

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:)	CHAPTER 11 CASES
)	
DIVERSE ENERGY SYSTEMS, LLC)	CASE NO. 15-34736
)	
SCRIBNER INDUSTRIES, INC.)	CASE NO. 15-34737
)	
DIVERSE ENERGY SYSTEMS, LLC)	CASE NO. 15-34738
d/b/a LEAN TECHNOLOGIES, LLC)	
)	
ROULY, INC.)	CASE NO. 15-34739
)	
Debtors.)	Jointly Administered Under
)	Case No. 15-34736-H5-11
)	

**DISCLOSURE STATEMENT PURSUANT TO SECTION 1125 OF THE UNITED STATES
BANKRUPTCY CODE WITH RESPECT TO CHAPTER 11 PLAN OF LIQUIDATION OF
THE BANKRUPTCY ESTATE OF ROULY, INC.**

Dated: August 23, 2016.

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Rouly, Inc. ("Rouly" or the "Debtor"), one of the debtors in the above-captioned chapter 11 cases, hereby submits this Disclosure Statement Pursuant to Section 1125 of the United States Bankruptcy Code with Respect to the Chapter 11 Plan of Liquidation of the Bankruptcy Estate of Rouly, Inc. (the "Disclosure Statement"). This Disclosure Statement is to be used in connection with the solicitation of votes on the Chapter 11 Plan of Liquidation of the Bankruptcy Estate of Rouly, Inc. dated August 22, 2016 (the "Plan"). A copy of the Plan is attached hereto as **Exhibit "A"**. Unless otherwise defined herein, terms used herein have the meanings ascribed thereto in the Plan (see Article I of the Plan).

For a general summary of the proposed treatment of Claims or Interests under the Plan, please see the chart below.

I. NOTICE TO HOLDERS OF CLAIMS

A. Generally

The purpose of this Disclosure Statement is to enable Creditors whose Claims are impaired to make an informed decision in exercising their right to vote to accept or reject the Plan.

THIS DISCLOSURE STATEMENT CONTAINS INFORMATION THAT MAY BEAR UPON YOUR DECISION TO ACCEPT OR REJECT THE PLAN. PLEASE READ THIS DOCUMENT WITH CARE.

On [REDACTED], 2016, the Bankruptcy Court entered an order pursuant to section 1125 of the Bankruptcy Code (the "Disclosure Statement Order") approving this Disclosure Statement as containing information of a kind, and in sufficient detail, adequate to enable a hypothetical, reasonable investor, typical of the solicited holders of Claims against and Interests in the Debtor, to make an informed judgment with respect to the acceptance or rejection of the Plan. A copy of the Disclosure Statement Order is included in the materials accompanying this Disclosure Statement. APPROVAL OF THIS DISCLOSURE STATEMENT BY THE BANKRUPTCY COURT DOES NOT CONSTITUTE A DETERMINATION BY THE BANKRUPTCY COURT REGARDING THE FAIRNESS OR MERITS OF THE PLAN.

The statements contained in the Disclosure Statement are made as of the date hereof unless another time is specified, and neither delivery of the Disclosure Statement nor any exchange of rights made in connection with the Plan shall, under any circumstances, create an implication that there has not been any change in the information set forth herein since the date the Disclosure Statement and the materials relied on in preparation of the Disclosure Statement were compiled.

For the convenience of Creditors and parties in interest, this Disclosure Statement summarizes the terms of the Plan, but the Plan itself qualifies all summaries. This Disclosure Statement is qualified in its entirety by the terms of the Plan. If any inconsistency exists between the Plan and the Disclosure Statement, the terms of the Plan are controlling.

Each Claimant should consult the Claimant's individual attorney, accountant and/or financial advisor as to the effect of the Plan on such Claimant.

Each holder of a Claim or Interest entitled to vote to accept or reject the Plan should read this Disclosure Statement and the Plan in their entirety before voting. No solicitation of votes to accept or reject the Plan may be made except pursuant to this Disclosure Statement and section 1125 of the Bankruptcy Code. Except for the Debtor's estate and her professionals, no person has

been authorized to use or promulgate any information concerning the Debtor, the Debtor's business, or the Plan, other than the information contained herein, in connection with the solicitation of votes to accept or reject the Plan. No holder of a Claim entitled to vote on the Plan should rely upon any information relating to the Debtor, the Debtor's business, or the Plan other than that contained in this Disclosure Statement and the exhibits hereto. Unless otherwise indicated, the source of all information set forth herein was previously provided by the Debtor or by the independent executor of her probate estate.

The Disclosure Statement may not be relied on for any purpose other than to determine whether to vote in favor of or against the Plan and related options and elections, and nothing contained herein shall constitute an offer to sell or purchase a security as defined by state or Federal securities law or an admission of any fact or liability by any party, or be admissible in any proceeding involving the Debtor or any other party, or be deemed conclusive evidence of the tax or other legal effects of the reorganization of the Debtor on holders of Claims or Interests. Certain of the information contained in the Disclosure Statement, by its nature, is forward looking, contains estimates and assumptions which may prove to be wrong, and contains forecasts which may prove to be wrong or which may be materially different from actual results.

After carefully reviewing this Disclosure Statement, including the attached exhibits, please indicate your acceptance or rejection of the Plan by voting in favor of or against the Plan on the enclosed Ballot and returning the same to the address set forth on the Ballot, in the enclosed return envelope so that it will be received by no later than 5:00 P.M., CENTRAL TIME, ON [REDACTED], 2016.

If you do not vote to accept the Plan, or if you are the holder of an unimpaired Claim or Interest, you may be bound by the Plan if it is accepted by the requisite holders of Claims or Interests. See "Confirmation of the Plan – Solicitation of Votes; Vote Required for Class Acceptance" beginning on page [REDACTED] and "Cramdown" beginning on page [REDACTED] of this Disclosure Statement.

TO BE SURE YOUR BALLOT IS COUNTED, YOUR BALLOT MUST BE RECEIVED NO LATER THAN 5:00 P.M., CENTRAL TIME, ON [REDACTED], 2016. For detailed voting instructions and the name, address, and phone number of the person you may contact if you have questions regarding the voting procedures, see "Confirmation of the Plan – Solicitation of Votes; Voting Procedures – Parties In Interest Entitled to Vote" beginning on page [REDACTED] of this Disclosure Statement.

Pursuant to section 1128 of the Bankruptcy Code, the Bankruptcy Court has scheduled a hearing to consider confirmation of the Plan (the "Confirmation Hearing"), on [REDACTED], 2016 at [REDACTED].m., Central Time, in the United States Bankruptcy Court for the Northern District of Texas, Fort Worth Division. The Bankruptcy Court has directed that objections, if any, to confirmation of the Plan be filed and served on or before [REDACTED], 2016, in the manner described under the caption, "Confirmation of the Plan – Confirmation Hearing" beginning on page [REDACTED] of this Disclosure Statement.

THE DEBTOR'S CHIEF RESTRUCTURING OFFICER AND PROPOSED LIQUIDATING AGENT SUPPORTS CONFIRMATION OF THE PLAN AND URGES ALL HOLDERS OF IMPAIRED CLAIMS AND INTERESTS TO VOTE TO ACCEPT THE PLAN.

B. Summary of Treatment under the Plan

The following is an estimate of the numbers and amounts of classified Claims and Interests

to receive treatment under the Plan, and a summary of the proposed treatment of such Claims and Interests under the Plan. Reference should be made to the entire Disclosure Statement and to the Plan for a complete description of the classification and treatment of Claims and Interests.

The Bar Date for filing proofs of claim was January 6, 2016. The table below is drawn from the Debtor's Schedules and filed proofs of Claim. The final universe of Claims, as actually Allowed, may differ from this table.

Class	Treatment
<u>Class 1</u> – Priority (Non-Tax) Claims Estimated Amount: \$0.00 Estimated Number of Holders: 0	Impaired Priority (Non-Tax) Claims shall be paid and treated as follows: Each holder of an Allowed Priority Non-Tax Claim shall receive (a) the full amount of such holder's Allowed Claim in one Cash payment on or before the Initial Distribution Date, or (b) such other treatment as may be agreed upon in writing by the holder of such Priority Non-Tax Claim and the Debtor. The Debtor does not believe that there are any valid Priority (Non-Tax) Claims against its estate and expects that this will be an empty Class. However, in the event any such Priority (Non-Tax) Claims are determined to exist and Allowed by the Bankruptcy Court, they shall be classified as Class 1 Claims and paid and treated as set forth herein. Estimated Recovery: 100%
<u>Class 2</u> – Secured Claims Estimated Amount: \$2,491.13 Estimated Number of Holders: 1	Unimpaired Secured Claims shall be paid and treated as follows: Each Allowed Secured Claim shall be placed within a separate subclass of this Class 2. Accordingly, each such Class 2 Claim shall, for purposes of accepting or rejecting the Plan and for receiving distributions under the Plan, be treated as though in a separate Class. On or before the Effective Date, except to the extent that a holder of an Allowed Secured Claim agrees to less favorable treatment, each holder of an Allowed Secured Claim shall, at the Liquidating Agent's option and sole discretion, receive one of the following treatments: (i) payment in full in cash from the Distribution Account; (ii) the Collateral

Class	Treatment
	<p>securing such Allowed Secured Claim; or (iii) other treatment that renders such Allowed Secured Claim unimpaired in accordance with section 1124 of the Bankruptcy Code.</p> <p>The only Secured Claim filed in the Debtor's bankruptcy case was filed by Hilliard Energy, Ltd. d/b/a Hilliard Office Solutions ("<u>Hilliard</u>"). The proof of claim reflects that the claim is secured by a copier. The Debtor intends to surrender this copier to Hilliard in full satisfaction of Hilliard's Secured Claim. To the extent the copier has not been picked up by Hilliard prior to the Effective Date, it shall be deemed to have been surrendered as of the Effective Date in full satisfaction of Hilliard's Secured Claim pursuant to Section 4.02 of the Plan.</p> <p>In addition, the Debtor listed two (2) Secured Claims of Ally Bank on its Schedule D. These Claims are secured vehicle loans. One of these loans (secured by 2013 Chevrolet Silverado with VIN: 1GC1CXCG4DF185329) has been paid in full by Cimarron Acquisition Co. n/k/a CE Diverse Energy Co. The Debtor has notified Ally Bank that it can pick up the other vehicle (VIN: 3GCPCSE07DG257071), and it is anticipated that this vehicle will have been picked up by Ally Bank prior to the Effective Date. However, to the extent this vehicle remains in the Debtor's possession as of the Effective Date, it shall be deemed to be surrendered to Ally Bank as of the Effective Date in full satisfaction of Ally Bank's Secured Claim pursuant to Section 4.02 of the Plan.</p> <p>Estimated Recovery: 100%</p>
<p><u>Class 3</u> – Unsecured (General) Claims</p> <p>Estimated Amount: \$500,000.00</p> <p>Estimated Number of Holders: 84</p>	<p>Impaired</p> <p>Unsecured (General) Claims shall be paid and treated as follows:</p> <p>Except to the extent that a holder of an Allowed Unsecured (General) Claim agrees to different treatment, each holder of an Allowed Unsecured (General) Claim shall receive its pro rata share of Net Cash, all in one or more distributions made from time to time as may be determined in the Liquidating Agent's discretion pursuant to the terms of the Plan. For purposes of determining</p>

Class	Treatment
	<p>the pro rata share of Net Cash for each holder of an Allowed Class 3 Claim, the first \$75,000 of Net Cash shall be allocated for and solely distributed to Allowed Class 3 Claims; provided, however, that, to the extent Net Cash exceeds \$75,000, Allowed Class 3 and Class 4 Claims shall share any amount in excess of \$75,000 <i>pari passu</i>. Thus, only Allowed Class 3 Claims shall be taken into consideration in determining a holder of an Allowed Class 3 Claim's pro rata share of the first \$75,000 of Net Cash, but for determining a holder of an Allowed Class 3 Claim's pro rata share of any amount of Net Cash in excess of \$75,000, both Allowed Class 3 and Allowed Class 4 Claims will be taken into account.</p> <p>Estimated Recovery: 20%¹</p>
<p><u>Class 4 – Insider Claims</u></p> <p>Estimated Amount: \$2,501,750.33</p> <p>Total Holders: 1</p>	<p>Impaired</p> <p>Insider Claims shall be satisfied and treated as follows:</p> <p>Holders of Insider Claims shall not receive any distributions under the Plan unless Net Cash exceeds \$75,000. In the event that Net Cash exceeds \$75,000, each holder of an Allowed Insider Claim shall receive its pro rata share of all Net Cash in excess of \$75,000 <i>pari passu</i> with the holders of Allowed Class 3 Claims, all in one or more distributions made from time to time as may be determined in the Liquidating Agent's discretion pursuant to the terms of the Plan.</p> <p>Estimated Recovery: 5%²</p>
<p><u>Class 5 – Interests in the Debtor</u></p> <p>Estimated Amount: N/A</p> <p>Total Holders: 1</p>	<p>Impaired</p> <p>All Interests in the Debtor shall be extinguished and shall cease to exist as of the Effective Date. The holder(s) of such Interests are not expected to receive or retain any property on account of such Interests under the Plan.</p>

¹ This is merely an estimate and actual recoveries may vary. The size of distributions to Class 3 Creditors will largely be determined by the purchase price of the Rouly Real Property.

