closing if a waiver or consent has not been obtained as of the Closing. If any Transferred Asset is not assigned as a consequence of the foregoing, then such Transferred Asset shall be deemed an Excluded Asset as of the Closing; provided, that (i) the Debtors and NewCo shall continue to work in good faith after the Closing to obtain any necessary consent or waiver to transfer such asset at which point it will be deemed a Transferred Asset and (ii) the Company shall use commercially reasonable efforts to enter into arrangements at the Closing to provide NewCo with substantially the same economic claims, rights and benefits of any such asset that has been deemed an Excluded Asset for so long as such asset is deemed an Excluded Asset.

2.3 Excluded Assets. Notwithstanding the foregoing, the Transferred Assets shall not include, and there is excepted, reserved and excluded from the transaction contemplated hereby, the following (collectively, the “Excluded Assets”):

- (a) any Unwritten Agreement;

(b) all cash and cash equivalents, including the Debtors' rights to receive cash or cash equivalents on account of the release of collateral securing surety bonds, coal supply agreements or any other Contracts or obligations of any kind including the Retained Financial Deposit (other than Suspense Funds and the Transferred Financial Deposit), subject to Section 2.2(b)(xiv);

(c) all Accounts Receivable;

(d) any Equity Interests of the Debtors or any securities convertible into, exchangeable or exercisable for Equity Interests of the Debtors, other than the HoldCo Equity and Equity Interests of HoldCo's Subsidiaries as provided herein and in the Plan;

(e) all minute books, stock ledgers, corporate seals and stock certificates of the Debtors;

(f) all (i) corporate, financial, Tax, and legal records of any Debtor that relates to such Debtor's business generally (excepting the same to the extent relating to the Assumed Liabilities and/or the Transferred Assets) and (ii) books, records and files that relate solely to any Excluded Liabilities, Employees who do not become Transferred Employees and/or Excluded Assets;

(g) all Excluded Contracts;

(h) all rights to any refunds of Taxes (or other related costs or expenses) that are borne by or the responsibility of any Debtor or attributable to any Tax asset of any Debtor;

(i) subject to Section 8.7 and solely to the extent unrelated to the Business, all insurance policies and rights to proceeds thereunder and refunds of premiums therefore (including for the avoidance of doubt, any rights under the Debtors' director and officer insurance policies);

(j) other than the Transferred Permits, all Permits and pending applications therefor;

(k) all good faith or bid deposits submitted by any third party purchaser or potential purchaser of any of the Debtors' assets;

(l) subject to Section 8.7 and solely to the extent unrelated to the Business, all claims, refunds, abatements, variances, allocations, causes of action, claims for relief, choses in action, rights of recovery, rights of setoff, rights of indemnity, contribution or recoupment, counter-claims, cross-claims and defenses of any Debtor;

(m) all rights, claims or causes of action by or in the right of the Debtors against any current or former director or officer of the Debtors;

(n) the Avoidance Actions;

(o) any documents withheld or not transferred pursuant to the exceptions set forth in Section 2.2(b)(ix);

(p) all Hedge Contracts;

(q) other than Prepaid Expenses, any refunds due to any Debtor by a third party for any overpayment of rentals, royalties, excess royalty interests or production payments attributable to the Transferred Assets, except to the extent necessary to offset any underpayment to a third party of rentals, royalties, excess royalty interests or production payments attributable to the Transferred Assets, with respect to any period of time prior to the Closing Date;

(r) all rights to the use of deposits and retainers to the extent held and applied by Debtors' professionals on or before sixty (60) days after the earlier to occur of (i) the effective date of a chapter 11 plan, (ii) the conversion of the Chapter 11 Cases to cases under chapter 7 of the Bankruptcy Code or (iii) the dismissal of the Chapter 11 Cases by the Bankruptcy Court;

(s) any rights, claims or causes of action of the Debtors under this Agreement or any other Transaction Document;

(t) any claims, refunds, rights or benefits arising out of or relating to the TECO Claim; and

(u) any assets set forth on Schedule 2.3(t).

2.4 Assumed Liabilities. Upon the terms and subject to the conditions of this Agreement, at the Closing, NewCo shall execute and deliver to Company the Assumption Agreement containing customary terms and conditions as reasonably agreed in good faith in accordance with Section 8.15 (the "Assumption Agreement") pursuant to which NewCo shall assume and agree to discharge, when due (in accordance with their respective terms and subject to the respective conditions thereof), only the following Liabilities of the Debtors or Liabilities otherwise relating to the Business or the Transferred Assets (except to the extent constituting an Excluded Liability) and no other Liabilities (collectively, the "Assumed Liabilities"):

(a) Assigned Contracts; Transferred Real Property Interests. All Liabilities under the Assigned Contracts and Transferred Real Property Interests solely to the extent arising on or after the Closing and Liabilities that are satisfied or discharged by payment of Pre-Petition Cure Costs (including, for the avoidance of doubt, (i) all monetary defaults under the Royalty Agreements that arose prior to the Petition Date and (ii) any Assigned Contracts for which the Pre-Petition Cure Costs were set at \$0.00 and approved as such by virtue of the Confirmation Order (or the Sale Order, if applicable) or such other Order authorizing the assumption by the Debtors and assignment to NewCo of such Assigned Contracts).

(b) Pre-Petition Cure Costs. All Pre-Petition Cure Costs.

(c) Transfer Taxes. All Transfer Taxes, if any.

(d) COBRA. Any obligation to make COBRA continuation coverage (within the meaning of section 4980B of the Tax Code and the Treasury Regulations thereunder) available to all “M&A qualified beneficiaries” (within the meaning of Treasury Regulations §54.4980B-9, Q&A-4) with respect to the transactions contemplated hereby.

(e) Black Lung Assumed Liabilities. Any and all (i) claims relating to employee health and safety, including claims for injury, sickness, disease or death, of any Transferred Employee, including any Workers' Compensation Liabilities, arising out of an event that occurs after the Closing Date, and (ii) any and all Black Lung Liabilities of any Transferred Employee first occurring on or after the lapse of the statutory period following the Closing Date for NewCo to become a responsible operator to and with respect to such Transferred Employee under the Black Lung Benefits Act.

(f) Permits; Financial Assurance Obligations; AROs; Reclamation Liabilities. All Liabilities to the extent arising out of or relating to (i) the Transferred Permits; (ii) Reclamation and post-mining operation Liabilities associated with the Transferred Assets; (iii) compliance with performance obligations or standards under the Transferred Permits and associated Legal Requirements; and (iv) asset retirement obligations of any Debtor or obligations to maintain, replace and/or increase bonds or other financial assurance instruments associated with the Transferred Assets, including the Transferred Permits, excluding, in each of the preceding clauses (i) through (iv), any monetary fines and penalties for violations occurring on or prior to the Closing (whether or not disclosed on a Disclosure Schedule hereto) (such excluded fines and penalties, collectively, the “Excluded Pre-Closing Fines”) and any Excluded Unrelated Environmental Liabilities.

The assumption by NewCo of the Assumed Liabilities shall not, in any way, enlarge the rights of any third parties relating thereto.

2.5 Excluded Liabilities. Notwithstanding any provision in this Agreement to the contrary, NewCo shall not assume and shall not be obligated to assume or be obliged to pay, perform or otherwise discharge any Liability of the Debtors, and the Debtors shall retain and be solely and exclusively liable with respect to, all Liabilities of the Debtors, excluding only the Assumed Liabilities (such Liabilities other than Assumed Liabilities, collectively, the “Excluded Liabilities”). For purposes of clarity, and without limitation of the generality of the foregoing, the Excluded Liabilities shall include each of the following Liabilities of the Debtors:

- (a) all Liabilities under Hedge Contracts of the Debtors;
- (b) all Indebtedness of any Debtor; all guarantees of third party obligations by the Debtors and reimbursement obligations to guarantors of the Debtors' obligations or under letters of credit; and all Liabilities of the Debtors to any owner or former owner of capital stock or warrants, or holder of Indebtedness;
- (c) except for Pre-Petition Cure Costs, all accrued expenses and accounts payables, including Unpaid Post-Petition Amounts;

(d) all Taxes of Company or any of its Subsidiaries, other than Transfer Taxes;

(e) all Actions and Proceedings initiated prior to the Closing, including those set forth on Disclosure Schedule 5.15, or that are initiated after Closing and relate to any Excluded Liabilities, and all Liabilities arising as a result of any such Actions or Proceedings;

(f) all Excluded Employee Liabilities;

(g) all Liabilities under the WARN Act with respect to Employees who do not become Transferred Employees or, with respect to Transferred Employees, Liabilities that arise prior to or as of the Closing;

(h) except for Pre-Petition Cure Costs, all Liabilities attributable to, arising out of or in connection with, or that are based upon accounting for, failure to pay or the incorrect payment to any royalty owner, overriding royalty owner, or other interest holder under the Transferred Real Property Interests insofar as the same are attributable to periods and coals produced prior to the Closing;

(i) all Post-Petition Cure Costs and all Cure Costs with respect to any Contract that is not an Assigned Contract;

(j) all Liabilities attributable to, arising out of or in connection with, or that are based upon (1) the acts or omissions of the Debtors or any Affiliate of the Debtors as operator of any of the Transferred Assets, (2) property damage or bodily injury, illness or death arising out of, incident to or in connection with operations on any of the Transferred Assets prior to the Closing, (3) disposal or transportation of any Hazardous Substances from the Transferred Assets prior to the Closing, (4) Liabilities of any Debtor to any of its Affiliates, or (5) except for the Assumed Liabilities specifically described in Section 2.4 above, the ownership, operation, use, maintenance or other disposition of any of the Transferred Assets or the Business prior to the Closing;

(k) all Liabilities of any Debtor or any of their Affiliates relating to or arising from unfulfilled commitments, quotations, purchase orders, customer orders or work orders prior to the Closing Date that are not validly and effectively assigned to NewCo pursuant to this Agreement;

(l) any Excluded Pre-Closing Fines;

(m) other than the Assumed Liabilities pursuant to Section 2.4(f), all Liabilities attributable to, arising out of, or in connection with the failure by any Debtor or any of its Affiliates to comply with any Legal Requirements or Order by any Governmental Authority including any such obligations or Liabilities arising as a result of any Debtor's failure to comply with the terms of any Legal Requirements;

(n) all Liabilities attributable to, arising out of or in connection with any coal sales or other goods sold or any service provided by the Debtors or their Affiliates,

attributable to, arising out of or in connection with events occurring on or prior to Closing, excluding any Liability with respect to any delivery or service to be provided by NewCo following the Closing and that is not first due until after the Closing, but including any such Liability or obligation (i) pursuant to any express or implied representation, warranty, agreement, coal specification undertaking or guarantee made by any Debtor or any Affiliate of such Debtor, or alleged to have been made by Debtor or any Affiliate of such Debtor, (ii) imposed or asserted to be imposed by operation of Legal Requirements, or (iii) pursuant to any doctrine of product liability, in each case to the extent arising out of or related to events occurring on or prior to Closing;

(o) all Liabilities (whether arising before, on or after Closing) with respect to or otherwise attributable to, arising out of or in connection with any employee or former employee of any Debtor or any Affiliate of any Debtor (or any individual who applied for employment with any Debtor) who is not a Transferred Employee;

(p) all trade accounts payable, all accrued operating expenses and other current liabilities of the Debtors related to the Business;

(q) except for those Liabilities set forth in Section 2.4(f), all Liabilities pursuant to Environmental Law arising from or related to any use, transportation, Release, treatment, storage, or disposal of, or human exposure to, Hazardous Substance at any location not originating from the Purchased Assets or related to the Business (the “Excluded Unrelated Environmental Liabilities”); and

(r) all Liabilities under, arising out of or related to any of the Excluded Assets;

(s) all Liabilities with respect to any costs, fees and expenses (including all legal, accounting, financial advisory, valuation, investment banking and other third party advisory or consulting fees and expenses) incurred by or on behalf of any Debtor in connection with or arising from the Chapter 11 Cases or the transactions contemplated by this Agreement or the other Transaction Documents;

(t) except for Pre-Petition Cure Costs, all Liabilities existing prior to the filing of the Chapter 11 Cases that are subject to compromise under the Chapter 11 Cases;

(u) all Liabilities relating to any theories of any Legal Requirement or equity involving successors or transferees; and

(v) all Liabilities and obligations of Company under this Agreement and the other Transaction Documents.

2.6 Assigned Contracts and Cure Costs.

(a) On the Closing Date, as part of the Contribution made pursuant to Section 4.4(a), Knight Hawk shall provide HoldCo with sufficient funds to allow HoldCo to make available to NewCo, and Knight Hawk and the Supporting Holders shall cause HoldCo to make available to NewCo, such funds to pay (or cause to be paid), pursuant to Section 365 of the

Bankruptcy Code and the Confirmation Order (or the Sale Order, if applicable), any and all cure and reinstatement costs or expenses that are required to be paid under sections 365(b)(1)(A) and (B) of the Bankruptcy Code in connection with the assumption and assignment of the Assigned Contracts and that arose prior to the Petition Date, including, for the avoidance of doubt, all monetary defaults under the Royalty Agreements that arose prior to the Petition Date (the “Pre-Petition Cure Costs”). For the avoidance of doubt, (i) NewCo shall pay (or cause to be paid) all Cure Costs in cash at such time as is provided in the preceding sentence or as otherwise provided in Section 2.6(e), (ii) the Pre-Petition Cure Costs are separate and apart from, and in addition to, the Noteholder Equity Issuance Consideration and, (iii) none of Knight Hawk, NewCo or the Supporting Holders shall be required to make any payment of Cure Costs for, and shall not assume any Liabilities with respect to, any Contract that is not an Assigned Contract. Notwithstanding anything else to the contrary herein, all Royalty Agreements shall be assumed and assigned to NewCo or otherwise conveyed to NewCo and all Pre-Petition Cure Costs thereunder paid by NewCo or the Debtors on or prior to the Effective Date.

(b) On or prior to December 6, 2017, Company shall deliver to Knight Hawk a Schedule 2.6(b) that sets forth each Executory Contract and Company’s good faith estimate of the amount of (i) the Pre-Petition Cure Costs and (ii) any and all cure and reinstatement costs or expenses that are required to be paid under sections 365(b)(1)(A) and (B) of the Bankruptcy Code in connection with the assumption and assignment of the Assigned Contracts and that arose on or after the Petition Date but prior to the Closing, including amounts necessary to cure all monetary defaults under the Royalty Agreements that arise on or after the Petition Date (“Post-Petition Cure Costs” and together with the Pre-Petition Cure Costs, the “Cure Costs”), payable in respect of each such Executory Contract (and if no Cure Cost is estimated to be payable in respect of any particular Executory Contract, the amount of such Cure Cost designated for such Contract shall be “\$0.00”). On the Closing Date, the Debtors shall provide HoldCo with sufficient funds, which HoldCo shall make available to NewCo, to pay (or cause to be paid), (x) pursuant to Section 365 of the Bankruptcy Code and the Confirmation Order (or the Sale Order, if applicable), any and all Post-Petition Cure Costs that have not been paid before the Closing, and (y) the amounts that are accrued as of the Closing but not yet due and payable with respect to the Assigned Contracts (clauses (x) and (y) collectively, “Unpaid Post-Petition Amounts”).

(c) On or prior to December 9, 2017, and subject to the Required Supporting Holders’ and Knight Hawk’s rights under Section 2.6(e) below to subsequently amend such designations, the Supporting Holders and Knight Hawk will deliver to Company a Schedule 2.6(c), to be determined in the Required Supporting Holders’ and Knight Hawk’s sole discretion, which shall be a schedule of the Executory Contracts to be assumed by the Debtors and assigned to NewCo (as Assigned Contracts) at the Closing. Company shall provide sufficient notice under the Bankruptcy Code and local rules of the Bankruptcy Court to all counterparties to the Assigned Contracts of their assumption or rejection and, with respect to the Assigned Contracts to be assumed, also provide a schedule of Pre-Petition Cure Costs and Post-Petition Cure Costs. Any Executory Contracts that are not set forth on Schedule 2.6(c), as amended in accordance herewith, shall be Excluded Contracts. Notwithstanding anything to the contrary herein, all Royalty Agreements shall be listed on Schedule 2.6(c).

(d) In accordance with the procedures set forth in the Plan, Company shall deliver a written notice in a form reasonably acceptable to the Required Supporting Holders and Knight Hawk of the proposed assignments of the Executory Contracts and the proposed Cure Costs for each Executory Contract to all non-Debtor parties of Executory Contracts, with such notice providing to each non-Debtor party notice of (i) the proposed assumption and assignment and the Cure Cost for such Executory Contract and (ii) the objection deadline for such non-Debtor party to object to the proposed Cure Cost. Subject to the limitations set forth herein, and in the Plan, to the extent that any objections are received from such non-Debtor parties in response to such notice, the Debtors shall use their commercially reasonable efforts to resolve such disputes with the applicable non-Debtor party, subject to the consent (not to be unreasonably withheld, conditioned or delayed) of Required Supporting Holders and Knight Hawk.

(e) At any time prior to the Designation Deadline, the Required Supporting Holders and Knight Hawk shall have the right, which may be exercised by the Required Supporting Holders and Knight Hawk in their mutual discretion, to provide written notice to Company (each such notice, a "Contract Notice") of their election to designate any Executory Contract (including any Contract that is an Assigned Contract immediately before such designation) (1) as an Excluded Contract, and upon such designation such Contract shall constitute an Excluded Contract and, if applicable, shall cease to constitute an Assigned Contract or (2) to the extent not already rejected, as an Assigned Contract and upon such designation such Contract shall constitute an Assigned Contract and shall cease to constitute an Excluded Contract. If, at any time after the Designation Deadline, the Pre-Petition Cure Costs fixed by the Bankruptcy Court for any Assigned Contract are (i) greater than the amount set forth on the initial schedule of Pre-Petition Cure Costs filed by Company with the Bankruptcy Court prior to the Designation Deadline and (ii) are not consented to by the Required Supporting Holders and Knight Hawk, then the Required Supporting Holders and Knight Hawk shall be permitted, no later than two (2) Business Days after entry of an order by the Bankruptcy Court setting such Pre-Petition Cure Costs, to provide Company a Contract Notice of their election to revoke their designation of any such Contract as an Assigned Contract and thereupon such Contract shall be deemed to be an Excluded Contract for all purposes of this Agreement. The Parties shall amend Schedule 2.6(c) to reflect changes made pursuant to this Section 2.6(e). Notwithstanding the foregoing, no Royalty Agreement shall be designated as an Excluded Contract.

(f) If the Required Supporting Holders and Knight Hawk exercise their rights in Section 2.6(e) above to designate a Contract, including a Contract that was an Assigned Contract immediately before such designation, as an Excluded Contract, there shall be no reduction in the Noteholder Equity Issuance Consideration as a result of such designation or change in designation.

2.7 Further Assurances.

(a) From time to time following the Closing, Company and NewCo shall, and shall cause their respective controlled Affiliates to, execute, acknowledge and deliver all such further conveyances, notices, assumptions, assignments, releases and other instruments, and shall take such further actions, as may be reasonably necessary or appropriate (i) to fully transfer from the Debtors to NewCo of all of the Transferred Assets, (ii) to cause NewCo to fully

assume the Assumed Liabilities, and (iii) to otherwise make effective the Sale Transaction contemplated hereby; *provided, however*, nothing in this Section 2.7 shall require NewCo or any of its respective Affiliates to assume any of Debtors' Liabilities other than the Assumed Liabilities. Notwithstanding the foregoing, nothing in this Section 2.7 shall prohibit Company or any of its Affiliates from ceasing operations or winding up its affairs following the Closing.

(b) Without limiting the generality of Section 2.7(a), if an Affiliate of Company that is a Debtor owns interests in any property or asset that constitutes a Transferred Asset and that is not conveyed or assigned to NewCo at the Closing pursuant to this Agreement, then Company shall cause such Affiliate to convey such interests to NewCo by appropriate instrument.

2.8 Apportionment and Real and Personal Property Tax Matters.

(a) All rentals and royalties, excluding all un-recouped minimum royalties existing as of the Closing which shall be transferred to NewCo with the Assigned Leases, payable by Debtors to the lessors or sublessors under the Assigned Leases shall be apportioned as of the Closing Date (on a per diem basis to the extent practicable).

(b) All ad valorem Taxes and unmined mineral Taxes due and payable by any Debtor and levied with respect to all Transferred Real Property Interests and all personal property constituting the Transferred Assets and any portion thereof for the year in which the Closing occurs shall be prorated per diem as of the Closing Date, with Debtors responsible for all such Taxes applicable to the period prior to and including the Closing Date and with NewCo responsible for all such Taxes applicable to the period after the Closing Date. If the amount of any such Taxes is not known as of the Closing Date, such Taxes shall be prorated based on the Tax bills for the immediately preceding year, and the Parties will, on a post-Closing basis, prorate such Taxes once the actual Taxes are known, and shall remit to each other any amounts owed. Each Debtor shall, prior to the Closing Date, pay all assessments and ad valorem Taxes owed by such Debtor and levied with respect to the Transferred Assets due and payable for all periods prior to the Closing Date. Each Debtor shall cause, to the extent reasonably practical, all meters measuring the consumption of water, gas, electricity or other utilities to be read prior to the Closing Date, and the apportionment to be made on account of such utilities shall be made pursuant to such readings; provided, however, that if and to the extent the meter readings cannot be obtained prior to the Closing Date, the apportionment of utilities at Closing shall be completed based upon the average of the three (3) months' prior bills.

ARTICLE III

Sale Transaction; Consideration

3.1 Sale Transaction. Upon the terms and subject to the conditions of this Agreement and the Plan, on the Closing Date, (a) immediately upon the consummation of the Transfer and Assumption, the Noteholder Equity Issuance shall be consummated in satisfaction of \$90,000,000 of Indenture Obligations (the "Noteholder Equity Issuance Consideration") and (b) immediately upon the consummation of the Noteholder Equity Issuance, the Knight Hawk Equity Issuance shall be consummated.

3.2 Saleable Coal Inventory. In addition to the consideration to be paid by Knight Hawk under Section 2.6 and in accordance with Section 4.4(a), Knight Hawk shall provide HoldCo, who shall provide NewCo, with sufficient funds to pay to the applicable Debtor(s) at Closing, the Inventory Purchase Price for the Saleable Coal Inventory, in each case, as of 12:01 am CST on the Closing Date. As used herein, the term “Inventory Purchase Price” means the lower of cost or market, determined in accordance with GAAP and with Company’s past practice, and deducting with respect to raw coal all processing costs to be incurred, for each ton of Saleable Coal Inventory. As used herein, the term “Saleable Coal Inventory” means (i) all clean, processed severed coal of a saleable quality on a blended basis at each clean coal stockpile or loadout as set forth on Schedule 3.2, plus (ii) the anticipated clean coal yield of all stockpiled raw coal awaiting processing located at the preparation plant of a Debtor awaiting processing, taking into account the most current yield of the applicable plant, on a blended basis. For the avoidance of doubt, Saleable Coal Inventory does not include the severed coal making up the pad of a stockpile. The quantity of raw and clean severed coal and the anticipated yield of raw coal for purposes of computing clean coal equivalent will be determined by Engineer, and Engineer’s determination of the amount of Saleable Coal Inventory as of 12:01 am CST on the Closing Date shall be final and binding on the Parties unless they mutually agree to an adjustment due to an error in Engineer’s calculation that is apparent on the face of such calculation. Knight Hawk, on the one hand, and Debtors, on the other hand, shall each bear fifty percent (50%) of the fees and expenses of Engineer.

3.3 Substantially Contemporaneous Transactions. All transactions consummated at the Closing in connection with the consummation of the Sale Transaction shall be deemed to have occurred substantially contemporaneously in accordance with the terms of this Agreement, and no such transaction shall be considered consummated unless all such transactions are consummated.

ARTICLE IV

Closing

4.1 Closing Date. Upon the terms and subject to the conditions hereof and under the Plan, the closing of the Sale Transaction and the other transactions contemplated hereby and under the Plan to take place and become effective on the Effective Date (the “Closing”) shall take place and become effective upon the Effective Date, subject to the satisfaction or waiver of the conditions set forth in Article IX and Article X hereof (other than conditions that by their nature are to be satisfied at the Closing itself, but subject to the satisfaction or waiver of those conditions). The date and time at which the Closing actually occurs is hereinafter referred to as the “Closing Date”.

4.2 Supporting Holders’ Deliveries. At the Closing, and subject to the simultaneous performance by the Debtors of their obligations under Section 4.3, the Supporting Holders shall deliver (or cause to be delivered) to the Debtors (or such other Persons where so designated):

(a) the certificates of the Supporting Holders to be received by the Debtors pursuant to Sections 10.1 and 10.2

(b) the Operating Agreement to Knight Hawk, duly executed by an authorized officer of each of the Supporting Holders; and

(c) the Noteholder HoldCo Equity Conveyance to Knight Hawk, duly executed by an authorized officer of HoldCo.

4.3 Debtors' Deliveries. At the Closing, and subject to the simultaneous performance by the Supporting Holders of their obligations under Section 4.2 and Knight Hawk of its obligations under Section 4.4:

(a) the Debtors shall deliver to the Supporting Holders and Knight Hawk:

(i) the Assumption Agreement, duly executed by authorized Representatives of the Debtors and NewCo;

(ii) the Assignments, duly executed by authorized Representatives of the Debtors and NewCo and in recordable form;

(iii) the Debtor HoldCo Equity Conveyance to the Noteholders, duly executed by an authorized officer of Company;

(iv) the Operating Agreement, duly executed by an authorized officer of HoldCo;

(v) the certificates to be received by the Supporting Holders and Knight Hawk pursuant to Sections 9.1 and 9.2;

(vi) a certificate from each Debtor that such Debtor is not a foreign person within the meaning of section 1445(f)(3) of the Tax Code, which certificate shall set forth all information required by, and otherwise be executed in accordance with, Treasury Regulations Section 1.1445-2(b)(2);

(vii) all Records that are located on the Transferred Owned Real Property or Assigned Leases, provided that for the avoidance of doubt, delivery of the conveyance instruments pursuant to Section 4.3(a)(iii) shall be deemed delivery of the Records located on the Transferred Owned Real Property or Assigned Leases; and

(viii) all other endorsements, assignments and other instruments of conveyance and transfer, in form and substance reasonably acceptable to the Required Supporting Holders and Knight Hawk, as may be necessary, to convey and assign the Transferred Assets to NewCo and vest title therein in NewCo (in each case free and clear of all Encumbrances other than Permitted Encumbrances), and such additional documents customary in similar transactions as might be reasonably requested by the Supporting Holders and are reasonably required to consummate the transactions contemplated by this Agreement; and

(b) the Debtors shall pay (or cause to be paid) to HoldCo, pursuant to Section 365 of the Bankruptcy Code and the Confirmation Order (or the Sale Order, if applicable) and this Agreement, any and all Unpaid Post-Petition Amounts.

4.4 Knight Hawk's Deliveries. At the Closing, and subject to the simultaneous performance by the Debtors of their obligations under Section 4.3, Knight Hawk shall:

(a) make a capital contribution to HoldCo in an amount equal to (i) the Pre-Petition Cure Costs, which shall be used by HoldCo to make a capital contribution to NewCo to pay any and all Pre-Petition Cure Costs required to be paid pursuant to Section 2.6(a), plus (ii) the cash value of the Prepaid Expenses for Transferred Assets usable by NewCo and as set forth on Schedule 4.4(a)(ii), *provided, however* such amount shall not exceed \$600,000; *provided, further* that such amount shall immediately thereafter be contributed to NewCo and immediately thereafter, be paid to the Company, plus (iii) the amount of the Inventory Purchase Price, and such additional working capital as may be agreed by the Required Supporting Holders and Knight Hawk (clauses (i) through (iii), collectively, the "Contribution");

(b) deliver (or cause to be delivered) to HoldCo the Operating Agreement, duly executed by an authorized officer of Knight Hawk; and

(c) deliver (or cause to be delivered) to NewCo the Interim Permit Operating Agreement, duly executed by the applicable Debtors, NewCo, and, to the extent necessary, Knight Hawk and any other necessary parties.

ARTICLE V

Representations and Warranties of the Debtors

Except as disclosed in the Disclosure Schedules attached hereto, each of the Debtors hereby jointly and severally represents and warrants to the other Parties as of the Execution Date and as of the Closing Date the following:

5.1 Organization and Good Standing. Each Debtor (a) is an entity duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization, (b) has the requisite corporate, partnership or limited liability company power and authority to own or lease and to operate and use its properties and to carry on its business as now conducted and (c) is duly qualified or licensed to do business and is in good standing in each jurisdiction where the character of its business or the nature of its properties makes such qualification or licensing necessary, except for such failures to be so qualified or licensed or in good standing as would not, individually or in the aggregate, have a Material Adverse Effect.

5.2 Authority; Validity; Consents.

(a) Each Debtor has, subject to requisite Bankruptcy Court approval, the requisite corporate, limited liability company or other entity power and authority necessary to enter into and perform its obligations under this Agreement and the other Transaction

Documents to which it is a party and to consummate the transactions contemplated hereby and thereby, and, subject to requisite Bankruptcy Court approval, the execution, delivery and performance of this Agreement and such other Transaction Documents by such Debtor and the consummation by it of the transactions contemplated herein and therein have been duly and validly authorized by all requisite corporate, limited liability company or other entity (as applicable) action. This Agreement has been duly and validly executed and delivered by each Debtor and each other Transaction Document required to be executed and delivered by a Debtor at the Closing will be duly and validly executed and delivered by such Debtor at the Closing. Subject to requisite Bankruptcy Court approval and entry of the Confirmation Order (or the Sale Order, if applicable), this Agreement and the other Transaction Documents constitute the legal, valid and binding obligations of such Debtor, enforceable against such Debtor in accordance with their respective terms, except as such enforceability is limited by general principles of equity.

(b) Subject to requisite Bankruptcy Court approval, except (i) for entry of the Confirmation Order (or the Sale Order, if applicable), (ii) for those notices, filings and consents required in connection with the Chapter 11 Cases, (iii) for notices, filings, consents and approvals from Governmental Authorities in connection with the assignment of certain applicable Transferred Assets to NewCo and which are customarily obtained after assignment of properties similar to such Transferred Assets, and (iv) as set forth on Disclosure Schedule 5.2(b) there are no other consents required and the Debtors are not required to give any other notice to, make any other filing with or obtain any other consent from any Person (including any Governmental Authority) in connection with the execution and delivery of this Agreement and the other Transaction Documents or the consummation or performance of any of the transactions contemplated hereby and thereby, except for such notices, filings and consents, the failure of which to provide, make or obtain, would not, individually or in the aggregate, have a Material Adverse Effect.

5.3 No Conflict. Except for the notices, filings and consents set forth on Disclosure Schedule 5.3 and upon obtaining requisite Bankruptcy Court approval, including entry of the Confirmation Order (or the Sale Order, if applicable), the execution and delivery of this Agreement and the other Transaction Documents and the consummation of the transactions provided for herein and therein will not result in the breach of any terms and provisions of, or constitute a default under, or conflict with, or cause any acceleration of any obligation of any Debtor under (a) any Permit, Lease, or Material Contract by which it or any material Transferred Asset is bound, (b) its Governing Documents, or (c) any applicable Order or Legal Requirement.

5.4 Material Contracts. Except as otherwise set forth on Disclosure Schedule 5.4:

(a) Disclosure Schedule 5.4(a) lists all Material Contracts in effect as of the Execution Date. The Debtors have made available to the other Parties accurate and complete copies of each Material Contract on or prior to the Update Date. Subject to the payment of any Cure Costs, (i) each Material Contract is a valid and binding agreement of each Debtor party thereto, enforceable in accordance with its terms against such Debtor, and to Company's Knowledge, against each other party thereto; and (ii) each Debtor has performed in all material respects, and, to the Knowledge of Company, each other party thereto has performed

in all material respects, each term, covenant and condition of each Material Contract required to be performed. There are no defaults, or breaches, or uncured violations that will lead to a termination of any Material Contract, except for any such defaults, breaches or uncured violations that would be cured through payment of the Cure Costs or arising solely as a result of the Chapter 11 Cases. There are no events, which with notice, the passage of time or both, would constitute such defaults, breaches or uncured violations that would lead to termination under any Material Contract, except for any such defaults or breaches that would be cured through payment of the Cure Costs or arising solely as a result of the Chapter 11 Cases. No written notice of default or breach has been received or delivered by Company or any other Debtor under any Material Contract, the resolution of which is currently outstanding. No currently effective written notices have been received by Company or any other Debtor of the exercise of any premature termination, price redetermination, market-out, shut-in or curtailment of or under any of the Material Contracts. No Debtor has received any notice that any of the other parties to the Material Contracts will cause termination or fail to perform such party's obligations under any of the Material Contracts.

(b) Neither Company nor any other Debtor is obligated by virtue of any "take or pay" payment, advance payment or other similar payment to deliver coals, or proceeds from the sale thereof, attributable to the Transferred Real Property Interests at some future time without receiving payment therefor at or after the time of delivery.

5.5 Permits.

(a) Set forth on Disclosure Schedule 5.5(a) is a complete list of: (i) all of the Permits held by the Company and its Affiliates in the ownership and operation of the Transferred Real Property Interests and the Business, together with a description of the permitted property or facility, together with a true and complete list of all pending applications for additional Permits, renewals of existing Permits, or amendments to existing Permits; (ii) the applicable surety bonds and the amounts of the surety bonds under the Permits; and (iii) all of the material licenses, franchises, certificates, consents, authorizations, approvals, orders and concessions held by the Company or its Affiliates and used in connection with the Transferred Real Property Interests and the Business, together with a true and complete list of all pending applications for additional licenses, renewals of existing licenses, or amendments to existing licenses, which have been submitted to any Government Authority applicable to the Transferred Real Property Interests and the Business.

(b) The Transferred Permits constitute all material permits, licenses, authorizations, governmental approvals, franchises, grants, easements, variances, exceptions, consents, certificates, approvals and related instruments or rights issued, granted, given, or otherwise made available by or under the authority of any Governmental Authority and that are necessary and sufficient to permit ownership and operation of the Transferred Real Property Interests and the Business as presently owned and operated by Company and the other Debtors, and each is in full force and effect and has been duly and validly issued and are final, unappealed, valid, and in good standing and there are no Proceedings pending, or to the Knowledge of Company, threatened in writing, that could be reasonably expected to result in the revocation, cancellation, suspension or modification of any Transferred Permits. There are no Proceedings pending or, to the Knowledge of Company, threatened, with respect to any alleged

failure to have all or any material Permits required in connection with the operation of the Business as currently conducted or in connection with the ownership or operation of the Transferred Assets. The Company and the other Debtors are the only operators under the Transferred Permits and are in compliance in all material respects with the Transferred Permits. No notice of suspension, revocation or cancellation of any of the Transferred Permits is, to Debtors' Knowledge, threatened. In the past two (2) years, neither the Company nor any of the other Debtors has had any Transferred Permits or any applications therefor, appealed, denied, revoked, restricted or suspended. Neither the Company nor any of the other Debtors is currently a party to any proceedings involving the possible appeal, denial, revocation, restriction or suspension of any Transferred Permits or any of the privileges granted thereunder. Except as set forth on Schedule 5.5(b), neither the Company nor any Affiliate is permit blocked or the Applicant Violation System by a Governmental Authority.