² This is merely an estimate and actual recoveries may vary. The size of distributions to Class 4 Creditor(s) will largely be determined by the purchase price of the Rouly Real Property.

Class	Treatment
	Estimated Recovery: 0%

The total universe of Claims, as ultimately Allowed, may be greater or smaller than as reflected in the above analysis.

II. EXPLANATION OF CHAPTER 11

A. Overview of Chapter 11

Chapter 11 is the principal reorganization chapter of the Bankruptcy Code. Pursuant to chapter 11, the debtor-in-possession attempts to reorganize its business for the benefit of the debtor, its creditors, and other parties in interest. The Debtor's chapter 11 case commenced with the filing of a voluntary chapter 11 petition on September 7, 2015.

The commencement of a chapter 11 case creates an estate comprising all the legal and equitable interests of the debtor in property as of the date the petition is filed. Sections 1101, 1107, and 1108 of the Bankruptcy Code provide that a debtor may continue to operate its business and remain in possession of its property as a "debtor in possession" unless the bankruptcy court orders the appointment of a trustee. In the present chapter 11 case, the Debtor remained in possession of her property and continued to operate her business as a debtor-in-possession.

The filing of a chapter 11 petition also triggers the automatic stay provisions of the Bankruptcy Code. Section 362 of the Bankruptcy Code provides, *inter alia*, for an automatic stay of all attempts to collect pre-petition claims from the debtor or otherwise interfere with its property or business. Except as otherwise ordered by the bankruptcy court, the automatic stay remains in full force and effect until the effective date of a confirmed plan of reorganization.

The formulation of a plan of reorganization is the principal purpose of a chapter 11 case. The plan sets forth the means for satisfying the claims against and interests in the debtor. Generally, unless a trustee is appointed, only the debtor may file a plan during the first 120 days of a chapter 11 case (the "Exclusive Period"). However, section 1121(d) of the Bankruptcy Code permits the court to extend or reduce the Exclusive Period upon a showing of "cause." After the Exclusive Period has expired, a creditor or any other party in interest may file a plan, unless the debtor has filed a plan within the Exclusive Period, in which case, the debtor is generally given 60 additional days (the "Solicitation Period") during which it may solicit acceptances of its plan. The Solicitation Period may also be extended or reduced by the court upon a showing of "cause."

B. Plan of Reorganization

Although referred to as a plan of reorganization, a plan may provide anything from a complex restructuring of a debtor's business and its related obligations to a simple liquidation of the debtor's assets. In the Debtor's chapter 11 case, the Plan provides that (a) the Assets of the Debtor will vest in the Liquidating Agent for purposes of implementing the Plan and (b) the Liquidating Agent will liquidate the remaining Assets in the Debtor's estate (i.e., the Rouly Real Estate) and distribute the proceeds to creditors in accordance with the terms of the Plan.

After a plan of reorganization has been filed, the holders of impaired claims against or interests in a debtor are permitted to vote to accept or reject the plan. Before soliciting acceptances

of the proposed plan, section 1125 of the Bankruptcy Code requires the debtor 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 about the plan. This Disclosure Statement is presented to holders of Claims against and Interests in the Debtor to satisfy the requirements of section 1125 of the Bankruptcy Code.

If all classes of claims and interests accept a plan of reorganization, the bankruptcy court may nonetheless still not confirm the plan unless the court independently determines that the requirements of section 1129 of the Bankruptcy Code have been satisfied. Section 1129 sets forth the requirements for confirmation of a plan and, among other things, requires that a plan meet the “best interests of creditors” test and be “feasible.” The “best interests of creditors” test generally requires that the value of the consideration to be distributed to the holders of claims and interests under a plan may not be less than those parties would receive if the debtor were liquidated pursuant to a hypothetical liquidation occurring under chapter 7 of the Bankruptcy Code. Under the “feasibility” requirement, the court generally must find that there is a reasonable probability that the debtor will be able to meet its obligations under its plan without the need for further financial reorganization.

The Debtor’s estate and Liquidating Agent believe that the Plan satisfies all the applicable requirements of section 1129(a) of the Bankruptcy Code, including, in particular, the “best interests of creditors” test and the “feasibility” requirement. The Debtor’s estate and Liquidating Agent support confirmation of the Plan and urge all holders of impaired Claims to accept the Plan.

Chapter 11 does not require that each holder of a claim against or interest in a debtor vote in favor of a plan of reorganization in order for the bankruptcy court to confirm the plan. At a minimum, however, the plan must be accepted by a majority in number and two-thirds in amount of those claims actually voting in at least one class of impaired claims under the plan. The Bankruptcy Code also defines acceptance of the plan by a class of interests (equity securities) as acceptance by holders of two-thirds of the number of shares actually voting. In the present case, only the holders of Claims or Interests who actually vote will be counted as either accepting or rejecting the Plan.

In addition, classes of claims or interests that are not “impaired” under a plan of reorganization are conclusively presumed to have accepted the plan and thus are not entitled to vote. Accordingly, acceptances of a plan will generally be solicited only from those persons who hold claims or interests in an impaired class. A class is “impaired” if the legal, equitable, or contractual rights attaching to the claims or interests of that class are modified in any way under the plan. However, if holders of the claims or interests in a class do not receive or retain any property on account of such claims or interests, then each such holder is deemed to have voted to reject the plan and does not actually cast a vote to accept or reject the plan.

Classes 1, 3, 4, and 5 are impaired under the Plan. Class 5 shall not receive or retain any property under the Plan and is therefore deemed to reject the Plan. Class 2 is unimpaired and is deemed to accept the Plan.

The bankruptcy court may also confirm a plan of reorganization even though fewer than all the classes of impaired claims and interests accept it. For a plan of reorganization to be confirmed despite its rejection by a class of impaired claims or interests, the proponents of the plan must show, among other things, that the plan does not “discriminate unfairly” and that the plan is “fair and equitable” with respect to each impaired class of claims or interests that has not accepted the plan.

Under section 1129(b) of the Bankruptcy Code, a plan is “fair and equitable” as to a class of rejecting claims if, among other things, the plan provides: (a) with respect to secured claims, that

each such holder will receive or retain on account of its claim property that has a value, as of the effective date of the plan, equal to the allowed amount of such claim; and (b) with respect to unsecured claims and interests, that the holder of any claim or interest that is junior to the claims or interests of such class will not receive or retain on account of such junior claim or interest any property at all unless the senior class is paid in full.

A plan does not “discriminate unfairly” against a rejecting class of claims if (a) the relative value of the recovery of such class under the plan does not differ materially from that of any class (or classes) of similarly situated claims, and (b) no senior class of claims is to receive more than 100% of the amount of the claims in such class.

The Debtor’s estate and Liquidating Agent believe that the Plan has been structured so that it will satisfy these requirements as to any rejecting Class of Claims, and can therefore be confirmed, if necessary, over the objection of any Classes of Claims. The Debtor’s estate, however, reserves the right to request confirmation of the Plan under the “cramdown” provisions of section 1129 of the Bankruptcy Code.

III. THE DEBTOR

Rouly, Inc., along with its affiliates Diverse Energy Systems, LLC (“Diverse Holdings”), Diverse Energy Systems, LLC d/b/a Lean Technologies, LLC (“Diverse”), and Scribner Industries, Inc. (“Scribner” and, collectively with Diverse Holdings, Diverse, and Rouly, Inc., the “Debtors”), voluntarily filed for relief under chapter 11 of the Bankruptcy Code on September 7, 2015. The Debtors’ bankruptcy cases are jointly administered.

Diverse Holdings was formed in November 2011 as a Texas limited liability company. Diverse Holdings acquired Diverse, a North Dakota company, in 2012 and is the sole owner and direct parent of Diverse. Since Diverse Holdings’ acquisition of Diverse, all of the Debtors’ business, including subsequent acquisitions, has been conducted through Diverse, while Diverse Holdings has remained a holding company. Diverse owns Scribner, which, in turn, owns Rouly. Thus, Diverse is the direct parent of Scribner and the indirect parent of Rouly.

Diverse was a provider of integrated solution platforms for upstream and midstream customers in the natural gas production, oil production, and water treatment industries headquartered in Houston, Texas. At the time of the commencement of the Debtors’ bankruptcy cases, Diverse manufactured new oil and gas field service equipment to be sold on a single unit basis or as a group. Diverse also manufactured certain types of equipment, primarily artificial lift, power generation and vapor recovery units, to be used in its rental fleet. Additionally, Diverse offered support and maintenance service to its customers for both leased and owned equipment.

At the close of 2012, Diverse acquired Scribner and Rouly, which provided it with a 5,000 square foot manufacturing facility and office in Odessa, Texas, and a 10,000 square foot manufacturing facility in Hobbs, New Mexico, to support the Debtors’ operations in the Permian Basin.

As part of the Debtors’ bankruptcy cases, the Debtors sold substantially all of their assets to Cimarron Acquisition Co. n/k/a CE Diverse Energy Co. (“Cimarron”). This sale was approved by Court order dated January 22, 2016 [Docket No. 373]. Thus, the Debtors, including Rouly, are no longer operating as a going concern.

The Debtor has filed the Plan to provide for the orderly liquidation of its remaining Assets and the distribution of the proceeds to creditors in accordance with the provisions of the Bankruptcy

Code. The Debtor's primary remaining Asset is the Rouly Real Property. The Debtor has retained a real estate broker to market the Rouly Real Property for sale. The proceeds from this sale, along with the remaining cash on hand in the Debtor's estate, will be used to fund the distributions to Creditors under the terms of the Plan.

IV. FEASIBILITY

The Bankruptcy Code conditions confirmation of a plan of reorganization on, among other things, a finding that it is not likely to be followed by the liquidation or the need for further financial reorganization of a debtor, unless such liquidation or reorganization is provided for by the plan of reorganization.

The Plan provides for the liquidation of all of the Debtor's remaining Assets, namely the Rouly Real Property, and the distribution of all Net Cash to the holders of Allowed Claims. Accordingly, following the consummation and effectuation of the Plan, the Debtor will have no additional Assets. As the Plan merely provides for the orderly liquidation of the Debtor's Assets and the distribution of the proceeds to Creditors, the Debtor's estate and Liquidating Agent believe that the Plan is feasible and that there will not be any need, or even the potential, for further liquidation or reorganization following confirmation of the Plan.