5.6 Real Property.

(a) Owned Real Property. Disclosure Schedule 5.6(a) sets forth an accurate and complete list of the Owned Real Property. The property maps attached to Disclosure Schedule 5.6(a) depict in a reasonably accurate manner the location and boundaries of the Owned Real Property. True and complete copies of the following have been delivered to Knight Hawk and the Required Supporting Holders: (i) all deeds, title insurance policies, title insurance commitments, title reports, title opinions, title abstracts, maps and surveys related to the Transferred Real Property Interests and (ii) all documents evidencing recorded and unrecorded Encumbrances upon the Transferred Real Property Interests. Subject to the standard warranty limitations as set forth in a special warranty deed, the Debtors have good and valid title to the Owned Real Property, free and clear of all Encumbrances, except Permitted Encumbrances. Debtors have obtained all appropriate certificates of occupancy and Surface Interests required to use and operate the Owned Real Property in the manner in which the Owned Real Property is currently being used and operated in connection with the Business. No Debtor has received written notice of any intention on the part of any issuing authority to cancel, suspend or modify any material approvals, licenses or permits relating to the Owned Real Property. No Debtor has received written notice of any proposed special assessment that would materially and adversely affect the Owned Real Property. Except as set forth on Disclosure Schedule 5.6(a), there are no outstanding options or rights of first refusal to purchase any of the Owned Real Property or any interest therein. Except for the Lessor Leases and as otherwise set forth on Disclosure Schedule 5.6(a), none of the Owned Real Property is subject to any lease or grant to any third party of any right to the use, purchase, occupancy or enjoyment of such Owned Real Property or any material portion thereof required to conduct the Business. Except for Permitted Encumbrances and the applicable terms of Permits held by the Debtors and their Affiliates, the Owned Real Property is not subject to any Encumbrances (other than liens that will be removed pursuant to the Confirmation Order or the Sale Order, as applicable), which in any material respect interfere with or impair the present and continued use thereof in the Ordinary Course of Business. There are no pending or, to Company's Knowledge, threatened condemnation proceedings relating to any of the Owned Real Property except those that do not materially impair or restrict the current use of the Owned Real Property subject thereto.

(b) Lessor Leases. Disclosure Schedule 5.6(b) lists, as of the Execution Date, all leases, subleases, licenses, sublicenses, occupancy or other agreements

whereby any Debtor currently leases, subleases, licenses or grants an interest in any Owned Real Property or Leased Real Property to a third party (the “Lessor Leases”). The Debtors have made available, accurate and complete copies of the Lessor Leases, including any amendments thereto. Other than as a result of the Chapter 11 Cases, the Debtors are not in material breach of or in default under the Lessor Leases and, to Company’s Knowledge, no party to any Lessor Lease has given the Debtors written notice of or, to Company’s Knowledge, made a claim with respect to any material breach or material default by the Debtors thereunder (other than as a result of the Chapter 11 Cases).

(c) Leased Real Property. Disclosure Schedule 5.6(c) contains a list of all Leased Real Property and Surface Interests held or used for, or necessary to the operation of the Business and recording information for the Leases that have been recorded. The Debtors have made available accurate and complete copies of all Leases and Contracts conveying Surface Interests (“Surface Interest Instrument”). Other than as a result of the Chapter 11 Cases, the Debtors are not in (i) breach of any material term or (ii) default in any material respect under any Lease or Surface Interest Instrument and no party to any Lease or Surface Interest Instrument has given the Debtors written notice of or made a claim with respect to any material breach or material default thereunder. Other than as a result of the Chapter 11 Cases, there are no conditions that currently exist or that, with the passage of time, will result in a default or breach of any material term by any the Debtor who is a party to the Lease or Surface Interest Instrument. None of the Leased Real Property or Surface Interests is subject to any sublease or grant to any third party of any right to the use, occupancy or enjoyment of the Leased Real Property, Surface Interests or any portion thereof that would materially impair the use of the Leased Real Property or Surface Interests in the operation of the Business. Except as set forth on Disclosure Schedule 5.6(c), the Debtors have not received written notice of any pending or threatened condemnation or other proceedings or claims relating to the Debtors’ interest in any of the Leased Real Property or Surface Interests. Except as set for on Disclosure Schedule 5.6(c), the Leases have not been amended or modified, assigned or subleased. The property maps attached to Disclosure Schedule 5.6(a) include a depiction in a reasonably accurate location and boundaries of the Leased Real Property. Disclosure Schedule 5.6(c) contains a true and complete list of all prepaid royalties and un-recouped minimum royalties for each Lease as of October 31, 2017. Each Lease and Surface Interest Instrument is in full force and effect and constitutes a valid and binding obligation of each applicable Debtor, and to such Debtors’ Knowledge, the other parties thereto. The estate created by each Lease and Surface Interest Instrument is free and clear of all Encumbrances other than Permitted Encumbrances. The Leases and Surface Interests constitute all leases, rights of way, easements, surface use rights, water rights, licenses and authorizations necessary to access, own and operate the Transferred Real Property Interests, as currently accessed, owned and operated by the Debtors in the Ordinary Course of Business.

5.7 Mines; Mining.

(a) All currently producing mines are in an operable state of repair in all material respects adequate to maintain normal Mining operations in accordance with the Company or other Debtors, as applicable, past practices, ordinary wear and tear excepted.

(b) There are no platforms, pits, or other facilitates or equipment located on any Transferred Real Property Interests that (i) are obligated by any Legal

Requirements to be dismantled, closed or abandoned or that are currently subject to exceptions to a requirement to abandon issued by a Governmental Authority or (ii) have been dismantled, closed or abandoned in a manner that does not comply in all respects with applicable Leases, Contracts and Legal Requirements.

(c) Each Debtor has, in the amounts and forms required pursuant to applicable Mining and Mining Safety Laws, obtained all performance bonds and surety bonds, or otherwise provided any financial assurance as (i) required under the applicable Permits or Mining and Mining Safety Laws for Reclamation of land, water or other natural resources at any current mines, (ii) required pursuant to any applicable Permit or Mining and Mining Safety Law to mitigate any actual or potential environmental impact of such mines, or (iii) otherwise obtained in the Ordinary Course of Business (collectively, “Mining Financial Assurances”), except for the failure to have such Mining Financial Assurances that would not reasonably be expected to have a Material Adverse Effect. Company has posted or otherwise provided all Mining Financial Assurances that have been requested in writing by the applicable Governmental Authorities in respect of any applicable Permits and Legal Requirements having to do with Reclamation in connection with the Debtors’ Mining operations as currently conducted, subject to the discretion of any applicable Governmental Authority to require additional or supplemental Mining Financial Assurances from time to time, except where the failure to post or otherwise provide would not reasonably be expected to have a Material Adverse Effect.

(d) All Reclamation performed by or on behalf of Company and the other Debtors meets in all material respects the requirements of the applicable Permit and any associated mine Reclamation requirements of any applicable Governmental Authority. The liability for mine closing and Reclamation obligations recorded on the most recent balance sheet of Company provided to the Supporting Holders and Knight Hawk has been properly accrued in accordance with the requirements of Financial Accounting Standards Board Codification Topic 410, Asset Retirement and Environmental Obligations, formerly known as Financial Accounting Standard No. 143 (“FASB 410”), determined on the basis of the Debtors’ actual historic Reclamation and closure costs and currently planned mine life and escalated for inflation, in accordance with FASB 410 and applicable Legal Requirements.

5.8 Capital Expenditures. Disclosure Schedule 5.8 sets forth the expected capital expenditures budget for the Debtors with respect to the Business and the Transferred Assets as of the Execution Date.

5.9 Financial Statements. The unaudited financial statements for the nine-month period ended September 30, 2017 and the audited financial statements dated December 31, 2016 of the Company (collectively, the “Financial Statements”), true and accurate copies of which have been provided to Required Supporting Holders and Knight Hawk, were prepared on a basis consistent with GAAP consistently applied throughout the periods involved (except as indicated in any notes thereto) and present fairly, in all material respects, the financial position and results of operations of the Company for the periods specified therein, subject to normal year-end adjustments.

5.10 Hedging. There are no Hedge Contracts of any Debtor or otherwise with respect to the sale of coals from the Transferred Assets that are or will be binding on the Transferred Assets or NewCo at any time on or after the Closing Date.

5.11 Preferential Purchase Rights; Other Rights. Except as set forth on Disclosure Schedule 5.11, there are no (a) Preferential Purchase Rights applicable to the transactions contemplated by this Agreement or (b), tag along rights, drag along rights, co-sale rights or similar rights applicable to the transactions contemplated by this Agreement.

5.12 Suspense Funds. Disclosure Schedule 5.12 sets forth a list, true and correct as of the date set forth therein, of all Suspense Funds and the names of the parties to whom such funds are owed.

5.13 Intellectual Property. Except as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, the conduct of the Business does not infringe or otherwise violate any Intellectual Property or other proprietary rights of any other Person, and there is no action pending or, to the Knowledge of Company, threatened, alleging any such infringement or violation or challenging any Debtor's rights in or to any of their respective Intellectual Property and, to the Knowledge of Company, there is no existing fact or circumstance that would reasonably be expected to give rise to such action.

5.14 Taxes. Except as set forth in Disclosure Schedule 5.14:

(a) All federal income and other material Tax Returns required to be filed by any Debtor or with respect to any of the Transferred Assets, have been properly prepared and timely filed, and all such Tax Returns (including information provided therewith or with respect to thereto) are true, complete and correct in all material respects;

(b) Each Debtor has fully and timely paid or caused to be paid all Taxes shown as due on any Tax Return and all other material Taxes or, to the extent any such Taxes are not yet due, such Taxes have been accrued and fully provided for in accordance with GAAP or will be provided for when required under GAAP on Company's financial statements;

(c) No audit or other proceeding by any Governmental Authority is pending or, to the Knowledge of Company, threatened with respect to any Taxes due by or with respect to any Debtor or with respect to any of the Transferred Assets;

(d) No written notice has been received from any Governmental Authority of any intention to assert any deficiency or claim for additional Taxes against any Debtor or with respect to any of the Transferred Assets;

(e) No written claim has been received from any Governmental Authority in a jurisdiction where Company or any other Debtor does not file Tax Returns stating that it is or may be subject to taxation by that jurisdiction;

(f) All deficiencies for Taxes asserted or assessed against any Debtor or with respect to any of the Transferred Assets have been fully and timely paid, settled or properly reflected in Company's financial statements;

(g) There are no outstanding agreements extending or waiving the statutory period of limitations applicable to any claim for, or the period for the collection or assessment or reassessment of, Taxes due from any Debtor or with respect to the Transferred Assets for any taxable period and no request for any such waiver or extension is currently pending;

(h) Each applicable Debtor has withheld from its employees, independent contractors, creditors, stockholders and third parties, as applicable, and timely paid to the appropriate Governmental Authority proper and accurate amounts in compliance with all Tax withholding and remitting provisions of applicable Legal Requirements and has complied with all Tax information reporting provisions of all applicable Legal Requirements, other than immaterial failures in compliance and information reporting;

(i) There are no Encumbrances for Taxes upon the assets or properties of any Debtor, including the Transferred Assets, other than Permitted Encumbrances and there are no unpaid Taxes due and owing by Debtors that are or could reasonably be expected to become an Encumbrance;

(j) None of the Transferred Assets is subject to any tax partnership agreement or provisions requiring a partnership income tax return to be filed under Subchapter K of Chapter 1 of Subtitle A of the Tax Code or any similar state statute;

(k) No Debtor has ever been a party to any listed transaction within the meaning of Treasury Regulations section 1.6011-4(b)(2);

(l) There is no power of attorney (or similar authority) with respect to any Debtor as to any matters relating to Taxes that will have any effect after the Closing Date;

(m) There are no Tax indemnification or Tax sharing agreements under which any Debtor would reasonably be expected to be liable after the Closing for a material amount of Tax liability of any Person; and

(n) There is no material dispute or claim concerning any Tax Liability of the Debtors claimed or raised by any Governmental Authority.

5.15 Legal Proceedings. Except for the Chapter 11 Cases or as otherwise set forth on Disclosure Schedule 5.15, (a) there are no Proceedings pending or, to Company's Knowledge, threatened in writing against any Debtor with respect to or that materially affect any of the Transferred Assets or the Business or that materially involve or relate to any of the transactions contemplated by this Agreement or the other Transaction Documents, (b) there is no investigation, proceeding, charge or audit pending, of which Debtors have received written notice, or to Company's Knowledge threatened, before or by any Governmental Authority with respect to any Transferred Assets or the Business; (c) there has been no settlement or other similar agreement or Order with respect to the ownership or operation of the Transferred Assets or the Business that is or could reasonably be expected to be material; and (d) Debtors have not received any written notice or claim for tort or violation of any applicable Legal Requirement, or an investigation thereof with respect to their ownership or operation of the Transferred Assets or

the Business. No Debtor is in default in respect of any Order or process of any arbitrator or Governmental Authority applicable to the Transferred Assets in any material respect.

5.16 Labor Matters.

(a) Disclosure Schedule 5.16(a) sets forth a true, correct and complete list as of the Execution Date of all Employees, including each Employee's (i) name, (ii) legal employer, (iii) job title or function, (iv) job location, (v) salary or wage rate, (vi) bonus, commission or incentive compensation accrued in 2017, (vii) date of hire, (viii) exempt v. non-exempt status, (ix) full-time v. part-time status, (x) temporary or regular status and (xi) active or leave status. No Employee is located outside the jurisdiction of the United States.

(b) Disclosure Schedule 5.16(b) sets forth a true, correct and complete list of all Service Providers, including each such Person's (i) name, (ii) function or services provided, (iii) job location, and (iv) current compensation structure. Each applicable Debtor is, and for the past three (3) years has been, in compliance in all material respects with all applicable Labor Laws applicable to all Employees and Service Providers. There is no pending, nor threatened in writing, Proceeding reasonably likely to give rise to a material Liability asserting that any applicable Debtor has violated any Legal Requirement with respect to any Employee or Service Provider.

(c) No applicable Debtor is a party to any labor, collective bargaining, union or similar Contracts with respect to any Employee or Service Provider. No collective bargaining or any other labor-related Contract with any labor union or labor organization is currently being negotiated by any applicable Debtor with respect to any Employee or Service Provider. There is no pending or, to the Knowledge of Company, threatened organized effort or demand for recognition or certification or attempt to organize the Employees by any labor organization. During the past three (3) years, there have been no strikes, slow-downs, work stoppages, other labor disturbance or other concerted action by any union or other group of employees or other persons against or involving any applicable Debtor, nor is any such strike, slow-down, work stoppage, other labor disturbance or other concerted action by any union or other group of employees, to the Knowledge of Company, threatened against or involving any applicable Debtor.

(d) As of the Execution Date, there have been no "mass layoff" or "plant closing" (as defined by the WARN Act) with respect to any applicable Debtor in the ninety (90) days preceding the Execution Date. As of the Execution Date, no applicable Debtor has incurred any Liability under the WARN Act that remains unpaid or unsatisfied. Disclosure Schedule 5.16(d) sets forth a true and complete list of layoffs, by location, implemented by any Debtor in the 90-day period preceding the Execution Date at any location of the Company or its Subsidiaries.

(e) With respect to any Service Provider performing services in the three (3) years prior to or as of the Closing, no applicable Debtor has any material Liability with respect to any misclassification of such Service Provider as an independent contractor rather than as an employee (within the meaning of the Fair Labor Standards Act of 1938, as amended), or with respect to such Service Provider's status as a leased employee.

5.17 Employee Benefits. No Debtor nor any of its respective ERISA Affiliates sponsor, maintain, contribute to or have any Liability in respect of any defined benefit pension plan (as defined in Section 3(35) of ERISA) or plan subject to section 412 of the Tax Code or Section 302 of ERISA or Multiemployer Plan.

5.18 Sufficiency of Transferred Assets; Equipment; Casualties.

(a) The Transferred Assets constitute all of the material assets and rights necessary to conduct the Business and own and operate the Transferred Assets, as presently conducted, owned and operated by the Debtors; *provided*, that any asset excluded from the Transferred Assets by the Supporting Holders and Knight Hawk pursuant to Section 8.12 shall be deemed part of the Transferred Assets for purposes of the representation and warranty provided in this Section 5.18(a).

(b) The Transferred Equipment is capable of being used in the conduct of the Business in the manner in which they have been historically operated without present need for repair or replacement except in the Ordinary Course of Business.

(c) There has been no Casualty affecting any of the Transferred Assets or the Business in any material respect that has not subsequently been or is in the process of being repaired, replaced or restored.

5.19 Compliance with Laws. (a) The Debtors and each of their Affiliates own and operate, and for each of the prior three (3) years have at all times owned and operated, the Transferred Assets and conduct, and for each of the prior three (3) years have at all times conducted, the Business and, during the period any third party operated any Transferred Assets, such third party operated such Transferred Assets, in each case, in compliance in all material respects with all Orders, Permits and Legal Requirements applicable to the Debtors, such Affiliates of the Debtors, the Transferred Assets or the Business, as applicable, except for prior instances of non-compliance that have been fully and finally resolved to the satisfaction of all Governmental Authorities with jurisdiction over such matters, and (b) no Debtor nor any of its respective Representatives has received in the past twenty-four (24) months any written notice from a Governmental Authority or third party alleging that any Debtor, any of its respective Affiliates or the Business is not in compliance in any material respect with any Order, Permit or Legal Requirement applicable to such Debtor, such Affiliate, the Transferred Assets or the Business.

5.20 Environmental Matters. (a) There are no Environmental Defects on or affecting any of the Transferred Real Property Interests that would reasonably be expected to have a Material Adverse Effect, (b) the Debtors and each of their respective Affiliates have at all times within the prior three (3) years operated the Transferred Assets and conducted the Business and, during the period any third party operated any Transferred Assets, to the Knowledge of Debtors, such third party operated the Transferred Assets, in each case, in material compliance with all applicable Environmental Laws and all permits required thereunder or issued pursuant thereto; (c) there are no Proceedings pending or, to the Knowledge of Debtors, threatened before any Governmental Authority with respect to the Transferred Real Property Interests alleging material violations of Environmental Laws, or claiming material remediation obligations under

applicable Environmental Laws, and no Debtor nor any of its respective Affiliates has received any written notice of any alleged or actual material violation or non-compliance with any Environmental Law or of material non-compliance with the terms or conditions of any environmental permits, arising from, based upon, associated with or related to the Transferred Real Property Interests or the ownership or operation thereof; (d) to the Knowledge of Debtors, the Debtors have provided the other Parties complete and true copies of all written environmental reports, studies and notices prepared by any third party on behalf of, or delivered by a Governmental Authority to any Debtor or any of its respective Affiliates with respect to any of the Transferred Real Property Interests that identify or allege any Environmental Defect on or affecting any of the Transferred Real Property Interests; (e) except as set forth on Disclosure Schedule 5.20, no written notice, order, request for information, complaint, or penalty has been received in the past two years by any Debtor or any of its Affiliates with respect to the Business or the Transferred Assets in connection with any Environmental Laws or liability under any Environmental Laws; (f) no Debtor nor any of its Affiliates, or, to the Knowledge of Debtors, no other Person has Released, stored, deposited, discharged, buried, dumped, or disposed of any Hazardous Substance in quantity and concentrations requiring immediate notification of governmental entities pursuant to Environmental Law on or beneath the Transferred Assets, or from the Transferred Assets into the environment; and (g) without in any way limiting the generality of the forgoing, to the Knowledge of such Debtor, (i) other than as may contain substances in quantities not regulated by Environmental Law, all underground storage tanks and above ground storage tanks, and the capacity and contents of such tanks, located on any Transferred Assets are specifically identified on Disclosure Schedule 5.20, (ii) other than as contained substances in quantities not regulated by Environmental Law, all former underground storage tanks have been removed from or closed in place at the Transferred Assets in compliance with applicable Legal Requirements and are listed on Disclosure Schedule 5.20, (iii) all PCBs or items containing PCBs in regulated amounts used or stored on any Transferred Assets are identified on Disclosure Schedule 5.20, and (iv) there are no underground injection wells, radioactive materials or septic tanks or waste disposal pits in which any Hazardous Substance have been discharged or disposed, other than as have been used in ordinary course of business, in compliance in all material respects with all Environmental Laws, and as would not reasonably be expected to require any material remediation or investigation pursuant to Environmental Law.

5.21 Title Matters. Except as set forth on Disclosure Schedule 5.21, the Debtors have good, valid and marketable title to or, in the case of property leased or licensed by the Debtors, a valid leasehold or licensed interest in all of the Transferred Assets, free and clear of all Encumbrances, except (a) for the Assumed Liabilities and (b) for Permitted Encumbrances.

5.22 MSHA; OSHA. Since January 1, 2015, except for fully paid, discharged and settled citations and notices of violation issued by MSHA or other Governmental Authority, the Debtors have conducted their respective businesses and operations, and their respective assets have been maintained, in compliance in all material respects with MSHA or OSHA, as applicable. There are no investigations pending or, to Debtors' Knowledge, threatened by any Governmental Authority or other third Person that would result in the imposition of any material Liability on any Debtor pursuant to MSHA or OSHA. The Debtors do not owe any material assessments, penalties, fines, liens, charges, surcharges, nor are there any other material amounts due or owing pursuant to MSHA or OSHA, and except as set forth on Disclosure Schedule 5.22,

since January 1, 2015, there have been no imminent danger orders, unwarrantable failure orders, failure to abate orders, or cessation orders, notices of a pattern of violations, or material assessments, under MSHA or OSHA. Disclosure Schedule 5.22 sets forth all orders issued under MSHA or OSHA, together with any appeals thereof, with respect to the Business since January 1, 2015 by any Governmental Authority. The Debtors have made available to the Supporting Holders and Knight Hawk copies of all unresolved Orders and reports under MSHA or OSHA within the Debtors' possession, with respect to the Debtors since January 1, 2015.

5.23 Insurance and Bonds. Disclosure Schedule 5.23 sets forth a true and complete list of all material insurance policies of the Debtors that insure the Business or any of the Transferred Assets, and a true and complete list of all letter of credit, guarantees, surety bonds and performance bonds required to be obtained under terms of the Transferred Permits or Material Contracts of the Debtors (other than as a result of the Chapter 11 Cases) or provided by the Debtors in connection with the Business. All such insurance policies are in full force and effect, all premiums with respect thereto covering all periods up to and including the Closing have been timely paid or, if not yet due, accrued, and no notice of cancellation or termination has been received with respect to any such insurance policy. No Debtor nor any Affiliate of Debtor is in default under, or has failed to comply with, any material provision contained in any such insurance policy.

5.24 Debtors as Debtor in Possession; No Trustee. As of the Closing Date, since the Petition Date, the Debtors have been at all times in the Chapter 11 Cases a debtor in possession pursuant to section 1107 of the Bankruptcy Code, and no trustee or examiner has been appointed in the Chapter 11 Cases.

5.25 Affiliate Transactions. Except as set forth on Disclosure Schedule 5.25, no current or, to the Knowledge of Debtors, former director, officer, employee, Affiliate or Representative of Debtors (nor any spouse or child of any of such Persons, or any trust, partnership or corporation in which any of such Persons has a material economic interest) (a) owns any property, assets, interests and rights, tangible or intangible, that is a Transferred Asset or that is otherwise material to the conduct of the Business as currently conducted, (b) has filed or otherwise has any Proceeding against the Business, or (c) except pursuant to any Benefit Plan, is a party to or the beneficiary of any Contract with the Business.

5.26 Brokers or Finders. The Debtors have not incurred any obligation or liability, contingent or otherwise, for brokerage or finders' fees or agents' commissions or other similar payment in connection with this Agreement, the other Transaction Documents or the transactions contemplated hereby or thereby for which the Supporting Holders or Knight Hawk are or will become liable, and the Debtors shall indemnify and hold harmless the Supporting Holders and Knight Hawk from any claims with respect to any such fees or commissions.

5.27 Coal Act; Black Lung Benefits Act.

(a) None of the Debtors or their "related persons" (as defined in the Coal Act) has any liability under the Coal Act.

(b) The Debtors are in compliance in all material respects with the Black Lung Benefits Act, except where compliance is being contested in good faith by appropriate proceedings diligently conducted or excused by the Bankruptcy Court or the Bankruptcy Code, and the Debtors have not incurred any Black Lung Liability or assumed any other Black Lung Liability, except as disclosed in the Financial Statements or which would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, or with respect to premiums, contributions or other material payments required thereunder that have been paid when due or which Black Lung Liability is being contested in good faith by appropriate proceedings diligently conducted or the current payment of which is excused by the Bankruptcy Court or the Bankruptcy Code.

5.28 HoldCo and NewCo Activities. As of the Closing Date, each of HoldCo and NewCo was organized solely for the purpose of consummating the transactions contemplated by this Agreement and under the Plan and, as of the Closing Date, has not engaged in any activities or business, and has incurred no liabilities or obligations whatsoever, in each case, other than those incident to its organization and the consummation of the transactions contemplated hereby and under the Plan.

5.29 Ordinary Course of Business. Except as set forth on Disclosure Schedule 5.29 and other than in connection with the Chapter 11 Cases and taking into account business exigencies arising as a result of the Debtors' financial condition and status as a chapter 11 debtor, from December 31, 2016 to the Execution Date, the Debtors have conducted the Business in the Ordinary Course of Business in all material respects.

5.30 FCPA Matters. In connection with the operation of the Business, no Debtor or any Subsidiary of such Debtor or, to the Knowledge of the Debtors, any director, officer, agent, employee or Affiliate of the Debtors, is aware of or has taken any action, directly or indirectly, with respect to the Business that would result in a violation of the Foreign Corrupt Practices Act of 1977 and the rules and regulations thereunder (the "FCPA"). Debtors, their Subsidiaries and, to the Knowledge of the Debtors, their Affiliates have conducted the Business in compliance with the FCPA and maintain the procedures that are reasonably expected to ensure compliance therewith.

ARTICLE VI

Representations and Warranties of the Other Parties

Each of the Parties (other than the Debtors) hereby severally (and not jointly) represents and warrants to the Debtors as of the Execution Date and as of the Closing Date as follows (other than with respect to the representations and warranties in Section 6.5, which are made solely by Knight Hawk):

6.1 Authority; Validity; Consents. Such Party has the requisite power and authority necessary to enter into and perform its obligations under this Agreement and the other Transaction Documents to which it is a party and to consummate the transactions contemplated hereby and thereby. The execution, delivery and performance of this Agreement by such Party and the consummation by such Party of the transactions contemplated herein have been duly and

validly authorized by all requisite limited liability company or corporate actions in respect thereof. This Agreement has been duly and validly executed and delivered by such Party and each other Transaction Document to which such Party is a party will be duly and validly executed and delivered by such Party, as applicable, at the Closing. This Agreement and the other Transaction Documents to which such Party is a party constitute the legal, valid and binding obligation of such Party, enforceable against such Party in accordance with their respective terms, except in each case as such enforceability is limited by bankruptcy, insolvency, reorganization, moratorium or similar laws now or hereafter in effect relating to creditors' rights and remedies generally, or general principles of equity, including principles of commercial reasonableness, good faith and fair dealing (regardless of whether enforcement is sought in a proceeding at law or in equity). Such Party is not or will not be required to give any notice to or obtain any consent from any Person in connection with the execution and delivery of this Agreement and the other Transaction Documents to which it is a party or the consummation or performance of any of the transactions contemplated hereby or thereby, except for such notices, filings and consents, the failure of which to provide, make or obtain, would not, individually or in the aggregate, have a Material Adverse Effect on such Party's ability to perform its obligations under this Agreement or any other Transaction Documents or to consummate the transactions contemplated hereby or thereby.

6.2 No Conflict. The execution and delivery of this Agreement and the other Transaction Documents and the consummation of the transactions provided for herein and therein will not result in the breach of any of the terms and provisions of, or constitute a default under, or conflict with, or cause any acceleration of any obligation of such Party under (a) any agreement, indenture, or other instrument to which it is bound, (b) the Governing Documents of such Party, (c) any Order or (d) any Legal Requirement.

6.3 Litigation. There are no Proceedings pending, or to the Knowledge of Knight Hawk or knowledge of the Supporting Holders, threatened, that would have a Material Adverse Effect on such Party's ability to perform its obligations under this Agreement or any other Transaction Documents or to consummate the transactions contemplated hereby or thereby.

6.4 Brokers or Finders. Neither such Party nor any Person acting on behalf of such Party has paid or become obligated to pay any fee or commission to any broker, finder, investment banker, agent or intermediary for or on account of the transactions contemplated by this Agreement for which the Debtors are or will become liable, and such Party shall hold harmless and indemnify the Debtors from any claims with respect to any such fees or commissions.

6.5 Sufficient Funds. Such Party has sufficient available cash and the financial capacity to perform all of its obligations under this Agreement, including the ability to fund the Contribution.

ARTICLE VII

Actions Prior to the Closing Date

7.1 Access and Reports.

(a) Company and the Debtors shall afford the Supporting Holders, Knight Hawk, and each of their Representatives reasonable access, upon reasonable written notice, during normal business hours, from and after the Execution Date through and including the Closing Date, to its Employees, Transferred Real Property Interests, Contracts and Records, and, during such period, Company shall furnish (or cause to be furnished) promptly to Knight Hawk and the Supporting Holders all information concerning the Transferred Assets and the Business as may reasonably be requested; *provided, however*, such access shall not interfere with the Ordinary Course of Business or the operation of the Transferred Assets and Business and Company shall have the option to have, at all times during such entry, such Representatives accompanied by at least one Representative of Company. All such information to which Knight Hawk or the Supporting Holders receive access or is provided pursuant to this Section 7.1 shall be governed by the terms of the Confidentiality Agreements. No investigation pursuant to this Section 7.1 or by the other Parties or their Representatives at any time prior to or following the Execution Date shall affect or be deemed to modify any representation or warranty made by Company herein.

(b) From and after the Execution Date until one (1) Business Day prior to the Closing Date, the Supporting Holders and Knight Hawk shall, collectively, have the right (but not the obligation) to conduct a Phase I Environmental Site Assessment and a review of the compliance with Environmental Laws of the Transferred Assets. During Company's regular hours of business and after providing Company with written notice of any such activities no less than two (2) Business Days in advance, and subject to the permission of any other third party whose permission is legally required (which Company shall use reasonable efforts to secure), the other Parties and their authorized Representatives shall be permitted to enter upon the Transferred Assets, inspect the same, and generally conduct visual, non-invasive and non-intrusive tests, examinations, and investigations as they so desire; *provided, however*, that such entry shall not interfere with the Ordinary Course of Business or operation of the Transferred Assets, shall not include any sampling, monitoring, or other surface, subsurface, or invasive investigation, assessment, or analysis of soil, groundwater, building materials, ambient air, or other environmental media or emissions, and Company shall have the option to have, at all times during such entry, such Representatives accompanied by at least one Representative of Company. Company will have the right, which it may exercise at its sole discretion, to (i) observe such investigation and (ii) promptly receive a copy of all results, analyses, reports, and reviews, except for such information for which the Supporting Holders or Knight Hawk have an attorney-client privilege. All information obtained or reviewed by the Supporting Holders or Knight Hawk shall be governed by the terms of the Confidentiality Agreements.

(c) This Section 7.1 shall not require Company to permit (or cause any of its Affiliates to permit) any access to, or to disclose (i) any information that, in the reasonable, good faith judgment (after consultation with counsel, which may be in-house counsel) of Company, is reasonably likely to result in any violation of any Legal Requirement or any

Contract to which any Debtor is a party or cause any privilege (including attorney-client privilege) that any Debtor would be entitled to assert to be lost with respect to such information and such loss of such privilege could in Company's good faith judgment (after consultation with counsel, which may be in-house counsel) adversely affect in any material respect any Debtor's position in any pending or, what Company believes in good faith (after consultation with counsel, which may be in-house counsel) could be, future litigation or (ii) if Company or any of its Affiliates, on the one hand, and the Supporting Holders or Knight Hawk or any of their respective Affiliates, on the other hand, are adverse parties in a litigation, any information that is reasonably pertinent thereto; *provided, however*, in the case of clause (i), the Parties shall cooperate in seeking to find a way to allow disclosure of such information to the extent doing so (A) would not (in the good faith belief of Company (after consultation with counsel, which may be in-house counsel)) be reasonably likely to result in the violation of any such Legal Requirement or be reasonably likely to cause such privilege to be undermined with respect to such information or (B) could reasonably (in the good faith belief of Company (after consultation with counsel, which may be in-house counsel)) be managed through the use of customary "clean-room" arrangements pursuant to which non-employee Representatives of the Supporting Holders or Knight Hawk could be provided access to such information.

(d) The information provided pursuant to this Section 7.1 shall (prior to Closing) be used by the Supporting Holders and Knight Hawk solely for the purpose of the transactions contemplated by this Agreement, and such information shall be kept confidential by the Supporting Holders, Knight Hawk and Company in accordance with, and the Supporting Holders, Knight Hawk and Company shall otherwise abide by and be subject to the terms and conditions of, the Confidentiality Agreements.