V. THE CHAPTER 11 CASE

A. Factors Leading To Filing of the Chapter 11 Case

Like many other businesses in the energy sector, the drastic reduction in commodity prices had an adverse effect on the Debtors' operations. The Debtors' gross revenue declined in the year or so prior to the bankruptcy filing due to such microeconomic factors. As a result, the Debtors experienced cash flow difficulties and were forced to file for relief under chapter 11 of the Bankruptcy Code so that they could obtain debtor-in-possession financing to allow them to continue to operate while they marketed their assets for sale.

B. Commencement of the Chapter 11 Case

On September 7, 2015, the Debtors, including Rouly, filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code. At the time of the bankruptcy filing, the Debtors' cash flow problems had become critical, and the Debtors were on the brink of having to cease operations if they were unable to obtain debtor-in-possession financing.

C. The Debtor's Professionals

The following is a list of each of the Professionals that have been employed by the Debtors in their jointly-administered chapter 11 Cases, with a description of the role of each such Professional and the status of such Professional's employment:

<u>Professional</u>	<u>Role of Professional</u>	<u>Status of Employment</u>
Forshey & Prostok, LLP ("F&P")	Bankruptcy counsel for the Debtors	Order granting employment entered on October 1, 2015 [Docket No. 94]

John Boylan	Chief Restructuring Officer	Final Order granting employment entered on October 1, 2015 [Docket No. 93]
SSG Advisors LLC (" <u>SSG</u> ") and Chiron Financial Group, Inc. (" <u>Chiron</u> " and, collectively with SSG, the " <u>Advisors</u> ")	Financial Advisors	Order granting employment entered on October 8, 2015 [Docket No. 124]
Gordon Brothers Asset Advisors, LLP (" <u>Gordon Brothers</u> ")	Appraiser	Order granting employment entered on December 7, 2015 [Docket No. 242]
Robinson & Associates	Real Estate Broker for Sale of Rouly Real Property	Order granting employment entered on April 11, 2016 [Docket No. 438]
J. Martin & Company, P.C.	Accountant for Preparation of Tax Returns	Application to employ filed on July 22, 2016 [Docket No. 469]

D. Creditors' Committee

The U.S. Trustee has not appointed a creditors' committee in the Debtors' chapter 11 cases.

E. Professional Fees and Expenses; U.S. Trustee Fees

F&P was paid retainers totaling \$60,000 from the Debtors prepetition. These retainers were paid by Diverse, not Rouly. \$55,561.93 of such retainer was applied to satisfy fees and expenses incurred prepetition. Since the Petition Date, F&P has received post-petition retainers totaling approximately \$300,000 and has drawn on these retainers pursuant to Local Rule 2016-1(c) (See Docket Nos. 174, 227, 273, and 392). F&P is currently owed approximately \$30,000 in professional fees and expenses in the Debtors' cases. Additional fees and expenses will be incurred in connection with the confirmation of the Plan and the chapter 11 plan for Diverse.

John Boylan's firm, EJC Ventures, LP, received a \$25,000 prepetition retainer from the Debtors prepetition. In addition, John Boylan received a \$12,500 post-petition retainer from the Debtors in connection with his engagement as CRO. Mr. Boylan has received one or more distributions for professional fees and expenses during the pendency of the Debtors' cases,³ and, as a result, he is not owed a significant amount for outstanding fees. Additional fees and expenses will be incurred by Mr. Boylan in connection with the confirmation of the Plan and the chapter 11 plan for Diverse.

The Advisors received a \$15,000 retainer from the Debtors prepetition. In addition, the Advisors received monthly fees of \$15,000 per month during the term of their engagement by the

³ See Order Granting Debtors' Motion to Approve Distribution of Sale Proceeds Received from Cimarron Acquisition Co. including by and between Debtors and the ITS Debtors' Estates, to the Extent Necessary [Docket No. 427].

Debtors. The Advisors also received a \$60,000 Financing Fee upon the closing of the Debtors' DIP financing transaction. Additionally, the Advisors received a Sale Fee of \$400,000 from the Debtors upon the closing of the sale of the Debtors' assets to Cimarron Acquisition Co.

Gordon Brothers received a \$29,000 appraisal fee for appraising certain of the Debtors' assets.

Upon the closing of the sale of the Rouly Real Property, Robinson & Associates shall be entitled to a commission of six percent (6%) of the sale price plus New Mexico Gross Receipts Tax.

It is anticipated that J. Martin & Company, P.C.'s total fees for preparing the Debtors' tax returns will be approximately \$35,000. Of this amount, \$15,000 is attributable to the preparation of the tax returns for Scribner and Rouly.

The Debtor's estate has paid quarterly U.S. Trustee fees during the pendency of the Bankruptcy Case and expects to continue paying quarterly fees as they become due.

F. Continuation of Business and Affairs after the Petition Date

Following the Petition Date, the Debtors, including Rouly, continued to operate and manage their affairs as debtors in possession. As discussed below, the Debtors, *inter alia*, (a) sought Bankruptcy Court approval to obtain debtor-in-possession financing, (b) sought authorization from Bankruptcy Court to sell substantially all of their Assets free and clear of liens, claims, and encumbrances pursuant to section 363 of the Bankruptcy Code, and (c) defended several motions filed in the Debtors' bankruptcy cases.

1. Debtors' Motion Authorizing Post-Petition DIP Financing

The Debtors filed *Debtors' Emergency Motion for Interim and Final Orders Authorizing Post-Petition Financing Pursuant to Section 364(c) and (d)* [Docket Nos. 76, 105, 121] whereby the Debtors, together with their affiliate ITS Engineered Systems, Inc. ("ITS"),⁴ sought authority to obtain up to \$2.2 million in post-petition financing from Coyote Capital Management, LLC ("Coyote"). On October 28, 2015, the Court entered a Final Order granting the motion and authorizing the DIP financing.

2. Debtors' Motion to Sell Substantially All of Their Assets

On November 5, 2015, the Debtors filed *Debtors' Motion to Establish Bid Procedures and to Sell Certain Assets of the Estate Free and Clear of Liens, Claims, Encumbrances, and Other Interests Pursuant to 11 U.S.C. § 363 and to Assume and Assign Executory Contracts and Leases and Request for Emergency Hearing on Bid Procedures* [Docket No. 178].

On November 19, 2015, the Court entered its *Order Granting the Debtor's Motion to Establish Bid Procedures and to Sell Certain Assets of the Estate Free and Clear of Liens, Claims, Encumbrances and Other Interests Pursuant to 11 U.S.C. § 363 and to Assume and Assign Executory Contracts and Leases* [Docket No. 212] (the "Procedures Order").

⁴ ITS filed for relief under chapter 11 of the Bankruptcy Code on April 17, 2015. ITS's bankruptcy was designated as Case No. 15-32145 (KKB) in the United States Bankruptcy Court for the Southern District of Texas, Houston Division.

The sale process was conducted in accordance with Procedures Order. On January 22, 2016, the Court entered its *Order Authorizing (I) the Sale of Certain of the Debtors' Assets Free and Clear of all Liens, Claims, Encumbrances and Other Interests Except for Certain Assumed Liabilities; (II) the Debtors to Assume and Assign Certain Executory Contracts and Unexpired Leases; and (III) Granting Related Relief* [Docket No. 373] authorizing the sale of most of Debtors' tangible assets to Cimarron. The sale of a majority of Debtors' tangible assets to Cimarron closed on or about January 31, 2016. From the sale proceeds, the DIP loan from Coyote was paid in full, and the sum of \$1,750,000,000 was paid to Alerus Financial in full and final satisfaction of its liens, claims, or encumbrances possessed by Alerus Financial against the Debtors and their respective bankruptcy estates.⁵

G. Schedules and Bar Dates

After receiving an extension authorized by the Court, the Debtor filed its Schedules and Statement of Financial Affairs on October 5, 2015 [Docket Nos. 32 and 33]. January 6, 2016, was fixed by the Bankruptcy Court as the deadline for all holders of alleged Claims (except for governmental units) to file proofs of claim.

H. Operating Information during Pendency of the Chapter 11 Case

The Debtor has filed all required monthly operating reports with the Bankruptcy Court. Copies of the filed monthly operating reports are available for inspection and copying at the office of the Clerk of the Bankruptcy Court. A copy of the most recently filed monthly operating report is attached hereto as **Exhibit "B"**.

I. Matters Relating to Executory Contracts, Unexpired Leases, and Bar Dates for Rejection Claims

Section 365 of the Bankruptcy Code grants a debtor the power, subject to the approval of the Bankruptcy Court, to assume or reject executory contracts and unexpired leases. Section 365(d)(4) of the Bankruptcy Code provides that if a debtor does not assume or reject an unexpired lease of nonresidential real property under which a debtor is the lessee (i) within 120 days after the petition date (the "365(d)(4) Deadline"), (ii) within an additional 90-day period as the bankruptcy court, for cause, may allow, or (iii) within such additional time as the bankruptcy court may permit with the consent of the landlord of the leased premises, then such lease is deemed rejected.

Except as otherwise ordered by the Court pursuant to a separate application to assume or reject, all Executory Contracts of the Debtor shall be deemed as rejected by the Liquidating Agent upon the Effective Date unless an Executory Contract (a) has been previously assumed or rejected pursuant to an order of the Bankruptcy Court, (b) is identified in this Plan or the Confirmation Order to be assumed, or (c) is the subject of a motion to assume filed on or before the Confirmation Date. Any Executory Contract to be assumed under this Plan that has been amended or modified at any time after the Petition Date of the Debtor that is party to such Executory Contract shall be deemed assumed as amended or modified. The Plan shall constitute a motion to reject the Executory Contracts. However, the Debtor may file a separate motion for the assumption or rejection of any Executory Contract at any time through the Confirmation Date.

⁵ In addition ITS paid \$500,000 to Alerus Financial at closing, so the total amount that Alerus Financial received upon the closing of the sale transaction was \$2,250,000.

J. Liquidation of Bankruptcy Estate

The Plan provides that the Debtor's Bankruptcy Estate will be fully liquidated by (a) the vesting of all of the Debtor's Assets in the Liquidating Agent; (b) the sale of the Rouly Real Property; and (c) the distribution of all Net Cash to the holders of Allowed Claims in accordance with the terms of the Plan.

VI. LITIGATION INVOLVING THE DEBTOR

A. Current Litigation

The Debtor is not currently a party to any pending litigation.

B. Additional and Potential Litigation by the Debtor

Except as expressly provided in the Plan, nothing contained in the Disclosure Statement, the Plan or the Confirmation Order shall waive, relinquish, release or impair the Debtor's or Liquidating Agent's right to object to any Claim.

Except as expressly set forth in the Plan, all causes of action, claims, counterclaims, defenses and rights of offset or recoupment (including but not limited to all Estate Claims, Estate Defenses and Avoidance Actions) belonging to the Debtor shall, upon the occurrence of the Effective Date, be retained by, received by and vested in the Liquidating Agent for the benefit of the Debtor's Estate. Except as expressly set forth in the Plan, the rights of the Liquidating Agent to commence, prosecute or settle such causes of action shall be preserved notwithstanding the occurrence of the Effective Date. **No Person may rely on the absence of a specific reference in the Plan or the Disclosure Statement to any cause of action against them as any indication that the Debtor's Bankruptcy Estate or the Liquidating Agent will not pursue any and all available causes of action (including all Estate Claims, Estate Defenses and Avoidance Actions) against them. The Debtor's Estate expressly reserves all rights to prosecute any and all causes of action (including all Estate Claims, Estate Defenses and Avoidance Actions) against any Person, except as otherwise provided in the Plan.** Unless any causes of action against a Person are expressly waived, relinquished, exculpated, released, compromised or settled in the Plan or a Final Order, the Debtor's Estate expressly reserves all causes of action (including all Estate Claims, Estate Defenses and Avoidance Actions) for later adjudication, and, therefore, no preclusion doctrine, including without limitation, the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion, estoppel (judicial, equitable or otherwise) or laches, shall apply to such causes of action upon or after the confirmation or consummation of the Plan. Without limiting the foregoing, parties are advised that the Debtor's Estate specifically preserves any Avoidance Actions it may hold against all parties disclosed in Debtor's Statement of Financial Affairs filed on October 5, 2015 (Docket No. 32), as hereafter amended or supplemented, as having received any conveyances or transfers from Debtor.