7.2 Operations Prior to the Closing Date. The Debtors covenant and agree that, except (u) as required by the Bankruptcy Court, (v) as expressly contemplated by this Agreement, (w) as disclosed in Schedule 7.2, (x) with the prior written consent of the Required Supporting Holders and Knight Hawk (which consent shall not be unreasonably withheld, conditioned or delayed) or (y) as otherwise required by Legal Requirements, after the Execution Date and prior to the Closing Date:

(a) The Debtors shall, in accordance with the Budget:

(i) maintain and operate the Business and the Transferred Assets in the Ordinary Course of Business;

(ii) pay or cause to be paid all bonuses and rentals, royalties, overriding royalties, and minimum royalties and development expenses, and other payments incurred with respect to the Transferred Assets operated by Company or its Affiliates except (A) royalties held in suspense as a result of title issues and that do not give any third party a right to cancel an interest in any Transferred Assets operated by Company or its Affiliates, and (B) expenses or royalties being contested in good faith, provided that if the nonpayment of such contested expenses or royalties could result in the termination of a Transferred Real Property Interest, the Company shall notify the Supporting Holders and Knight Hawk and obtain the Required Supporting Holders' and Knight Hawk's approvals prior to withholding such payment;

(iii) remain current and pay in the Ordinary Course of Business all of the Debtors' post-petition obligations under any Assigned Contracts, including the Royalty Agreements, or Transferred Real Property Interests;

(iv) maintain its books, accounts and records in the Ordinary Course of Business;

(v) timely file all Tax Returns and timely pay or deposit all Taxes, except for such amounts that are contested in good faith by appropriate action and for which adequate provisions are established according to GAAP or other applicable accounting principles;

(vi) maintain the Transferred Equipment and other personal property comprising part of the Transferred Assets operated by any Debtor in the Ordinary Course of Business, subject to ordinary wear and tear;

(vii) (A) not terminate Employees who are accounted for in the Budget and in good standing and are necessary to conduct the Business as it is currently being conducted and (B) use commercially reasonable efforts to maintain its relationships with and preserve the goodwill of the Service Providers;

(viii) maintain insurance coverage under the insurance policies set forth on Disclosure Schedule 5.23;

(ix) maintain all of Debtor's Permits, approvals, bonds and guaranties affecting the Transferred Assets in the Ordinary Course of Business, and make all filings that Debtors are required to make under applicable Legal Requirements with respect to the Transferred Assets; and

(x) give written notice to the Supporting Holders and Knight Hawk as soon as practicable, but in any event within two (2) Business Days of Company acquiring Knowledge, of (1) the receipt or delivery by any Debtor of any written notice with respect to any material breach of any Assigned Contract or any applicable Legal Requirements, (2) receipt or delivery by any Debtor of any written claim for damages or any Proceeding initiated by or against a Debtor or its Affiliates with respect to the Transferred Assets, (3) receipt by any Debtor of any exercise of a Preferential Purchase Right, or (4) any material election that Company is required to make under any Assigned Contract or Transferred Real Property Interest specifying the nature and time period associated with such election.

(b) Company shall not:

(i) abandon any Transferred Asset (except any abandonment of Leases to the extent any such Leases terminate pursuant to their terms);

(ii) commence, propose, or agree to participate in any single operation with respect to the Transferred Real Property Interests with an anticipated cost for which Company shall be responsible in excess of \$250,000, except as specifically provided in the Budget and for emergency operations, operations scheduled on Disclosure Schedule 5.8 or

Schedule 7.2, or operations required by any Governmental Authority or required to comply with any Legal Requirement;

(iii) (1) terminate, cancel, or materially amend or modify any Transferred Permit, Assigned Contract or Transferred Real Property Interest, (2) enter into any Contract that, if such agreement, contract or commitment had been entered into prior to the Execution Date, would be required to be listed in Disclosure Schedule 5.4(a); (3) relinquish voluntarily its position as operator with respect to any Transferred Real Property Interest; (4) become a non-consenting party to any operation with respect to the Transferred Real Property Interests; or (5) waive, compromise or settle any material claim or right involving the Transferred Assets;

(iv) sell, lease, encumber, or otherwise dispose of all or any portion of any Transferred Assets, except sales of coal in the Ordinary Course of Business;

(v) (1) make, change or rescind any material Tax election or (2) make, change or rescind a material Tax reporting practice or policy, file any amended Tax Return, enter into any closing agreement, settle any material Tax claim or assessment, surrender any right to claim a material refund of Taxes, or take any other similar action relating to the filing of any Tax Return or the payment of any Tax that is material in nature;

(vi) (1) grant to any Employee or Service Provider any increase in compensation except in the Ordinary Course of Business, (2) grant or increase any severance, retention, change-of-control or similar payments to any current or former Employee or Service Provider, or (3) adopt, establish, enter into, amend, terminate or increase the benefits under any Benefit Plan or other employee benefit, plan, practice, program, policy or Contract, in any case other than as may be required by the terms of such Benefit Plan or other Contract or as may be required by applicable Legal Requirements;

(vii) merge or consolidate Company with any other Person or acquire any business or equity interests or any other Person;

(viii) propose, commit, take or fail to take any action, as the case may be, that is inconsistent with the terms of the Budget; provided that any expenditure that does not exceed 110% of the Budget shall be deemed consistent with the Budget; or

(ix) enter into any agreement or commitment to take, or otherwise permit or consent to, any action prohibited by this Section 7.2(b).

7.3 Commercially Reasonable Efforts. The Parties shall use commercially reasonable efforts to take, or cause to be taken, all actions and to do, or cause to be done, and to assist and cooperate with each other in doing, all things necessary, proper or advisable to consummate and make effective (including the filing of pleadings and other appropriate documentation with the Bankruptcy Court), in the most expeditious manner practicable, the transactions contemplated hereby, including using commercially reasonable efforts to accomplish the following: (i) the taking of all reasonable acts necessary to cause the conditions precedent set forth in Article IX and Article X to be satisfied (which, for the avoidance of doubt,

does not include waiving any such condition precedent), (ii) the obtaining, at the earliest practicable date, of all necessary Governmental Authorizations and the making of all necessary registrations, declarations and filings (including registrations, declarations and filings with Governmental Authorities, if any) and the taking of all reasonable steps as may be necessary to avoid any Proceeding by any Governmental Authority, (iii) the execution or delivery of any additional instruments necessary to consummate the transactions contemplated hereby and to fully carry out the purposes of this Agreement and (iv) upon request of Required Supporting Holders and Knight Hawk (as to services to be provided by Company) or Company (as to services provided by NewCo), enter a transition services agreement, with customary terms and conditions, including the reimbursement of costs for any services provided, as reasonably agreed by the parties thereto pursuant to Section 8.15 for the provision of transition services by Company or any of its Affiliates to NewCo for NewCo to continue operating the Business after Closing and by NewCo to the Company as necessary to assist with the winding up of the Company after the Closing (the “Transition Services Agreement”).

7.4 Bankruptcy Court Approval.

(a) The Parties acknowledge that this Agreement and the transfer of the Transferred Assets and the assumption and assignment of the Assigned Contracts and the Transferred Real Property Interests are subject to Bankruptcy Court approval and the consideration of higher or otherwise better competing bids subject to the terms of the Bid Protections Order. The Parties acknowledge that (i) to obtain such approval, Company must demonstrate that it has taken reasonable steps to obtain the highest and otherwise best offer possible for the Transferred Assets, and that such demonstration shall include giving notice of the transactions contemplated by this Agreement to creditors and other interested parties as ordered by the Bankruptcy Court, and (ii) NewCo must provide adequate assurance of future performance under the to-be-assigned Leases and Executory Contracts.

(b) Promptly upon receipt of any written proposal or bid for a Competing Transaction, Company shall provide to the Supporting Holders a copy of any such bid and any written response of Debtors thereto and regularly update the Supporting Holders as to the status of any negotiations in connection therewith to the extent required under the Restructuring Support Agreement. Company shall promptly furnish to the Supporting Holders all information, documents and data concerning Company that is provided to any prospective purchaser and that has not previously been furnished to the Supporting Holders to the extent required under the Restructuring Support Agreement.

7.5 Bankruptcy Filings.

(a) Subject to Section 7.4, Company shall pursue diligently the entry of the Confirmation Order. The Supporting Holders and Knight Hawk agree that they shall comply with their obligations under the Restructuring Support Agreement and promptly take such actions as are reasonably requested by Company to assist in obtaining entry of the Confirmation Order and a finding of adequate assurance of future performance by NewCo of the Assigned Contracts, including furnishing affidavits or other documents or information for filing with the Bankruptcy Court. In the event that the entry of the Confirmation Order is appealed or a stay pending appeal is sought, Company shall oppose the appeal or the stay pending appeal and

seek the dismissal of any appeal (including a petition for certiorari, motion for rehearing, re-argument, reconsideration or revocation). Notwithstanding the foregoing, any resulting changes to this Agreement or any other Transaction Document or resulting changes to the Plan or the Confirmation Order shall be subject to the approval of the Required Supporting Holders and Knight Hawk in their mutual discretion.

(b) If the Parties elect to effectuate the transactions contemplated hereby pursuant to the Section 363 Sale, Company shall, should the Supporting Holders and Knight Hawk be the winning bidder, (i) provide the Supporting Holders and Knight Hawk with drafts of any and all pleadings and proposed orders to be filed or submitted in connection with this Agreement and the transactions contemplated hereby, and such pleadings and proposed orders shall be in form and substance reasonably acceptable to the Required Supporting Holders and Knight Hawk and (ii) make reasonable efforts to consult and cooperate with the Supporting Holders and Knight Hawk regarding any discovery taken in connection with seeking entry of the Confirmation Order (including any depositions).

(c) Company acknowledges and agrees, and the Confirmation Order shall provide that, on the Closing Date and concurrently with the Closing, all then existing or thereafter arising Liabilities and Encumbrances of, against or created by Company or the other Debtors or their bankruptcy estates, shall be fully released from and with respect to the Transferred Assets, which shall be transferred to NewCo free and clear of all Liabilities and Encumbrances except for Assumed Liabilities and Permitted Encumbrances.

(d) Company shall pursue diligently to implement the procedures set forth in the “Milestones” section in the “Plan Term Sheet” attached to the Restructuring Support Agreement.

(e) Notwithstanding anything in this Agreement to the contrary, Company agrees to pay to Knight Hawk the Expense Reimbursement in the event this Agreement is terminated if and to the extent provided in Section 12.2.

ARTICLE VIII

Additional Agreements

8.1 Taxes.

(a) Any transfer, documentary, sales, use, stamp, value added, real property transfer, registration and other similar non-income Taxes, and all conveyance fees, recording charges and other similar fees and charges (including any penalties and interest) incurred in connection with the consummation of the transactions contemplated by this Agreement (collectively, the “Transfer Taxes”) shall be borne by NewCo as an Assumed Liability. The Parties shall use commercially reasonable efforts and cooperate in good faith to exempt the sale and transfer of the Transferred Assets from any Transfer Taxes, including under Section 1146(a) of the Bankruptcy Code. The Supporting Holders shall cause NewCo to, at its own expense, file all necessary Tax Returns and other documentation with respect to all Transfer

Taxes, and, if required by Legal Requirements, the Parties shall, and shall cause their Affiliates to, join in the execution of any such Tax Returns and other documentation.

(b) NewCo and Company agree to furnish or cause to be furnished to each other, upon request, as promptly as practicable, such information and assistance relating to the Transferred Assets (including access to books and records and Tax Returns and related working papers dated before Closing) as is reasonably necessary for the filing of all Tax Returns, the making of any election relating to Taxes, the preparation for any audit by any Taxing authority, the prosecution or defense of any claims, suits or proceedings relating to any Tax, and the claiming by NewCo of any federal, state or local business Tax credits or incentives that NewCo may qualify for in any of the jurisdictions in which any of the Transferred Assets are located; *provided, however*, that no Party shall be required to disclose the contents of its income Tax Returns to any Person. Any expenses incurred in furnishing such information or assistance pursuant to this Section 8.1(b) shall be borne by the Party requesting it.

(c) For U.S. federal and applicable state and local income Tax purposes, the Parties shall treat the transactions contemplated by this Agreement (i) if NewCo is treated as a disregarded entity for U.S. federal and applicable state and local income Tax purposes, as (A) a taxable sale of the Transferred Assets subject to the Assumed Liabilities by the Company to the Noteholders, followed by (B) a contribution of the Transferred Assets subject to the Assumed Liabilities by the Noteholders to HoldCo, a new partnership for U.S. federal and applicable state and local income Tax purposes, in an exchange described in Section 721(a) of the Tax Code, and (ii) if NewCo is treated as a corporation for U.S. federal and applicable state and local income tax purposes, as (A) a transfer of the Transferred Assets subject to the Assumed Liabilities by the Company to NewCo, a new corporation for U.S. federal and applicable state and local income Tax purposes, and a distribution of the stock and securities of NewCo in a transaction that qualifies under Sections 354 and 356 of the Tax Code, which together constitute a reorganization within the meaning of Section 368(a)(1)(G) of the Tax Code, followed by (B) a contribution of the stock and securities of NewCo by the Noteholders to HoldCo, a new partnership for U.S. federal and applicable state and local income Tax purposes, in an exchange described in Section 721(a) of the Tax Code.

8.2 Allocation of Noteholder Equity Issuance Consideration.

(a) If the Parties elect to effectuate the transactions contemplated hereby pursuant to the Section 363 Sale, within sixty (60) days after the Closing Date (or such later date as may be mutually agreed by the Parties), the Supporting Holders and Knight Hawk shall cause NewCo to prepare and deliver to Company a schedule setting forth the allocation of the Noteholder Equity Issuance Consideration as determined for U.S. federal and applicable state and local income Tax purposes among the Transferred Assets and Assumed Liabilities, which shall be prepared in good faith and pursuant to (and to the extent necessary to comply with) the Tax Code and the applicable regulations promulgated thereunder (or any similar provision under applicable Legal Requirement) (the “Proposed Allocation Statement”) for Company’s review and comment. Company shall have five (5) days following the delivery of the Proposed Allocation Statement during which to notify the Supporting Holders and Knight Hawk in writing (an “Allocation Notice of Comment”) of any comments to the Proposed Allocation Statement. The Supporting Holders and Knight Hawk shall consider Company’s comments in good faith

and shall have five (5) days following the delivery of the Allocation Notice of Comment to deliver a final schedule setting forth the allocation of the purchase price as determined for U.S. federal and applicable state and local income Tax purposes among the Transferred Assets and Assumed Liabilities (the “Final Allocation Statement”), which shall be conclusive and binding on the Parties. Each Party covenants and agrees that it shall act reasonably in all respects with regard to the matters set forth in this Section 8.2(a).

(b) Company and NewCo and their respective Affiliates shall report and file Tax Returns (including, but not limited to, IRS Form 8594 (if required under applicable Legal Requirements)) in all respects and for all purposes consistent with such Final Allocation Statement, as it may be amended, as determined pursuant to this Section 8.2. Neither Company nor NewCo shall take any position (whether in connection with audits, on their respective Tax Returns, or otherwise) that is inconsistent with such allocation unless required to do so by applicable Legal Requirements.

8.3 Assigned Contracts; Adequate Assurance of Performance.

(a) The Supporting Holders and Knight Hawk shall provide on behalf of NewCo adequate assurance as required under the Bankruptcy Code of the future performance by NewCo of the Assigned Contracts. The Supporting Holders, Knight Hawk and Company agree that they will promptly take all actions reasonably required to assist in obtaining a Bankruptcy Court finding that there has been an adequate demonstration of adequate assurance of future performance under the Assigned Contracts, such as furnishing timely requested and factually accurate affidavits, non-confidential financial information and other documents or information for filing with the Bankruptcy Court and making the employees and Representatives of the Supporting Holders, Knight Hawk and the Debtors available to testify before the Bankruptcy Court. For the avoidance of doubt, this Section 8.3 does not obligate Supporting Holders or Knight Hawk to make any payments to HoldCo or NewCo other than as expressly set forth herein.

(b) Without limiting the provisions of Section 8.3(a), the Supporting Holders and Knight Hawk acknowledge that the bonds, surety bonds, letters of credit, guarantees, and/or cash deposits, set forth on Schedule 8.3(b) (collectively the “Security Arrangements”) have been provided by Company and/or its Affiliates to secure the payment and/or performance of certain obligations related to the Transferred Assets. The Supporting Holders and Knight Hawk acknowledge that neither Company nor any of its Affiliates has a duty to maintain any Security Arrangements after the Closing except as required by Legal Requirements. To the extent Company and/or any of its Affiliates have any obligations pursuant to any Security Arrangement or have pledged or otherwise provided any property that secures any such Security Arrangement (collectively, the “Company’s Obligations”), Knight Hawk shall take such actions as are necessary to cause Company’s Obligations and the Security Arrangements to be released and terminated, whether through provision of replacement surety bonds or otherwise as soon as reasonably practicable, and (subject to Section 2.2(b)(ix)) the Supporting Holders and Knight Hawk shall take such actions as are necessary to return to Company any of Company’s or its Affiliate’s property pledged or otherwise provided to secure such Company’s Obligations or Security Arrangements as soon as reasonably practicable. For the avoidance of doubt, the Transferred Financial Deposit shall not be released to the Company

pursuant to this Section 8.3(b) and the Retained Financial Deposit shall not be considered for purposes of Section 9.15.

8.4 Employee Matters.

(a) Between the Review Deadline and the Closing, Company shall promptly update the list of Employees listed on Disclosure Schedule 5.16(a) to reflect any and all employment hirings or terminations occurring prior to the Closing Date (it being understood that Company will inform Knight Hawk and the Supporting Holders in writing of the termination of employment or services of an Employee following the Execution Date). In addition, Company shall provide Knight Hawk and the Supporting Holders five (5) Business Days prior to the Closing Date a true, correct and complete list of any and all employment losses” (within the meaning of the WARN Act) incurred during the ninety (90) day period prior to the Closing Date. Such list shall be immediately updated in the event there are additional such “employment losses” between the date such list is submitted initially to Knight Hawk and the Supporting Holders and the Closing Date.