VII. THE PLAN

THE FOLLOWING IS A SUMMARY OF THE MATTERS CONTEMPLATED TO OCCUR EITHER PURSUANT TO OR IN CONNECTION WITH THE CONSUMMATION OF THE PLAN. THIS SUMMARY HIGHLIGHTS THE SUBSTANTIVE PROVISIONS OF THE PLAN AND IS NOT, NOR IS IT INTENDED TO BE, A COMPLETE DESCRIPTION OR A SUBSTITUTE FOR A FULL AND COMPLETE REVIEW OF THE PLAN. THE FOLLOWING SUMMARY IS COMPLETELY

QUALIFIED BY THE TERMS OF THE PLAN. IN THE EVENT OF ANY CONFLICT BETWEEN THE FOLLOWING SUMMARY AND THE PLAN, THE PLAN WILL CONTROL.

A. Classification and Treatment Summary

The Plan classifies the various Claims against the Debtor. These Classes take into account the different nature and priority of Claims against the Debtor. In addition, in accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Expense Claims and Priority Tax Claims are not classified for purposes of voting under the Plan. Rather, all such Claims are treated separately as unclassified Claims.

With the exception of Class 2 – Secured Claims, all Classes of Claims and Interests are impaired under the Plan. If a controversy arises as to the classification of any Claim or Interest, or as to whether any Class of Claims or Interests is impaired under the Plan, the Bankruptcy Court shall determine such controversy as a part of the confirmation process.

1. Unclassified Claims Against the Debtor

Unclassified Claims against the Debtor consist of Administrative Expense Claims and Priority Tax Claims. An Administrative Expense Claim is a Claim based on any cost or expense of administration of the Debtor's chapter 11 case allowed under subsections 503(b) and 507(a)(2) of the Bankruptcy Code, including, without limitation, any actual and necessary expenses of preserving the estate of the Debtor, any actual and necessary expenses of operating the businesses of the Debtor, any indebtedness or obligations incurred or assumed by the Debtor, as a debtor in possession, during the chapter 11 case including, without limitation, for the acquisition or lease of property or an interest in property or the rendition of services, all compensation or reimbursement of expenses to the extent allowed by the Bankruptcy Court under section 330 or 503 of the Bankruptcy Code, and any fees or charges assessed against the estate of the Debtor under section 1930 of title 28 of the United States Code.

Administrative Expense Claims include both ordinary post-petition expenses and Claims attributable to Professionals. Claims incurred in the ordinary course of the Debtor's affairs or business will be paid in the ordinary course of business. Fees and expenses owed to Professionals are payable upon the Allowance of an appropriate fee application.

a. Treatment of Administrative Expense Claims

Each holder of an Allowed Administrative Expense shall receive, at the Liquidating Agent's option, (i) the amount of such holder's Allowed Administrative Expense in one cash payment on the later of the Effective Date or the tenth (10th) Business Day after such Administrative Expense becomes an Allowed Administrative Expense, (ii) the amount of such holder's Allowed Administrative Expense in accordance with the ordinary business terms of such expense or cost, or (iii) such other treatment as may be agreed to in writing by such Administrative Expense Creditor and the Liquidating Agent, or as ordered by the Bankruptcy Court.

Unless the Bankruptcy Court orders to the contrary or the Debtor or Liquidating Agent agrees to the contrary in writing, the holder of a Claim for an Administrative Expense, other than such a Claim by a Professional, a liability incurred and paid in the ordinary course of business by the Debtor, or an Allowed Administrative Expense, shall file with the Bankruptcy Court and serve upon the Liquidating Agent and his counsel a written notice of such Claim for an Administrative Expense within thirty (30) days after the Effective Date. Such notice shall include at a minimum: (i) the name, address, telephone number and fax number (if applicable) of the holder of such Claim, (ii) the

amount of such Claim, and (iii) the basis of such Claim. Failure to timely and properly file and serve such notice shall result in such Claim for an Administrative Expense being forever barred and discharged.

A Claim for an Administrative Expense, for which a proper notice was filed and served under subsection 3.01(b) of the Plan, shall become an Allowed Administrative Expense if no Objection is filed within thirty (30) days of the filing and service of such notice. If a timely Objection is filed, the Claim shall become an Allowed Administrative Expense only to the extent allowed by a Final Order.

THE FAILURE TO FILE THE REQUIRED NOTICE OF ADMINISTRATIVE EXPENSE CLAIM ON OR BEFORE THE ADMINISTRATIVE EXPENSE CLAIMS BAR DATE AND THE FAILURE TO SERVE SUCH NOTICE TIMELY AND PROPERLY SHALL RESULT IN THE ADMINISTRATIVE EXPENSE CLAIM BEING FOREVER BARRED, DISALLOWED AND DISCHARGED WITHOUT FURTHER ORDER OF THE BANKRUPTCY COURT.

The above procedures shall not apply to Professionals, who shall each file and submit a final fee application to the Bankruptcy Court no later than sixty (60) days after the Effective Date. A Claim for Administrative Expense by a Professional in respect of which a final fee application has been properly filed and served shall become an Allowed Administrative Expense only to the extent allowed by Final Order and, if so Allowed, shall be paid in accordance with subsection 3.01(a) of the Plan. Professional fees and expenses to any Professional incurred on or after the Effective Date may be paid without necessity of application to or order by the Court.

b. Treatment of Priority Tax Claims

Each holder of an Allowed Priority Tax Claim shall receive (a) the amount of such holder's Allowed Claim in one cash payment on or before the Initial Distribution Date or (b) such other treatment as may be agreed to in writing by the holder of the Priority Tax Claim and the Debtor. Notwithstanding anything else contained herein, to the extent an Allowed Priority Tax Claim constitutes a claim for ad valorem property taxes assessed against the Rouly Real Property, such Claim shall be paid in full from the proceeds of the sale of the Rouly Real Property at the closing of such sale.

c. Treatment of United States Trustee's Fees

The Debtor or the Liquidating Agent, as the case may be, shall pay the U.S. Trustee's quarterly fees incurred pursuant to 28 U.S.C., section 1930(a)(6). Any fees due as of the Confirmation Date shall be paid in full on the Effective Date. After the Confirmation Date, the Liquidating Agent shall pay quarterly fees as they accrue until a final decree is entered and the bankruptcy case is closed. The Liquidating Agent shall file with the Bankruptcy Court and serve on the U.S. Trustee quarterly financial reports for each quarter, or portion thereof, that the Debtor's bankruptcy case remains open.

2. Classified Claims and Interests

Classified Claims shall receive the treatment as described in Article IV of the Plan, which treatment is summarized in the table set forth in Article I.B of this Disclosure Statement above.

B. Acceptance or Rejection of the Plan

Each impaired Class of Claims entitled to vote shall separately vote to accept or reject the Plan. Any unimpaired Class shall not be entitled to vote to accept or reject the Plan. Any

unimpaired Class is deemed to have accepted the Plan under section 1126(f) of the Bankruptcy Code. A Class of Claims shall have accepted the Plan if it is accepted by at least two-thirds (2/3) in amount and more than one-half (1/2) in number of the Allowed Claims in such Class that have voted on the Plan. Any Class of Claims that is not occupied as of the date of the commencement of the Confirmation Hearing by an Allowed Claim or a Claim temporarily Allowed under Bankruptcy Rule 3018 shall be deemed eliminated from the Plan for purposes of voting to accept or reject the Plan and for purposes of determining acceptance or rejection of the Plan by such Class pursuant to section 1129(a)(8) of the Bankruptcy Code. Section 5.03 of the Plan shall constitute the request by the Plan proponent, pursuant to section 1129(b) of the Bankruptcy Code, that the Bankruptcy Court confirm the Plan notwithstanding the fact that the requirements of section 1129(a)(8) of the Bankruptcy Code have not been met.

C. Means of Implementation of the Plan

1. Assumption of Allowed Claims

The Plan provides that, on the Effective Date, the Assets will all vest in the Liquidating Agent as Trustee for the benefit of the creditors of the Bankruptcy Estate. All Distributions under the Plan will be paid by the Liquidating Agent using the Assets of the Bankruptcy Estate in the manner provided in Articles III and IV of the Plan. All such Distributions or payments shall be made by the Liquidating Agent as set forth regarding the treatment of the respective Allowed Claims in Articles III and IV of the Plan.

2. Distribution Account

The Estate Cash shall be deposited into the Distribution Account upon the Effective Date. The Liquidating Agent shall pay all Allowed Claims from the funds contained in the Distribution Account in accordance with Articles III and IV of the Plan.

3. Vesting of Assets

As of the Effective Date, pursuant to sections 1141(b) and (c) of the Bankruptcy Code, all Assets shall be transferred to, and vested in, the Liquidating Agent, free and clear of all rights, title, interests, claims, Liens, encumbrances and charges, except as expressly set forth in the Plan. Without limiting the generality of the foregoing, all such Assets shall vest in the Liquidating Agent free and clear of any Lien except as expressly provided in the Plan. Without limiting the foregoing, the Liquidating Agent may pay the charges that he incurs on or after the Effective Date for all fees, disbursements, expenses or related support services of Professionals (including fees relating to the preparation of Professional fee applications) without application to, or approval of, the Bankruptcy Court.

4. Sale of Rouly Real Property

The Debtor is currently marketing the Rouly Real Property for sale.⁶ In the event that a sale of the Rouly Real Property has not been consummated as of the Effective Date, the Liquidating Agent shall market and sell the Rouly Real Property. Upon the closing of the sale of the Rouly Real Property, the sale proceeds shall be deposited in the Distribution Account and used to pay Allowed Claims in accordance with the terms of the Plan.

⁶ The Rouly Real Property is currently listed for sale for a purchase price of \$375,000.

5. Actions by the Liquidating Agent to Implement Plan

The entry of the Confirmation Order shall constitute authorization for the Liquidating Agent to take or cause to be taken all actions necessary or appropriate to implement all provisions of, and to consummate, the Plan prior to, on and after the Effective Date and all such actions taken or caused to be taken, including, without limitation, the sale of the Rouly Real Property, shall be deemed to have been authorized and approved by the Bankruptcy Court without further approval, act or action under any applicable law, order, rule or regulation.

6. Retention and Assertion of Causes of Action and Defenses

Except as expressly set forth in the Plan, all causes of action, claims, counterclaims, defenses and rights of offset or recoupment (including but not limited to all Estate Claims, Estate Defenses and Avoidance Actions) belonging to the Debtor shall, upon the occurrence of the Effective Date, be retained by, received by and vested in the Liquidating Agent for the benefit of the Debtor's Estate. Except as expressly set forth in the Plan, the rights of the Liquidating Agent to commence, prosecute or settle such causes of action shall be preserved notwithstanding the occurrence of the Effective Date. **No Person may rely on the absence of a specific reference in the Plan or this Disclosure Statement to any cause of action against them as any indication that the Debtor's Estate or the Liquidating Agent will not pursue any and all available causes of action (including all Estate Claims, Estate Defenses and Avoidance Actions) against them. The Debtor's Estate and the Liquidating Agent expressly reserves all rights to prosecute any and all causes of action (including all Estate Claims, Estate Defenses and Avoidance Actions) against any Person, except as otherwise provided in the Plan.** Unless any causes of action against a Person are expressly waived, relinquished, exculpated, released, compromised or settled in the Plan or a Final Order, the Debtor's Estate expressly reserves all causes of action (including all Estate Claims, Estate Defenses and Avoidance Actions) for later adjudication, and, therefore, no preclusion doctrine, including without limitation, the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion, estoppel (judicial, equitable or otherwise) or laches, shall apply to such causes of action upon or after the confirmation or consummation of the Plan. The Debtor's Estate and the Liquidating Agent may also assert Estate Defenses as a defense to the allowance of any Claim not otherwise Allowed.