(b) Debtors shall provide Knight Hawk and the Supporting Holders, upon execution of this Agreement, with access to the Employees at times and in a manner requested by Knight Hawk or the Supporting Holders and reasonably acceptable to Debtors, and with information reasonably requested by Knight Hawk or the Supporting Holders with respect to compensation and benefits of the Employees in a form reasonably acceptable to Debtors. Knight Hawk and the Required Supporting Holders may, without any obligation, direct NewCo to offer employment to any of the Employees as they shall determine in their sole discretion and on such terms and conditions as they shall determine in their sole discretion (the “Offered Employees”); provided that such offer shall clearly state such offer is being made by NewCo, or one of its Affiliates, as to be owned by Knight Hawk and the Supporting Holders (as applicable, the “New Employer”). All such Employees, if any, who (i) are so offered employment from New Employer, (ii) accept such offer of employment from the New Employer and (iii) commence employment with the New Employer shall be referred to herein collectively as the “Transferred Employees” and individually as a “Transferred Employee.” For avoidance of doubt, Debtors shall retain all Liabilities, including severance or other termination costs, if any, arising as a result of the transactions contemplated by this Agreement, relating to any Employees.

(c) The applicable Debtors shall terminate, or shall cause to be terminated, the employment of all Transferred Employees effective immediately before the Closing. Debtors shall be solely responsible for all grievances, arbitrations, claims, demands, or charges of any nature whatsoever including, any such grievances, arbitrations, claims, demands, or charges whether now known or not yet made by any employees, bargaining agents, or governmental agencies, which result from or arise out of any event occurring prior to the Closing (excluding those arising from or arising out of decisions by New Employer, as to be owned by Knight Hawk and the Supporting Holders, regarding which Employees receive offers of employment and/or the terms of such offers) or the transactions contemplated by this Agreement; and, Debtors agree to hold harmless and indemnify Knight Hawk, the Supporting Holders and/or New Employer for all such claims, if any, asserted against Knight Hawk, the Supporting Holders and/or New Employer. Subject to, and effective as of, the Closing, each Debtor hereby waives

and releases, or shall cause to be waived and released, each of the Transferred Employees from any and all contractual, common law or other restrictions enforceable by such Debtor and its Affiliates on the employment, activities or other conduct of such individuals after their termination of employment with such Debtor except with respect to obligations related to confidentiality and trade secrets. Prior to the Closing, and to the extent necessary to implement this sentence, each Debtor shall cause to be taken all actions as may be reasonably required to amend any Benefit Plan and take or cause to be taken all other actions as may be reasonably required to provide that severance, separation or other similar payments (other than payments from a qualified Benefit Plan) shall not be payable to any Transferred Employee on account of such Employee's termination of employment with such Debtor and its Affiliates and no Transferred Employee shall be entitled to receive any such payments under any Benefit Plan or otherwise.

(d) Pursuant to the "Standard Procedure" provided in Section 4 of Revenue Procedure 2004-53, 2004-2 C.B. 320, (i) the New Employer and Company (or applicable Affiliate of Company) shall report on a predecessor/successor basis as set forth therein, (ii) Company (or applicable Affiliate of Company) will not be relieved from filing a Form W-2 with respect to any Transferred Employees for any tax period ending immediately prior to the Closing Date and the tax year including the Closing Date with respect to the portion of such year that such Transferred Employee was employed by Company and its Affiliates, and (iii) the New Employer will undertake to file (or cause to be filed) a Form W-2 for each such Transferred Employee with respect to the portion of the year during which such Transferred Employees are employed by the New Employer that includes the Closing Date, excluding the portion of such year that such Transferred Employee was employed by Debtor and its Affiliates.

(e) With respect to any accrued but unused vacation, paid time-off or similar benefits ("Accrued PTO") to which any Transferred Employee is entitled pursuant to the Company's vacation policy, Contract, or Legal Requirement applicable to such Transferred Employee immediately prior to the Closing, the Company (or applicable Affiliate of Company) will pay two-thirds of any or all of the value of such Accrued PTO to such Transferred Employee in cash and NewCo shall pay the remaining one-third in cash.

(f) In compliance with the WARN Act, if applicable, Debtors shall provide or shall cause to be provided notices to all Employees, regardless of whether such Employee will become a Transferred Employee, and any other individual or entity (including governmental or other entities) with respect to any employment losses with respect to the transactions contemplated hereby. For the avoidance of doubt, any Debtor may deliver such notice on any date that is not later than sixty-five (65) prior to the expected Closing Date. Debtors shall have responsibility for any Liability under the WARN Act with respect to the Employees to the extent such Liability arises from acts or omission occurring on or prior to the Closing. For all periods of time prior to, on and after the Closing Date, no Party other than Debtors shall have responsibility for any Liability under the WARN Act.

(g) Nothing herein, express or implied, shall confer upon any other Persons (including any current or former employee or contractor of the Debtors, the Supporting Holders, Knight Hawk or any of their respective Affiliates) any rights or remedies hereunder, including any right to employment or continued employment for any specified period or

continued participation in any Benefit Plan or other benefit plan, or any nature or kind whatsoever under or by reason of this Agreement. Nothing herein restricts or precludes the right of the New Employer to terminate the employment of any Transferred Employee. The Parties agree that the provisions contained herein are not intended to be for the benefit of or otherwise be enforceable by, any third party, including any current or former Employee or Service Provider.

(h) Debtors shall be responsible for all Workers' Compensation Liabilities arising out of any occupational injury or exposure occurring on or prior to the Closing and NewCo shall be responsible for all Workers' Compensation Liabilities arising out of any occupational injury or exposure occurring following the Closing.

(i) Debtors shall be responsible for all Black Lung Liabilities and Workers' Compensation Liabilities imposed on NewCo with respect to any Transferred Employee that is not employed by NewCo for the duration of the statutory period set forth under the Black Lung Benefits Act required for NewCo to become a responsible operator with respect to such Transferred Employee. Debtors shall assign to NewCo all rights of Debtors under insurance to the extent any such claims are asserted against NewCo. In the event a claim is made against NewCo with respect to which Required Supporting Holders and Knight Hawk believe the provisions of this Section 8.4(i) apply, Required Supporting Holders and Knight Hawk shall promptly give notice thereof to Debtors.

8.5 Post-Closing Books and Records and Personnel. Promptly following Closing and in any event no later than thirty (30) days following Closing, Company shall make available to NewCo all Records not otherwise delivered pursuant to Section 4.3(a)(vii); *provided, however,* that notwithstanding anything to the contrary in this Agreement, Company shall be entitled to retain any originals of the Records that are required to be retained as a result of the Chapter 11 Cases, for such period of time sufficient to allow all matters under the Chapter 11 Cases to be finally determined. Company shall be entitled to retain a copy of the Records delivered to NewCo. Until (x) the earlier of the Wind Down Date and 3 (three) years and (y) such longer period as may be required by any Governmental Authority or ongoing claim, (a) NewCo shall not destroy or dispose of any material Records received hereunder and (b) NewCo shall allow Company (including, for clarity, any trust established under a chapter 11 plan of Company or any other successors of Company) and any of its Representatives reasonable access during normal business hours, at Company's sole expense and upon reasonable advance notice, to all Records included in the Transferred Assets and in the possession or control of NewCo, for purposes relating to the Chapter 11 Cases, the wind-down of the operations of Company, the functions of any such trusts or successors, or other reasonable business purposes, and Company (including any such trust or successors) and such Representatives shall have the right to make copies of any Records.

8.6 No Other Representations or Warranties; Disclaimers. **NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, EXCEPT AS AND TO THE EXTENT EXPRESSLY SET FORTH IN THIS AGREEMENT AND IN THE TRANSACTION DOCUMENTS, DEBTORS MAKE NO REPRESENTATIONS OR WARRANTIES WHATSOEVER AND DISCLAIM ALL LIABILITY AND RESPONSIBILITY FOR ANY REPRESENTATION, WARRANTY,**

STATEMENT OR INFORMATION MADE OR COMMUNICATED (ORALLY OR IN WRITING) TO THE SUPPORTING HOLDERS AND KNIGHT HAWK (INCLUDING ANY OPINION, INFORMATION, OR ADVICE THAT MAY HAVE BEEN PROVIDED TO THE SUPPORTING HOLDERS OR KNIGHT HAWK BY ANY AFFILIATE OR REPRESENTATIVE OF ANY DEBTOR OR BY ANY INVESTMENT BANK OR INVESTMENT BANKING FIRM, OR ENGINEERING FIRM, COMPANY'S COUNSEL, OR ANY OTHER AGENT, CONSULTANT, OR REPRESENTATIVE OF ANY DEBTOR). WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, EXCEPT AS AND TO THE EXTENT EXPRESSLY SET FORTH IN THIS AGREEMENT AND IN THE TRANSACTION DOCUMENTS, DEBTORS EXPRESSLY DISCLAIM AND NEGATE ANY REPRESENTATION OR WARRANTY, EXPRESS, IMPLIED, AT COMMON LAW, BY STATUTE, OR OTHERWISE, RELATING TO (A) THE TITLE TO ANY OF THE ACQUIRED ASSETS, (B) THE CONDITION OF THE ACQUIRED ASSETS (INCLUDING ANY IMPLIED OR EXPRESS WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR CONFORMITY TO MODELS OR SAMPLES OF MATERIALS), IT BEING DISTINCTLY UNDERSTOOD THAT THE ACQUIRED ASSETS ARE BEING SOLD "AS IS," "WHERE IS," AND "WITH ALL FAULTS AS TO ALL MATTERS," (C) ANY INFRINGEMENT BY ANY DEBTOR OF ANY PATENT OR PROPRIETARY RIGHT OF ANY THIRD PARTY, (D) ANY INFORMATION, DATA, OR OTHER MATERIALS (WHETHER WRITTEN OR ORAL) FURNISHED TO THE SUPPORTING HOLDERS OR KNIGHT HAWK BY OR ON BEHALF OF ANY DEBTOR (INCLUDING, IN RESPECT OF ANY SEISMIC DATA, THE EXISTENCE OR EXTENT OF COALS OR THE MINERAL RESERVES, THE RECOVERABILITY OF SUCH RESERVES, ANY PRODUCT PRICING ASSUMPTIONS, AND THE ABILITY TO SELL COAL PRODUCTION AFTER THE CLOSING), AND (E) THE ENVIRONMENTAL CONDITION AND OTHER CONDITION OF THE ACQUIRED ASSETS AND ANY POTENTIAL LIABILITY ARISING FROM OR RELATED TO THE ACQUIRED ASSETS.

8.7 Casualty.

(a) If, after the Execution Date and prior to the Closing, any part of the Transferred Assets suffers a Casualty or if any part of the Transferred Assets is taken in condemnation or under the right of eminent domain or if proceedings for such purposes are pending or threatened, Company shall promptly give the other Parties written notice of such occurrence, including reasonable particulars with respect thereto, and this Agreement shall remain in full force and effect notwithstanding any such destruction, taking, proceeding, or threat.

(b) With regard to a Casualty or condemnation occurring after the Petition Date and prior to the Closing, the Supporting Holders and Knight Hawk may elect to exclude the affected Transferred Assets from this Agreement, without reduction to the Noteholder Equity Issuance Consideration, and the affected Transferred Assets shall be treated as Excluded Assets for all purposes under this Agreement.

(c) Unless the Transferred Assets affected by a Casualty are excluded pursuant to Section 8.7(b), (i) at the Closing, the Transferred Assets affected by a Casualty or condemnation shall be included in the Closing, and (ii) the other Parties' recourse with respect to a condemnation or Casualty shall be limited to the proceeds of Company's applicable insurance coverage actually recovered by Company in respect thereof or other sums paid to Company by third parties (or an assignment of claims related thereto), including any condemnation awards, which proceeds or other sums shall be payable to NewCo only upon or after the Closing of the transactions contemplated hereby. Company shall have no other liability or responsibility to the other Parties with respect to a condemnation or Casualty and there shall be no adjustment to Noteholder Equity Issuance Consideration.

(d) Unless the affected Transferred Assets are excluded pursuant to Section 8.7(b), (i) no insurance or condemnation proceeds shall be committed or applied by Company to repair, restore or replace a lost, damaged, destroyed or taken portion of the Transferred Assets if the cost to repair, restore or replace a lost, damaged, destroyed or taken portion of the Transferred Assets is projected to exceed \$100,000, (ii) to the extent such proceeds are not committed or applied by any Company prior to the Closing Date in accordance with this Section 8.7(d), Company shall at the Closing pay to NewCo all sums paid to Company by reason of such loss, damage, destruction or taking, less any reasonable costs and expenses incurred by Company in collecting such proceeds and (iii) in addition and to the extent such proceeds have not been committed or applied by Company in accordance with this Section 8.7(d), in such repair, restoration, or replacement, Company shall transfer to NewCo, at the Closing, without recourse against Company, all of the right, title, and interest of Company in and to any unpaid insurance or condemnation proceeds arising out of such loss, damage, destruction or taking, less any reasonable costs and expenses incurred by Company in collecting such proceeds.

8.8 Permits; Successor Operator. Following the Closing, the Debtors, the Supporting Holders, Knight Hawk and NewCo shall use commercially reasonable efforts to secure, as promptly as practicable, approval from all applicable Governmental Authorities to transfer the Transferred Permits to NewCo (such period following Closing through the transfer of the Transferred Permits to NewCo, the "Transfer Period"). Pending transfer of the Transferred Permits to NewCo, NewCo shall be designated as the "operator" under the Transferred Permits. To the fullest extent allowed by and in accordance with the applicable Legal Requirements, each Debtor holding one or more of the Transferred Permits grants to NewCo the right to conduct, at the sole cost and expense of NewCo, mining and Reclamation operations following the Closing on the Real Property under its (and their) Permits, as the designated operator until such time as such Permits are transferred to (or new Permits are issued to) NewCo. The Debtors shall take all steps that are reasonably necessary to maintain such Permits prior to transfer thereof to NewCo and NewCo shall have (and Debtors grant) all rights of entry onto the Real Property that are reasonably necessary therefor.

8.9 Avoidance Action. Pursuant to the Plan, Company shall agree not to (and shall not permit any other Debtor to) commence, assign, convey or abandon any Avoidance Actions against any Debtor's ordinary course vendors, contract counterparties, contractors and other suppliers of services related to the Business, without the consent of the Required Supporting Holders and Knight Hawk, only to the extent (a) such Person is a counterparty to one or more of the Assumed Contracts or (b) such Person is identified in good faith by the Required

Supporting Holders and Knight Hawk on Schedule 8.9 as a Person that NewCo (or its Affiliate, as applicable) may utilize in the ordinary course of business in operating the Transferred Assets prior to the second anniversary of the Closing Date; *provided that* (i) no Avoidance Action may be commenced, assigned, conveyed or abandoned by the Company before December 9, 2017 and (ii) the Required Supporting Holders and Knight Hawk may update Schedule 8.9 from time to time after the Execution Date and prior to the Closing at their sole discretion in accordance with the terms of this Section 8.9, but such update shall only apply to Avoidance Actions taken by the Debtors to the extent such Avoidance Actions are first initiated after the time of such update.

8.10 Payments Received. Company (on behalf of itself and the other Debtors), on the one hand, and NewCo, on the other hand, each agree that, after the Closing, each will hold and will promptly transfer and deliver to the other, from time to time as and when received by them, any cash, checks with appropriate endorsements (using commercially reasonable efforts not to convert such checks into cash) or other property that they may receive on or after the Closing that belongs to the other and will account to the other for all such receipts.

8.11 Certain Excluded Assets. Until the Designation Deadline, upon prior written notice to Company, the Supporting Holders and Knight Hawk shall have the right to jointly amend Schedule 2.3(t) to designate one or more of the Transferred Assets to be an Excluded Asset; provided, that in no event shall the Supporting Holders and Knight Hawk be permitted to exclude a Transferred Permit pursuant to this Section 8.11. If any Transferred Assets are designated as “Excluded Assets” by amending Schedule 2.3(t) then, notwithstanding anything in this Agreement to the contrary, effective automatically upon such designation, (a) any “Transferred Assets” so designated as “Excluded Assets” shall no longer constitute “Transferred Assets” and shall instead constitute “Excluded Assets” for all purposes under this Agreement, and (b) any “Assumed Liabilities” to the extent relating to such “Transferred Assets” so designated as “Excluded Assets” shall no longer constitute “Assumed Liabilities” and shall instead constitute “Excluded Liabilities” for all purposes under this Agreement.

8.12 Schedules. The Parties acknowledge that any and all Schedules and Disclosures Schedules attached to this Agreement in connection with the execution hereof are incomplete, preliminary, or subject to change. Company will have until November 21, 2017 (the “Update Date”) to provide Knight Hawk and Required Supporting Holders with a written notice attaching the final and complete set of all Schedules and Disclosure Schedules, which, for the avoidance of doubt, may include new Disclosure Schedules with new cross-references to Sections that do not expressly reference Disclosure Schedules (except Schedules prepared by Knight Hawk and the Required Supporting Holders as expressly designated herein and Schedule 2.6(b)) (“Schedule Update”). Knight Hawk and Required Supporting Holders shall have until November 29, 2016 to review the Schedules Update (“Review Deadline”). Each of Knight Hawk and Required Supporting Holders shall have, in its reasonable discretion, the right to terminate the Agreement on or before December 9, 2017, if, based upon any matter contained within or omitted from the final Schedules (including Schedule 2.6(b)) and Disclosure Schedules, and whether or not contained in initial or preliminary Schedules and Disclosure Schedules, such Party determines in its reasonable discretion that the business and prospects of the Business and the Transferred Assets, taking into account the Assumed Liabilities, as reasonably contemplated by such Party as of the Execution Date, are materially diminished or

impaired in light of such inclusion or omission. If this Agreement is not terminated within such time period, then (a) any such Schedule Update will be deemed effective as of the Execution Date, and shall be deemed to cure and correct any breach of any representation or warranty that would have existed if the Company would not have made such Schedule Update, and (b) if any such Schedule Update modifies a Schedule setting forth any Transferred Asset, then any such update shall be subject to the Supporting Holders and Knight Hawk's right to exclude certain Transferred Assets as set forth in Section 8.11.

8.13 LG&E/KU Agreements. Company shall cause NewCo to use commercially reasonable efforts to enter with LG&E/KU one or more amendments or other agreements, in form and substance reasonably acceptable to Knight Hawk and the Supporting Holders, with the effect thereof to restructure the LG&E/KU Contracts so that the average volume, quantity, quality (including but limited to heat content) and fuel adjustment index of all such Contracts is averaged and aggregated into a single integrated agreement; provided that (a) in no event shall the Company's covenant to use commercially reasonable efforts require it or NewCo to incur any costs related to such efforts or make any payment (other than a payment the Company or NewCo is otherwise already obligated to pay) to LG&E/KU to induce LG&E/KU to enter such amendments and (b) if all terms have not been agreed and all applicable Governmental Authorizations, if any are required, have not been received, by December 1, 2017, then any Party hereto may terminate this Agreement by providing written notice to the other Parties hereto.

8.14 Winding Down. Notwithstanding anything in this Agreement to the contrary, but subject to the terms and conditions of the Plan, after the Closing, the Company may take all steps it deems necessary or desirable in its sole discretion to wind down the affairs of the Company in a prompt and efficient manner (the date such wind down is complete, the "Wind Down Date").

8.15 Agreements. The Parties will each, as applicable, in good faith negotiate the following agreements and agree to forms of such agreements that contain customary terms and conditions reasonably agreed to among the Parties thereto prior to December 1, 2017 and otherwise in accordance with the terms and agreements set forth in this Agreement: (a) the Assignment, (b) the Assumption Agreement, (c) the Interim Permit Operating Agreement, (d) the Operating Agreement, (e) the Noteholder HoldCo Equity Conveyance, (f) the Debtor HoldCo Equity Conveyance and (g) the Transition Services Agreement; *provided that* for the avoidance of doubt, such Transition Services Agreement form will not include a schedule of services, a cost reimbursement schedule or a term length and such services and cost reimbursement schedules and the term length shall be agreed prior to the Closing only if the Required Supporting Holders and Knight Hawk, or the Company, as applicable, elect to utilize the Transition Services Agreement following the Closing.

ARTICLE IX

Conditions Precedent to Obligations of the Supporting Holders and Knight Hawk to Close

The obligations of the Supporting Holders and Knight Hawk to consummate the transactions contemplated by this Agreement are subject to the satisfaction (or waiver by the Required Supporting Holders and Knight Hawk), at or prior to the Closing, of each of the following conditions:

9.1 Accuracy of Representations. The representations and warranties of the Debtors set forth in Article V of this Agreement shall be true and correct in all respects (without regard to any qualifiers for materiality, Material Adverse Effect, or similar terms) as of the Closing Date, with the same effect as though such representations and warranties had been made on and as of the Closing Date (*provided that* representations and warranties which are confined to a specified date need only be true and correct as of such date); provided, however, that in the event of one or more breaches of or inaccuracies in the representations and warranties of the Debtors set forth in this Agreement, the condition set forth in this Section 9.1 shall be deemed satisfied unless the effect of all such breaches of or inaccuracies in such representations and warranties taken together results in a Material Adverse Effect. The Supporting Holders and Knight Hawk shall have received a certificate of the Debtors to such effect signed by a duly authorized Representative of each Debtor.

9.2 Debtors' Performance. The covenants and agreements that the Debtors are required to perform or to comply with pursuant to this Agreement at or prior to the Closing shall have been duly performed and complied with in all material respects. The Supporting Holders and Knight Hawk shall have received a certificate of the Debtors to such effect signed by a duly authorized Representative of each Debtor.

9.3 No Order. No Governmental Authority shall have enacted, issued, promulgated or entered any Order that is in effect and has the effect of making illegal or otherwise prohibiting the consummation of the transactions contemplated by this Agreement or could cause any of such transactions to be rescinded following the Closing.

9.4 Debtors' Deliveries. The Debtors shall have delivered or caused to be delivered, or shall be ready, willing and able to deliver, each of the deliveries required pursuant to Section 4.3.

9.5 Knight Hawk's Deliveries. Knight Hawk shall have delivered or caused to be delivered, or shall be ready, willing and able to deliver, each of the deliveries required pursuant to Section 4.4. The closing condition contained in this Section 9.5 is solely for the benefit of the Supporting Holders.

9.6 Supporting Holders' Deliveries. Supporting Holders shall have delivered or caused to be delivered, or shall be ready, willing and able to deliver, each of the deliveries required pursuant to Section 4.2. The closing condition contained in this Section 9.6 is solely for the benefit of Knight Hawk.

9.7 Effective Date. The Bankruptcy Court shall have entered the Confirmation Order and the conditions precedent to the Effective Date set forth in the Plan shall each have occurred (or shall occur simultaneously with the Closing) or shall have been waived in accordance with the terms thereof; *provided, however*, that if the Parties elect to effectuate the transactions contemplated hereby pursuant to the Section 363 Sale, the Sale Order shall have been entered by the Bankruptcy Court and shall have become a Final Order.

9.8 Released Claims. There shall be no pending challenge or contest to the validity, amount, perfection or priority of the Indenture Obligations or other claims of the Noteholders under the Notes Indenture that would affect, impair or otherwise limit (a) the Bankruptcy Court's ability to release the Encumbrances on the Transferred Assets and to cause the Noteholder Equity Issuance Consideration to be exchanged for the HoldCo Equity under the Plan or (b) the Trustee's ability to release the Encumbrances on the Transferred Assets and to cause the Noteholder Equity Issuance Consideration to be exchanged for the HoldCo Equity in connection with the Section 363 Sale (if applicable), or any such challenge or contest shall have been resolved to the satisfaction of Trustee in its sole and absolute discretion.

9.9 Restructuring Support Agreement. The Restructuring Support Agreement shall not have been terminated and remains in full force and effect and binding.

9.10 No Reporting Under Applicable Federal or State Securities Law. After Closing, neither Holdco nor Newco will have any disclosure or reporting obligations under the Securities Exchange Act of 1934, as amended, or under the securities laws of any state or other jurisdiction as a result of the consummation of the Sale Transaction in accordance herewith and the Plan.

9.11 Royalty Deferment Agreement. NewCo and Thoroughbred shall have entered into the Royalty Deferment Agreement.

9.12 Pre-Petition Cure Costs. The Pre-Petition Cure Costs shall be no more than the lesser of (a) One Million Dollars (\$1,000,000) greater than the aggregate amount of the estimated Pre-Petition Cure Costs set forth in Schedule 2.6(b) and (b) Six Million Dollars \$6,000,000.

9.13 Confirmation or Sale Order. The Bankruptcy Court shall have entered an order, which has become final, confirming the Plan (which authorizes the Sale Transaction pursuant to this Agreement) or, if applicable, authorizing the Sale Transaction separately from the Plan pursuant to this Agreement under Sections 105, 363 and 365 of the Bankruptcy Code, which order shall provide, whether such Sale Transaction is pursuant to the Plan or pursuant to a separate Sale Order, that the Sale Transaction will be authorized under Sections 105, 363 and 365 of the Bankruptcy Code, as well as Sections 1123 and 1129 of the Bankruptcy Code, if applicable, and shall be in form and substance satisfactory to NewCo, the Required Supporting Holders and Knight Hawk and shall contain the customary provisions relating to a sale under Sections 105, 363 and 365, including those referenced in the definition of Sale Order herein.

9.14 Consent. The Commonwealth of Kentucky shall have consented to the assignment of that certain Surface Mining Encroachment Permit Agreement, Permit 02-2013-

00144, between the Commonwealth of Kentucky, by and through its Transportation Cabinet, Department of Highways, and Armstrong Coal Company, Inc., dated on or about August 2, 2013.

9.15 Replacement Security. The amount required to be funded or guaranteed by Knight Hawk to release and terminate the Company's Obligations and the Security Arrangements shall be less than Ten Million Dollars (\$10,000,000).

9.16 Rights of First Refusal. The holders of any rights of first refusal or similar right on any Transferred Asset that is material to the operation of the Business or the Transferred Assets, which shall include any such right pertaining to any owned or leased real property or improvements thereon used in the operation of the Business, contained within any Transferred Permit, or within any life-of-mine mine plan or mining projection contemplated for the Transferred Assets, shall have received legally required and legally sufficient notice of the transactions contemplated hereby, and the Sale Order shall state that title thereto shall be validly vested in NewCo free and clear of the rights of any holders of such rights in respect of the Sale Transaction.

ARTICLE X

Conditions Precedent to the Obligation of the Debtors to Close

The Debtors' obligation to consummate the transactions contemplated by this Agreement is subject to the satisfaction (or waiver by the Debtors), at or prior to the Closing, of each of the following conditions:

10.1 Accuracy of Representations. The representations and warranties set forth in Article VI of this Agreement that are qualified by materiality or similar expressions shall be true and correct in all respects and the representations and warranties set forth in Article VI of this Agreement that are not qualified as to materiality or similar expressions shall be true and correct in all respects as of the Closing Date, with the same effect as though such representations and warranties had been made on and as of the Closing Date (*provided that* representations and warranties that are confined to a specified date need only be true and correct as of such date). The Debtors shall have received a certificate from each such Party to such effect signed by a duly authorized signatory of each such Party.

10.2 Covenant Performance. The covenants and agreements that Knight Hawk and the Supporting Holders are required to perform or to comply with pursuant to this Agreement at or prior to the Closing shall have been performed and complied with in all material respects. The Debtors shall have received a certificate of Knight Hawk and the Supporting Holders to such effect signed by a duly authorized signatory of each such Party.

10.3 No Order. No Governmental Authority shall have enacted, issued, promulgated or entered any Order that is in effect and that has the effect of making illegal or otherwise prohibiting the consummation of the transactions contemplated by this Agreement or could cause any of such transactions to be rescinded following the Closing.

10.4 Supporting Holders' Deliveries; Knight Hawk's Deliveries. Supporting Holders and Knight Hawk shall have delivered or caused to be delivered, or shall be ready, willing and able to deliver, each of the deliveries required pursuant to Section 4.2 and Section 4.4, respectively.

10.5 Effective Date. The Bankruptcy Court shall have entered the Confirmation Order and the conditions precedent to the Effective Date set forth in the Plan shall each have occurred (or shall occur simultaneously with the Closing) or shall have been waived in accordance with the terms thereof; *provided, however*, that if the Parties elect to effectuate the transactions contemplated hereby pursuant to the Section 363 Sale, the Bankruptcy Court shall have entered the Sale Order and it shall have become a Final Order.

ARTICLE XI

Sale of the Transferred Assets Pursuant to Section 363

11.1 Section 363 Sale. Notwithstanding anything to the contrary contained herein, the Debtors may, with the written consent of the Required Supporting Holders and Knight Hawk, file a motion with the Bankruptcy Court seeking authority to effectuate the transactions contemplated hereby (including the Sale Transaction) pursuant to section 363 of the Bankruptcy Code (the "Section 363 Sale"). If the Debtors, the Required Supporting Holders and Knight Hawk make such election, the Parties shall use best efforts to effectuate the Section 363 Sale on substantially the same terms as set forth herein, and shall work together in good faith to amend this Agreement and any Transaction Documents to consummate such sale as promptly as practicable.

11.2 Trustee. From the Execution Date until the earlier of the Closing or the termination of this Agreement, the Supporting Holders shall direct the Trustee to take actions consistent with the terms of this Agreement.

ARTICLE XII

Termination

12.1 Termination Events. Anything contained in this Agreement to the contrary notwithstanding, this Agreement may be terminated at any time prior to the Closing:

(a) by either Company, the Required Supporting Holders or Knight Hawk, if a Governmental Authority issues a final, non-appealable ruling or Order prohibiting the transactions contemplated hereby where such ruling or Order was not requested, encouraged or supported by the Party seeking to terminate this Agreement;

(b) by mutual written consent of Company, the Required Supporting Holders and Knight Hawk;

(c) by the Required Supporting Holders or Knight Hawk, (a) if the Bankruptcy Court has not entered the Confirmation Order on or before February 23, 2018, or the Effective Date has not occurred on or before February 28, 2018, (b) if the Parties elect to effectuate the transactions contemplated hereby pursuant to the Section 363 Sale, the Sale Order has not become a Final Order on or before February 28, 2018 (the “Outside Date”), or (c) pursuant to Section 8.12;

(d) by the Required Supporting Holders or Knight Hawk, if the Bankruptcy Court enters an Order dismissing, or converting into a case under chapter 7 of the Bankruptcy Code, the case commenced by the Debtors under chapter 11 of the Bankruptcy Code and comprising part of the Chapter 11 Cases or appointing a trustee or examiner with enlarged powers relating to the operation of the Business;

(e) by Company, if the Bankruptcy Court enters an Order dismissing, or converting into a case under chapter 7 of the Bankruptcy Code, the case commenced by the Debtors under chapter 11 of the Bankruptcy Code and comprising part of the Chapter 11 Cases, where such Order was not requested, encouraged or supported by the Debtors;

(f) by the Required Supporting Holders or Knight Hawk, if prior to the Closing, Company or any other Debtor files a Plan inconsistent, in any material respect, with the terms of this Agreement (or supports any such plan filed by another party) or seeks to modify or withdraw the motion approving the Bid Protections Order or any motion pertaining to the Sale Order, if applicable, or otherwise fails to pursue confirmation of the Plan and entry of the Confirmation Order, other than, in each case, with the consent of the Required Supporting Holders and Knight Hawk;

(g) by the Required Supporting Holders in the event of any breach by the Debtors or Knight Hawk of any of their respective agreements, covenants, representations or warranties contained herein and where such breach (i)(A) if by the Debtors, results or will result in the failure of a condition set forth in Section 9.1 or Section 9.2 to be satisfied, or (B) if by Knight Hawk, results or will result in the failure of a condition set forth in Section 10.1 or Section 10.2 to be satisfied, and (ii) either (A) cannot be cured by the Outside Date or (B) if capable of being cured, has not been cured by the earlier of ten (10) Business Days after the giving of written notice thereof by the Required Supporting Holders to the Debtors or Knight Hawk, as applicable (which notice shall specify the nature of such breach and be given as promptly as practicable), and the Outside Date; *provided, however*, that the Supporting Holders shall not be permitted to terminate this Agreement pursuant to this Section 12.1(g) if such terminating Supporting Holders are themselves in material breach of any of its representations, warranties, covenants or agreements contained herein (or in breach at all with respect to those representations, warranties, covenants and agreements that are qualified as to materiality or Material Adverse Effect or similar expressions);

(h) by Knight Hawk in the event of any breach by the Debtors or the Supporting Holders of any of their respective agreements, covenants, representations or

warranties contained herein and where such breach (i)(A) if by the Debtors, results or will result in the failure of a condition set forth in Section 9.1 or Section 9.2 to be satisfied, or (B) if by the Supporting Holders, results or will result in the failure of a condition set forth in Section 10.1 or Section 10.2 to be satisfied, and (ii) either (A) cannot be cured by the Outside Date or (B) if capable of being cured, has not been cured by the earlier of ten (10) Business Days after the giving of written notice thereof by Knight Hawk to the Debtors or the Supporting Holders, as applicable (which notice shall specify the nature of such breach and be given as promptly as practicable), and the Outside Date; *provided, however*, that Knight Hawk shall not be permitted to terminate this Agreement pursuant to this Section 12.1(h) if Knight Hawk is itself in material breach of any of its representations, warranties, covenants or agreements contained herein (or in breach at all with respect to those representations, warranties, covenants and agreements that are qualified as to materiality or Material Adverse Effect or similar expressions);

(i) by Company in the event of any breach by the Supporting Holders or Knight Hawk of any of their agreements, covenants, representations or warranties contained herein and such breach (i) would result in the failure of a condition set forth in Section 10.1 or Section 10.2 to be satisfied and (ii) either (A) cannot be cured by the Outside Date or (B) if capable of being cured, has not been cured by the earlier of ten (10) Business Days after the giving of written notice thereof by Company to the Supporting Holders or Knight Hawk, as applicable (which notice shall specify the nature of such breach and be given as promptly as practicable), and the Outside Date; *provided, however*, that Company shall not be permitted to terminate this Agreement pursuant to this Section 12.1(i) if Company is itself in material breach of any of Company's representations, warranties, covenants or agreements contained herein (or in breach at all with respect to those representations, warranties, covenants and agreements that are qualified as to materiality or Material Adverse Effect or similar expressions);

(j) by the Company, if the board of directors, board of managers, or such similar governing body of any Debtor determines, after consulting with counsel, (i) that proceeding with this Agreement or any of the transactions contemplated herein or in the Restructuring Support Agreement would be inconsistent with the exercise of its fiduciary duties or any applicable Legal Requirement or (ii) in the exercise of its fiduciary duties, to pursue a Competing Transaction;

(k) by the Required Supporting Holders or Knight Hawk, if the Parties elect to effectuate the transactions contemplated hereby pursuant to the Section 363 Sale and for any reason Trustee is unable to credit bid the Noteholder Equity Issuance Consideration pursuant to Section 363(k) of the Bankruptcy Code as provided for herein;

(l) (i) by the Required Supporting Holders or Knight Hawk if any Debtor enters into a definitive agreement with respect to a Competing Transaction or if the Bankruptcy Court approves a Competing Transaction (unless the Supporting Holders and Knight Hawk are designated as a back-up bidder, or (ii) automatically if a Competing Transaction is consummated;

(m) by the Required Supporting Holders or Knight Hawk upon termination of the Restructuring Support Agreement;

(n) by either Company, the Required Supporting Holders or Knight Hawk, if the applicable Parties have not agreed upon the form of the Operating Agreement before December 1, 2017;

(o) by the Required Supporting Holders or Knight Hawk in accordance with Section 8.12; or

(p) by any Party in accordance with Section 8.13.