Under the Plan, all Avoidance Actions are retained by, and received by, and vested in, the Liquidating Agent. Without limiting the foregoing, this shall include without limitation all Avoidance Claims pursuant to section 547 of the Bankruptcy Code with respect to all payments or transfers made by the Debtor within ninety (90) days of the Petition Date and all payments or transfers made to Insiders within one year of the Petition Date. Without limiting the foregoing, parties are advised that the Debtor's Estate specifically preserves any Avoidance Actions it may hold against any and all parties disclosed in Debtor's Statement of Financial Affairs filed on October 5, 2015 (Docket No. 32), as hereafter amended or supplemented, as having received any conveyances or transfers from the Debtor. A copy of the Debtor's Statement of Financial Affairs is attached hereto as **Exhibit "C"**.

D. Provisions Governing Distribution

1. Source of Distributions

All Distributions to be made by the Liquidating Agent to Creditors under the Plan shall be made through the Distribution Account.

2. Timing and Amount of Distributions

No Distribution shall be made on account of any Claim until such Claim is Allowed, except as otherwise set forth in the Plan or ordered by the Bankruptcy Court pursuant to a Final Order. No Distribution shall be made on account of any Contested Claim until such Claim is Allowed. Any Unclaimed Property may be paid into the registry of the Bankruptcy Court or otherwise distributed in accordance with the orders of the Bankruptcy Court.

Except as expressly set forth in the Plan or in the Confirmation Order, the Liquidating Agent shall determine the timing and amount of all Distributions which are required to be made under the Plan, consistent with the goal of making such Distributions as expeditiously as possible. The Liquidating Agent may, in his sole discretion, wait until after the closing of the sale of the Rouly Real Estate to make any distributions to the holders of Allowed Class 3 and Class 4 Claims. The Liquidating Agent may, but shall not be required to, seek approval of the Bankruptcy Court for any such Distributions.

3. Means of Cash Payment

Cash payments to be made by the Liquidating Agent pursuant to the Plan shall be made by check drawn on the Distribution Account.

4. Record Date for Distributions

As of the close of business on the Initial Distribution Date, (the "Distribution Record Date"), the register for Claims and Interests will be closed, and there shall be no further changes in the holder of record of any Claim or Interest. The Liquidating Agent shall have no obligation to recognize any transfer of any Claim or Interest occurring after the Distribution Record Date, and shall instead be authorized and entitled to recognize and deal for all purposes under the Plan with only those holders of record stated on the register of Claims and/or Interests as of the Distribution Record Date for Distributions under the Plan.

5. Delivery of Distributions

All Distributions, deliveries and payments to the holders of any Allowed Claims shall be made to the addresses set forth on the respective proofs of Claim filed in this case. Any such Distribution, delivery or payment shall be deemed as made for all purposes relating to the Plan when deposited in the United States Mail and served as provided in section 13.05 of the Plan. Whether secured or unsecured, if no proof of Claim is filed, any Distribution shall be made to the Creditor at the last known address or as reflected in the Schedules. If any Distribution is returned as undeliverable, no further Distribution shall be made on account of such Allowed Claim unless and until the Liquidating Agent is notified of such holder's then current address, at which time all missed Distributions shall be made to the holder of such Allowed Claim. All claims for undeliverable Distributions shall be made on or before the first anniversary of the attempted Distribution. After such date, all Unclaimed Property shall revert to the Liquidating Agent and the Claim of any holder with respect to such property shall be discharged and forever barred.

6. Time Bar to Cash Payments

Checks issued in respect of Allowed Claims shall be null and void if not cashed within ninety (90) days of the date of issuance thereof. Requests for reissuance of any check shall be made directly to the Liquidating Agent by the holder of the Allowed Claim with respect to which such check originally was issued. Any claim in respect of such a voided check shall be made on or before the

later of the first anniversary of the Initial Distribution Date or ninety (90) days after the date of issuance of such check. After such date, all claims in respect of void checks shall be discharged and forever barred.

7. Cure Period

Except as otherwise set forth in the Plan, the failure by the Liquidating Agent to timely perform any term, provision or covenant contained in the Plan, or to make any payment or Distribution required by the Plan to any Creditor, or the failure to make any payment or perform any covenant on any note, instrument or document issued pursuant to the Plan, shall not constitute an Event of Default unless and until the Liquidating Agent has been given thirty (30) days written notice of such alleged default in the manner provided in the Plan, and provided an opportunity to cure such alleged default. Until the expiration of such thirty (30) day cure period, the Liquidating Agent shall not be in default, and performance during such thirty (30) day cure period shall be deemed as timely for all purposes. Such written notice and passage of the thirty (30) day cure period shall constitute conditions precedent to declaring or claiming any default under the Plan or bringing any action or legal proceeding by any Person to enforce any right granted under the Plan.

8. Distributions after Substantial Consummation

All Distributions of any kind made to any of the Creditors after Substantial Consummation and any and all other actions taken under the Plan after Substantial Consummation shall not be subject to relief, reversal or modification by any court unless the implementation of the Confirmation Order is stayed by an order granted under Bankruptcy Rule 8005.

E. Procedures for Resolving and Treating Contested and Contingent Claims

1. Objection Deadline

All Objections to Claims shall be served and filed by the Objection Deadline; provided, however, the Objection Deadline shall not apply to Claims which are not reflected in the claims register, including any alleged informal proofs of Claim. The Liquidating Agent may seek to extend the Objection Deadline pursuant to a motion filed on or before the then applicable Objection Deadline with respect to any Claims. Any such motion may be granted without notice or a hearing. In the event that the Liquidating Agent files such a motion and the Bankruptcy Court denies such motion, the Objection Deadline shall nevertheless be automatically extended to that date which is ten (10) Business Days after the date of entry of the Bankruptcy Court's order denying such motion. Any proof of Claim filed more than thirty (30) days after the Effective Date shall be of no force and effect and need not be objected to by the Liquidating Agent. Nothing contained in the Plan shall limit the right of the Liquidating Agent to object to Claims, if any, filed or amended after the Objection Deadline.

2. Responsibility for Objecting to Claims and Settlement of Claims

From and after the Effective Date, the Liquidating Agent shall have the sole and exclusive right to (a) file, settle, or litigate to Final Order any Objections to any Claims; and (b) seek to subordinate any Claim. Any Contested Claim may be litigated to Final Order. From and after the Effective Date, the Liquidating Agent shall have the sole and exclusive right to settle, compromise or otherwise resolve any Contested Claim without the necessity of any further notice or approval of the Bankruptcy Court. Bankruptcy Rule 9019 shall not apply to any settlement or compromise of a Contested Claim after the Effective Date.

3. Distributions on Account of Contested Claims

If a Claim is Contested, then the Initial Distribution Date as to such Contested Claim shall be determined based upon its date of Allowance, and thereafter distribution shall be made on account of such Allowed Claim pursuant to the provisions of the Plan. No Distribution shall be made on account of a Contested Claim until Allowed. Until such time as a contingent Claim becomes fixed and absolute by a Final Order allowing such Claim, such Claim shall be treated as a Contested Claim for purposes of estimates, allocations, and Distributions under the Plan. Any contingent right to contribution or reimbursement shall continue to be subject to section 502(e) of the Bankruptcy Code.

4. No Waiver of Right to Object

Except as expressly provided in the Plan, nothing contained in this Disclosure Statement, the Plan or the Confirmation Order shall waive, relinquish, release or impair the Liquidating Agent's right to object to any Claim.

5. Offsets and Defenses

The Liquidating Agent shall be vested with and retain all defenses and affirmative defenses to all Claims, including without limitation all rights of offset or recoupment and all counterclaims against any Claimant holding a Claim. Assertion of counterclaims by the Liquidating Agent against any Claimants shall constitute "core" proceedings.

F. Executory Contracts and Unexpired Leases

1. Assumption and Rejection of Executory Contracts

Except as otherwise ordered by the Court pursuant to a separate application to assume or reject, all Executory Contracts of the Debtor shall be deemed as rejected by the Liquidating Agent upon the Effective Date unless an Executory Contract (a) has been previously assumed or rejected pursuant to an order of the Bankruptcy Court, (b) is identified in the Plan or the Confirmation Order to be assumed, or (c) is the subject of a motion to assume filed on or before the Confirmation Date. Any Executory Contract to be assumed under the Plan that has been amended or modified at any time after the Petition Date of the Debtor that is party to such Executory Contract shall be deemed assumed as amended or modified. The Plan shall constitute a motion to reject the Executory Contracts. However, the Debtor may file a separate motion for the assumption or rejection of any Executory Contract at any time through the Confirmation Date.

2. Cure Payments

Unless the holder of a Cure Claim and the Liquidating Agent agree in writing to other treatment of such holder's Cure Claim, or other treatment of such holder's Cure Claim is provided for under the Plan, each Cure Claim against the Debtor shall be paid and treated as follows:

Any cure payment which may be required by section 365(b)(1) of the Bankruptcy Code under an Executory Contract that is assumed under the Plan shall be made by the Liquidating Agent on the Initial Distribution Date. Notwithstanding the foregoing, in the event of a dispute regarding the amount of any Cure Claim, the cure of any other defaults, the provision of adequate assurance of future performance, or any other matter pertaining to assumption, the Liquidating Agent shall make such cure payments and cure such other defaults and provide adequate assurance of future performance, all as may be required by section 365(b)(1) of the Bankruptcy Code, following the

entry of a Final Order by the Bankruptcy Court resolving such dispute.

Any other term of the Plan notwithstanding, the Liquidating Agent may pre-pay any Cure Claim in whole or in part without penalty.

3. Bar to Rejection Claims

Except as otherwise ordered by the Bankruptcy Court, any Rejection Claim based on the rejection of an Executory Contract shall be forever barred and shall not be enforceable against the Liquidating Agent or the Assets unless a proof of claim is filed with the Bankruptcy Court and served upon the Liquidating Agent and his counsel by the earlier of thirty (30) days after the Effective Date or thirty (30) days after entry of the Final Order approving rejection of such Executory Contract.

4. Rejection Claims

Any Rejection Claim not barred by section 9.04 of the Plan shall be classified as a Class 3 Unsecured (General) Claim subject to the provisions of section 502(g) of the Bankruptcy Code. Nothing contained in the Plan shall be deemed an admission by the Debtor or the Liquidating Agent that such rejection gives rise to or results in a Claim or shall be deemed a waiver by the Liquidating Agent of any objections to such Claim if asserted.

5. Reservation of Rights

Nothing contained in the Plan shall constitute an admission by the Debtor or Liquidating Agent that any contract or lease is in fact an Executory Contract or that the Debtor's Estate has any liability thereunder. If there is a dispute regarding whether a contract or lease is or was executory or unexpired at the time of assumption or rejection, the Liquidating Agent shall have thirty (30) days following entry of a Final Order resolving such dispute to alter the treatment of such contract or lease.

G. Conditions Precedent to Confirmation and Effectiveness of Plan

The Plan shall not become effective until the following conditions shall have been satisfied: (a) the Confirmation Order shall have been entered, in form and substance acceptable to the Debtor and shall have become a Final Order; (b) all other conditions precedent have been satisfied to the satisfaction of the Debtor; and (c) a notice of the Effective Date has been filed by the Debtor and thereafter served upon all Creditors and parties in interest. Any or all of the above conditions may be waived at any time by the Debtor.

H. Effect of the Plan on Claims and Interests

1. Compromise and Settlement

Pursuant to section 363 of the Bankruptcy Code and Bankruptcy Rule 9019, and in consideration of the classification, potential Distributions and other benefits provided under the Plan, the provisions of the Plan shall constitute a good faith compromise and settlement of all Claims, Interests and controversies resolved pursuant to the Plan, including, without limitation, all Claims against the Debtor arising prior to the Petition Date, whether known or unknown, foreseen or unforeseen, asserted or unasserted, arising out of, relating to or in connection with the business or affairs of, or transactions with, the Debtor. The entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of each of the foregoing compromises or settlements, and all other compromises and settlements provided for in the Plan, and the

Bankruptcy Court's findings shall constitute its determination that such compromises and settlements are in the best interests of the Debtor, the Debtor's bankruptcy estate, Creditors and other parties in interest, and are fair, equitable and within the range of reasonableness.

2. Injunction

On the Effective Date and except as otherwise provided in the Plan, all Persons who have been, are, or may be holders of Claims against or Interests in the Debtor shall be permanently restrained and enjoined from taking any of the following actions against or affecting the Debtor, the Liquidating Agent, the Debtor's bankruptcy estate, the Assets, or their respective assets and property, with respect to such Claims or Interests (other than actions brought to enforce any rights or obligations under the Plan): (a) commencing, conducting, or continuing in any manner, directly or indirectly, any suit, action or other proceeding of any kind with respect to any such Claim or Interest; (b) enforcing, levying, attaching, collecting, or otherwise recovering by any manner or means, whether directly or indirectly, any judgment, award, decree, or order; (c) creating, perfecting, or otherwise enforcing in any manner, directly or indirectly, any Lien or encumbrance of any kind; (d) asserting any control over, interest, rights or title in or to any of the Assets except as expressly provided in the Plan; (e) asserting any setoff, right of subrogation or recoupment of any kind against any obligation due the Liquidating Agent as assignee, except upon order of the Bankruptcy Court; and (f) performing any act, by any manner or means, whether directly or indirectly, in any place whatsoever, that does not conform to or comply with the provisions of the Plan; provided, however, that such injunction shall not bar any Creditor from asserting any right granted pursuant to the Plan; provided, further, however, that each holder of a Contested Claim shall be entitled to enforce its rights under the Plan, including seeking allowance of such Contested Claim pursuant to the Plan. Unless otherwise provided, all injunctions or stays arising under or entered during the Debtor's Chapter 11 Case under sections 105 or 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect until the Effective Date.

3. Setoffs

Except as otherwise expressly provided in the Plan, pursuant to the Bankruptcy Code (including section 553 of the Bankruptcy Code), applicable nonbankruptcy law, or as may be agreed to by the holder of a Claim, the Liquidating Agent may setoff against any Allowed Claim and the Distributions to be made pursuant to the Plan on account of such Allowed Claim (before such Distribution is made), any claims, rights, Estate Claims and Estate Defenses of any nature that the Debtor may hold against the holder of such Allowed Claim, to the extent such claims, rights, Estate Claims and Estate Defenses against such holder have not been otherwise compromised or settled on or prior to the Effective Date (whether pursuant to the Plan or otherwise); provided, however, that neither the failure to effect such a setoff nor the allowance of any Claim or Interest pursuant to the Plan shall constitute a waiver or release by the Debtor of any such claims, rights, Estate Claims and Estate Defenses that the Debtor may possess against such Claimant. In no event shall any Claimant or Interest holder be entitled to setoff any Claim or Interest against any claim, right, or Estate Claim of the Debtor without the consent of the Liquidating Agent unless such holder files a motion with the Bankruptcy Court requesting the authority to perform such setoff notwithstanding any indication in any proof of Claim or otherwise that such holder asserts, has, or intends to preserve any right of setoff pursuant to section 553 of the Bankruptcy Code or otherwise.

4. Recoupment

Except as otherwise expressly provided for in the Plan, in no event shall any holder of Claims or Interests be entitled to recoup any Claim or Interest against any claim, right, account receivable, or Estate Claim of the Debtor or the Liquidating Agent unless (a) such holder actually provides notice thereof in writing to the Liquidating Agent of its intent to perform a recoupment; (b) such notice includes the amount to be recouped by the holder of the Claim or Interest and a specific description of the basis for the recoupment, and (c) the Liquidating Agent has provided a written response to such Claim or Interest holder, stating unequivocally that the Liquidating Agent consents to the requested recoupment. The Liquidating Agent shall have the right, but not the obligation, to seek an order of the Bankruptcy Court allowing any or all of the proposed recoupment. In the absence of a written response from the Liquidating Agent consenting to a recoupment or an order of the Bankruptcy Court authorizing a recoupment, no recoupment by the holder of a Claim or Interest shall be allowed.

5. Turnover

On the Effective Date, any rights of the Debtor's bankruptcy estate to compel turnover of Assets under applicable non-bankruptcy law and pursuant to section 542 or 543 of the Bankruptcy Code shall be deemed transferred to and vested in the Liquidating Agent.

6. Automatic Stay

The automatic stay pursuant to section 362 of the Bankruptcy Code, except as previously modified by the Bankruptcy Court, shall remain in effect until the Effective Date of the Plan as to the Debtor and all Assets. As of the Effective Date, the automatic stay shall be replaced by the injunction contained in section 11.02 of the Plan.

I. Jurisdiction of Courts and Modifications to the Plan

1. Retention of Jurisdiction

Pursuant to sections 1334 and 157 of title 28 of the United States Code, the Bankruptcy Court shall retain exclusive jurisdiction of all matters arising in, arising under, and related to the Debtor's chapter 11 case and the Plan, for the purposes of sections 105(a) and 1142 of the Bankruptcy Code, and for, among other things, the following purposes:

(a) To hear and determine any and all Objections to or applications concerning the allowance of Claims or the allowance, classification, priority, compromise, estimation, or payment of any Administrative Expense;

(b) To hear and determine any and all applications for payment of fees and expenses pursuant to the Plan to any Professional pursuant to sections 330 or 503 of the Bankruptcy Code, or for payment of any other fees or expenses authorized to be paid or reimbursed under the Plan, and any and all objections thereto;

(c) To hear and determine pending applications for the rejection, assumption, or assumption and assignment of Executory Contracts and the allowance of Claims resulting therefrom, and to determine the rights of any party in respect to the assumption or rejection of any Executory Contract;

(d) To hear and determine any and all adversary proceedings, applications, or contested matters, including allowance of any Claim;

(e) To hear and determine all controversies, disputes, and suits which may arise in connection with the execution, interpretation, implementation, consummation, or enforcement of the Plan or in connection with the enforcement of any remedies made available under the Plan, including without limitation, (i) adjudication of all rights, interests or disputes relating to any of the Assets, (ii) the valuation of all Collateral, including hearing all Valuation Motions, (iii) the determination of the validity of any Lien or claimed right of offset; and (iv) determinations of Objections to Contested Claims;

(f) To liquidate and administer any disputed, contingent, or unliquidated Claims, including the Allowance of all Contested Claims;

(g) To administer Distributions to holders of Allowed Claims as provided in the Plan;

(h) To enter and implement such orders as may be appropriate in the event the Confirmation Order is for any reason stayed, reversed, revoked, modified, or vacated;

(i) To consider any modification of the Plan pursuant to section 1127 of the Bankruptcy Code, to cure any defect or omission, or reconcile any inconsistency in any order of the Bankruptcy Court, including, without limitation the Confirmation Order;

(j) To enforce the injunction contained in section 11.04 of the Plan;

(k) To enter and implement all such orders as may be necessary or appropriate to execute, interpret, construe, implement, consummate, or enforce the terms and conditions of the Plan and the transactions required or contemplated pursuant thereto;

(l) To hear and determine any other matter not inconsistent with the Bankruptcy Code and title 28 of the United States Code that may arise in connection with or related to the Plan;

(m) To grant a discharge pursuant to section 1145(d)(5) and to enforce and give full force and effect to the discharge;

(n) To determine proceedings pursuant to section 505 of the Bankruptcy Code; and

(o) To enter a final decree closing this chapter 11 case.

2. Abstention and Other Courts

If the Bankruptcy Court abstains from exercising, or declines to exercise, jurisdiction or is otherwise without jurisdiction over any matter arising out of or relating to this chapter 11 case, Article XII of the Plan shall have no effect upon and shall not control, prohibit or limit the exercise of jurisdiction by any other court having competent jurisdiction with respect to such matter.

3. Non-Material Modifications

This Plan may be modified, with approval of the Bankruptcy Court and without notice to all holders of Claims and Interests, to correct any defect, omission, or inconsistency in the Plan in such manner and to such extent as may be necessary or desirable. The Liquidating Agent may

undertake such nonmaterial modification insofar as it does not adversely change the treatment of the Claim of any Creditor or the Interest of any Interest holder who has not accepted in writing the modification.

4. Material Modifications

Modifications of the Plan may be proposed at any time before confirmation, provided that the Plan, as modified, meets the requirements of sections 1122 and 1123 of the Bankruptcy Code, and the Debtor shall have complied with section 1125 of the Bankruptcy Code. The Plan may be modified at any time after confirmation and before its Substantial Consummation, provided that the Plan, as modified, meets the requirements of sections 1122 and 1123 of the Bankruptcy Code, and the Bankruptcy Court, after notice and a hearing, confirms the Plan, as modified, under section 1129 of the Bankruptcy Code, and the circumstances warrant such modification. A holder of a Claim or Interest that has accepted or rejected the Plan shall be deemed to have accepted or rejected, as the case may be, such Plan as modified, unless, within the time fixed by the Bankruptcy Court, such holder changes its previous acceptance or rejection.

J. Miscellaneous Provisions

1. Severability

Should the Bankruptcy Court determine any provision of the Plan is unenforceable either on its face or as applied to any Claim or Interest or transaction, the Liquidating Agent may modify the Plan so that any such provision shall not be applicable to the holder of any Claim or Interest. Such a determination of unenforceability shall not (a) limit or affect the enforceability and operative effect of any other provision of the Plan or (b) require the resolicitation of any acceptance or rejection of the Plan.

2. Oral Agreements; Modification of Plan; Oral Representations or Inducements

The terms of the Plan, Disclosure Statement and Confirmation Order may not be changed, contradicted or varied by any oral statement, agreement, warranty or representation. Neither the Debtor nor its attorneys have made any representation, warranty, promise or inducement relating to the Plan or its confirmation except as expressly set forth in the Plan, the Disclosure Statement, or the Confirmation Order or other order of the Bankruptcy Court.

3. Waiver

The Liquidating Agent shall not be deemed to have waived any right, power or privilege pursuant to the Plan unless the waiver is in writing and signed by the Liquidating Agent. There shall be no waiver by implication, course of conduct or dealing, or through any delay or inaction by the Liquidating Agent, of any right pursuant to the Plan, including the provisions of the anti-waiver section of the Plan. The waiver of any right under the Plan shall not act as a waiver of any other or subsequent right, power or privilege.

4. Construction

The Plan shall control over any inconsistent term of the Disclosure Statement. The Confirmation Order shall control over any inconsistent provision of the Plan.

5. Notice

Any notice or communication required or permitted by the Plan shall be given, made or sent as follows:

(a) If to a Creditor, notice may be given as follows: (i) if the Creditor has filed no proof of Claim, then to the address reflected in the Schedules, or (ii) if the Creditor has filed a proof of Claim, then to the address reflected in the proof of Claim.

(b) If to the Liquidating Agent, notice shall be sent to the following address:

John Boylan
EJC Ventures, LP
P.O. Box 27086
Houston, Texas 77227-7086
Email: jboylan@ejc-ventures.com

Concurrently with service of such notice on the Liquidating Agent, a copy thereof shall be concurrently served in the same manner on the following legal counsel as follows:

J. Robert Forshey
Clarke V. Rogers
Forshey & Prostok, L.L.P.
777 Main Street, Suite 1290
Fort Worth, Texas 76102
(817) 877-4151 FAX
E-mail: bforshey@forsheyprostok.com
E-mail: crogers@forsheyprostok.com

(c) Any Creditor desiring to change its address for the purpose of notice may do so by giving notice to the Liquidating Agent of its new address in accordance with the terms of section 13.05 of the Plan.

(d) Any notice given, made or sent as set forth in section 13.05 of the plan shall be effective upon being (i) deposited in the United States Mail, postage prepaid, addressed to the addressee at the address as set forth in section 13.05 of the Plan; (ii) delivered by hand or messenger to the addressee at the address set forth in section 13.05 of the Plan; (iii) telecopied to the addressee as set forth in section 13.05 of the Plan, with a hard confirmation copy being immediately sent through the United States Mail; or (iv) delivered for transmission to an expedited or overnight delivery service such as FedEx.

6. Compliance with Applicable Laws

If notified by any governmental authority that he is in violation of any applicable law, rule, regulation, or order of such governmental authority relating to his business, the Liquidating Agent shall comply with such law, rule, regulation, or order; provided, however, that nothing contained herein shall require such compliance if the legality or applicability of any such requirement is being contested in good faith in appropriate proceedings and, if appropriate, an adequate reserve has been set aside on the books of the Liquidating Agent.

7. Duties to Creditors

No agent, representative, accountant, financial advisor, attorney, shareholder, officer,

affiliate, member or employee of the Debtor shall ever owe any duty to any Person (including any Creditor) other than the duties owed to the Debtor's bankruptcy estate, for any act, omission, or event in connection with, or arising out of, or relating to, any of the following: (a) the Debtor's bankruptcy case, including all matters or actions in connection with or relating to the administration of the estate, (b) the Plan, including the proposal, negotiation, confirmation and consummation of the Plan, or (c) any act or omission relating to the administration of the Plan after the Effective Date.

8. Binding Effect

The Plan shall be binding upon, and shall inure to the benefit of the Liquidating Agent, the holders of the Claims or Liens, the holders of Interests, and their respective successors in interest and assigns.

9. Governing Law, Interpretation

Unless a rule of law or procedure supplied by federal law (including the Bankruptcy Code and Bankruptcy Rules) is applicable, the internal laws of the State of Texas shall govern the construction and implementation of the Plan and any Plan Documents without regard to conflicts of law. The Plan shall control any inconsistent term or provision of any other Plan Documents.

10. Payment of Statutory Fees

All fees payable pursuant to section 1930 of title 28 of the United States Code shall be paid on or before the Effective Date, and thereafter shall be paid by the Liquidating Agent as such statutory fees become due.

11. Filing of Additional Documents

On or before Substantial Consummation of the Plan, the Liquidating Agent 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.

12. Computation of Time

If the final day for any Distribution, performance, act or event under the Plan is not a Business Day, then the time for making or performing such Distribution, performance, act or event shall be extended to the next Business Day. Any payment or Distribution required to be made under the Plan on a day other than a Business Day shall be due and payable on the next succeeding Business Day.

13. Elections by the Liquidating Agent

Any right of election or choice granted to the Liquidating Agent under the Plan may be exercised, at the Liquidating Agent's election, separately as to each Claim, Creditor or Person.

14. Release of Liens

Except as otherwise provided in the Plan or the Confirmation Order, all Liens against any of the Assets shall be deemed to be released, terminated and nullified.

15. Rates

The Plan does not provide for the change of any rate that is within the jurisdiction of any governmental regulatory commission after the occurrence of the Effective Date.

16. Compliance with Tax Requirements

In connection with the Plan, the Liquidating Agent shall comply with all withholding and reporting requirements imposed by federal, state and local Taxing Authorities and all Distributions under the Plan shall be subject to such withholding and reporting requirements. Notwithstanding the above, each holder of an Allowed Claim or Interest that is to receive a Distribution under the Plan 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 under the Plan.

17. Notice of Occurrence of the Effective Date

Promptly after occurrence of the Effective Date, the Liquidating Agent, as directed by the Bankruptcy Court, shall serve on all known parties in interest and holders of Claims and Interests, notice of the occurrence of the Effective Date.

VIII. CERTAIN FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN

THE PLAN AND ITS RELATED TAX CONSEQUENCES ARE COMPLEX. MOREOVER, MANY OF THE INTERNAL REVENUE CODE PROVISIONS DEALING WITH THE FEDERAL INCOME TAX ISSUES ARISING FROM THE PLAN HAVE BEEN THE SUBJECT OF RECENT LEGISLATION AND, AS A RESULT, MAY BE SUBJECT TO AS YET UNKNOWN ADMINISTRATIVE OR JUDICIAL INTERPRETATIONS. THE DEBTOR HAS NOT REQUESTED A RULING FROM THE INTERNAL REVENUE SERVICE (THE "IRS") OR AN OPINION OF COUNSEL WITH RESPECT TO THESE MATTERS. ACCORDINGLY, NO ASSURANCE CAN BE GIVEN AS TO THE INTERPRETATION THAT THE IRS WILL ADOPT. THERE ALSO MAY BE STATE, LOCAL OR OTHER TAX CONSIDERATIONS APPLICABLE TO EACH CREDITOR. CREDITORS ARE URGED TO CONSULT THEIR OWN TAX ADVISORS AS TO THE CONSEQUENCES OF THE PLAN TO THEM UNDER FEDERAL AND APPLICABLE STATE, LOCAL AND OTHER TAX LAWS.

IX. CONFIRMATION OF THE PLAN

A. Solicitation of Votes; Voting Procedures

1. Ballots and Voting Deadlines

A Ballot to be used for voting to accept or reject the Plan, together with a postage-paid return envelope, is enclosed with all copies of this Disclosure Statement mailed to all holders of Claims and Interests entitled to vote. BEFORE COMPLETING YOUR BALLOT, PLEASE READ CAREFULLY THE INSTRUCTION SHEET THAT ACCOMPANIES THE BALLOT.

The Bankruptcy Court has directed that, in order to be counted for voting purposes, Ballots for the acceptance or rejection of the Plan must be received no later than 5:00 p.m., Central Time, on [REDACTED], 2016 at the following address:

Forshey & Prostok, L.L.P.
777 Main Street, Suite 1290
Fort Worth, Texas 76102

Attn: Linda Breedlove

YOUR BALLOT MAY NOT BE COUNTED IF IT IS RECEIVED AT THE ABOVE ADDRESS AFTER 5:00 P.M., CENTRAL TIME, ON [REDACTED], 2016.

2. Parties in Interest Entitled to Vote

The holder of a Claim or Interest may vote to accept or reject the Plan only if the Plan impairs the Class in which such Claim or Interest is classified. Under the Plan, all Classes except for Class 2 are impaired and may vote to accept or reject the Plan. Class 2 is unimpaired and is deemed to have accepted the Plan.

Any Claim or Interest as to which an Objection has been filed is not entitled to vote unless the Bankruptcy Court, upon application of the holder to whose Claim or Interest an Objection has been made, temporarily allows such Claim or Interest in an amount that it deems proper for the purpose of accepting or rejecting the Plan. Any such application must be heard and determined by the Bankruptcy Court on or before commencement of the Confirmation Hearing. A vote may be disregarded if the Bankruptcy Court determines, after notice and a hearing, that such vote was not solicited or procured in good faith or in accordance with the provisions of the Bankruptcy Code.

IF YOU HAVE ANY QUESTIONS REGARDING THE PROCEDURES FOR VOTING ON THE PLAN, PLEASE CONTACT COUNSEL FOR THE DEBTOR AT THE FOLLOWING ADDRESS:

J. Robert Forshey
Clarke V. Rogers
Forshey & Prostok, L.L.P.
777 Main Street, Suite 1290
Fort Worth, Texas 76102
(817) 877-8855
(817) 877-4151 fax
Email: bforshey@forsheyprostok.com
Email: crogers@forsheyprostok.com

3. Vote Required for Class Acceptance

The Bankruptcy Code defines acceptance of a plan by a class of claims as acceptance by holders of at least two-thirds in dollar amount, and more than one-half in number, of the claims of that class which actually cast ballots for acceptance or rejection of the plan. Thus, class acceptance takes place only if at least two-thirds in amount and a majority in number of the holders of claims voting cast their ballots in favor of acceptance.

The Bankruptcy Code defines acceptance of a plan by a class of interests as acceptance by holders of at least two-thirds in amount of the interests of that class that actually cast ballots for acceptance or rejection of the plan. Thus, class acceptance takes place only if at least two-thirds in amount of the holders of interests voting cast their ballots in favor of acceptance.

B. Confirmation Hearing

Section 1128(a) of the Bankruptcy Code requires the Bankruptcy Court, after notice, to hold a hearing on confirmation of a plan. By order of the Bankruptcy Court, the Confirmation Hearing has been scheduled for [REDACTED], 2016 at [REDACTED] m. Central Time, in the United States Bankruptcy Court for the Northern District of Texas, Fort Worth Division. The Confirmation Hearing may be

adjourned from time to time by the Bankruptcy Court without further notice except for an announcement made at the Confirmation Hearing or any adjournment thereof.

Section 1128(b) of the Bankruptcy Code provides that any party in interest may object to confirmation of a plan. Any objection to confirmation of the Plan must be made in writing and filed with the Bankruptcy Court on or before [REDACTED], 2016, at the following address:

Office of the Clerk
U.S. Bankruptcy Court
Eldon B. Mahon U.S. Courthouse
501 W. Tenth Street
Fort Worth, Texas 76102-3643

In addition, any such objection must be served upon the following parties, together with proof of service, on or before [REDACTED], 2016:

J. Robert Forshey
Clarke V. Rogers
Forshey & Prostok, L.L.P.
777 Main Street, Suite 1290
Fort Worth, Texas 76102
(817) 877-4151 fax
Email: bforshey@forsheyprostok.com
Email: crogers@forsheyprostok.com

Objections to confirmation of the Plan are governed by Bankruptcy Rule 9014. UNLESS AN OBJECTION TO CONFIRMATION IS TIMELY SERVED AND FILED, IT WILL NOT BE CONSIDERED BY THE BANKRUPTCY COURT.

C. Requirements for Confirmation of the Plan

At the Confirmation Hearing, the Bankruptcy Court must determine whether the Bankruptcy Code's requirements for confirmation of the Plan have been satisfied, in which event the Bankruptcy Court will enter an order confirming the Plan. As set forth in section 1129 of the Bankruptcy Code, these requirements are as follows:

1. The plan complies with the applicable provisions of the Bankruptcy Code.
2. The proponents of the plan complied with the applicable provisions of the Bankruptcy Code.
3. The plan has been proposed in good faith and not by any means forbidden by law.
4. Any payment made or promised by the debtor, by the plan proponent, or by a person issuing securities or acquiring property under the plan, for services or for costs and expenses in, or in connection with, the case, or in connection with the plan and incident to the case, has been approved by, or is subject to the approval of the Bankruptcy Court as reasonable.
5. (a) (i) The proponent of the plan has disclosed the identity and affiliations of

any individual proposed to serve, after confirmation of the plan, as a director, officer, or voting trustee of the debtor, an affiliate of the debtor participating in a joint plan with the debtor, or a successor to the debtor under the plan; and

(ii) the appointment to, or continuance in, such office of such individual, is consistent with the interests of creditors and equity security holders and with public policy; and

(b) the proponent of the plan has disclosed the identity of any insider that will be employed or retained by the Liquidating Agent, and the nature of any compensation for such insider.

6. Any governmental regulatory commission with jurisdiction, after confirmation of the plan, over the rates of the debtor has approved any rate change provided for in the plan, or such rate change is expressly conditioned on such approval.

7. With respect to each impaired class of claims or interests:

(a) each holder of a claim or interest of such class has accepted the plan or will receive or retain under the plan on account of such claim or interest property of a value, as of the effective date of the plan, that is not less than the amount that such holder would so receive or retain if the debtor were liquidated under chapter 7 of the Bankruptcy Code on such date; or

(b) if section 1111(b)(2) of the Bankruptcy Code applies to the claims of such class, the holder of a claim of such class 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 value of such holder's interest in the estate's interest in the property that secures such claims.

8. With respect to each class of claims or interests:

(a) such class has accepted the plan; or

(b) such class is not impaired under the plan.

9. Except to the extent that the holder of a particular claim has agreed to a different treatment of such claim, the plan provides that:

(a) with respect to a claim of a kind specified in section 507(a)(2) or 507(a)(3) of the Bankruptcy Code, on the effective date of the plan, the holder of such claim will receive on account of such claim cash equal to the allowed amount of such claim;

(b) with respect to a class of claims of a kind specified in section 507(a)(1), 507(a)(4), 507(a)(5), 507(a)(6) or 507(a)(7) of the Bankruptcy Code, each holder of a claim of such class will receive:

(i) if such class has accepted the plan, deferred cash payments of a value, as of the effective date of the plan, equal to the allowed amount of such claim; or

(ii) if such class has not accepted the plan, cash on the effective date of the plan equal to the allowed amount of such claim; and

(c) with respect to a claim of a kind specified in section 507(a)(8) of the Bankruptcy Code, the holder of such claim will receive on account of such claim regular installment payments in cash:

(i) of a total value, as of the effective date of the plan, equal to the allowed amount of such claim;

(ii) over a period ending not later than 5 years after the date of the order for relief under section 301, 302, or 303; and

(iii) in a manner not less favorable than the most favored nonpriority unsecured claim provided for by the plan (other than cash payments made to a class of creditors under section 1122(b) of the Bankruptcy Code); and

(d) with respect to a secured claim which would otherwise meet the description of an unsecured claim of a governmental unit under section 507(a)(8) of the Bankruptcy Code, but for the secured status of that claim, the holder of that claim will receive on account of that claim, cash payments, in the same manner and over the same period, as prescribed in 9(c) above.

10. If a class of claims is impaired under the plan, at least one class of claims that is impaired has accepted the plan, determined without including any acceptance of the plan by any insider holding a claim of such class.

11. Confirmation of the plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of the debtor or any successor to the debtor under the plan, unless such liquidation or reorganization is proposed in the plan.

12. All fees payable under 28 U.S.C. section 1930, as determined by the Bankruptcy Court at the hearing on confirmation of the plan, have been paid or the plan provides for the payments of all such fees on the effective date of the plan.

13. The plan provides for the continuation after its effective date of payment of all retiree benefits, as that term is defined in section 1114 of the Bankruptcy Code, at the level established pursuant to subsection (e)(1)(B) or (g) of section 1114, at any time prior to confirmation of the plan, for the duration of the period the Debtor has obligated itself to provide such benefits.

14. If the debtor is required by a judicial or administrative order, or by statute, to pay a domestic support obligation, the debtor has paid all amounts payable under such order or such statute for such obligation that first become payable after the date of the filing of the petition.

15. In a case in which the debtor is an individual and in which the holder of an allowed unsecured claim objects to the confirmation of the plan:

(a) the value, as of the effective date of the plan, of the property to be distributed under the plan on account of such claim is not less than the amount of such claim; or

(b) the value of the property to be distributed under the plan is not less than the projected disposable income of the debtor (as defined in section 1325(b)(2) of the Bankruptcy Code) to be received during the five year period beginning on the date that the first payment is due under the plan, or during the period for which the plan provides payments, whichever is longer.

16. All transfers of property of the plan shall be made in accordance with any applicable provisions of nonbankruptcy law that govern the transfer of property by a corporation or trust that is not a moneyed, business, or commercial corporation or trust.

The Debtor and Liquidating Agent believe that the Plan satisfies all the statutory

requirements of chapter 11 of the Bankruptcy Code, that the Debtor and Liquidating Agent have complied or will have complied with all the requirements of chapter 11, and that the Plan is proposed in good faith.

At the Confirmation Hearing, the Bankruptcy Court will determine whether holders of Allowed Claims would receive distributions under the Plan that are at least as great as those that they would receive in a liquidation under chapter 7. The Debtor and Liquidating Agent believe that holders of all Allowed Claims impaired under the Plan will receive payments under the Plan having a present value, as of the Effective Date, that exceeds the amount likely to be received if the Debtor were liquidated in a case under chapter 7 of the Bankruptcy Code. Upon conversion, distributions to General Unsecured Creditors would be reduced by the fees and commissions of the Chapter 7 Trustee. Under the Bankruptcy Code, the Chapter 7 Trustee would be entitled to a commission on all distributions to Creditors. Additional administrative costs would likely be incurred as a result of the Trustee's employment of professionals. In addition, the conversion of the case to Chapter 7 would likely delay the process of liquidating the Debtor's Assets and distributing the proceeds to Creditors as it would take the Trustee time to become familiar with the Debtor's case and the assets and liabilities of the Debtor's estate. The CRO is already familiar with the Debtor's estate, and therefore time and expense will be saved by having him liquidate the estate as opposed to a newly-appointed Chapter 7 Trustee. Moreover, since the Plan liquidates all of the Debtor's assets consistent with the Bankruptcy Code's priority scheme, conversion to Chapter 7 for the purpose of liquidation would confer no advantage upon Creditors. In sum, the Plan provides for the cheapest and most expeditious method for the liquidation of the Debtor's Assets. Thus, the holders of Allowed impaired Claims shall receive at least as much—and likely more—under the Plan as they would if the Debtor's estate were liquidated under Chapter 7.

These facts and others demonstrating the confirmability of the Plan will be shown at the Confirmation Hearing.

D. Cramdown

In the event that any impaired Class of Claims or Interests does not accept the Plan, the Bankruptcy Court may still confirm the Plan at the request of the Debtor if, as to each impaired Class which has not accepted the Plan, the Bankruptcy Court determines that the Plan "does not discriminate unfairly" and is "fair and equitable" with respect to that Class. A plan of reorganization "does not discriminate unfairly" within the meaning of the Bankruptcy Code if no class receives more than it is legally entitled to receive for its claims or interests.

"Fair and equitable" has different meanings with respect to the treatment of secured and unsecured claims. As set forth in section 1129(b)(2) of the Bankruptcy Code, those meanings are as follows:

1. With respect to a class of secured claims, the plan provides:

(a) (i) that the holders of such claims retain the liens securing such claims, whether the property subject to such liens is retained by the debtor or transferred to another entity, to the extent of the allowed amount of such claims; and

(ii) that each holder of a claim of such class receive on account of such claim deferred cash payments totaling at least the allowed amount of such claim, of a value, as of the effective date of the plan, of at least the value of such holder's interest in the estate's interest in such property;

(b) for the sale, subject to section 363(k) of the Bankruptcy Code, of any property that is subject to the liens securing such claims, free and clear of such liens, with such liens to attach to the proceeds of such sale, and the treatment of such liens on proceeds under clause (a) and (b) of this subparagraph; or

(c) the realization by such holders of the “indubitable equivalent” of such claims.

2. With respect to a class of unsecured claims, the plan provides:

(a) that each holder of a claim of such class receive or retain 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

(b) the holder of any claim or interest that is junior to the claims of such class will not receive or retain under the plan on account of such junior claim or interest any property, except that in a case in which the debtor is an individual, the debtor may retain property included in the estate under section 1115 of the Bankruptcy Code, subject to the requirements of section 1129(a)(14) of the Bankruptcy Code.

3. With respect to a class of interests, the plan provides:

(a) that each holder of an interest of such class receive or retain on account of such interest property of a value, as of the effective date of the plan, equal to the greatest of the allowed amount of any fixed liquidation preference to which such holder is entitled, any fixed redemption price to which such holder is entitled or the value of such interest; or

(b) that the holder of any interest that is junior to the interests of such class will not receive or retain under the plan on account of such junior interest any property.

In the event that one or more Classes of impaired Claims or Interests reject the Plan, the Bankruptcy Court will determine at the Confirmation Hearing whether the Plan is fair and equitable with respect to, and does not discriminate unfairly against, any rejecting impaired Class of Claims or Interests. For the reasons set forth above, the Debtor and Liquidating Agent believe the Plan does not discriminate unfairly against, and is fair and equitable with respect to, each impaired Class of Claims or Interests.

X. RISK FACTORS

The following is intended as a summary of certain risks associated with the Plan, but it is not exhaustive and must be supplemented by the analysis and evaluation made by each holder of a Claim or Interest of the Plan and this Disclosure Statement as a whole with such holder's own advisors.

A. Insufficient Acceptances

For the Plan to be confirmed, each impaired Class of Claims is given the opportunity to vote to accept or reject the Plan. With regard to such impaired voting Classes, the Plan will be deemed accepted by a Class of impaired Claims if the Plan is accepted by Claimants of such Class actually voting on the Plan who hold at least two-thirds (2/3) in amount and more than one-half (1/2) in number of the total Allowed Claims of the Class voted. Only those members of a Class who vote to accept or reject the Plan will be counted for voting purposes. The Debtor reserves the right to request confirmation pursuant to the cramdown provisions in section 1129(b) of the Bankruptcy

Code, which will allow confirmation of the Plan regardless of the fact that a particular Class of Claims has not accepted the Plan. However, there can be no assurance that any impaired Class of Claims under the Plan will accept the Plan or that the Debtor would be able to use the cramdown provisions of the Bankruptcy Code for confirmation of the Plan.

B. Confirmation Risks

The following specific risks exist with respect to confirmation of the Plan:

(a) Any objection to confirmation of the Plan can either prevent confirmation of the Plan, or delay such confirmation for a significant period of time.

(b) Since the Debtor may be seeking to obtain approval of the Plan over the rejection of one or more impaired Classes of Claims, the cramdown process could delay confirmation.

C. Conditions Precedent

Confirmation of the Plan and occurrence of the Effective Date are subject to certain conditions precedent that may not occur. The Debtor's counsel and the Liquidating Agent will work diligently to ensure that all conditions precedent are satisfied.

XI. ALTERNATIVES TO CONFIRMATION AND CONSUMMATION OF THE PLAN

The Debtor and Liquidating Agent have evaluated alternatives to the Plan, including the conversion of the Debtor's case to chapter 7. After studying these alternatives, the Liquidating Agent has concluded that the Plan is the best alternative and will maximize recoveries by holders of Claims, assuming confirmation of the Plan and consummation of the transactions contemplated by the Plan.

If the Plan is not confirmed, another party in interest in this chapter 11 case could attempt to formulate and propose a different plan of reorganization. Given that substantially all of the Debtor's assets other than the Rouly Real Property have been sold, it is unlikely that any plan could be proposed that varied significantly from the Plan.

Further, if the Plan is not confirmed, this chapter 11 case may be converted to a liquidation proceedings under chapter 7 of the Bankruptcy Code. In chapter 7, a trustee would be elected or appointed to liquidate the Assets of the Debtor. The proceeds of the liquidation would be distributed to the Creditors of the Debtor in accordance with the priorities established by the Bankruptcy Code. As noted above, since the Plan liquidates all of the Debtor's assets consistent with the Bankruptcy Code's priority scheme, conversion to Chapter 7 for the purpose of liquidation would confer no advantage upon Creditors. Moreover, upon conversion, distributions to General Unsecured Creditors would be reduced by the fees and commissions of the Chapter 7 Trustee. Further, distributions to Creditors would be delayed by the conversion of the Debtor's case to Chapter 7 as the newly-appointed Trustee would need time to familiarize himself or herself with the Debtor's assets and liabilities. Thus, the Plan provides for a cheaper and more expeditious method for the liquidation of the Debtor's Assets than the conversion of the Debtor's case to Chapter 7.

XII. CONCLUSION

The Debtor and Liquidating Agent urge holders of Claims in impaired Classes to vote to **ACCEPT** the Plan and to evidence such acceptance by returning their Ballots so that they will be

received on or before 5:00 p.m., Central Time, on [REDACTED], 2016.

Dated: August 23, 2016.

Respectfully submitted,

/s/ John Boylan

John Boylan, Chief Restructuring Officer
and proposed Liquidating Agent

APPROVED:

/s/ J. Robert Forshey

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