12.2 Effect of Termination.

(a) In the event of termination of this Agreement by the Required Supporting Holders, Knight Hawk or Company pursuant to this Article XII, all rights and obligations of the Parties under this Agreement shall terminate without any Liability of any Party to any other Party; *provided, however*, that nothing herein shall relieve any Party from liability for breach of this Agreement prior to such termination if such breach results from fraudulent or criminal acts, the remedies for which shall not be limited by the provisions of this Agreement. The provisions of this Section 12.2, along with Section 7.1 (and, to the extent applicable to the interpretation or enforcement of such provisions, Article I and Article XIII), shall expressly survive the termination of this Agreement.

(b) Subject to the terms of the Bid Protections Order, the Debtors shall pay to Knight Hawk the Expense Reimbursement, by wire transfer of immediately available funds promptly (but in no event later than the next Business Day) upon the earlier to occur of (i) consummation of a Competing Transaction or (ii) the termination of this Agreement (other than a termination pursuant to Section 12.1(b), Section 12.1(g) (by Required Supporting Holders as a result of a breach of this Agreement by Knight Hawk), Section 12.1(i) (by Company as a result of a breach of this Agreement by Knight Hawk), Section 12.1(n), Section 12.1(o) or Section 12.1(p); *provided, however*, if the Debtors fail to pay amounts due to Knight Hawk pursuant to this Section 12.2(b) within the time period specified herein, the Debtors shall pay the costs and expenses (including reasonable legal fees and expenses) incurred by Knight Hawk in connection with any Proceeding taken to collect payment of such amounts, together with interest on such unpaid amounts at the Applicable Rate, calculated on a daily basis from the date such amounts were required to be paid until the date of actual payment, except to the extent such unpaid amounts are contested by the Debtors in good faith.

(c) Each Party acknowledges that the agreements contained in this Section 12.2 are an integral part of the transactions contemplated by this Agreement, that without these agreements such Party would not have entered into this Agreement, and that any amounts payable pursuant to this Section 12.2 do not constitute a penalty.

ARTICLE XIII

General Provisions

13.1 Survival. All covenants and agreements contained in this Agreement or any other Transaction Document that by their terms are to be performed in whole or in part, or

that prohibit actions, at or subsequent to the Closing shall survive the Closing hereunder until fully performed and each Party hereto shall be liable to the other after the Closing for any breach thereof. Subject to the following sentence, all other covenants and agreements contained in this Agreement, and all representations and warranties contained in this Agreement or in any certificated deliveries hereunder, shall not survive the Closing and shall thereupon terminate, including any Actions for damages in respect of any breach thereof. Notwithstanding anything to the contrary, the indemnity obligations set forth in Section 5.26 and Section 6.4, in each case, shall survive the Closing indefinitely. Notwithstanding the foregoing, nothing in this Section 13.1 shall prohibit Company or any of its Affiliates from ceasing operations or winding up its affairs following the Closing.

13.2 Confidentiality. The Parties agree that the confidentiality agreements entered into by them and/or their Affiliates prior to the Petition Date (the “Confidentiality Agreements”) shall continue in full force and effect notwithstanding the execution and delivery by the Parties of this Agreement; *provided, however*, that (a) disclosure of matters that become a matter of public record as a result of the Chapter 11 Cases and the filings related thereto shall not constitute a breach of such Confidentiality Agreements, and (b) disclosures permitted under this Agreement shall not constitute a breach of such Confidentiality Agreements. If the Closing should occur, the confidentiality restrictions on the Supporting Holders and Knight Hawk contained in this Agreement as well as those contained in the Confidentiality Agreements shall terminate, except to the extent covering any Excluded Assets; *provided that*, in any event the Confidentiality Agreements shall terminate on the date that is twelve (12) months from the Closing Date.

13.3 Public Announcements. Unless otherwise required by applicable Legal Requirement or by obligations of the Supporting Holders, Knight Hawk or the Debtors or their respective Affiliates pursuant to any listing agreement with or rules of any securities exchange (and excluding disclosure of matters that become a matter of public record as a result of the Chapter 11 Cases and the filings related thereto shall not constitute a breach of such Confidentiality Agreements), the Parties shall consult with each other before issuing any press release or otherwise making any public statement with respect to this Agreement, the transactions contemplated hereby or the activities and operations of the other and shall not issue any such release or make any such statement without the prior written consent of the other Parties (such consent not to be unreasonably withheld, conditioned or delayed).

13.4 Notices. All notices, consents, waivers and other communications under this Agreement must be in writing and shall be deemed to have been duly given when (a) delivered by hand (with written confirmation of receipt), (b) sent by email, provided that if such email is sent after 5:00 p.m. CST or is otherwise sent on a day that is not a Business Day, such email shall be deemed received on the next Business Day, (c) received by the addressee, if sent by a delivery service (prepaid, receipt requested) or (d) if sent by registered or certified mail (postage prepaid, return receipt requested), on the date of delivery, in each case to the appropriate addresses and representatives (if applicable) set forth below (or to such other addresses and representatives as a Party may designate by notice to the other Parties):

(i) If to the Debtors, then to:

c/o: Armstrong Energy, Inc.
7733 Forsyth Boulevard, Suite 1625
St. Louis, Missouri 63105
Attention: Eric Waller

with a copy (which shall not constitute notice) to:

Kirkland & Ellis LLP
300 North LaSalle
Chicago, Illinois 60654
Attention: Ross M. Kwasteniet
Will Guerrieri
Travis M. Bayer

(ii) If to the Supporting Holders:

Ad Hoc Committee of First Lien Lenders of Armstrong
Energy, Inc.
c/o Paul, Weiss, Rifkind, Wharton & Garrison, LLP
1285 Avenue of the Americas
New York, NY 10019
Attention: Brian S. Hermann
Elizabeth R. McColm

(iii) If to Knight Hawk:

Knight Hawk Holdings, LLC
500 Cutler-Trico Road
Percy, IL 62272
Attention: Steve Carter

with a copy (which shall not constitute notice) to:

Jackson Kelly PLLC
221 NW Fifth Street
Evansville, IN 47708
Attention: Charles A. Compton

and

Jackson Kelly PLLC
500 Lee Street East, Suite 1600
Charleston, WV 25301
Attention: William F. Dobbs

13.5 Waiver, Waiver of Damages. Neither the failure nor any delay by any Party in exercising any right, power or privilege under this Agreement or the documents referred to in this Agreement shall operate as a waiver of such right, power or privilege, and no single or partial exercise of any such right, power or privilege shall preclude any other or further exercise of such right, power or privilege or the exercise of any other right, power or privilege. To the maximum extent permitted by applicable law, (a) no waiver that may be given by a Party shall be applicable except in the specific instance for which it is given, and (b) no notice to or demand on one Party shall be deemed to be a waiver of any right of the Party giving such notice or demand to take further action without notice or demand. **NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, NO PARTY SHALL BE LIABLE TO THE OTHER FOR SPECIAL, INDIRECT, EXEMPLARY OR PUNITIVE DAMAGES ARISING OUT OF, ASSOCIATED WITH, OR RELATING TO THIS AGREEMENT (INCLUDING LOSS OF PROFIT OR BUSINESS INTERRUPTIONS, HOWEVER SAME MAY BE CAUSED) AND THE PARTIES HEREBY WAIVE ALL CLAIMS FOR ANY SUCH DAMAGES.**

13.6 Entire Agreement; Amendment. This Agreement (including the Schedules and the Exhibits) and the other Transaction Documents supersede all prior agreements among or between the Parties with respect to their subject matter and constitute a complete and exclusive statement of the terms of the agreements among or between the Parties with respect to their subject matter. This Agreement may not be amended except by a written agreement executed by the Debtors, the Required Supporting Holders and Knight Hawk.

13.7 Assignment. This Agreement, and the rights, interests and obligations hereunder, shall not be assigned by any Party by operation of law or otherwise without the express written consent of the Debtors, the Required Supporting Holders and Knight Hawk (which consent may be granted or withheld in the sole discretion of such Party); *provided, however,* that any Supporting Holder shall be (i) permitted, upon prior notice to the Debtors, to assign all or part of its rights and/or obligations hereunder to one or more of its Affiliates and (ii) permitted to assign all or part of its rights and/or obligations hereunder to any Person who has executed a joinder agreement to the Restructuring Support Agreement, and, in case of each of clauses (i) and (ii), each such assignee shall be deemed to be a Supporting Holder for all purposes under the Transaction Documents to the extent of the rights and obligations so assigned to such assignee. Notwithstanding the foregoing, no assignment of any obligations hereunder shall relieve the Parties hereto of any such obligations without the prior written consent of the Company (not to be unreasonably, conditioned or delayed), unless such transferring Party and transferee provide reasonable evidence of such transferee's ability to perform in full the transferring Party's obligations under this Agreement in all respects as reasonably determined by the Company (which, for purposes of a Supporting Holder, delivery of an executed joinder to this Agreement by an assignee of such Supporting Holder and evidence of transfer of such Supporting Holder's Indenture Obligation shall be deemed reasonable evidence). Upon any such permitted assignment, the references in this Agreement to the Debtors, the Supporting Holders or Knight Hawk shall also apply to any such assignee unless the context otherwise requires.

13.8 Severability. The provisions of this Agreement shall be deemed severable, and the invalidity or unenforceability of any provision shall not affect the validity or enforceability of the other provisions hereof. If any provision of this Agreement, or the

application thereof to any Person or any circumstance, is invalid or unenforceable, (a) a suitable and equitable provision shall be substituted therefor in order to carry out, so far as may be valid and enforceable, the intent and purpose of such invalid or unenforceable provision and (b) the remainder of this Agreement and the application of such provision to other Persons or circumstances shall not be affected by such invalidity or unenforceability.

13.9 Expenses. Except as otherwise is expressly provided in this Agreement (including as provided in Section 12.2), whether or not the transactions contemplated by this Agreement are consummated, the Parties shall bear their own respective expenses (including all compensation and expenses of counsel, financial advisors, consultants, actuaries and independent accountants) incurred in connection with this Agreement and the transactions contemplated hereby.

13.10 Time of Essence. Time shall be of the essence with respect to all time periods and notice periods set forth in this Agreement.

13.11 Governing Law; Consent to Jurisdiction and Venue; Jury Trial Waiver.

(a) Except to the extent the mandatory provisions of the Bankruptcy Code apply, this Agreement shall be governed by, and construed in accordance with, the laws of the State of New York applicable to contracts made and to be performed entirely in such state without regard to principles of conflicts or choice of laws or any other law that would make the laws of any other jurisdiction other than the State of New York applicable hereto.

(b) Without limitation of any Party's right to appeal any Order of the Bankruptcy Court, (i) the Bankruptcy Court shall retain exclusive jurisdiction to enforce the terms of this Agreement and to decide any claims or disputes that may arise or result from, or be connected with, this Agreement, any breach or default hereunder, or the transactions contemplated hereby and (ii) any and all claims relating to the foregoing shall be filed and maintained only in the Bankruptcy Court, and the Parties hereby consent and submit to the exclusive jurisdiction and venue of the Bankruptcy Court and irrevocably waive the defense of an inconvenient forum to the maintenance of any such Action or Proceeding; *provided, however*, that, if the Chapter 11 Cases are closed, all Actions and Proceedings arising out of or relating to this Agreement shall be heard and determined in a New York state court or a federal court sitting in the state of New York, and the Parties hereby irrevocably submit to the exclusive jurisdiction and venue of such courts in any such Action or Proceeding and irrevocably waive the defense of an inconvenient forum to the maintenance of any such Action or Proceeding. The Parties consent to service of process by mail (in accordance with Section 13.4) or any other manner permitted by law.

(c) Each Party hereby waives, to the fullest extent permitted by applicable Legal Requirements, any right it may have to a trial by jury in any Proceeding directly or indirectly arising out of or relating to this Agreement, the other Transaction Documents or any other agreement contemplated hereto and thereto or the transactions contemplated hereby or thereby (whether based on contract, tort or any other theory). Each Party (a) certifies that no representative, agent or attorney of any other Party has represented, expressly or otherwise, that such other Party would not, in the event of litigation, seek to enforce the foregoing waiver and

(b) acknowledges that it and the other Parties have been induced to enter into this Agreement by, among other things, the mutual waivers and certifications in this section.

13.12 Counterparts. This Agreement and any amendment hereto may be executed in one or more counterparts, and by the different Parties in separate counterparts, each of which shall be deemed to be an original of this Agreement or such amendment and all of which, when taken together, shall constitute one and the same agreement. Delivery of an executed counterpart of a signature page to this Agreement or any amendment hereto by facsimile or other electronic means (including portable document format sent via email) shall be as effective as delivery of a manually executed counterpart of this Agreement or such amendment, as applicable.

13.13 Parties in Interest; No Third Party Beneficiaries. This Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns. This Agreement is for the sole benefit of the Parties and their permitted assigns, and nothing herein, express or implied, is intended to or shall confer upon any other Person any legal or equitable benefit, claim, cause of action, remedy or right of any kind.

13.14 Non-Recourse. Any claim or cause of action based upon, arising out of, or related to this Agreement or any agreement, document or instrument contemplated hereby may only be brought against the Parties hereto, and then only with respect to the specific obligations set forth herein or therein. Other than the Parties hereto, no other party shall have any liability or obligation for any of the representations, warranties, covenants, agreements, obligations or Liabilities of any party under this Agreement, the other Transaction Documents, or any other agreement contemplated hereto and thereto or of or for any Proceeding based on, in respect of, or by reason of, the transactions contemplated hereby or thereby (including the breach, termination or failure to consummate such transactions), in each case whether based on contract, tort, fraud, strict liability, other Legal Requirements or otherwise and whether by piercing the corporate veil, by a claim by or on behalf of a Party hereto or another Person or otherwise.

13.15 Disclosure Schedules; Materiality. The inclusion of any matter in any Disclosure Schedule shall be deemed to be an inclusion in all other Disclosure Schedules and disclose against any representation or warranty in this Agreement, without regard for whether such representation or warranty expressly references a Disclosure Schedule, but only to the extent that such disclosure is sufficient to identify the matter to which such disclosure is responsive and reasonably apparent on its face, but inclusion therein shall not be deemed to constitute an admission, or otherwise imply, that any such matter is material or creates a measure for materiality for purposes of this Agreement. The disclosure of any particular fact or item in any Disclosure Schedule shall not be deemed an admission as to whether the fact or item is “material” or would constitute a “Material Adverse Effect.”

13.16 Injunctive Relief.

(a) The Parties agree that irreparable damage would occur in the event that any of the provisions of this Agreement or the other Transaction Documents (as applicable) were not performed in accordance with their specific terms or were otherwise breached, and that damages pursuant to Legal Requirements may be an inadequate remedy for the breach of any of

the covenants, promises and agreements contained in this Agreement or the other Transaction Documents (as applicable), and, accordingly, any Party shall be entitled to injunctive relief to prevent any such breach, and to specifically enforce the terms and provisions of this Agreement or the other Transaction Documents (as applicable), including specific performance of such covenants, promises or agreements or an order enjoining a Party from any threatened, or from the continuation of any actual, breach of the covenants, promises or agreements contained in this Agreement or the other Transaction Documents (as applicable). The rights set forth in this Section 13.17 shall be in addition to any other rights that a Party may have pursuant to Legal Requirements or in equity with respect to this Agreement or the other Transaction Documents (as applicable).

(b) Subject to Section 13.17(c), the Parties hereby agree not to raise any objections to the availability of the equitable remedy of specific performance to prevent or restrain breaches of this Agreement or the other Transaction Documents (as applicable) by the Supporting Holders, Knight Hawk or the Debtors, as applicable, and to specifically enforce the terms and provisions of this Agreement or the other Transaction Documents (as applicable) to prevent breaches or threatened breaches of, or to enforce compliance with, the respective covenants and obligations of the Supporting Holders, Knight Hawk or the Debtors, as applicable, under this Agreement or the other Transaction Documents (as applicable) all in accordance with the terms of this Section 13.17.

(c) Notwithstanding the foregoing, nothing in this Section 13.17 shall prohibit the Debtors or any of their respective Affiliates from ceasing operations or winding up its affairs following the Closing.

[Signature page follows.]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed and delivered by their duly authorized representatives, all as of the Execution Date.

THE DEBTORS:

ARMSTRONG ENERGY, INC.

By: _____
Name:
Title:

□

By: _____
Name:
Title:

THE SUPPORTING HOLDERS:

[]

By: _____
Name:
Title:

KNIGHT HAWK:

KNIGHT HAWK HOLDINGS, LLC

By: _____
Name:
Title: