

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

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In re

SHORELINE ENERGY LLC, *et al.*,

Debtors.

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Chapter 11

Case No. 16-35571 (DRJ)

(Jointly Administered)

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Shoreline Energy LLC  
Harvest Development LLC  
Shoreline Central Corporation  
Shoreline EH LLC  
Shoreline Energy Partners, LP  
Shoreline GP LLC  
Shoreline Offshore LLC  
Shoreline Southeast LLC

Case No. 16-35571 (DRJ)  
Case No. 16-35572 (DRJ)  
Case No. 16-35573 (DRJ)  
Case No. 16-35574 (DRJ)  
Case No. 16-35576 (DRJ)  
Case No. 16-35577 (DRJ)  
Case No. 16-35578 (DRJ)  
Case No. 16-35579 (DRJ)

JOINT DISCLOSURE STATEMENT  
OF SHORELINE ENERGY LLC  
AND ITS DEBTOR AFFILIATES

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Thomas A. Howley (TX 24010115)  
Paul M. Green (TX 24059854)  
JONES DAY  
717 Texas, Suite 3300  
Houston, Texas 77002  
Telephone: (832) 239-3939  
Facsimile: (832) 239-3600

ATTORNEYS FOR DEBTORS AND  
DEBTORS IN POSSESSION

DECEMBER 12, 2016

**DISCLOSURE STATEMENT DATED DECEMBER 12, 2016<sup>1</sup>**

**SOLICITATION OF VOTES WITH  
RESPECT TO THE JOINT PLAN OF LIQUIDATION OF  
SHORELINE ENERGY LLC AND ITS DEBTOR AFFILIATES**

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**All creditors are encouraged to read and carefully consider this Disclosure Statement, including the Plan, and the matters described under "Risk Factors" in Section IV prior to submitting ballots in response to this solicitation. This Disclosure Statement is being delivered to you because you are the holder of, or have otherwise asserted, a Claim or Claims against Shoreline Energy LLC ("Shoreline") or its debtor affiliates (collectively, the "Debtors").**

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**The Debtors believe that the Joint Plan of Liquidation of Shoreline Energy LLC and Its Debtor Affiliates (the "Plan") is in the best interests of creditors and other stakeholders. All claimants entitled to vote thereon are urged to vote in favor of the Plan. A summary of the voting instructions is set forth in Section I.C.1. More detailed instructions are included in the ballots distributed to the creditors entitled to vote on the Plan. To be counted, your ballot must be duly completed, executed and received by the Debtors' voting agent by 5:00 p.m., prevailing Central Time, on February 3, 2017 (the "Voting Deadline"), unless extended.**

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**The Confirmation and the Effective Date of the proposed Plan are subject to material conditions precedent. See Section I.D. There is no assurance that these conditions will be satisfied or waived.**

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No person is authorized by any of the Debtors in connection with the Plan or the solicitation of acceptances of the Plan to give any information or to make any representation other than as contained in this Disclosure Statement and the exhibits attached hereto or incorporated by reference or referred to herein. If such information or representation is given or made, it may not be relied upon as having been authorized by any of the Debtors. The Debtors will make available to creditors entitled to vote on the Plan such additional information as may be required by applicable law prior to the Voting Deadline.

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The summaries of the Plan and other documents contained in this Disclosure Statement are qualified by reference to the Plan itself, the exhibits thereto and documents described therein. In the event that any inconsistency or conflict exists between this Disclosure Statement and the Plan, the terms of the Plan will control.

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Except as otherwise indicated, the Debtors will File all exhibits to the Plan with the Bankruptcy Court and make them available for review on the website of Prime Clerk at <https://cases.primeclerk.com/shoreline> (the "Claim Agent Website"), no later than 10 days before the deadline to object to Confirmation. The Debtors also will serve the exhibits to the Plan on the parties on the general service list maintained in the Bankruptcy Cases on or before 10 days prior to the deadline to object to Confirmation.

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<sup>1</sup> Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Joint Plan of Liquidation of Shoreline Energy LLC and Its Debtor Affiliates, dated December 12, 2016.

The information contained in this Disclosure Statement, including the information regarding the history, businesses and operations of the Debtors, the historical and projected financial information regarding the Debtors and the liquidation analyses relating to the Debtors, is included for purposes of soliciting acceptances of the Plan, but, as to contested matters and adversary proceedings, is not to be construed as admissions or stipulations, but rather as statements made in settlement negotiations.

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This Disclosure Statement contains forward-looking statements based primarily on the current expectations of the Debtors and projections about future events and financial trends affecting the financial condition of the Debtors. The words "believe," "may," "estimate," "continue," "anticipate," "intend," "expect" and similar expressions identify these forward-looking statements. These forward-looking statements are subject to a number of risks, uncertainties and assumptions, including those described below under the caption "Risk Factors" in Section IV. In light of these risks and uncertainties, the forward-looking events and circumstances discussed in this Disclosure Statement may not occur, and actual results could differ materially from those anticipated in the forward-looking statements. The Debtors do not undertake any obligation to update or revise publicly any forward-looking statements, whether as a result of new information, future events or otherwise.

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**This Disclosure Statement has not been approved or disapproved by the Securities and Exchange Commission (the "SEC"), any state securities commission, any securities exchange or association or the Bankruptcy Court nor has the SEC, any state securities commission, any securities exchange or association or the Bankruptcy Court passed upon the accuracy or adequacy of the statements contained herein.**

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**TABLE OF EXHIBITS**

Exhibit I	Joint Plan of Liquidation of Shoreline Energy LLC and its Debtor Affiliates
Exhibit II	Chapter 7 Liquidation Analysis

## **I. OVERVIEW OF THE PLAN**

### **A. Introduction**

The following is a brief overview of certain material provisions of the Plan. This overview is qualified by reference to the provisions of the Plan, which is attached hereto as Exhibit I, and the exhibits thereto, as amended from time to time. In the event that any inconsistency or conflict exists between this Disclosure Statement and the Plan, the terms of the Plan will control.

The requirements for Confirmation, including the vote of creditors entitled to vote on the Plan and certain of the statutory findings that must be made by the Bankruptcy Court for a plan to be confirmed, are set forth in Section I.C. Confirmation of the Plan and the occurrence of the Effective Date are subject to certain conditions, which are summarized in Section I.D. There is no assurance that these conditions will be satisfied or waived.

At the Confirmation Hearing, the Bankruptcy Court will confirm the Plan only if all of the applicable requirements of section 1129 of the Bankruptcy Code are met. Among the requirements for confirmation of a plan of liquidation are that the plan: (i) is accepted by the requisite holders of claims and interests in impaired classes of such debtor; (ii) is in the "best interests" of each holder of a claim or interest in each impaired class under the plan for such debtor; (iii) is feasible; and (iv) complies with the applicable provisions of the Bankruptcy Code. In this instance, only holders of Allowed Claims in Classes 3, 4 and 6 are entitled to vote to accept or reject the Plan. In addition, because Class 7 and Class 8 will receive no distributions under the Plan, these classes are deemed to reject the Plan. Because Classes 1, 2 and 5 are unimpaired, they are deemed to vote to accept the Plan. See Section I.C. for a discussion of the Bankruptcy Code requirements for Plan Confirmation.

### **B. Summary of Classes and Treatment of Claims and Interests**

The classification of Claims and Interests, the estimated aggregate amount of Claims in each Class and the amount and nature of distributions to holders of Claims or Interests in each Class are summarized in the table below. In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Claims and Priority Tax Claims have not been classified. For a discussion of certain additional matters related to Administrative Claims and Priority Tax Claims, see Sections V.A.

Each amount designated in the table below as "Estimated Percentage Recovery" for each Class is the quotient of the estimated Cash or other Liquidating Trust Assets to be distributed to holders of Allowed Claims in such Class, divided by the estimated aggregate amount of Allowed Claims in such Class. Each of the estimated Cash or other Liquidating Trust Assets and the estimated aggregate amount of Allowed Claims has been made in ranges with both low and high estimates. In determining such amount, the Debtors have assumed that the Plan is consummated as described herein.

These calculations do not include any value attributed to Causes of Action, including Avoidance Actions by any of the Estates. The Debtors have not commenced a review of potential Causes of Action and, therefore, they are not in a position to provide an estimated value for such actions. The value of such actions, however, could be material.

For a discussion of various factors that could materially affect the amount of Cash and other Liquidating Trust Assets to be distributed pursuant to the Plan, see Section IV. In addition, the Debtors' estimates for recoveries by holders of Allowed Claims are based on the Debtors' current view of the likely amount of Allowed Administrative Claims incurred by the Debtors through confirmation of the Plan. There can be no guarantee that the Debtors' estimates of Administrative Claims will prove to be accurate.

CLASS	TREATMENT	STATUS/ ENTITLED TO VOTE?	ESTIMATED AGGREGATE AMOUNT OF CLAIMS	ESTIMATED PERCENTAGE RECOVERY
Class 1 Priority Claims	On the Effective Date, unless otherwise agreed by the holder of an Allowed Claim in Class 1 and the Liquidating Trustee, each holder of an Allowed Claim in Class 1 shall receive, at the election of the Restructuring Support Parties: (a) cash equal to the full amount of such Allowed Priority Claim, (b) such other treatment as may otherwise be agreed to by such holder, the Debtors, and the Restructuring Support Parties, or (c) such other treatment as may be permitted under section 1129 of the Bankruptcy Code.	<b>Unimpaired</b>  Deemed to Accept the Plan  Not Entitled to Vote	\$[●]	100%
Class 2 DIP Facility Claims	<p>The DIP Facility Claims shall be Allowed in full, including principal of not less than \$[●], plus accrued but unpaid interest, fees, and expenses (including any amounts that are payable under the DIP Order but remain unpaid as of the Effective Date) and shall not be subject to any avoidance, reductions, setoff, offset, recoupment, recharacterization, subordination (whether equitable, contractual, or otherwise), counterclaims, crossclaims, defenses, disallowance, impairment, objection, or any other challenges under any applicable law or regulation by any person or entity.</p> <p>In the event that the Purchaser is the Successful Bidder for the Designated Assets, the DIP Agent, on behalf of the holders of DIP Facility Claims will credit bid all of the outstanding DIP Claims in accordance with the Purchaser APA, satisfying the Debtors' obligations under the DIP Credit Agreement in full.</p> <p>In the event the Purchaser is not the Successful Bidder for the Designated Assets, the holders of the DIP Facility Claims shall be paid cash in an amount equal to the full amount of such DIP Facility Claims (including all accrued and outstanding interest, fees, and expense) no later than the Effective Date.</p>	<b>Unimpaired</b>  Deemed to Accept the Plan  Not Entitled to Vote	\$[45 to 50 million]	100%

CLASS	TREATMENT	STATUS/ ENTITLED TO VOTE?	ESTIMATED AGGREGATE AMOUNT OF CLAIMS	ESTIMATED PERCENTAGE RECOVERY
Class 3 First Lien Credit Agreement Claims	<p>The First Lien Credit Agreement Claims shall be Allowed in the aggregate principal amount of not less than \$[●], plus accrued but unpaid interest, fees, and expenses (including any amounts that are payable under the DIP Order but remain unpaid as of the Effective Date) and shall not be subject to any avoidance, reductions, setoff, offset, recoupment, recharacterization, subordination (whether equitable, contractual, or otherwise), counterclaims, crossclaims, defenses, disallowance, impairment, objection, or any other challenges under any applicable law or regulation by any person or entity.</p> <p>In the event that the Purchaser is the Successful Bidder for the Designated Assets, the First Lien Agent on behalf of the holders of First Lien Credit Agreement Claims will credit bid up to 100% of the First Lien Credit Agreement Claims in accordance with the Purchaser APA.</p> <p>a. To the extent less than all First Lien Credit Agreement Claims are credit bid and the Purchaser is the Successful Bidder for the Designated Assets, holders of the remaining First Lien Credit Agreement Claims will receive the following treatment: The liens securing such First Lien Credit Agreement Claims (including any adequate protection liens granted pursuant to the DIP Order) shall remain in full force and effect and attached to the Liquidating Trust Assets and such First Lien Credit Agreement Claims shall be paid from the Liquidating Trust Assets subject to such liens, in each case prior to the payment of any other Claims; <i>provided that</i>, the Non-Designated Asset Proceeds Carveout shall not be paid to holders of First Lien Credit Agreement Claims and shall be used to pay for the administration of the</p>	<b>Impaired</b>  Entitled to Vote	\$[0 -35 million]	[75-100%] <sup>2</sup>

<sup>2</sup> Distributions in Class 3 are largely dependent on the results of the Sale Process (as defined below) and recoveries from Causes of Action.

CLASS	TREATMENT	STATUS/ ENTITLED TO VOTE?	ESTIMATED AGGREGATE AMOUNT OF CLAIMS	ESTIMATED PERCENTAGE RECOVERY
	<p>Liquidating Trust and Class 5 Claims. Any such proceeds paid to the holders of First Lien Credit Agreement Claims shall be transferred to the Purchaser for use as working capital or such other use as the Purchaser deems advisable and in its best interest. Any unsecured portion of the First Lien Credit Agreement Claims shall be deemed Deficiency Claims and be classified as General Unsecured Claims.</p> <p>b. In the event of an Alternative Transaction or in the event the Purchaser is not the Successful Bidder for the Designated Assets, holders of First Lien Credit Agreement Claims shall be paid cash on the Effective Date in an amount equal to First Lien Credit Agreement Claims (including all principal, accrued and unpaid interest, fees and expenses of all other obligations).</p>			
Class 4 Second Lien Credit Facility Claims	<p>The Second Lien Credit Facility Claims shall be Allowed in the aggregate principal amount of not less than \$[●], plus accrued but unpaid interest, fees, and expenses and shall not be subject to any avoidance, reductions, setoff, offset, recoupment, recharacterization, subordination (whether equitable, contractual, or otherwise), counterclaims, crossclaims, defenses, disallowance, impairment, objection, or any other challenges under any applicable law or regulation by any person or entity.</p> <p>Any liens securing the Allowed Second Lien Credit Facility Claims shall remain attached to the Liquidating Trust Assets and the Allowed Second Lien Credit Facility Claims shall be paid from any remaining proceeds of the liquidation of such applicable Liquidating Trust Assets to the extent encumbered with such liens after payment of the costs of administration of the Liquidating Trust and after the payment in full of all First</p>	<b>Impaired</b>  Entitled to Vote	\$[168.6 million]	Unknown <sup>3</sup>

<sup>3</sup> Distributions in Class 4 are largely dependent on the results of the Sale Process and recoveries from Causes of Action.

CLASS	TREATMENT	STATUS/ ENTITLED TO VOTE?	ESTIMATED AGGREGATE AMOUNT OF CLAIMS	ESTIMATED PERCENTAGE RECOVERY
	Lien Credit Agreement Claims, <u>provided, however</u> , that such liens securing the Allowed Second Lien Credit Facility Claims shall not attach to the Non-Designated Asset Proceeds Carveout. Any such proceeds paid to HB Parent or any affiliate shall be transferred to the Purchaser for use as working capital or such other use as the Purchaser deems advisable and in its best interest. Any unsecured portion of the Second Lien Facility Claims shall be deemed Deficiency Claims and be classified as General Unsecured Claims. In the event of an Alternative Transaction, holders of Allowed Second Lien Credit Facility Claims will receive a pro rata share of cash from the sale of the Designated Assets following the payment of all Administrative, Priority, DIP Facility Claims and First Lien Credit Agreement Claims.			
Class 5 Other Secured Claims	Each holder of an Allowed Secured Claim (other than a Priority Tax Claim, DIP Facility Claim, First Lien Credit Agreement Claim, or Second Lien Credit Facility Claim) shall receive, at the Debtors' election and with the consent of the Restructuring Support Parties, either: (a) cash equal to the full amount of such Secured Claim, (b) the return or abandonment of the collateral securing such secured claim to such holder, or (c) such other treatment rendering such Claim unimpaired as may otherwise be agreed to by such holder, the Debtors, and the Restructuring Support Parties.	<b>Unimpaired</b>  Deemed to Accept the Plan  Not Entitled to Vote	\$[●]	100%

CLASS	TREATMENT	STATUS/ ENTITLED TO VOTE?	ESTIMATED AGGREGATE AMOUNT OF CLAIMS	ESTIMATED PERCENTAGE RECOVERY
Class 6 General Unsecured Claims and Holdco Claims	Holders of General Unsecured Claims (including any Deficiency Claims) will receive their Pro Rata share of the Non-Designated Asset Proceeds Carveout (if the Purchaser is the Successful Bidder for the Designated Assets). All Holders of General Unsecured Claims (including any Deficiency Claims) will receive any proceeds from the liquidation of the Liquidating Trust Assets remaining after the payment of the costs of administering the Liquidating Trust and the payment on account of any Liquidating Trust Assets to which a lien has attached, including First Lien Credit Agreement Claims and the Second Lien Credit Facility Claims.	<b>Impaired</b>  Entitled to Vote	\$[86 million]	Unknown <sup>4</sup>
Class 7 Existing Equity	No property will be distributed to or retained on account of the Existing Equity. On the Effective Date, all Existing Equity shall be cancelled.	<b>Impaired</b>  Deemed to Reject	N/A	0%
Class 8 Intercompany Claims	No property will be distributed to or retained on account of the Intercompany Claims. On the Effective Date, all Intercompany Claims shall be released and of no further force or effect.	<b>Impaired</b>  Deemed to Reject	N/A	0%

The estimated aggregate amounts of Claims shown in the table above are based upon the Debtors' review of their books and records and may be revised following the Debtors' analysis of the Claims Filed. Further, the amount of any Disputed Claim that ultimately is allowed by the Bankruptcy Court may be significantly more or less than the estimated amount of such Claim.

### C. Voting on and Confirmation of the Plan

#### 1. Voting Procedures and Requirements

Pursuant to the Bankruptcy Code, only classes of claims against or equity interests in a debtor that are "impaired" under the terms of a plan of liquidation or reorganization are entitled to vote to accept or reject a plan. A class is "impaired" if the legal, equitable or contractual rights attaching to the claims or interests of that class are modified, other than by curing defaults and reinstating maturity. Classes of Claims and Interests that are not impaired are not entitled to vote on the Plan and are conclusively presumed to have accepted the Plan. In addition, Classes of Claims and Interests that do not receive Distributions under the Plan are not entitled to vote on the Plan and are deemed to have rejected the Plan. The classification of Claims and Interests is summarized, together with an indication of whether each Class of Claims or Interests is impaired or unimpaired, in Section I.B.

<sup>4</sup> Distributions in Class 6 are largely dependent on the results of the Sale Process and recoveries from Causes of Action.

Pursuant to section 502 of the Bankruptcy Code and Bankruptcy Rule 3018, the Bankruptcy Court may temporarily allow a Claim for voting or other purposes. By order of the Bankruptcy Court entered on [●], as (the "Solicitation Procedures Order") voting tabulation procedures have been established, which include certain vote tabulation rules that temporarily allow or disallow certain Claims for voting purposes only.

**Voting on the Plan by each holder of a Claim in Classes 3, 4 and 6 is important. Please carefully follow all of the instructions contained on the ballot or ballots provided to you. All ballots must be completed and returned in accordance with the instructions provided.**

**To be counted, your ballot or ballots must be received by 5:00 p.m., prevailing Central Time, on February 3, 2017 at the address set forth on the preaddressed envelope provided to you. It is of the utmost importance to the Debtors that you vote promptly to accept the Plan.**

**If you are entitled to vote and you did not receive a ballot, received a damaged ballot or lost your ballot, please call the Debtors' voting agent, Prime Clerk, at (855) 631-5360. Also, this Disclosure Statement, the Plan and all of the related exhibits and schedules, including ballots, are available, without charge, to any party in interest at <https://cases.primeclerk.com/shoreline/>.**

**Votes cannot be transmitted orally, by email or by facsimile. Accordingly, you are urged to return your signed and completed ballot, by hand delivery, overnight service or regular U.S. mail, promptly, so that it is received by the Debtors' voting agent before the Voting Deadline.**

## **2. Combined Disclosure Statement Approval and Confirmation Hearing**

Section 1128(a) of the Bankruptcy Code requires the Bankruptcy Court, after notice, to hold a hearing on confirmation of the Plan. Section 1128(b) of the Bankruptcy Code provides that any party-in-interest may object to confirmation of the Plan. Pursuant to section 105(d)(2)(B)(vi) of the Bankruptcy Code, the hearing on confirmation of the Plan may be combined with the hearing on approval of the Disclosure Statement under section 1125 of the Bankruptcy Code. [The Bankruptcy Court has entered the Solicitation Procedures Order that, among other things, granted the Debtors' request to combine the hearings on approval of the Disclosure Statement and confirmation of the Plan as permitted by section 105(d)(2)(B)(vi) of the Bankruptcy Code (the "Combined Hearing").]

The Combined Hearing will commence on [February 8], 2017 at [●] before the Honorable David R. Jones, United States Bankruptcy Judge of the United States Bankruptcy Court for the Southern District of Texas, in the United States Bankruptcy Court for the Southern District of Texas, 515 Rusk Street, Houston, Texas 77002. The Combined Hearing may be adjourned from time to time by the Bankruptcy Court without further notice, except for an announcement of the adjourned date made at the Combined Hearing.

The deadline to File objections to approval of the confirmation of the Plan is February 3, 2017 at 5:00 P.M. (prevailing Central Time) (the "Objection Deadline"). All objections to the confirmation of the Plan must be made in writing and must specify in detail the name and address of the objector, all grounds for the objection and the amount of the Claim or Interest held by the objector. Any such objections must be filed and served in accordance with the Solicitation Procedures Order on or before the Objection Deadline.

## **3. Confirmation**

To confirm the Plan, the Bankruptcy Code requires that the Bankruptcy Court make a series of findings concerning the Plan and the Debtors, including that:

- the Plan has classified Claims and Interests in a permissible manner;
- the Plan complies with the applicable provisions of the Bankruptcy Code;
- the Debtors have complied with the applicable provisions of the Bankruptcy Code;



- the Debtors, as proponents of the Plan, have proposed the Plan in good faith and not by any means forbidden by law;
- the disclosure required by section 1125 of the Bankruptcy Code has been made;
- the Plan has been accepted by the requisite votes, except to the extent that cramdown is available under section 1129(b) of the Bankruptcy Code, of creditors and equity interest holders;
- the Plan is feasible;
- all fees and expenses payable under 28 U.S.C. § 1930, as determined by the Bankruptcy Court at the Confirmation Hearing, have been paid or the Plan provides for the payment of such fees on the Effective Date; and
- the Plan is in the "best interests" of all holders of Claims or Interests in an impaired Class by providing to creditors or interest holders on account of such Claims or Interests property of a value, as of the Effective Date, that is not less than the amount that such holder would receive or retain in a chapter 7 liquidation, unless each holder of a Claim or Interest in such Class has accepted the Plan.

#### **4. Acceptance**

A plan is accepted by an impaired class of claims if holders of at least two-thirds in dollar amount and a majority in number of claims of that class vote to accept the plan. Only those holders of claims who actually vote (and are entitled to vote) to accept or to reject a plan count in this tabulation.

#### **5. Feasibility**

Section 1129(a)(11) of the Bankruptcy Code requires that confirmation of a plan not be likely to be followed by the liquidation, or the need for further financial reorganization, of the Debtors or any successor to the Debtors (unless such liquidation or reorganization is proposed in the Plan). Because the Plan proposes a liquidation of all of the Debtors' assets, for purposes of this test the Debtors have analyzed the ability of the Liquidating Trust to meet its obligations under the Plan. Based on the Debtors' analysis, including the information contained in Exhibit II regarding recoveries available to creditors under the Plan, the Liquidating Trust will have sufficient assets to accomplish its tasks under the Plan. Therefore, the Debtors believe that their liquidation pursuant to the Plan will meet the feasibility requirements of the Bankruptcy Code.

#### **6. Best Interests Test; Liquidation Analysis**

Notwithstanding acceptance of the Plan by each impaired Class, to confirm the Plan, the Bankruptcy Court must determine that the Plan is in the best interests of each holder of a Claim or Interest in any such impaired Class who has not voted to accept the Plan. Accordingly, if an impaired Class does not unanimously accept the Plan, the "best interests" test requires that the Bankruptcy Court find that the Plan provides to each member of such impaired Class a recovery on account of the member's Claim or Interest that has a value, as of the Effective Date, at least equal to the value of the distribution that each such member would receive if the applicable Debtor or Debtors were liquidated under chapter 7 of the Bankruptcy Code on such date.

Because the Plan proposes a liquidation of all the Debtors' assets, the Debtors have analyzed factors that will impact recoveries (the "Recoveries") available to creditors in each scenario. These factors include professional fees and expenses, asset disposition expenses, applicable Taxes, potential Claims arising during the pendency of the Plan or chapter 7 case and trustee fees and expenses.

The information contained in Exhibit II hereto provides a summary of the Recoveries under the Plan and in a chapter 7 liquidation.

In summary, the Debtors believe that a chapter 7 liquidation would result in diminution in the Recoveries to be realized by holders of Claims, as compared to the proposed Distributions under the Plan. Consequently, the Debtors believe that the Plan will provide a greater ultimate return to holders of Claims than would a chapter 7 liquidation of the Debtors.

#### **7. Compliance with Applicable Provisions of the Bankruptcy Code**

Section 1129(a)(1) of the Bankruptcy Code requires that the Plan comply with the applicable provisions of the Bankruptcy Code. The Debtors have considered each of these issues in the development of the Plan and believe that the Plan complies with all provisions of the Bankruptcy Code.

#### **8. Alternatives to Confirmation and Consummation of the Plan**

The Debtors have evaluated alternatives to the Plan, including alternative structures and terms of the Plan. While the Debtors have concluded that the Plan is the best alternative and will maximize recoveries by holders of Claims, if the Plan is not confirmed, the Debtors, individually or collectively, or (subject to the Debtors' exclusive periods under the Bankruptcy Code to File and solicit acceptances of a plan or plans) any other party in interest in the Bankruptcy Cases could attempt to formulate and propose a different plan. Further, if no plan under chapter 11 of the Bankruptcy Code can be confirmed, the Bankruptcy Cases may be converted to chapter 7 cases. In a liquidation case under chapter 7 of the Bankruptcy Code, a trustee would be appointed to liquidate the remaining assets of each Debtor and distribute proceeds to creditors. The proceeds of the liquidation would be distributed to the respective creditors of the Debtors in accordance with the priorities established by the Bankruptcy Code. The Debtors believe that Confirmation and consummation of the Plan is preferable to the available alternatives.

### **D. Conditions Precedent to Confirmation and Consummation of the Plan**

#### **1. Conditions to Confirmation**

The following shall be conditions to Confirmation unless such conditions shall have been duly waived pursuant to Section VIII.C. of the Plan:

- a. The Confirmation Order shall have been entered by the Bankruptcy Court.
- b. The Plan will not have been amended, altered or modified from the Plan dated as of [●] except as permitted by Section XI.B of the Plan.
- c. All Plan Exhibits are in form and substance reasonably satisfactory to the Debtors and the Restructuring Support Parties.
- d. The Disclosure Statement shall have been approved and not amended or modified without the prior written consent of the Restructuring Support Parties..

#### **2. Conditions to the Effective Date**

The Effective Date shall not occur and the Plan shall not be consummated unless and until each of the following conditions has been satisfied or duly waived pursuant to Section VIII.C.:

- a. The Bankruptcy Court shall have entered an order (contemplated to be part of the Confirmation Order), in form and substance reasonably acceptable to the Debtors and the Restructuring Support Parties, approving and authorizing the Debtors and the Liquidating Trustee to take all actions necessary or appropriate to effectuate, implement and consummate the Plan, including the execution, delivery and performance of contracts, instruments, releases and other agreements or documents created in connection with the Plan.

- b. The Confirmation Order has become a Final Order.
- c. The sale of Designated Assets has been consummated in accordance with the Bidding Procedures and either the Purchaser APA or the asset purchase agreement of a third party to the extent the Purchaser is not the Successful Bidder for the Designated Assets, all conditions to closing the Purchaser APA or such asset purchase agreement, as applicable, have been satisfied or waived, and if the Purchaser is not the Successful Bidder for the Designated Assets, such sale of Designated Assets to a third party here resulted in the Debtors receiving cash proceeds in excess of \$[●].
- d. The Liquidating Trust Agreement has been executed and the Liquidating Trust has been established.
- e. All governmental or other approvals required to effectuate the terms of the Plan shall have been obtained.
- f. All actions, documents, certificates, and agreements necessary to implement the Plan, including the Definitive Documentation, shall have been effected or executed and delivered to the required parties and, to the extent required, filed with the applicable government units in accordance with applicable law.
- g. The Restructuring Support Agreement shall not have terminated and shall be in full force and effect and shall not be (a) identified on the Schedule of Rejected Executory Contracts and Unexpired Leases or (b) subject of a pending motion to reject Executory Contracts or Unexpired Leases, and the Debtors shall be in compliance therewith.

### **3. Waiver of Conditions to Confirmation or the Effective Date**

The conditions to Confirmation set forth in Section VIII.A. and the conditions to the Effective Date set forth in Section VIII.B. may be waived in whole or part in writing by the Debtors, subject to the prior written consent of the Restructuring Support Parties, at any time without an order of the Bankruptcy Court. Confirmation and the Effective Date will occur irrespective of whether any claims allowance process or related litigation has been completed.

### **4. Effect of Nonoccurrence of Conditions to the Effective Date**

If each of the conditions to the Effective Date is not satisfied in accordance with Section VIII.B. or duly waived in accordance with Section VIII.C., then upon motion by the Debtors made before the time that each of such conditions has been satisfied or duly waived and upon notice to such parties in interest as the Bankruptcy Court may direct, the Confirmation Order shall be vacated by the Bankruptcy Court; provided, however, that, notwithstanding the Filing of such motion, the Confirmation Order may not be vacated if each of the conditions to the Effective Date is either satisfied or duly waived before the Bankruptcy Court enters an order granting such motion. If the Confirmation Order is vacated pursuant to Section VIII.D. of the Plan, (1) the Plan shall be null and void in all respects, including with respect to the discharge of Claims; and (2) nothing contained in the Plan shall (a) constitute a waiver or release of any Claims by or against, or any Interest in, the Debtors or (b) prejudice in any manner the rights, including any claims or defenses, of the Parties or any other party in interest.

### **E. Substantive Consolidation of the Debtors**

- 1. The Plan will serve as a motion seeking entry of a Bankruptcy Court order substantively consolidating all of the Estates into a single consolidated Estate for all purposes associated with confirmation and consummation of the Plan. Unless an objection to such substantive consolidation is made in writing by any creditor or claimant affected by such

substantive consolidation, Filed with the Bankruptcy Court and served on the parties identified in Section XI.E. of the Plan on or before the objection deadline for Confirmation of the Plan, or such other date as may be fixed by the Bankruptcy Court, the order granting the substantive consolidation of the Debtors (which will be the Confirmation Order) may be entered by the Bankruptcy Court. In the event any such objections are timely Filed, a hearing with respect thereto will occur at the Confirmation Hearing. Pursuant to the Confirmation Order and effective as of the Effective Date: (a) all assets and liabilities of the Debtors shall be deemed merged; (b) all Claims of one Debtor against another Debtor shall be deemed eliminated; (c) all guarantees by one Debtor of the obligations of any other Debtor shall be deemed eliminated so that any Claim against any Debtor and any guarantee thereof executed by any other Debtor and any joint or several liability of any of the Debtors shall be deemed to be one obligation of all of the Debtors; and (d) each and every Claim Filed or to be Filed in the Bankruptcy Cases of any of the Debtors shall be deemed Filed against the Debtors and shall be deemed one Claim against and a single obligation of all of the Debtors. Such consolidation (other than for purposes of implementing the Plan) shall not affect the legal and corporate structures of the Debtors and shall not affect any Liens on the Debtors' assets, including Liens securing the First Lien Credit Agreement and the Second Lien Credit Facility, all of which remain attached with the same priority as in effect on the Petition Date.

2. Notwithstanding the substantive consolidation provided for herein, nothing shall affect the obligation of each and every Debtor to pay quarterly fees to the Office of the United States Trustee pursuant to 28 U.S.C. § 1930 until such time as a particular case is closed, dismissed or converted.
3. If any party successfully challenges the substantive consolidation of any or all of the Debtors, or if the Debtors, after consultation with and the consent of the Restructuring Support Parties, determine not to substantively consolidate any Debtor, such Debtors shall not be substantively consolidated. Further, if the Plan, as it pertains to any such non-consolidated Debtor, cannot be confirmed for any reason, the assets of such Debtor shall be liquidated under chapter 7 of the Bankruptcy Code.

## **II. HISTORY OF THE DEBTORS**

### **A. Debtors' Historical Overview**

Shoreline is a privately owned oil and gas exploration and production company that was formed in 2006 by four colleagues who had worked together for a number of years at other oil and gas companies, including Ocean Energy Inc. and Marlin Energy LLC. The founders brought together different disciplines, including geology, land and finance, to the common goal of acquiring, exploring and developing oil and gas reserves in the Gulf of Mexico and Louisiana's gulf coast. This combination of talents allowed Shoreline to integrate subsurface geology with seismic data, and to utilize historical production data to determine the full scope of remaining reserves. As further described below, Shoreline (a) directly operates certain oil and gas properties along the coast of Louisiana and (b) owns interests in oil and gas properties in Louisiana and Texas through its wholly owned subsidiaries, Shoreline Southeast LLC and Shoreline Offshore LLC. The Debtors' corporate headquarters is located in Houston, Texas.

Currently, Shoreline owns approximately 164,000 gross lease acreage (approximately 91,000 net acres) in Louisiana and Texas. Shoreline owns interests in approximately 400 oil, gas and related wells, and Shoreline has estimated proved reserves of approximately 26.7 million barrels of oil equivalents (MMBoe), comprised of 109 billion cubic feet (Bcf) of natural gas and 8.5 MMBo of oil and condensate.

Throughout their history, Shoreline has maintained mature fields and has established an excellent environmental and safety record.

For the first three years of existence, Shoreline had no debt, and it devoted significant attention to evaluating potential acquisition opportunities. The initial capital to create Shoreline was approximately \$17 million, approximately 25% of which was contributed by the four founders, with the remaining portion contributed by high net worth individuals that were interested in getting into the exploration and production business. Shoreline's model was to acquire assets from companies that were more interested in pursuing unconventional shale opportunities and no longer focusing on their conventional assets along Louisiana's gulf coast. As a consequence, Shoreline was careful about acquisitions, and focused on acquiring mature fields with complex geology.

In 2009, a stabilization in commodity pricing provided Shoreline with promising investment opportunities, allowing Shoreline to begin making acquisitions. These acquisitions included an acquisition from Crimson Energy Partners IV, L.L.C. in 2009, which included properties in Cameron, Jefferson, Davis and Calcasieu Parishes, as well as Shoreline's purchase of the Tullos field in LaSalle Parish, Louisiana in 2010. Between 2010 and 2012, Shoreline consummated an additional seven acquisitions from operators such as Rosetta Resources Inc., Marlin Energy LLC, Energy XXI Ltd. and Davis Petroleum Corp. Shoreline's acquisitions were financed primarily through traditional first lien reserve based loans, as well as equity contributions.

In early 2012, Shoreline estimated its proved reserve value to be approximately \$777 million.<sup>5</sup> At that time, Shoreline pursued a potential sale of its entire asset base. As a result of these efforts, Shoreline sold its interest in the Tullos field, and following the sale of the Tullos field, Shoreline had approximately \$40 million in debt and approximately \$40 million of accrued equity commitments, and Shoreline estimated its proved reserve value to be approximately \$381 million.<sup>6</sup> No acceptable offers were made for Shoreline's gulf coast assets, and based upon this result, the management of Shoreline determined to seek additional strategic acquisitions to increase the value of the company.

In late 2012, Shoreline acquired certain gulf coast assets of XTO Energy Inc., which included fields in multiple parishes within Shoreline's current asset base. The acquisition doubled Shoreline's production and provided significant upside with mature properties. The XTO acquisition was funded through debt, bringing Shoreline's debt to \$146 million.

In early 2013, Shoreline estimated its proved reserve value to be approximately \$676 million.<sup>7</sup> At that time, Shoreline pursued a second sale process for its entire asset base. There was one bidder for \$385 million that was not able to close the transaction. Therefore, it was determined that Shoreline needed to continue to add strategic acquisitions with the intent to become large enough to either merge with a public entity or go public. As a consequence, Shoreline engaged in a significant acquisition from Manti Resources (the "Manti Acquisition"), for a purchase price of \$167.5 million, which was financed through the Second Lien Secured Indebtedness (as defined and described in more detail below). It was projected that the acquisition would increase Shoreline's production to nearly 9000 barrels of oil equivalent per day ("BOEPD").

Following the closing of the Manti Acquisition, however, Shoreline encountered various operational issues on the purchased assets which prevented the acquisition from realizing its projected benefits and production. For instance, a primary gas line was shut in for maintenance and a significant cash-generating well had a mechanical failure. The combination of these two events reduced Shoreline's production by 1500 BOEPD. This production drop put Shoreline in default under its then current loans and restricted its ability to drill new wells. Therefore, the management of Shoreline determined that they needed to pursue new capital to reduce debt and/or accelerate drilling.

In early 2014, Shoreline estimated its proved reserve value to be approximately \$735 million.<sup>8</sup> At that time, Shoreline pursued new capital as well as explored multiple sale offers, including an unsolicited \$405 million

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<sup>5</sup> 1P Pv10 Strip Pricing, \$338 million proved developed producing ("PDP"), \$147 million proved developed non-producing ("PDN") and \$292 million proved undeveloped reserves ("PUD").

<sup>6</sup> 1P Pv10 Strip Pricing, \$179 million PDP, \$95 million PDN and \$107 million PUD.

<sup>7</sup> 1P Pv10 Strip Pricing, \$230MM PDP, \$163MM PDN and \$283MM PUD.

<sup>8</sup> 1P Pv10 Strip Pricing, \$269 million PDP, \$184 million PDN and \$282 million PUD.

offer for Shoreline's entire asset base and team. However, the unsolicited offer could not raise the funds to close. Instead, Shoreline obtained an additional \$50 million of unsecured financing in the form of the Note Purchase Agreement (as described in more detail below) and \$25 million in redeemable preferred stock.

In early 2015, Shoreline encountered an encouraging prospect in the Miogyp Sand, within the Lacassine field located in Cameron Louisiana (the "B-13 Well"). According to Shoreline's testing, the B-13 Well could produce in excess of 30 million cubic feet equivalent per day ("MMCFEPD"). Although the B-13 Well appeared successful, the company was unable to access the entire Miogyp section, and a second well (the "B-14 Well") was planned for mid-2015. The B-14 Well was anticipated to perform similarly to the B-13 Well, while accessing the entire Miogyp section.

In October 2015, and as further described below, Shoreline's then-existing first lien revolving credit facility was amended and restated, and the amounts outstanding refinanced, by the First Lien Credit Agreement. Shoreline ended 2015 with \$365 million in debt.

By early 2016, Shoreline's estimated proved reserve value had decreased to approximately \$240 million.<sup>9</sup> At that time, Shoreline attempted to complete the B-14 Well. Unfortunately, the B-14 Well initially failed to produce, and Shoreline's attempts to stimulate the well were unsuccessful. Currently, the B-14 Well is shut-in until Shoreline has additional capital to recomplete the well to a different reservoir. Additionally, the B-13 Well has started making substantial amounts of water, and production decreased from a high of 30 MMCFEPD to approximately 1.6 MMCFEPD at the current time.

By mid-2016, Shoreline estimated its proved reserve value to be approximately \$234 million.<sup>10</sup> Production continued to decline due to Shoreline's lack of capital to complete new drilling or perform workovers and recompletions of existing wells. In addition, Shoreline, along with over 100 other oil and gas companies, became involved in litigation with Cameron Parish and the State of Louisiana regarding alleged violations of the Coastal Zone Management Act of 1978. Litigation on this issue is ongoing.

As of the date hereof, Shoreline estimates its proved reserve value to be approximately \$197 million.<sup>11</sup> In addition, production has temporarily stabilized at an average of approximately 3500 BOEPD.

Effective September 28, 2016, Frank D. Willoughby voluntarily resigned from his position as Chairman and CEO of Shoreline, and Daniel P. Hurley currently serves in these capacities.

## **B. The Debtors' Corporate Structure As of the Petition Date**

A corporate ownership chart depicting the ownership structure of the Debtors is below:

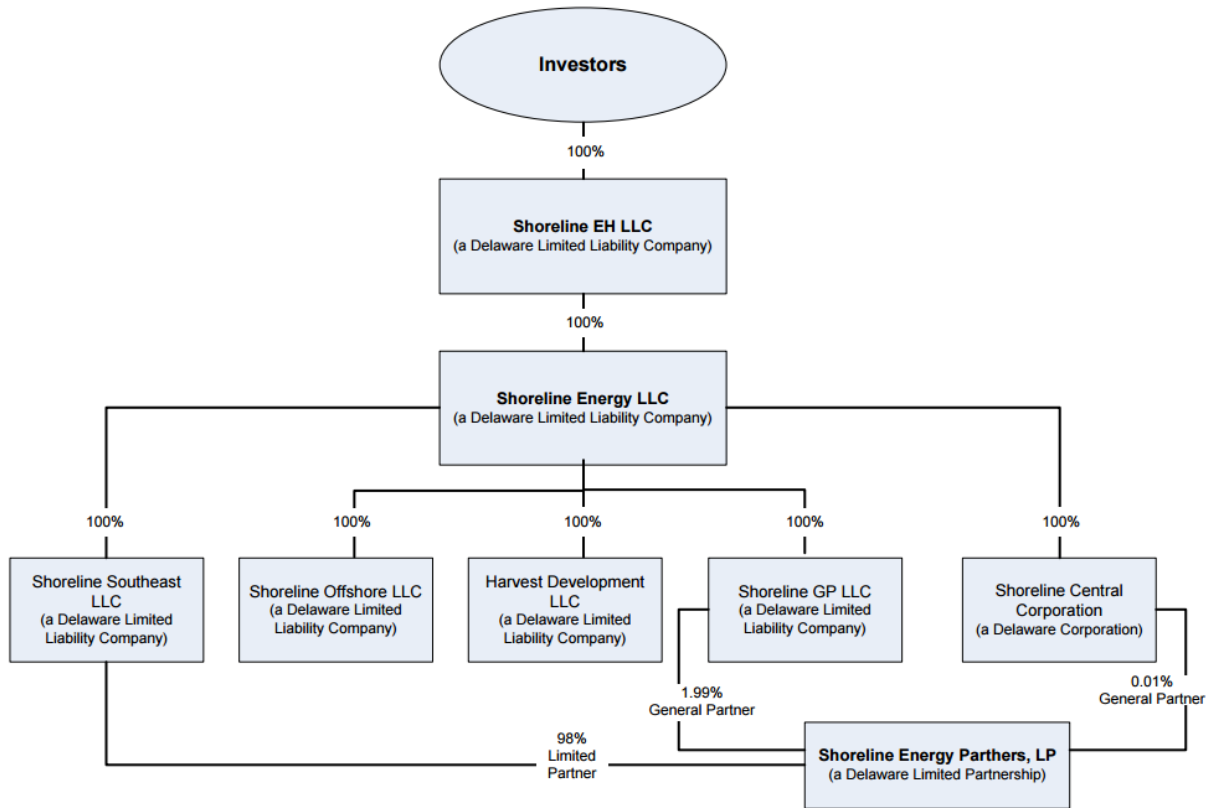
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<sup>9</sup> 1P Pv10 Strip Pricing, \$70 million PDP, \$95 million PDN and \$75 million PUD.

<sup>10</sup> 1P Pv10 Strip Pricing, \$64 million PDP, \$85 million PDN and \$85 million PUD.

<sup>11</sup> 1P Pv10 Strip Pricing, \$43 million PDP, \$71 million PDN and \$83 million PUD.



**SHORELINE STRUCTURE CHART**

Shoreline EH LLC is a holding company that owns 100% of Shoreline Energy LLC. Shoreline Energy in turn directly or indirectly owns all of the other Debtors.

Shoreline EH LLC was originally taxed as a pass through entity, but on September 12, 2016 the members of Shoreline EH unanimously elected to "check the box" to allow Shoreline EH to receive corporate tax treatment at the entity level.

### **C. The Debtors' Capital Structure As of the Petition Date**

As of the Petition Date, the Debtors' primary liabilities consist of (a) the First Lien Credit Agreement; (b) the Second Lien Credit Facility; (c) unsecured debt in the form of a Note Purchase Agreement; (d) royalty obligations; (e) trade debt; and (f) lease obligations. These liabilities are described in more detail below.

#### **1. First Lien Credit Agreement**

Shoreline Energy LLC, as borrower, entered into a first lien reserve based revolving credit facility that it subsequently amended and restated on multiple occasions. The last such amendment and restated occurred on October 16, 2015 pursuant to the Third Amended and Restated Credit Agreement, among Shoreline Energy LLC, as borrower, the First Lien Lenders and the First Lien Agent. All of the Debtors, with the exception of Shoreline EH LLC [and Shoreline Energy LLC, as borrower], are guarantors under the First Lien Credit Agreement.

The First Lien Credit Agreement amended and restated Shoreline Energy LLC's then-existing first lien revolving credit facility and provides up to \$200 million of loans on a revolving basis, subject to a borrowing base, with an initial borrowing base of \$157,000,000. The First Lien Credit Agreement is secured by a first lien on substantially all of the Debtors' assets. As of the Petition Date, there is no less than \$150,400,000 in aggregate

principal amount outstanding under the First Lien Credit Agreement (plus outstanding interest, fees, expenses and other amounts that would constitute obligations thereunder).

While the First Lien Credit Agreement is secured by a lien on substantially all of the Debtors' assets, the Debtors reviewed their books and records and have determined that a few of their leases may be unmortgaged as of the Petition Date.

## **2. Second Lien Credit Facility**

Shoreline Energy LLC, as borrower, and the Second Lien Lenders are parties to that the Second Lien Credit Facility dated as of September 30, 2013. All of the other Debtors, with the exception of Shoreline EH LLC, are guarantors under the Second Lien Credit Facility.

The Second Lien Credit Facility provided for \$180,000,000 of term loans. As of the Petition Date, there was approximately \$168,600,000 outstanding under the Second Lien Credit Facility. The Second Lien Credit Facility is secured by a second lien on substantially all of the Debtors' assets. The Debtors did not make their regularly scheduled interest or principal payments due at the end of the first three quarters of 2016.

## **3. Note Purchase Agreement**

Shoreline EH LLC, as issuer, and several purchasers from time to time thereto and Sankaty Advisors, LLC as administrative agent, are parties to a Note Purchase Agreement dated as of September 30, 2014. The obligations under the Note Purchase Agreement are guaranteed by each of the Debtors other than Shoreline EH LLC. As of the Petition Date, there was approximately \$71,400,000 outstanding under the Note Purchase Agreement. The obligations under the Note Purchase Agreement are unsecured.

## **4. Royalty Obligations**

As of the Petition Date, the Debtors had approximately 2200 royalty owners in pay status, and owe approximately \$7.8 million in royalty obligations. As of the Petition Date, the Debtors believed that they were current on their royalty payments.

## **5. Trade Debt**

In the ordinary course of producing oil and gas from its properties, the Debtors have historically obtained goods and services from over 200 vendors. As of the Petition Date, the Debtors estimate that they owe approximately \$15 million to such vendors.

# **D. Pre-Filing Financial Performance and Events Leading up to the Debtors' Chapter 11 Filings**

## **1. Industry Overview and Recent Performance**

Low commodity prices have caused broad-ranging distress in the oil and gas industry. West Texas Intermediate ("WTI") crude oil<sup>12</sup> spot prices fell from a monthly high of approximately \$105 per barrel in June of 2014 to approximately \$50 per barrel as of the Petition Date with a low price in the \$25 range in this period. Natural gas prices also fell significantly. The average natural gas price paid to the Debtors dropped from \$3.58 per Mcf during the fourth quarter of 2014 to approximately \$2.90 per Mcf as of the Petition Date with a low in the \$1.60 range in this period.

Independent exploration and production companies like Shoreline have been particularly hard hit because they rely primarily on sales of oil and gas to generate revenues. Like the industry as a whole, the Debtors' recent performance has been significantly impacted by the extreme and continuing decline in oil and natural gas prices.

<sup>12</sup> WTI crude oil is a grade of crude oil that is a key benchmark for oil pricing. It is the underlying commodity of the New York Mercantile Exchange's oil futures contracts.



Revenues from oil and gas sales decreased from \$122,092,000 in 2014 to \$88,299,000 in 2015. Further, at the end of 2015 Shoreline had \$924,000 in cash compared to \$3,465,000 in 2014.

## **2. The Debtors' Cost-Reduction Initiatives**

The Debtors have implemented various strategies to respond to fluctuations in commodity prices. Among other things, the Debtors have (a) continued to seek out ways to increase efficiency and reduce operational costs, (b) focused on their core areas and (c) sought to maintain balance and diversification in their product mix (oil and natural gas). In particular, lease operating expenses have been reduced by approximately \$1 million per month since December of 2014, in part through personnel reductions, the removal of compressors at various sites and vendor negotiations. However, the steep decline in crude oil and natural gas prices that began in 2014, as well as the disappointing production from the Manti Acquisition, has adversely affected the Debtors' liquidity and balance sheet to the point that a restructuring has become necessary.

## **3. The Debtors' Prepetition Lender Negotiations and Marketing Process**

In February 2016, the Debtors engaged Imperial Capital, LLC ("Imperial") as a financial advisor to assist with evaluating strategic solutions for the Debtors' liquidity issues. Upon being engaged, Imperial focused on understanding the Debtors' operations, reserves, history, cash needs and relationship with their lenders. Through Imperial, the Debtors reached out to Morgan Stanley Energy Capital Inc. ("Morgan Stanley") in its capacity as lender under the First Lien Credit Agreement. These discussions continued through the Petition Date and have culminated in the proposed DIP Credit Agreement (as discussed below).

Additionally, the Debtors and Morgan Stanley Capital Services LLC ("Capital Services"), an affiliate of the First Lien Lenders, were also parties to certain oil and gas hedging agreements. On October 5, 2016, the Debtors elected to liquidate the Debtors' hedge position, which resulted in a payment to the Debtors of approximately \$8,273,046 on account of hedge contracts with respect to crude oil, and a payment by the Debtors of approximately \$374,346 on account of hedge contracts with respect to natural gas. As a consequence, the approximate net liquidation value of the hedge contracts to the Debtors was \$7,898,700, which proceeds were collateral securing the First Lien Credit Agreement. The Debtors retained \$2 million of the proceeds in advance of the bankruptcy filing, and the remaining proceeds were applied against the Debtors' obligations under the First Lien Credit Agreement in accordance with the terms of the First Lien Credit Agreement.

As well, the Debtors also engaged in discussions with the lenders under the Second Lien Credit Facility. In mid-April through May 2016, Imperial worked with the Debtors to negotiate a preliminary term sheet with Highbridge Capital Management, LLC ("Highbridge") and other second lien lenders which contemplated an investment of new capital, both with and without a potential merger with another oil and gas company. At the time, the preliminary term sheets contemplated a full reinstatement of First Lien Credit Agreement and discounted recoveries to other constituents. However, by June 2016, due in part to changes in reserves, Highbridge was no longer willing to invest capital absent a significant write-down of the First Lien Credit Agreement.

On the advice of Imperial, the Debtors initiated a broader marketing process for their assets in August 2016. The Debtors contacted over 140 parties, 20 of which signed non-disclosure agreements and received access to a data room. By late September 2016, the Debtors received four initial formal and informal proposals.

## **4. The Restructuring Support Agreement**

After extensive good faith and arm's length negotiations with Morgan Stanley and Highbridge on November 2, 2016, the Debtors finalized an agreement on the terms of a restructuring as set forth in the Restructuring Support Agreement [Docket No. 66]. In accordance with the Restructuring Support Agreement, the Debtors, affiliates of Highbridge and the First Lien Lenders agreed on the basic terms of a sale process (the "Sale Process") for substantially all of the assets of the Debtors and the terms of the Plan. Among other things, the Restructuring Support Agreement provides that the Sale Process will provide for the sale of both Designated and Non-Designated assets, and a partnership established by HB Parent will directly or indirectly acquire the assets as a stalking horse for the Designated Assets. Further, under the Restructuring Support Agreement (and subject to the

terms thereof) the Debtors, affiliates of Highbridge, and the First Lien Lenders agreed, among other things, to support the Sale Process and the Plan, and to abide by certain milestones regarding the Plan and administration of these chapter 11 cases. With the consent of all parties, the Restructuring Support Agreement was amended on December 1, 2016, to extend the dates on certain milestones, and the milestones currently are as follows:<sup>13</sup>

- no later than November 2, 2016, the Debtors shall commence the chapter 11 cases by filing bankruptcy petitions with the Bankruptcy Court ;
- on the Petition Date, the Debtors shall file with the Bankruptcy Court a motion seeking entry of the Interim DIP Order and the Final DIP Order;
- no later than November 7, 2016, the Bankruptcy Court shall have entered the Interim DIP Order;
- no later than November 8, 2016, the Debtors shall file with the Bankruptcy Court a motion seeking to assume the Restructuring Support Agreement;
- no later than November 21, 2016, the Debtors shall file with the Bankruptcy Court: (i) a motion (the "Sale Motion") seeking entry of the Designated Assets Sale Order, and (ii) a motion seeking entry of the Bid Procedures and the Bid Procedures Order;
- no later than December 12, 2016, the Debtors shall file with the Bankruptcy Court: (i) the Plan; (ii) the Disclosure Statement; (iii) a motion (the "Disclosure Statement and Solicitation Motion") seeking, among other things, (A) conditional approval of the Disclosure Statement, (B) approval of procedures for soliciting, receiving, and tabulating votes on the Plan and for filing objections to the Plan, and (C) to schedule the hearing to consider the Disclosure Statement and confirmation of the Plan (the "Confirmation Hearing");
- no later than December 16, 2016, the Bankruptcy Court shall have entered (i) the Final DIP Order; (ii) the RSA Assumption Order; and (iii) the Bid Procedures Order;
- the deadline for third parties to submit higher and better cash offers for all or substantially all of the Debtors' assets, shall be no later than January 27, 2016, and any auction, if required, shall be held no later than February 1, 2016;
- no later than January 6, 2016, (i) the Bankruptcy Court shall have entered an order approving the Disclosure Statement and the relief requested in the Disclosure Statement and Solicitation Motion; and (ii) no later than five (5) business days after entry of the order approving the Disclosure Statement and Solicitation Motion, the Debtors shall have commenced solicitation on the Plan by mailing the Solicitation Materials to parties eligible to vote on the Plan;
- no later than February 8, 2017, the Bankruptcy Court shall have commenced the Confirmation Hearing and the hearing to consider entry of the Designated Assets Sale Order;
- no later than February 10, 2017, the Bankruptcy Court shall have entered the Designated Assets Sale Order;

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<sup>13</sup> Capitalized terms used in this section and not otherwise defined shall have the meanings set forth in the Restructuring Support Agreement. In the event of any conflict between this summary and the terms of the Restructuring Support Agreement, the terms of the Restructuring Support Agreement govern.

- no later than February 10, 2017, the Bankruptcy Court shall have entered the Confirmation Order;
- no later than February 17, 2017, the Debtors shall consummate the transactions contemplated by the Plan, it being understood that the satisfaction of the conditions precedent to the Effective Date (as set forth in the Plan and the Term Sheet) shall be conditions precedent to the occurrence of the Effective Date; and
- no later than February 17, 2017, the Debtors shall consummate the transactions contemplated by the APA (the date of such consummation, the "Sale Closing Date"), it being understood that the satisfaction of the conditions precedent in the APA shall be conditions precedent to the occurrence of the Sale Closing Date.

### **5. Debtor in Possession Financing**

The DIP Lenders agreed to provide a postpetition revolving credit facility in the aggregate principal amount of up to \$46,000,000 (the "DIP Facility") (i) with extensions of credit in an aggregate principal amount of up to \$5,000,000 to be available on an interim basis, (ii) with the remaining principal amount not to exceed \$46,000,000 to be available for borrowing upon entry of the Final Order, of which \$32,000,000 shall be borrowed to permanently repay \$32,000,000 of the outstanding loans under the First Lien Credit Agreement; provided the DIP Facility may be increased by up to an additional \$4 million pursuant to an incremental facility. The DIP Facility provides the Debtors with the liquidity they need to fund their operations and the costs of these cases through emergence, which is anticipated to occur in the first quarter of 2017. In particular, the DIP Facility provides the Debtors with the flexibility necessary to develop and implement a dual-track Sale Process and Plan Confirmation.

## **III. EVENTS DURING BANKRUPTCY CASES**

### **A. Commencement of the Bankruptcy Cases**

On November 2, 2016, the Debtors each commenced a reorganization case by filing a voluntary petition for relief under chapter 11 of the Bankruptcy Code in the Bankruptcy Court. The Bankruptcy Cases were assigned to U.S. Bankruptcy Judge David R. Jones.

### **B. First Day Relief**

On the Petition Date, the Debtors filed a number of motions seeking typical "first-day" relief in chapter 11 cases (collectively, the "First Day Motions") as well as a declaration in support thereof. The purpose of these motions was to stabilize the Debtors' business in the initial days of these Bankruptcy Cases.

In particular, the First Day Motions sought authority to: (1) administer the Bankruptcy Cases jointly for procedural purposes; (2) pay certain pre-petition employee wages, benefits and related items; (3) continue use of the Debtors' cash management system; (4) pay certain pre-petition taxes; (5) establish adequate assurance procedures with respect to the Debtors' utility providers; (6) continue the Debtors' insurance programs and pay related obligations; (7) appoint a claims noticing agent; (8) file a consolidated list of creditors; and (9) receive authority to pay certain pre-petition royalty obligations. The Bankruptcy Court largely granted the relief sought in the First Day Motions.

### **C. Debtor in Possession Financing Facility**

On the Petition Date, the Debtors requested authority to obtain the "DIP Facility") from the DIP Lenders and to utilize cash collateral (the "DIP Financing Motion"). On November 7, 2016, the Bankruptcy Court entered an interim order authorizing certain relief requested in the DIP Financing Motion. On [●], 2016, the Bankruptcy Court entered a final order (i) authorizing the Debtors to obtain financing and utilize cash collateral; (ii) granting adequate protection; (iii) modifying the automatic stay; and (iv) granting related relief (the "Final DIP Order").

The Final DIP Order, among other things, approved a senior secured superpriority credit facility in an aggregate principal amount up to \$46 million, which includes a \$32 million roll-up of the amounts owed under the First Lien Credit Agreement.

#### **D. Sale of Assets**

On November 21, 2016, the Debtors filed the Debtors' Motion for Entry of (I) an Order Establishing Bidding and Sale Procedures for the Sale of the Debtors' Assets, (II) an Order Approving the Sale of Such Assets and (III) Granting Related Relief (the "Sale Motion"). The Sale Motion proposed bidding procedures (the "Sale Process") for both the sale of the Designated Assets and the Non-Designated Assets, and these procedures were approved by the Court on December [15], 2016 (the "Bid Procedures Order"). Pursuant to the Restructuring Support Agreement, HB Parent agreed to form an entity (the "Stalking Horse Bidder") that will provide a stalking horse credit bid for certain assets identified as "Designated Assets" (the "Designated Assets") on the Asset Schedule attached to the Sale Motion. The First Lien Lenders and DIP Lenders will be issued debt and equity securities by the Stalking Horse Bidder. The initial bid submitted by the Stalking Horse Bidder consists of a \$115 million credit bid plus \$1.5 million cash.

Pursuant to the Bid Procedures Order, the deadline of submitting bids was established as [January 16, 2017], the initial auction for [January 23, 2017], and the initial sale hearing on [February 8, 2017]. The Debtors are seeking to sell all of their assets pursuant to the terms of the Bid Procedures Order. However, in the event that the Debtors fail to receive qualified bids for any of their assets, the Debtors' intend to abandon any assets that are not sold pursuant to the Sale Motion, and they intend to file a notice of abandonment regarding any such assets on or before [January 31, 2017].

#### **E. Key Employee Incentive Plan**

On [●], 2016, the Bankruptcy Court entered an order approving the Debtors' key employee incentive plan (the "KEIP"). Pursuant to the KEIP, the Debtors are authorized to make payments in a maximum amount of [\$1.2] million to the Debtors' key employees for the purpose of incentivizing them to assist in the Debtors' continued operations.

#### **F. Appointment of the Creditors' Committee**

On November 14, 2016, the U.S. Trustee appointed the Creditors' Committee pursuant to section 1102 of the Bankruptcy Code. The current members of the Creditors' Committee are: Schlumberger Technology Corporation; Stallion Oilfield Construction, LLC; Castex Energy Inc.; and Allen & Kirmse, Ltd. Counsel for the Creditors' Committee are as follows:

Robert M. Hirsh  
George P. Angelich  
Arent Fox LLP  
1675 Broadway  
New York, NY 10019  
Tel: (212) 484-3900  
Fax: (212) 484-3990  
robert.hirsh@arentfox.com  
george.angelich@arentfox.com

#### **G. Filing of Schedules and Setting of Bar Dates**

On [December 17], 2016, the Debtors filed their Schedules identifying the assets and liabilities of their Estates. Subsequently, on [●], 2016, the Bankruptcy Court entered an order (the "Bar Date Order") establishing the following Bar Dates for filing of proofs of claim in the Bankruptcy Cases: (i) [January 20, 2017], as the date on which all entities holding Claims (other than governmental units) that arose before November 2, 2016 must file proofs of claims; (ii) [May 1, 2017], as the date claims of governmental units must be filed; and [February 10, 2017]

as the date on which all entities holding Claims that first arose on or after the Petition Date through [January 31, 2017].<sup>14</sup> In accordance with the Bar Date Order, written notice of the Bar Dates and claim forms were mailed to, among others, all known claimants holding actual or potential Claims impacted by the Bar Date Order.

#### **IV. RISK FACTORS**

Prior to voting on the Plan, holders of Claims in Classes 3, 4 and 6 as well as entities in non-voting Classes, should consider carefully the risk factors described below, as well as all of the information contained in this Disclosure Statement, including the Exhibits hereto. These risk factors should not, however, be regarded as constituting the only risks involved in connection with the Plan and its implementation. See Section XII for a discussion of tax law considerations.

##### **A. Plan Confirmation**

There is no guarantee that the Plan will be confirmed. If the Plan, or a substantially similar plan, is not confirmed, the terms and timing of any plan of liquidation ultimately confirmed in the Bankruptcy Cases and the treatment of Claims and Interest will be unknown. In addition, if the Plan is not confirmed, a significant risk exists that the Bankruptcy Cases may be converted to cases under chapter 7. In such event, the Debtors believe that creditor recoveries would be substantially diminished.

##### **B. The Effective Date May Not Occur**

The Plan provides that there are conditions precedent to the occurrence of the Effective Date. There is no guarantee as to the timing of the Effective Date. Additionally, if the conditions precedent to the Effective Date are not satisfied or waived, the Bankruptcy Court may vacate the Confirmation Order. In that event, the Plan would be deemed null and void and the Debtors or any other party may propose or solicit votes on an alternative plan of liquidation that may not be as favorable to parties in interest as the Plan.

##### **C. Allowance of Claims**

This Disclosure Statement has been prepared based on preliminary information concerning filed Claims and the Debtors' books and records. The actual amount of Allowed Claims may differ from the Debtors' current estimates.

##### **D. Liquidating Trustee**

The ultimate amount of Cash available to satisfy the Allowed amount of Claims in Classes 3, 4 and 6 depends, in part, on the manner in which the Liquidating Trustee operates the Liquidating Trust and the expenses the Liquidating Trustee incurs. The expenses of the Liquidating Trustee will be given priority over Distributions to holders of Claims in Classes 3, 4 and 6. As a result, if the Liquidating Trustee incurs professional or other expenses in excess of current expectations, the amount of Cash remaining to satisfy Allowed Claims in Classes 3, 4 and 6 will decrease.

The ultimate amount of Cash available for distribution to holders of Allowed Claims in Classes 3, 4 and 6 also will be affected by the performance and relative success of the Liquidating Trustee in pursuing preference, fraudulent conveyance, setoff and other claims against potential parties under the Bankruptcy Code. The less successful the Liquidating Trustee is in pursuing such matters, the less Cash there will be available for distribution to satisfy Allowed Claims.

<sup>14</sup>

Additionally, the Bar Date Order provided that: (a) claims arising out of the rejection of an executory contract or unexpired lease must be filed by the later of [January 20, 2017] or 30 days after the entry of an order providing the rejection of such executory contract; and (b) if the Debtors' amend their Schedules, affected entities that dispute such changes must file claims by the later of [January 20, 2017] or 30 days after such amendment.

**E. The Restructuring Support Agreement could be terminated.**

The Restructuring Support Agreement contains certain provisions that give both the Debtors and the Restructuring Support Parties the ability to terminate the Restructuring Support Agreement if various conditions are not satisfied. Termination of the Restructuring Support Agreement could result in protracted chapter 11 cases. Certain of the agreed milestones under the Restructuring Support Agreement have yet to expire, and such expiration could result in the termination of the Restructuring Support Agreement absent the satisfaction of such milestones or an agreement among the Debtors and the Restructuring Support Parties.

**F. The Sale Process May Result in Significant Plugging and Abandonment Liability for the Debtors or the Liquidating Trust**

As noted above, the Debtors intend to sell substantially all of their assets pursuant to the Bid Procedures Order. To the extent that some of their assets are not sold, however, the Debtors intend to abandon any such assets, and intend file a notice of abandonment on or before [January 31, 2016]. Depending upon the results of the Sale Process, such abandoned assets may have significant plugging and abandonment liability. The Debtors maintain that Allowed claims for future plugging and abandonment costs are General Unsecured Claims. However, some parties may allege that plugging and abandonment liability is an administrative expense. In such an event, potential Administrative Claims related to any abandoned assets will be determined based upon (i) any Administrative Claims asserted by the Administrative Claim Bar Date and (ii) other applicable facts and circumstances relating to particular claims asserted. In addition, if the Debtors are determined to have significant Administrative Claims on account of plugging and abandonment liability, the Debtors may be unable to confirm the Plan.

**V. TREATMENT OF CLAIMS AND INTERESTS****A. Unclassified Claims****1. Payment of Administrative Claims****a. Administrative Claims in General**

Except as specified in Section III.A.1. of the Plan, and subject to the Bar Date provisions herein, unless otherwise agreed by the holder of an Administrative Claim and the applicable Debtor or the Liquidating Trustee, each holder of an Allowed Administrative Claim shall receive, in full satisfaction of its Administrative Claim, Cash equal to the allowed amount of such Administrative Claim either (i) as soon as practicable after the Effective Date or (ii) if the Administrative Claim is not allowed as of the Effective Date, 30 days after the date on which an order allowing such Administrative Claim becomes a Final Order or a Stipulation of Amount and Nature of Claim is executed by the Liquidating Trustee and the holder of the Administrative Claim. If an Allowed Administrative Claim, including a Fee Claim, exceeds the amount budgeted for it in the Wind Down Budget, the amount by which such Claim exceeds the budgeted amount shall be paid from the Liquidating Trust Assets.

**b. Statutory Fees**

On the Effective Date, Administrative Claims for fees payable pursuant to 28 U.S.C. § 1930, as determined at the Confirmation Hearing by the Bankruptcy Court shall be paid by the Debtors and/or the Liquidating Trustee in Cash equal to the amount of such Administrative Claims. All fees payable pursuant to 28 U.S.C. § 1930 shall be paid by the Liquidating Debtors and/or the Liquidating Trustee in accordance therewith until the closing of the applicable Bankruptcy Case pursuant to section 350(a) of the Bankruptcy Code. For the avoidance of doubt, Administrative Claims for fees payable pursuant to 28 U.S.C. § 1930 will not be subject to the Bar Date provisions pursuant to Section III.A.1.c of the Plan.



**c. Bar Dates for Administrative Claims**

**1. General Administrative Bar Date Provisions**

As provided in the Bar Date Order, each holder of an Administrative Claim (including governmental claims, and excluding, for the avoidance of doubt, claims arising under section 503(b)(9) and, solely for governmental units, claims exempted by section 503(b)(1)(D)) that arose (or, only in the case of unexpired leases of real or personal property, accrued) on or after the Petition Date through January 31, 2017, must file a request for payment of such Administrative Claim by [February 10, 2017]. Further, and except as otherwise provided in Section III.A.1.c.ii. of the Plan or in the Bar Date Order or other order of the Bankruptcy Court (including the DIP Order), unless previously Filed or Allowed, each holder of an Administrative Claim that arose (or, only in the case of unexpired leases of real or personal property, accrued) on or after February 1, 2017 must File a request for payment of such Administrative Claim pursuant to the procedures specified in the Confirmation Order and the notice of entry of the Confirmation Order, no later than 60 days after the Effective Date (the "Final Administrative Claim Bar Date"). Holders of Administrative Claims that are required to File and serve a request for payment of such Administrative Claims and that do not File and serve such a request by the applicable Bar Date shall be forever barred from asserting such Administrative Claims against the Debtors, the Liquidating Debtors, the Liquidating Trust, the Estates or their respective property, and such Administrative Claims shall be deemed waived and released as of the Effective Date. Objections to requests for payment of Administrative Claims must be Filed and served on the requesting party by (a) in the case of such requests that were required to be filed by [February 10, 2017] pursuant to the Bar Date Order, 90 days after the Effective Date and (b) in the case of such requests that must be filed by the Final Administrative Claim Bar Date, by no later than 150 days after the Effective Date, in each case subject to further order of the Bankruptcy Court. For the avoidance of doubt, nothing herein modifies any requirement to File any Administrative Claim as set forth in the Bar Date Order, and any holder of such Administrative Claim that failed to comply with the requirements of the Bar Date Order shall be forever barred from asserting such Administrative Claims against the Debtors, the Liquidating Debtors, the Liquidating Trust, the Estates or their respective property, and such Administrative Claims shall be deemed waived and released.

**2. Bar Dates for Professional Fee Claims**

Professionals or other Entities asserting a Fee Claim for services rendered before the Effective Date must File and serve on the Liquidating Trustee and such other Entities who are designated by the Bankruptcy Rules, the Confirmation Order, the Fee Order or other order of the Bankruptcy Court a Final Fee Application no later than 90 days after the Effective Date; provided, however, that any professional who may receive compensation or reimbursement of expenses pursuant to the Ordinary Course Professionals Order may continue to receive such compensation and reimbursement of expenses for services rendered before the Effective Date, without further Bankruptcy Court review or approval, pursuant to the Ordinary Course Professionals Order. A Professional may include any outstanding, non-Filed monthly or interim request for payment of a Fee Claim pursuant to the Fee Order in its Final Fee Application. Objections to any Final Fee Application must be Filed and served on the Liquidating Trustee and the requesting party by the later of (1) 80 days after the Effective Date or (2) 45 days after the Filing of the applicable Final Fee Application. To the extent necessary, the Confirmation Order shall amend and supersede any previously entered order of the Bankruptcy Court, including the Fee Order, regarding the payment of Fee Claims. Any pending, Filed interim requests for a Fee Claim pursuant to the Fee Order shall be resolved in the ordinary course in accordance with the Fee Order or, if sooner, in connection with the particular Professional's Final Fee Application.

**2. Payment of Priority Tax Claims**

**a. Priority Tax Claims in General**

Pursuant to section 1129(a)(9)(C) of the Bankruptcy Code, unless otherwise agreed by the holder of a Priority Tax Claim and the Liquidating Trustee, each holder of an Allowed Priority Tax Claim shall receive, in full satisfaction of its Priority Tax Claim, payment in full in Cash of the allowed amount of the Priority Tax Claim on the later of the Effective Date or as soon as practicable after the date when such Claim becomes an Allowed Claim.

b. **Other Provisions Concerning Treatment of Priority Tax Claims**

Notwithstanding the provisions of Section III.A.2.a. of the Plan, any Claim on account of any penalty arising with respect to or in connection with an Allowed Priority Tax Claim that does not compensate the holder for actual pecuniary loss shall be treated as a Class 6 Claim, and the holder (other than as the holder of a Class 6 Claim) may not assess or attempt to collect such penalty from the Debtors, the Liquidating Debtors, the Liquidating Trust, the Estates or their respective property.

**B. Classified Claims**

1. **Class 1 Claims (Priority Claims) are unimpaired.** On the Effective Date, unless otherwise agreed by the holder of an Allowed Claim in Class 1 and the Liquidating Trustee, each holder of an Allowed Claim in Class 1 shall receive, at the election of the Restructuring Support Parties: (a) cash equal to the full amount of such Allowed Priority Claim, (b) such other treatment as may otherwise be agreed to by such holder, the Debtors, and the Restructuring Support Parties, or (c) such other treatment as may be permitted under section 1129 of the Bankruptcy Code.

2. **Class 2 Claims (DIP Facility Claims) are unimpaired.** The DIP Facility Claims shall be Allowed in full, including principal of not less than \$[●], plus accrued but unpaid interest, fees, and expenses (including any amounts that are payable under the DIP Order but remain unpaid as of the Effective Date) and shall not be subject to any avoidance, reductions, setoff, offset, recoupment, recharacterization, subordination (whether equitable, contractual, or otherwise), counterclaims, crossclaims, defenses, disallowance, impairment, objection, or any other challenges under any applicable law or regulation by any person or entity.

In the event that the Purchaser is the Successful Bidder for the Designated Assets, the DIP Agent, on behalf of the holders of DIP Facility Claims will credit bid all of the outstanding DIP Claims in accordance with the Purchaser APA, satisfying the Debtors' obligations under the DIP Credit Agreement in full.

In the event the Purchaser is not the Successful Bidder for the Designated Assets, the holders of the DIP Facility Claims shall be paid cash in an amount equal to the full amount of such DIP Facility Claims (including all accrued and outstanding interest, fees, and expense) no later than the Effective Date.

3. **Class 3 Claims (First Lien Credit Agreement Claims) are impaired.** The First Lien Credit Agreement Claims shall be Allowed in the aggregate principal amount of not less than \$[●], plus accrued but unpaid interest, fees, and expenses (including any amounts that are payable under the DIP Order but remain unpaid as of the Effective Date) and shall not be subject to any avoidance, reductions, setoff, offset, recoupment, recharacterization, subordination (whether equitable, contractual, or otherwise), counterclaims, crossclaims, defenses, disallowance, impairment, objection, or any other challenges under any applicable law or regulation by any person or entity.

In the event that the Purchaser is the Successful Bidder for the Designated Assets, the First Lien Agent on behalf of the holders of First Lien Credit Agreement Claims will credit bid up to 100% of the First Lien Credit Agreement Claims in accordance with the Purchaser APA.

a. To the extent less than all First Lien Credit Agreement Claims are credit bid and the Purchaser is the Successful Bidder for the Designated Assets, holders of the remaining First Lien Credit Agreement Claims will receive the following treatment: The liens securing such First Lien Credit Agreement Claims (including any adequate protection liens granted pursuant to the DIP Order)



shall remain in full force and effect and attached to the Liquidating Trust Assets and such First Lien Credit Agreement Claims shall be paid from the Liquidating Trust Assets subject to such liens, in each case prior to the payment of any other Claims; *provided that*, the Non-Designated Asset Proceeds Carveout shall not be paid to holders of First Lien Credit Agreement Claims and shall be used to pay for the administration of the Liquidating Trust and Class 5 Claims. Any such proceeds paid to the holders of First Lien Credit Agreement Claims shall be transferred to the Purchaser for use as working capital or such other use as the Purchaser deems advisable and in its best interest. Any unsecured portion of the First Lien Credit Agreement Claims shall be deemed Deficiency Claims and be classified as General Unsecured Claims.

- b. In the event of an Alternative Transaction or in the event the Purchaser is not the Successful Bidder for the Designated Assets, holders of First Lien Credit Agreement Claims shall be paid cash on the Effective Date in an amount equal to First Lien Credit Agreement Claims (including all principal, accrued and unpaid interest, fees and expenses of all other obligations).
- c. The First Lien Agent will credit bid up to 100% of the Allowed First Lien Credit Agreement Claims to purchase the Designated Assets pursuant to the Restructuring Support Agreement, with the Purchaser designated as the owner of such Designated Assets. To the extent less than all Allowed First Lien Credit Agreement Claims are credit bid, holders of the remaining Allowed First Lien Credit Agreement Claims will receive the following treatment: Any liens securing such Allowed First Lien Credit Agreement Claims shall remain attached to the Liquidating Trust Assets and such Allowed First Lien Credit Agreement Claims shall be paid from the proceeds of the liquidation of the Non-Designated Assets and the liquidation of the applicable Liquidating Trust Assets after payment of the costs of administration of the Liquidating Trust from the proceeds of the Liquidating Trust Assets. Any such proceeds paid to the holders of Allowed First Lien Credit Agreement Claims shall be transferred to the Purchaser for use as working capital or such other use as the Purchaser deems advisable and in its best interest. Any unsecured portion of the Allowed First Lien Credit Agreement Claims shall be treated as General Unsecured Claims. In the event that an Alternative Transaction is not consummated, the Non-Designated Asset Proceeds Carve-Out shall not be paid to the holders of First Lien Claims and shall instead be available for distribution to other creditors in accordance with the Plan. In the event of an Alternative Transaction, holders of Allowed First Lien Credit Agreement Claims will receive cash equal to the amount of such First Lien Credit Agreement Claims, which shall be allowed in full.

4. **Class 4 Claims (Second Lien Credit Facility Claims) are impaired.** The Second Lien Credit Facility Claims shall be Allowed in the aggregate principal amount of not less than \$[●], plus accrued but unpaid interest, fees, and expenses and shall not be subject to any avoidance, reductions, setoff, offset, recoupment, recharacterization, subordination (whether equitable, contractual, or otherwise), counterclaims, crossclaims, defenses, disallowance, impairment, objection, or any other challenges under any applicable law or regulation by any person or entity.

Any liens securing the Allowed Second Lien Credit Facility Claims shall remain attached to the Liquidating Trust Assets and the Allowed Second Lien Credit Facility Claims shall be paid from any remaining proceeds of the liquidation of such applicable Liquidating Trust Assets to the extent encumbered with such liens after payment of the costs of administration of the Liquidating Trust and after the payment in full of all First Lien Credit Agreement Claims, provided, however, that such liens securing the Allowed

Second Lien Credit Facility Claims shall not attach to the Non-Designated Asset Proceeds Carveout. Any such proceeds paid to HB Parent or any affiliate shall be transferred to the Purchaser for use as working capital or such other use as the Purchaser deems advisable and in its best interest. Any unsecured portion of the Second Lien Facility Claims shall be deemed Deficiency Claims and be classified as General Unsecured Claims. In the event of an Alternative Transaction, holders of Allowed Second Lien Credit Facility Claims will receive a pro rata share of cash from the sale of the Designated Assets following the payment of all Administrative, Priority, DIP Facility Claims and First Lien Credit Agreement Claims.

5. **Class 5 Claims (Other Secured Claims) are unimpaired.** Each holder of an Allowed Secured Claim (other than a Priority Tax Claim, DIP Facility Claim, First Lien Credit Agreement Claim, or Second Lien Credit Facility Claim) shall receive, at the Debtors' election and with the consent of the Restructuring Support Parties, either: (a) cash equal to the full amount of such Secured Claim, (b) the return or abandonment of the collateral securing such secured claim to such holder, or (c) such other treatment rendering such Claim Unimpaired or as may otherwise be agreed to by such holder, the Debtors, and the Restructuring Support Parties.
6. **Class 6 Claims (General Unsecured Claims and Holdco Claims) are impaired.** Holders of General Unsecured Claims (including any Deficiency Claims) will receive their Pro Rata share of the Non-Designated Asset Proceeds Carveout (if the Purchaser is the Successful Bidder for the Designated Assets). All Holders of General Unsecured Claims (including any Deficiency Claims) will receive any proceeds from the liquidation of the Liquidating Trust Assets remaining after the payment of the costs of administering the Liquidating Trust and the payment on account of any Liquidating Trust Assets to which a lien has attached, including First Lien Credit Agreement Claims and the Second Lien Credit Facility Claims.
7. **Class 7 Claims (Existing Equity) are impaired.** No property will be distributed to or retained on account of the Existing Equity. On the Effective Date, all Existing Equity shall be cancelled.
8. **Class 8 Claims (Intercompany Claims) are impaired.** No property will be distributed to or retained on account of the Intercompany Claims. On the Effective Date, all Intercompany Claims shall be released and of no further force or effect.

## VI. MEANS FOR IMPLEMENTATION OF THE PLAN

### A. Causes of Action

On the Effective Date, all Retained Causes of Action will be transferred from the Debtors and the Liquidating Debtors to the Liquidating Trust. Any recovery of Cash by the Liquidating Trustee on account of such Retained Causes of Action will be distributed pursuant to the terms of the Plan and the Liquidating Trust Agreement. A nonexclusive schedule of currently pending actions and claims brought by one or more Debtors is attached as Exhibit IV.A. to the Plan. In accordance with and subject to any applicable law, the Debtors' inclusion or failure to include any Cause of Action on Exhibit IV.A. of the Plan shall not be deemed an admission, denial or waiver of any Cause of Action that any Debtor or Estate may hold against any Entity.

**B. Liquidating Debtors**

**1. General**

On and after the Effective Date, each of the Debtors will remain in existence as a Liquidating Debtor until such time as the Liquidating Trustee causes the existence of such Liquidating Debtor to be terminated as provided in the Plan.

**2. Liquidating Shoreline**

a. On the Effective Date, the Liquidating Shoreline Equity will be issued to the Liquidating Trust.

b. As of the Effective Date, the articles of organization and by-laws of Liquidating Shoreline will be amended and restated in substantially the form of Exhibit IV.B.2.b. to the Plan. On and after the Effective Date, the Liquidating Trustee may, without further order of the Bankruptcy Court, cause the articles of organization and by-laws of Liquidating Shoreline to be amended or restated as permitted by applicable law and the terms of such documents and determined by the Liquidating Trustee to be necessary or appropriate to implement the Plan.

c. On and after the Effective Date, the board of managers of Liquidating Shoreline will be comprised of the natural person appointed by the Liquidating Trustee on behalf of the Liquidating Trust, as the sole stockholder of Liquidating Shoreline, without further order of the Bankruptcy Court.

**3. Other Liquidating Debtors**

a. On and after the Effective Date, the Liquidating Trustee may, without further order of the Bankruptcy Court, cause the certificate of incorporation, by-laws, certificate of formation, operating agreement, partnership agreement or comparable governing document of the Other Liquidating Debtors to be amended or restated as permitted by applicable law and the terms of such documents and determined by the Liquidating Trustee to be necessary or appropriate to implement the Plan; provided that such documents shall prohibit the issuance of nonvoting equity securities to the extent required by section 1123(a) of the Bankruptcy Code.

b. On and after the Effective Date, the Liquidating Trustee will cause the board of directors or managers or comparable governing body of each Other Liquidating Debtor to be comprised of the natural person appointed by the Liquidating Trustee, on behalf of the Liquidating Trust, as the (direct or indirect) sole equity holder of the Other Liquidating Debtors, without further order of the Bankruptcy Court.

**4. Liquidation**

a. On and after the Effective Date, the Liquidating Trustee will cause each of the Liquidating Debtors to market and sell or otherwise dispose of its assets and properties, to discharge its obligations and liabilities and to wind up its business operations, all on such terms as the Liquidating Trustee determines to be necessary or appropriate to implement the Plan and all without further order of the Bankruptcy Court.

b. For the avoidance of doubt, on and after the Effective Date, the Liquidating Trustee may, without further order of the Bankruptcy Court, cause a Liquidating Debtor to transfer any or all of its assets and properties to the Liquidating Trust or another Liquidating Debtor if the Liquidating Trustee determines such disposition to be appropriate to implement the Plan. Assets and properties transferred by a Liquidating Debtor to the Liquidating Trust will, from and after such transfer, be considered Liquidating Trust Assets for all purposes of the Plan. To the extent

the First Lien Credit Agreement Claims remain outstanding, the liens securing the First Lien Credit Agreement Claims shall remain attached to the assets of the Liquidating Debtor and the Liquidating Trust Assets (including the proceeds of all Non-Designated Assets) as first priority liens, with the same priority as such liens existed on the Petition Date (including after giving effect to the Intercreditor Agreement, the Holdco Subordination Agreement or any other subordination agreement).

## **5. Dissolution**

At such times as determined by the Liquidating Trustee to be appropriate, the Liquidating Trustee will cause the existence of the Liquidating Debtors to be terminated by merger, consolidation or dissolution or as otherwise permitted by applicable law, all on such terms as the Liquidating Trustee determines to be necessary or appropriate to implement the Plan and all without further order of the Bankruptcy Court. In order to effectuate such terminations in accordance with applicable law, the Liquidating Trustee may, without further order of the Bankruptcy Court, cause the Liquidating Debtors to, among other things: (a) adopt such plans of merger, consolidation or dissolution or similar plans as the Liquidating Trustee determines to be necessary or appropriate; (b) execute and deliver such agreements or other documents as the Liquidating Trustee determines to be necessary or appropriate; and (c) execute and file with the applicable governmental authorities such certificates of merger, consolidation or dissolution or similar instruments as the Liquidating Trustee determines to be necessary or appropriate.

### **C. Abandonment of Certain Assets**

Any Assets designated on a notice of abandonment filed by the Debtors with the Bankruptcy Court on or before the Effective Date shall be deemed abandoned as of the Effective Date pursuant to Bankruptcy Code section 554 without further order of the Bankruptcy Court.

The filing of the Plan shall constitute the filing of a motion to abandon pursuant to 11 U.S.C. § 554 and relinquish the Abandoned Assets. Entry of the Confirmation Order shall constitute (i) approval, pursuant to Bankruptcy Code section 554, of the abandonment of the Abandoned Assets and (ii) authorization to relinquish any interest the Debtors' hold in the Abandoned Assets.

### **D. Liquidating Trust**

#### **1. Formation of the Liquidating Trust**

a. On the Effective Date, the Liquidating Trust will be established pursuant to the Liquidating Trust Agreement for the purpose of liquidating the Retained Causes of Action, liquidating and dissolving the Liquidating Debtors, resolving all Disputed Claims, making distributions to holders of Allowed Claims in accordance with the terms of the Plan and otherwise implementing the Plan. The Liquidating Trust shall have a separate existence from Shoreline and Liquidating Shoreline. On the Effective Date, the Liquidating Trust will be the sole shareholder of Liquidating Shoreline and the Liquidating Trust's prosecution of any Causes of Action will be on behalf of and for the benefit of holders of Allowed Claims entitled to distributions from the Liquidating Trust Assets under the Plan.

b. On the Effective Date, all Retained Causes of Action, and all assets of the Debtors not sold or abandoned pursuant to an order of the Bankruptcy Court shall be transferred to the Liquidating Trust or shall revert in the applicable Liquidating Debtor. In the event that the Purchaser is the Successful Bidder, the Liquidating Trust Assets shall include the Non-Designated Asset Proceeds Carve-Out. To the extent the First Lien Credit Agreement Claims remain outstanding, the liens securing the First Lien Credit Agreement Claims shall remain attached to the assets of the Liquidating Debtor and the Liquidating Trust Assets (including the proceeds of all Non-Designated Assets and all Retained Causes of Action and proceeds thereof) as first priority liens, with the same priority as such liens existed on the Petition Date (including after giving effect

to the Intercreditor Agreement and the Holdco Note Subordination Agreement). On the Effective Date, standing to commence, prosecute and compromise all Retained Causes of Action shall transfer to the Liquidating Trust

c. Subject to, and to the extent set forth in, the Plan, the Confirmation Order, the Liquidating Trust Agreement or other agreement (or any other order of the Bankruptcy Court entered pursuant to, or in furtherance of, the Plan), the Liquidating Trust and the Liquidating Trustee will be empowered to take, or cause the Liquidating Debtors to take, the following actions, and any other actions, as the Liquidating Trustee determines to be necessary or appropriate to implement the Plan, all without further order of the Bankruptcy Court:

i adopt, execute, deliver or file all plans, agreements, certificates and other documents and instruments necessary or appropriate to implement the Plan;

ii accept, preserve, receive, collect, manage, invest, supervise, prosecute, settle and protect the Retained Causes of Action and other Liquidating Trust Assets and the assets and properties of the Liquidating Debtors;

iii sell, liquidate, abandon or otherwise dispose of the Retained Causes of Action and other Liquidating Trust Assets and the assets and properties of the Liquidating Debtors;

iv calculate and make distributions to holders of Allowed Claims;

v exercise rights and fulfill obligations under the Plan;

vi review, reconcile, settle or object to Claims and resolve such objections;

vii retain Third Party Disbursing Agents and professionals and other Entities;

viii file appropriate Tax returns, including any final Tax returns, and other reports on behalf of the Liquidating Trust and the Liquidating Debtors and pay Taxes or other obligations owed by the Liquidating Trust and the Liquidating Debtors;

ix close or dismiss any or all of the Bankruptcy Cases; and

x dissolve the Liquidating Trust.

d. The Liquidating Trust has no objective to, and will not, engage in a trade or business and will conduct its activities consistent with the Plan and the Liquidating Trust Agreement.

e. The Creditors' Committee's counsel and financial advisor will provide to the Liquidating Trustee (or such professionals designated by the Liquidating Trustee) documents and other information gathered, and relevant work product developed, during the Bankruptcy Cases in connection with its investigation of potential Causes of Action, provided that the provision of any such documents and information will be without waiver of any evidentiary privileges, including without limitation the attorney-client privilege, work-product privilege or other privilege or immunity attaching to any such documents or information (whether written or oral). The Plan will be considered a motion pursuant to sections 105, 363 and 365 of the Bankruptcy Code for such relief.

f. The Liquidating Trust and the Liquidating Trustee will each be a "representative" of the Estates under section 1123(b)(3)(B) of the Bankruptcy Code, and the Liquidating Trustee will be the trustee of the Liquidating Trust Assets for purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), and, as such, the Liquidating Trustee succeeds to all of the rights, powers and obligations of a trustee in bankruptcy with respect to collecting, maintaining, administering and liquidating the Liquidating Trust Assets. Without limiting other such rights, powers, and obligations, on the Effective Date, the Debtors and the Creditors' Committee will transfer, and will be deemed to have irrevocably transferred, to the Liquidating Trust and shall vest in the Liquidating Trust, the Liquidating Trustee and all of their professionals all of the Debtors' and the Creditors' Committee's evidentiary privileges, including, without limitation, the attorney-client privilege, work product privilege and other privileges and immunities that they possess. The Debtors and Creditors' Committee and their respective financial advisors will provide to the Liquidating Trustee (or such professionals designated by the Liquidating Trustee) documents, other information, and work product relating to potential Causes of Action, provided that the provision of any such documents and information will be without waiver of any evidentiary privileges or immunity.

g. To the extent that any Liquidating Trust Assets cannot be transferred to the Liquidating Trust because of a restriction on transferability under applicable non-bankruptcy law that is not superseded or preempted by section 1123 of the Bankruptcy Code or any other provision of the Bankruptcy Code, such Liquidating Trust Assets shall be deemed to have been retained by the Debtors or the Liquidating Debtors, as the case may be, and the Liquidating Trustee shall be deemed to have been designated as a representative of the Debtors or the Liquidating Debtors, as the case may be, pursuant to section 1123(b)(3)(B) of the Bankruptcy Code to enforce and pursue such Liquidating Trust Assets on behalf of the Debtors or the Liquidating Debtors, as the case may be.

## **2. Liquidating Trustee**

a. The Liquidating Trustee will be the exclusive trustee of the Liquidating Trust Assets for purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), as well as the representative of the Estate of each of the Debtors appointed pursuant to section 1123(b)(3)(B) of the Bankruptcy Code. The powers, rights and responsibilities of the Liquidating Trustee will be specified in the Liquidating Trust Agreement and will include the authority and responsibility to take, and cause the Liquidating Debtors to take, the actions contemplated by Section IV.D.1.c. of the Plan. The Liquidating Trustee will distribute the Liquidating Trust Assets and the assets and properties of the Liquidating Debtors in accordance with the provisions of the Plan and the Liquidating Trust Agreement. Other rights and duties of the Liquidating Trustee and the beneficiaries of the Liquidating Trust will be as set forth in the Liquidating Trust Agreement.

b. The Liquidating Trust Agreement generally will provide for, among other things:

- i the payment of reasonable compensation to the Liquidating Trustee;
- ii the payment of other expenses of the Liquidating Trust, including the cost of pursuing Retained Causes of Action;
- iii the retention of Third Party Disbursing Agents, counsel, accountants, financial advisors or other professionals, or other Entities; and the payment of their compensation;
- iv the investment of Cash within certain limitations;



v the preparation and filing of appropriate Tax returns and other reports on behalf of the Liquidating Trust and the Liquidating Debtors and the payment of Taxes or other obligations owed by the Liquidating Trust and the Liquidating Debtors; and

vi the orderly liquidation of the Retained Causes of Action and the assets and properties of the Liquidating Debtors, which may include the litigation, settlement, abandonment or dismissal of any claims or rights.

c. The Liquidating Trustee, under the oversight of the Liquidating Trust Board, and in the exercise of the Liquidating Trustee's reasonable business judgment, shall, in an expeditious but orderly manner, liquidate and convert to Cash the assets of the Liquidating Trust, make timely distributions, and not unduly prolong the duration of the Liquidating Trust. The liquidation of the Liquidating Trust Assets may be accomplished either through the prosecution, compromise and settlement, abandonment, or dismissal of any or all claims, rights, or causes of action, or otherwise. The Liquidating Trustee, under the oversight of the Liquidating Trust Board, shall have the absolute right to pursue or not to pursue any and all Liquidating Trust Assets as it determines is in the best interests of the beneficiaries of the Liquidating Trust, and consistent with the purposes of the Liquidating Trust, and shall have no liability for the outcome of its decision except for any damages caused by willful misconduct or gross negligence. The Liquidating Trustee may incur any reasonable and necessary expenses in liquidating and converting the Liquidating Trust Assets to Cash and shall be reimbursed in accordance with the provisions of the Liquidating Trust Agreement.

### **3. Fees and Expenses of the Liquidating Trust**

The Liquidating Trust Expenses will be paid from the Liquidating Trust Assets and the assets and properties of the Liquidating Debtors in accordance with the Plan and the Liquidating Trust Agreement.

### **4. Post-Confirmation Reporting**

After the Effective Date, the Liquidating Trustee, on behalf of the Liquidating Trust, will File unaudited reports of its activities and the financial affairs of the Liquidating Trust with the Bankruptcy Court on a quarterly basis, within 30 days after the conclusion of each such quarterly period until the earlier of the entry of a final decree closing each of the Bankruptcy Cases or a Bankruptcy Court order converting or dismissing each of the Bankruptcy Cases. Such filed unaudited quarterly reports will contain information regarding the liquidation of the Causes of Action and the assets and properties of the Liquidating Debtors, the distributions made by the Liquidating Trustee and other matters required to be included in such reports in accordance with the Liquidating Trust Agreement and any applicable Bankruptcy Court and United States Trustee guidelines for such matters.

### **5. Retained Professionals of the Liquidating Trust**

The Liquidating Trustee, on behalf of the Liquidating Trust, may, without further order of the Bankruptcy Court, retain Third Party Disbursing Agents, professionals or other Entities to assist in carrying out its duties hereunder and may compensate and reimburse the expenses of these professionals or other Entities without further order of the Bankruptcy Court from the Liquidating Trust Assets and the assets and properties of the Liquidating Debtors in accordance with the Plan and the Liquidating Trust Agreement.

### **6. Indemnification**

The Liquidating Trust Agreement may include reasonable and customary indemnification provisions. Any such indemnification will be the sole responsibility of the Liquidating Trust.

## **7. Tax Treatment**

The Liquidating Trust generally is intended to be treated, for federal income Tax purposes, in part as a liquidating trust within the meaning of Treasury Regulations section 301.7701-4(d), for the benefit of the holders of Allowed Claims entitled to distributions of Pending Payments, and otherwise as one or more disputed ownership funds within the meaning of Treasury Regulations section 1.468B-9(b)(1), as more specifically provided for under the Liquidating Trust Agreement. Accordingly, for all federal income Tax purposes the transfer of Liquidating Trust Assets to the Liquidating Trust will be treated as: (a) to the extent of Pending Payments, a transfer of the Pending Payments directly from the Debtors to the holders of such Allowed Claims followed by the transfer of such Pending Payments by the holders of Allowed Claims to the Liquidating Trust in exchange for rights to Distributions from the Liquidating Trust; and (b) to the extent of amounts that are not Pending Payments, as a transfer to one or more disputed ownership funds. The holders of Allowed Claims entitled to Distributions of Pending Payments will be treated for federal income Tax purposes as the grantors and deemed owners of their respective shares of the Liquidating Trust Assets in the amounts of the Pending Payments and any earnings thereon. The Liquidating Trustee will be required by the Liquidating Trust Agreement to file federal Tax returns for the Liquidating Trust as a grantor trust with respect to any Pending Payments and as one or more disputed ownership funds with respect to all other funds or other property held by the Liquidating Trust pursuant to applicable Treasury Regulations, and any income of the Liquidating Trust will be treated as subject to Tax on a current basis. The Liquidating Trust Agreement will provide that the Liquidating Trustee will pay such Taxes from the Liquidating Trust Assets and the assets and properties of the Liquidating Debtors. In addition, the Liquidating Trust Agreement will require consistent valuation by the Liquidating Trustee and the Beneficiaries (as defined in the Liquidating Trust Agreement), for all federal income Tax purposes, of any property held by the Liquidating Trust. The Liquidating Trust Agreement will provide that termination of the trust will occur no later than five years after the Effective Date, unless the Bankruptcy Court approves an extension based upon a finding that such an extension is necessary for the Liquidating Trust to complete its Claims resolution and liquidating purpose. The Liquidating Trust Agreement also will limit the investment powers of the Liquidating Trustee in accordance with IRS Rev. Proc. 94-45 and will require the Liquidating Trust to distribute at least annually to the Beneficiaries (as such may have been determined at such time) its net income (net of any payment of or provision for Taxes), except for amounts retained as reasonably necessary to maintain the value of the Liquidating Trust Assets or to meet Claims and contingent liabilities (including Disputed Claims).

### **E. No Revesting of Liquidating Trust Assets**

No Liquidating Trust Asset will revest in any Liquidating Debtor on or after the date such Liquidating Trust Asset is transferred to the Liquidating Trust but will vest upon such transfer in the Liquidating Trust to be administered by the Liquidating Trustee in accordance with the Plan and the Liquidating Trust Agreement.

### **F. Term of Injunctions or Stays**

Unless otherwise provided, all injunctions or stays provided for in the Bankruptcy Cases pursuant to 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 Bankruptcy Cases are closed.

### **G. Preservation of Causes of Action; Settlement of Claims and Releases**

#### **1. Preservation of All Retained Causes of Action Not Expressly Settled or Released**

Unless a Retained Cause of Action against any Entity is expressly transferred, waived, relinquished, released, compromised or settled in the Plan or any Final Order (including the Confirmation Order, sale order, and the DIP Order), the Debtors expressly reserve such Retained Causes of Action to be transferred by the Debtors to the Liquidating Trust pursuant to the Plan, which Retained Causes of Action may include Avoidance Actions, for possible adjudication by the Liquidating Trustee, and, therefore, no preclusion doctrine, including the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion, waiver, estoppel (judicial, equitable or otherwise) or laches shall apply to such Retained Causes of Action upon or after the entry of the Confirmation Order or Effective Date based on the Plan or the Confirmation Order, except where such Retained Causes of Action have been released in the Plan or any Final Order (including the Confirmation Order and the Final DIP Order). In



accordance with section 1123(b) of the Bankruptcy Code, the Liquidating Trust may enforce all rights to commence and pursue, as appropriate, any and all such Retained Causes of Action, and the Liquidating Trust's rights to commence, prosecute, or settle any such Retained Causes of Action shall be preserved notwithstanding entry of the Confirmation Order or the occurrence of the Effective Date. No Entity may rely on the absence of a specific reference in the Plan or the Disclosure Statement to any Retained Cause of Action against them as any indication that the Liquidating Trustee will not pursue any and all available Retained Causes of Action against them. In accordance with section 1123(b)(3) of the Bankruptcy Code, any Retained Causes of Action that a Debtor may hold against any Entity shall vest in the Liquidating Trust and the Liquidating Trustee on behalf of the Liquidating Trust. In addition, the Liquidating Trust reserves the right to pursue or adopt any claims alleged in any lawsuit in which the Debtors are a defendant or an interested party, against any Entity, including the plaintiffs or co-defendants in such lawsuits.

## **2. Comprehensive Settlement of Claims and Controversies**

Pursuant to Bankruptcy Rule 9019 and in consideration for the Distributions and other benefits provided under the Plan, the provisions of the Plan will constitute a good faith compromise and settlement of all claims or controversies relating to the rights that a holder of a Claim or Interest may have with respect to any Allowed Claim or Allowed Interest or any distribution to be made pursuant to the Plan on account of any Allowed Claim or Allowed Interest. The entry of the Confirmation Order will constitute the Bankruptcy Court's approval, as of the Effective Date, of the compromise or settlement of all such claims or controversies and the Bankruptcy Court's finding that such compromise or settlement is in the best interests of the Debtors, their Estates and Claim and Interest holders and is fair, equitable and reasonable.

## **3. Releases**

### **a. Release By the Debtors and the Liquidating Debtors**

Pursuant to section 1123(b) of the Bankruptcy Code on and after the Effective Date, the Debtors and the Liquidating Debtors, on behalf of themselves and their predecessors, successors and assigns, subsidiaries, affiliates, current and former officers, directors, principals, shareholders, members, partners, employees, agents, advisory board members, financial advisors, attorneys, accountants, investment bankers, consultants, representatives, management companies, fund advisors and other professionals, the Estates, the Liquidating Trust and their respective successors and, assigns, and any and all Entities, including the Creditors' Committee and the Liquidating Trustee who may purport to claim by, through, for or because of them, are deemed expressly, unconditionally, generally, and individually and collectively, to forever settle, release, waive and discharge all claims, commitments, obligations, suits, judgments, damages, demands, debts, causes of action and liabilities, including any derivative claims asserted or assertable on behalf of the Debtors, any Claims asserted or assertable on behalf of any Holder of any Claim against or Interest in the Debtors and any Claims asserted or assertable on behalf of any other entity, whether liquidated or unliquidated, fixed or contingent, disputed or undisputed, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or thereafter arising, in law, equity or otherwise (collectively, the "Liabilities"), against any Released Party with respect to liability for any act or omission in connection with, related to, or arising out of, the Debtors, the Bankruptcy Cases, the pursuit of confirmation of the Plan, the consummation of the Plan, the Restructuring Support Agreement, the administration of the Bankruptcy Cases, the property to be distributed under the Plan, the Purchaser APA, the DIP Credit Agreement and the First Lien Credit Agreement, except for (a) claims resulting from actual fraud, gross negligence, or willful misconduct as determined by a Final Order and (b) obligations of any Party or Entity under the Definitive Documentation that arise after the Effective Date.

### **b. Release by Holders of Claims or Interests**

Pursuant to section 1123(b) of the Bankruptcy Code on and after the Effective Date, in consideration for the obligations of the Debtors and the Liquidating Debtors under the Plan and the consideration and other contracts, instruments, releases, agreements or documents to be entered into or delivered in connection with the Plan, unless otherwise provided in the Confirmation Order, each Releasing Party is deemed expressly, unconditionally, generally, and individually and collectively, to forever release, waive and discharge all Liabilities, including any derivative claims asserted or assertable on behalf of the Debtors, any Claims asserted or assertable on behalf of any

Holder of any Claim against or Interest in the Debtors and any Claims asserted or assertable on behalf of any other entity, in any way that such Releasing Party has, had or may have against any Released Party (which release shall be in addition to the discharge of Claims and termination of Interests provided herein and under the Confirmation Order and the Bankruptcy Code), in each case, relating to liability for any act or omission in connection with, related to, or arising out of, the Debtors, the Bankruptcy Cases, the pursuit of confirmation of the Plan, the consummation of the Plan, the Restructuring Support Agreement, the administration of the Bankruptcy Cases, the property to be distributed under the Plan, the DIP Credit Agreement, the First Lien Credit Agreement, and the property transferred pursuant to the Purchaser APA, including the issuance or distribution of securities or other debt obligation pursuant to the Plan, or the distribution of property under the Plan, or any other related agreement, or upon any other act or omission, transaction, agreement, event, or other occurrence taking place or arising on or before the Effective Date related or relating to any of the foregoing; provided, however, that the foregoing provisions of Section IB.G.3.b. of the Plan shall have no effect on the liability of (a) any Released Party that would otherwise result from any act or omission of such Released Party to the extent that such act or omission is determined in a Final Order to have constituted actual fraud, gross negligence, or willful misconduct and (b) obligations of any Party or Entity under the Definitive Documentation that arise after the Effective Date.

**c. Injunctions Related to Releases**

The Confirmation Order shall permanently enjoin the commencement or prosecution by any Entity, whether directly, derivatively or otherwise, of any claims, commitments, obligations, suits, judgments, damages, demands, debts, causes of action and liabilities released pursuant to the Plan.

**H. Limitations on Liability**

**1. Liability for Actions in Connection with the Liquidation Cases**

The Debtors, the Liquidating Debtors, the Liquidating Trust, the Liquidating Trustee and their respective directors, officers, employees, agents and professionals, acting in such capacity, and the Creditors' Committee and its members, and their respective agents and professionals, in each case acting in such capacity, shall neither have nor incur any liability to any Entity for any act taken or omitted to be taken in connection with, related to or arising out of the Liquidation Cases or the consideration, formulation, preparation, dissemination, Confirmation, effectuation, implementation or consummation of the Plan or any transaction proposed in connection with the Debtors, the Liquidation Cases or any contract, instrument, release or other agreement or document entered into or delivered, or any other act taken or omitted to be taken, in connection therewith; provided, however, that the foregoing provisions of Section IV.H.1. of the Plan shall have no effect on: (a) the liability of any Entity that would otherwise result from the failure to perform or pay any obligation or liability under the Plan or any contract, instrument, release or other agreement or document to be entered into or delivered in connection with the Plan; (b) the liability of any Entity that would otherwise result from any such act or omission to the extent that such act or omission is determined in a Final Order to have constituted gross negligence or willful misconduct; or (c) the liability of an Entity for breach of a Definitive Document that arises after the Effective Date.

**2. Rights of Action in Connection with the Liquidation Cases**

Notwithstanding any other provision of this Plan, no holder of a Claim or Interest, no other party in interest and none of their respective directors, officers, employees, affiliates, subsidiaries, predecessors, successors, members, shareholders, attorneys, accountants, underwriters, investment bankers, financial advisors, appraisers, representatives or agents shall have any right of action against any of the Debtors, the Liquidating Debtors, the Creditors' Committee, or any of their respective directors, officers, employees, affiliates, subsidiaries, predecessors, successors, members, attorneys, accountants, underwriters, investment bankers, financial advisors, appraisers, representatives and agents, acting in such capacity, for any act or omission in connection with, relating to or arising out of the Liquidation Cases or the consideration, formulation, preparation, dissemination, Confirmation, effectuation, implementation or consummation of the Plan or any transaction or document created or entered into, or any other act taken or omitted to be taken, in connection therewith, except for: (a) the liability of any Entity that would otherwise result from the failure to perform or pay any obligation or liability under the Plan or any contract, instrument, release or other agreement or document to be entered into or delivered in connection with the Plan; (b) the liability of any Entity that would otherwise result from any such act or omission to the extent that such act or

omission is determined in a Final Order to have constituted gross negligence or willful misconduct; or (c) the liability of an Entity for breach of a Definitive Document that arises after the Effective Date.

#### **I. Release of Liens**

Except as otherwise provided in the Plan or in any contract, instrument, release or other agreement or document entered into or delivered in connection with the Plan, on the Effective Date and concurrently with the applicable Distributions made pursuant to Article VI of the Plan, all Liens against the property of any Estate will be fully released and discharged, and all of the right, title and interest of any holder of such Liens, including any rights to any collateral thereunder, shall revert to the applicable Estate.

#### **J. Effectuating Documents; Further Transactions; Exemption From Certain Transfer Taxes**

The Liquidating Trustee or its designee will be authorized to (1) execute, deliver, file or record such contracts, instruments, releases and other agreements or documents and take such actions as may be necessary or appropriate to effectuate and implement the provisions of the Plan and (2) certify or attest to any of the foregoing actions. Pursuant to section 1146(a) of the Bankruptcy Code, the following will not be subject to any stamp tax, real estate transfer tax, sales and use tax or similar tax: (1) the execution and implementation of the Liquidating Trust Agreement, including any transfer of assets or properties to or by the Liquidating Trust or a Liquidating Debtor; or (2) the making or delivery of any deed or other instrument of transfer under, in furtherance of or in connection with the Plan, including any plan or agreement adopted or executed in connection with any transaction pursuant to the Plan.

#### **K. Cramdown**

The Debtors request Confirmation under section 1129(b) of the Bankruptcy Code with respect to any impaired Class that does not accept the Plan pursuant to section 1126 of the Bankruptcy Code. The Debtors reserve the right to modify the Plan to the extent, if any, that Confirmation pursuant to section 1129(b) of the Bankruptcy Code requires modification.

### **VII. TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

#### **A. Executory Contracts and Unexpired Leases to Be Rejected**

On the Effective Date, except for (1) the Executory Contracts and Unexpired Leases that have been or will be assumed or assigned by the Debtors pursuant to an asset sale, either in connection with the sale of the Designated Assets and Non-Designated Assets, or (2) to the extent that a Debtor either previously has assumed and assigned or rejected an Executory Contract or Unexpired Lease by an order of the Bankruptcy Court or has filed a motion to assume or assume and assign an Executory Contract or Unexpired Lease prior to the Effective Date, each Executory Contract and Unexpired Lease entered into by a Debtor prior to the Petition Date that has not previously expired or terminated pursuant to its own terms will be rejected pursuant to section 365 of the Bankruptcy Code. Each contract and lease will be rejected only to the extent that any such contract or lease constitutes an Executory Contract or Unexpired Lease. Notwithstanding the foregoing, nothing in Section V.A. of the Plan shall cause the rejection (if such contract is an Executory Contract or Unexpired Lease for purposes of section 365), breach or termination of any contract of insurance benefiting the Debtors, their current or former directors and officers, the Estates and/or the Liquidating Debtors, the Liquidating Trust or the Liquidating Trustee. The Confirmation Order will constitute an order of the Bankruptcy Court approving such rejections, pursuant to section 365 of the Bankruptcy Code, as of the Effective Date.

#### **B. Bar Date for Rejection Claims**

Notwithstanding anything in the Bar Date Order to the contrary, if the rejection of an Executory Contract or Unexpired Lease pursuant to the Plan gives rise to a Claim by the other party or parties to such contract or lease, such rejection claim will be forever barred and will not be enforceable against the Liquidating Trustee or the Liquidating Trust unless a proof of Claim is Filed and served on the Liquidating Trustee, pursuant to the procedures

specified in the Confirmation Order and the notice of the entry of the Confirmation Order or another order of the Bankruptcy Court, by 30 days after the Effective Date.

### **C. Approval of Procedures**

The Confirmation Order shall constitute an order of the Bankruptcy Court approving the rejections described in Article V of the Plan, pursuant to section 365 of the Bankruptcy Code. The procedures for such rejection of an Executory Contract or Unexpired Lease are as follows:

a. After the entry of the Confirmation Order, the Debtors or the Liquidating Trustee shall serve upon each party to an Executory Contract or Unexpired Lease being rejected notice of: (i) the contract or lease being rejected; and (ii) the procedures for such party to object to rejection of the applicable contract. Further, the Debtors shall provide to the Liquidating Trustee the following information for each such Executory Contract or Unexpired Lease to the extent available: (i) the complete document set of any contract, including any modifications, amendments, supplements or restatements, and/or proof the parties continued the contract on a month-to-month renewal; and (ii) the vendor identification number of the counterpart(ies) to any such contract.

b. Any Entity, including the Liquidating Trustee, wishing to object to the proposed rejection described in Article V of the Plan must File and serve on the Liquidating Trustee a written objection setting forth the basis for the objection within 14 days of service of the notice described in Section V.C.a. of the Plan.

c. If no objection to the proposed rejection is properly Filed and served prior to the objection deadline: (i) the proposed rejection of the applicable Executory Contracts or Unexpired Lease shall be approved in accordance with the Plan and the Confirmation Order, effective as of the date of notice described in Section V.C.a. of the Plan, without further action of the Bankruptcy Court.

d. If an objection to the rejection is properly Filed and served prior to the objection deadline, the Liquidating Trustee and the objecting party may resolve such objection by stipulation, without further action of the Bankruptcy Court.

e. If an objection to the proposed or rejection is properly Filed and served prior to the objection deadline and the parties are unable to resolve such objection, the Liquidating Trustee may File a reply to such objection no later than 30 days after the Filing and service of such objection and ask the Bankruptcy Court to schedule a hearing on the particular objection and the related reply at an appropriate time. In the event the Liquidating Trustee is the objecting party, the opposing party may File a reply to such objection no later than 30 days after the Filing and service of such objection and ask the Bankruptcy Court to schedule a hearing on the particular objection and the related reply at an appropriate time.

### **D. Insurance Policies and Agreements**

#### **1. Assumed Insurance Policies and Agreements**

The Debtors do not believe that the insurance policies (including, without limitation, director and officer liability insurance policies) issued to, or insurance agreements entered into by, any Debtor prior to the Petition Date constitute executory contracts. To the extent that such insurance policies or agreements are considered to be executory contracts, then, notwithstanding anything contained in Article V of the Plan to the contrary, the Plan will constitute a motion to assume such insurance policies and agreements, and, subject to the occurrence of the Effective Date, the entry of the Confirmation Order will constitute approval of such assumption pursuant to section 365(a) of the Bankruptcy Code and a finding by the Bankruptcy Court that each such assumption is in the best interest of the Debtors, their respective estates and all parties in interest in the Bankruptcy Cases. Unless otherwise determined by

the Bankruptcy Court pursuant to a Final Order or agreed to by the parties thereto prior to the Effective Date, no payments are required to cure any defaults of any Debtor existing as of the Confirmation Date with respect to each such insurance policy or agreement.

## **2. Reservation of Rights**

Nothing contained in the Plan will constitute a waiver of any claim, right or cause of action that a Debtor, a Liquidating Debtor, the Liquidating Trustee or the Liquidating Trust, as the case may be, may hold against any Entity, including, without limitation, any insurer under any policy of insurance or insurance agreement.

## **VIII. PROVISIONS GOVERNING DISTRIBUTIONS**

### **A. Distributions for Claims Allowed as of the Effective Date**

Except as otherwise provided in the Plan and distributions to the First Lien Credit Agreement Claims, Distributions to be made on the Effective Date to holders of Claims that are Allowed Claims as of the Effective Date shall be deemed made on the Effective Date if made on the Effective Date or as promptly thereafter as practicable, but in any event no later than: (1) 60 days after the Effective Date; or (2) such later date when the applicable conditions of Section VI.D.2. of the Plan (regarding undeliverable Distributions) or Section VI.G.3. of the Plan (regarding compliance with Tax requirements) are satisfied. Distributions on account of Claims that become Allowed Claims after the Effective Date shall be made pursuant to Section VI.G. of the Plan. Any Claim that is disallowed by order of the Bankruptcy Court prior to the Effective Date shall be deemed expunged (to the extent not already expunged) as of the Effective Date without the necessity for further Bankruptcy Court approval and the holder of any such Claim shall not be entitled to any Distribution under the Plan.

### **B. Method of Distributions to Holders of Claims**

The Liquidating Trustee in its capacity as Disbursing Agent, or such Third Party Disbursing Agents as the Liquidating Trustee may retain in its sole discretion, will make all distributions of Cash required under the Plan to holders of Allowed Claims. Each Third Party Disbursing Agent will serve without bond, and any Third Party Disbursing Agent may retain or contract with other entities to assist in or make the distributions required by the Plan.

### **C. Compensation and Reimbursement for Services Related to Distributions**

#### **1. Compensation and Reimbursement**

Each Third Party Disbursing Agent providing services related to distributions pursuant to the Plan will receive from the Liquidating Trust, without further Bankruptcy Court approval, reasonable compensation for such services and reimbursement of reasonable out-of-pocket expenses incurred in connection with such services. These payments will be made on terms agreed to with the Liquidating Trustee and will not be deducted from Distributions (including any distributions of Cash Investment Yield) to be made pursuant to the Plan to holders of Allowed Claims receiving Distributions from a Third Party Disbursing Agent.

#### **2. Investment of Cash Related to Distributions**

To assist in making distributions under the Plan, Cash may be held in the name of one or more Third Party Disbursing Agents for the benefit of holders of Allowed Claims under the Plan. The Third Party Disbursing Agents will invest the Cash as directed by the Liquidating Trustee in accordance with the Debtors' investment and deposit guidelines; provided, however, that should such Liquidating Trustee determine, in his or her sole discretion, that the administrative costs associated with such investment will exceed the return on such investment, he or she may direct the Third Party Disbursing Agent to not invest such Cash. Distributions of Cash from accounts held by Third Party Disbursing Agents will include a Pro Rata share of the Cash Investment Yield, if any, from such investment of Cash.

**D. Delivery of Distributions and Undeliverable or Unclaimed Distributions****1. Delivery of Distributions to Holders of Allowed Claims**

Distributions to holders of Allowed Claims will be made by a Disbursing Agent (i) at the addresses set forth on the respective proofs of Claim, requests for payment of Administrative Claim or similar document Filed by holders of such Claims; (ii) at the addresses set forth in any written certification of address change delivered to the Disbursing Agent (including pursuant to a letter of transmittal delivered to a Disbursing Agent) after the date of Filing of any related proof of Claim, requests for payment of Administrative Claim or similar document; or (iii) at the addresses reflected in the applicable Debtor's Schedules if no proof of Claim has been Filed and the Disbursing Agent has not received a written notice of a change of address.

**2. Undeliverable Distributions Held by Disbursing Agents****a. Holding and Investment of Undeliverable Distributions**

Subject to Section VI.D.2.c. of the Plan, if any Distribution to a holder of an Allowed Claim is returned to a Disbursing Agent as undeliverable, no further Distributions shall be made to such holder unless and until the applicable Disbursing Agent is notified by written certification of such holder's current address and such undeliverable Distributions shall remain in the possession of the applicable Disbursing Agent pursuant to Section VI.D.2.a. of the Plan for the benefit of such claimants until such time as a Distribution becomes deliverable.

**b. After Distributions Become Deliverable**

On each Quarterly Distribution Date, the Disbursing Agent will make all Distributions that become deliverable to holders of Allowed Claims during the preceding calendar quarter in accordance with the Plan; provided, however, that if the Liquidating Trustee determines, with the consent of the Liquidating Trust Board, that the amount of any quarterly Distribution is too small to justify the administrative costs associated with such Distribution, the Liquidating Trustee may postpone such quarterly Distribution until the next Quarterly Distribution Date. Each such Distribution will include, to the extent applicable, a Pro Rata share of the Cash Investment Yield from the investment of any undeliverable Cash from the date that such Distribution would have first been due had it then been deliverable to the date that such Distribution becomes deliverable.

**c. Failure to Claim Undeliverable Distributions**

Any holder of an Allowed Claim that does not assert a claim pursuant to the Plan for an undeliverable Distribution to be made by a Disbursing Agent within 180 days after the later of (i) the Effective Date and (ii) the last date on which a Distribution was deliverable to such holder will have its claim for such undeliverable Distribution deemed satisfied, waived and released and will be forever barred from asserting any such claim against the Debtors, the Liquidating Debtors, the Liquidating Trust and their respective property. In such cases, unclaimed Distributions will be maintained for redistribution to other claimants entitled to Distributions under the Plan. Nothing contained in the Plan shall require any Debtor or any Disbursing Agent to attempt to locate any holder of an Allowed Claim.

**E. Means of Cash Payments**

Except as otherwise specified herein, cash payments made pursuant to the Plan to holders of Claims shall be in U.S. currency by checks drawn on a domestic bank selected by the Liquidating Trustee, or, at the option of the Liquidating Trustee, by wire transfer from a domestic bank; provided, however, that cash payments to foreign holders of Allowed Claims may be made, at the option of the Liquidating Trustee, in such funds and by such means as are necessary or customary in a particular foreign jurisdiction.



## **F. Timing and Calculation of Amounts to Be Distributed**

### **1. Allowed Claims**

Each holder of an Allowed Claim shall receive the full amount of the Distributions that the Plan provides for Allowed Claims in the applicable Class pursuant to the terms and conditions of the Plan and the Liquidating Trust Agreement. On each Quarterly Distribution Date, Distributions also shall be made pursuant to Section VII.C. of the Plan to holders of Disputed Claims in any such Class that were allowed during the preceding calendar quarter, to the extent not distributed earlier at the discretion of the applicable Disbursing Agent. Such quarterly Distributions also shall be in the full amount that the Plan provides for Allowed Claims in the applicable Class.

### **2. De Minimis Distributions**

No Disbursing Agent will distribute Cash to the holder of an Allowed Claim in an impaired Class if the amount of Cash to be distributed on account of such Claim is less than \$50 in the aggregate. Any holder of an Allowed Claim in an impaired Class on account of which the amount of Cash to be distributed is less than \$50 in the aggregate will be forever barred from asserting its Claim for such distribution against the Liquidating Trust or its property. Any Cash not distributed pursuant to Section V.E.2. of the Plan will be the property of the Liquidating Trust, and any such Cash held by a Third Party Disbursing Agent shall be transferred or returned to the Liquidating Trust.

### **3. Compliance with Tax Requirements**

#### **a. Withholding and Reporting**

In connection with the Plan, to the extent applicable, each Disbursing Agent shall comply with all Tax withholding and reporting requirements imposed on it by any governmental unit, and all Distributions pursuant to the Plan shall be subject to such withholding and reporting requirements. Notwithstanding any provision of the Plan to the contrary, each Disbursing Agent shall be authorized to take any actions that may be necessary or appropriate to comply with such withholding and reporting requirements, including applying a portion of any Cash Distribution to be made under the Plan to pay applicable Tax withholding, requiring Claim holders to submit appropriate certifications or establishing other mechanisms such Disbursing Agent believes are reasonable and appropriate. To the extent that any Claim holder fails to submit appropriate certifications required by a Disbursing Agent or to comply with any other mechanism established by a Disbursing Agent to comply with Tax withholding requirements, such Claim holder's Distribution may, in such Disbursing Agent's reasonable discretion, be deemed undeliverable and subject to Section VI.D.2. of the Plan.

#### **b. Backup Withholding**

Without limiting the generality of the foregoing, in accordance with the Internal Revenue Code's backup withholding rules, a holder of a Claim may be subject to backup withholding with respect to Distributions made pursuant to the Plan, unless the holder (i) comes within certain exempt categories (which generally include corporations) and, when required, demonstrates this fact or (ii) provides, at the applicable Disbursing Agent's request, a completed IRS Form W-9 (or substitute therefor) on which the holder includes a correct taxpayer identification number and certifies under penalty of perjury that the taxpayer identification number is correct and that the taxpayer is not subject to backup withholding because of a failure to report all dividend and interest income. Among other things, to receive any post-petition interest, if requested by a Disbursing Agent, a holder of an Allowed Claim shall be required to establish an exemption from backup withholding or to make arrangements with respect to the payment of backup withholding. Non-U.S. Allowed Claim holders may be required by the applicable Disbursing Agent to provide a completed IRS Form W-8BEN or W-8BEN-E, as applicable (or other applicable Form W-8 or successor form), to establish an exemption from or a treaty-reduced rate of withholding on interest distributed pursuant to the Plan. Unless a Disbursing Agent, in its discretion, determines otherwise, no Distributions on account of post-petition interest shall be made to a holder of an Allowed Claim until such time as the holder of such Claim establishes exemption from withholding or provides the applicable IRS Form.



**c. Obligations of Distribution Recipients**

Notwithstanding any other provision of the Plan, each Entity receiving a Distribution pursuant to the Plan shall have sole and exclusive responsibility for the satisfaction and payment of any Tax obligations imposed on it by any governmental unit on account of such Distribution, including income, withholding and other Tax obligations.

**4. Compliance with Domestic Relations Orders**

In connection with the Plan, each Disbursing Agent may allocate and make Distributions in compliance with applicable wage garnishment, alimony, child support and similar domestic relations orders.

**G. Setoffs**

Except with respect to claims of a Debtor released pursuant to the Plan or any contract, instrument, release or other agreement or document entered into or delivered in connection with the Plan, the Liquidating Trustee or a Third Party Disbursing Agent, as instructed by the Liquidating Trustee pursuant to section 553 of the Bankruptcy Code or applicable non-bankruptcy law, may setoff against any Allowed Claim and the distributions to be made pursuant to the Plan on account of such Claim (before any distribution is made on account of such Claim) the Retained Causes of Action of any nature against the holder of such Allowed Claim; provided, however, that neither the failure to effect a setoff nor the allowance of any Claim hereunder will constitute a waiver or release by the applicable Debtor of any Causes of Action that the Debtor or Debtors may possess against such a Claim holder.

**H. Allocation of Payments**

Amounts paid to holders of Claims in satisfaction thereof shall be allocated first to the principal amounts of such Claims, with any excess being allocated to accrued but unpaid interest on such Claims.

**IX. PROCEDURES FOR RESOLVING DISPUTED CLAIMS**

**A. Prosecution of Objections to Claims**

**1. Objections to Claims**

Except as provided in Sections III.A.c. of the Plan, all objections to Claims must be Filed and served on the holders of such Claims by the Claims Objection Bar Date, and, if Filed prior to the Effective Date, such objections will be served on the parties on the then-applicable service list in the Bankruptcy Cases. If an objection has not been Filed to a proof of Claim or request for payment of Administrative Claim by the applicable deadline, the Claim to which the proof of Claim or request for payment of Administrative Claim relates will be treated as an Allowed Claim if such Claim has not been allowed earlier.

**2. Authority to Prosecute Objections**

After the Confirmation Date, only the Debtors (or after the Effective Date, the Liquidating Trustee on behalf of the Liquidating Trust) will have the authority to File, settle, compromise, withdraw or litigate to judgment objections to Claims, including pursuant to any alternative dispute resolution or similar procedures approved by the Bankruptcy Court. After the Effective Date, the Liquidating Trustee may settle or compromise any Disputed Claim without approval of the Bankruptcy Court in accordance with the Liquidating Trust Agreement.

**B. Treatment of Disputed Claims**

**1. No Payments on Account of Disputed Claims and Disputed Claims Reserves**

Notwithstanding any other provisions of the Plan, no payments or Distributions will be made on account of a Disputed Claim until such Claim becomes an Allowed Claim. Distributions on account of any Disputed Claim that has become an Allowed Claim will be governed by the Liquidating Trust Agreement. The Liquidating Trust

shall establish a \$[●] cash reserve from the Liquidating Trust that will not operate as a cap or limitation on Distributions on account of such claims. In addition, the Liquidating Trust Agreement shall include reasonable and customary provisions establishing reserves to account for Disputed Claims that may become Allowed Claims.

## **2. Recourse**

Each holder of a Disputed Claim that ultimately becomes an Allowed Claim will have recourse only to the undistributed Cash held by the Liquidating Trust for the satisfaction of such Allowed Claim and not any assets previously distributed on account of any Allowed Claim.

### **C. Distributions on Account of Disputed Claims Once Allowed**

On each Quarterly Distribution Date, the applicable Disbursing Agent shall make all Distributions on account of any Disputed Claim that has become an Allowed Claim during the preceding calendar quarter, to the extent not distributed earlier at the discretion of the applicable Disbursing Agent. Such Distributions shall be made pursuant to the provisions of the Plan governing the applicable Class.

## **X. INJUNCTION AND SUBORDINATION RIGHTS**

### **A. Injunction**

Except as provided in the Plan or the Confirmation Order and other than with respect to a right of recoupment or a setoff, as of the Effective Date, all Entities that have held, currently hold or may hold a Claim or other debt or liability subject to the Plan or an Interest or other right of an equity security holder that is terminated pursuant to the terms of the Plan or cause of action of a non-Debtor that is released under the Plan will be permanently enjoined from taking any of the following actions in respect of any such Claims, debts, liabilities, Interests or rights: (1) commencing or continuing in any manner or means any action or other proceeding against the Debtors, the Liquidating Debtors, the Liquidating Trust, the Liquidating Trustee or the Liquidating Trust Board or the Released Parties, whether directly, derivatively or otherwise, other than to enforce any right pursuant to the Plan (or any order resolving the Dispute) to a Distribution; (2) enforcing, attaching, collecting or recovering in any manner any judgment, award, decree or order against the Debtors, the Liquidating Debtors, the Liquidating Trust, the Liquidating Trustee, the Liquidating Trust Board, or the Released Parties other than as permitted pursuant to (1) above; (3) creating, perfecting or enforcing any Lien or encumbrance of any kind against the Debtors, the Liquidating Debtors, the Liquidating Trust, the Released Parties, or their respective property; (4) asserting a right of subrogation of any kind against any debt, liability or obligation due to the Debtors, the Liquidating Debtors, the Liquidating Trust, the Liquidating Trustee, the Liquidating Trust Board, or the Released Parties; and (5) subject to the proviso in Article X of the Plan regarding jurisdiction, commencing or continuing any action, in any manner, in any place that does not comply with or is inconsistent with the provisions of the Plan. Such injunction shall extend to the successors, if any, of the Debtors, the Liquidating Debtors, the Liquidating Trust, the Liquidating Trustee and the Liquidating Trust Board and to their respective properties and interests in property. Anyone injured by any willful violation of this injunction shall be entitled to recover actual damages, including costs and attorneys' fees and, in appropriate circumstances, may recover punitive damages from the willful violator.

### **B. Subordination Rights**

Nothing in the Plan or Confirmation Order shall affect any subordination rights that a holder of a Claim may have with respect to any Distribution to be made pursuant to the Plan (including rights under the Intercreditor Agreement and the Holdco Note Subordination Agreement), whether arising under general principles of equitable subordination, contract, section 510(a) or 510(c) of the Bankruptcy Code or otherwise. Pursuant to Section 510 of the Bankruptcy Code, the Debtors or Liquidating Debtors reserve the right to reclassify any Allowed Claim of Interest in accordance with any contractual, legal or equitable subordination rights.

**XI. RETENTION OF JURISDICTION**

Notwithstanding the entry of the Confirmation Order and the occurrence of the Effective Date, the Bankruptcy Court shall retain such jurisdiction over the Bankruptcy Cases after the Effective Date as is legally permissible, including jurisdiction to:

1. allow, disallow, determine, liquidate, classify, reclassify, estimate or establish the priority, secured or unsecured status (or proper Plan classification) of any Claim or Interest, including the resolution of any request for payment of any Administrative Claim and the resolution of any objections to the allowance, priority or classification of Claims or Interests;
2. grant or deny any applications for allowance of compensation or reimbursement of expenses authorized pursuant to the Bankruptcy Code or the Plan for periods ending on or before the Effective Date;
3. resolve any matters related to the assumption, assumption and assignment or rejection of any Executory Contract or Unexpired Lease to which any Debtor is a party or with respect to which any Debtor may be liable and to hear, determine and, if necessary, liquidate any Claims arising therefrom;
4. ensure that Distributions to holders of Allowed Claims are accomplished pursuant to the provisions of the Plan;
5. decide or resolve Avoidance Actions brought under section 547 of the Bankruptcy Code and for recovery under section 550 of the Bankruptcy Code with respect to such Avoidance Actions brought under section 547 of the Bankruptcy Code;
6. enter such orders as may be necessary or appropriate to implement or consummate the provisions of the Plan and all contracts, instruments, releases and other agreements or documents entered into or delivered in connection with the Plan or the Confirmation Order, including the Liquidating Trust Agreement;
7. resolve any cases, controversies, suits or disputes that may arise in connection with the consummation, interpretation or enforcement of the Plan or any contract, instrument, release or other agreement or document that is entered into or delivered pursuant to the Plan, including the Liquidating Trust Agreement, or any Entity's rights arising from or obligations incurred in connection with the Plan or such documents;
8. modify the Plan before or after the Effective Date pursuant to section 1127 of the Bankruptcy Code;
9. issue injunctions, enforce the injunctions contained in the Plan and the Confirmation Order, enter and implement other orders or take such other actions as may be necessary or appropriate to restrain interference by any Entity with consummation, implementation or enforcement of the Plan or the Confirmation Order;
10. enter and implement such orders as are necessary or appropriate if the Confirmation Order is for any reason or in any respect modified, stayed, reversed, revoked or vacated or distributions pursuant to the Plan are enjoined or stayed;
11. determine any other matters that may arise in connection with or relate to the Plan, the Confirmation Order or any contract, instrument, release or other agreement or document entered into or delivered in connection with the Plan or the Confirmation Order;

12. determine matters concerning state, local and federal Taxes in accordance with sections 346, 505 and 1146 of the Bankruptcy Code, including any Disputed Claims for Taxes; and
13. enter a final decree closing the Debtors' Bankruptcy Cases;

provided, however, that the foregoing is not intended to (a) expand the Bankruptcy Court's jurisdiction beyond that allowed by applicable law, (b) provide the Bankruptcy Court jurisdiction over any Causes of Action (other than Avoidance Actions arising under section 547 of the Bankruptcy Code), (c) impair the rights of an Entity to invoke the jurisdiction of a court, commission, or tribunal, or (d) impair the rights of an Entity to seek the withdrawal of the reference in accordance with 28 U.S.C. § 157(d).

## **XII. MISCELLANEOUS PROVISIONS**

### **A. Dissolution of the Creditors' Committee and the Professional Fee Claims of the Professionals Retained by the Debtors, and Formation of the Liquidating Trust Board**

#### **1. Dissolution of the Creditors' Committee**

On the Effective Date, the Creditors' Committee, except as set forth below, will dissolve and the members thereof will be released and discharged from all duties and obligations arising from or related to the Bankruptcy Cases. Prior to the dissolution of the Creditors' Committee, standing to commence, prosecute and compromise all Retained Causes of Action shall transfer to the Liquidating Trust. The Professionals retained by the Creditors' Committee and the members thereof will not be entitled to assert any Professional Fee Claims for any services rendered or expenses incurred after the Effective Date, except for fees for time spent and expenses incurred (a) in connection with any application for allowance of compensation and reimbursement of expenses pending on the Effective Date or Filed and served after the Effective Date pursuant to Section III.A.1.c.ii. of the Plan, (b) in connection with any appeal pending as of the Effective Date, including any appeal of the Confirmation Order and (c) at the request of the Liquidating Trustee, whether or not the Liquidating Trustee has retained such Professional. Following the Effective Date, none of the Creditors' Committee's professionals shall be precluded from representing any Entity acting for the Liquidating Trust or other Entities created by the Plan, including, without limitation, the Liquidating Trustee or the Liquidating Trust.

#### **2. Professional Fee Claims of the Professionals Retained by the Debtors**

The Professionals retained by the Debtors will not be entitled to assert any Professional Fee Claims for any services rendered or expenses incurred after the Effective Date, except for fees for time spent and expenses incurred (a) in connection with any application for allowance of compensation and reimbursement of expenses pending on the Effective Date or Filed and served after the Effective Date pursuant to Section III.A.1.c.ii. of the Plan and (b) at the request of the Liquidating Trustee, whether or not the Liquidating Trustee has retained such Professional.

#### **3. Formation of the Liquidating Trust Board**

On the Effective Date, the Liquidating Trust Board shall be established and consist of [●] persons. The initial Liquidating Trust Board members shall consist of [●] persons selected by the Debtors with the consent of the Restructuring Support Parties. Upon its formation, the duties of the Liquidating Trust Board shall be limited to: (a) overseeing the Claims reconciliation and settlement process conducted by or on behalf of the Liquidating Trustee; (b) formulating with the Liquidating Trustee appropriate procedures for the settlement of Claims; (c) overseeing the distributions to the holders of Claims under the Plan; (d) appearing before and being heard by the Bankruptcy Court and other courts of competent jurisdiction in connection with the above limited duties; and (e) such other matters as may be agreed upon between the Liquidating Trustee and the Liquidating Trust Board or specified in the Plan or the Liquidating Trust Agreement. For so long as the Claims reconciliation process shall continue, the Liquidating Trustee shall make regular reports to the Liquidating Trust Board as and when the Liquidating Trustee and the Liquidating Trust Board may reasonably agree upon. The Liquidating Trustee and the Liquidating Trust Board may retain, without further order of the Court, professionals, including the same professionals, to assist it in carrying out its duties as limited above, including any professionals retained in these

Bankruptcy Cases, and the Liquidating Trust shall pay the reasonable costs and expenses of the Liquidating Trust Board, including reasonable professional fees, in the ordinary course without further order of the Bankruptcy Court.

**B. Modification of the Plan and Exhibits**

Subject to the restrictions on modifications set forth in section 1127 of the Bankruptcy Code, the Debtors or the Liquidating Trustee, as applicable, reserve the right to alter, amend or modify the Plan and the Exhibits to the Plan at any time before its substantial consummation subject to the prior written consent of the Restructuring Support Parties.

**C. Revocation of the Plan**

The Debtors reserve the right to revoke or withdraw the Plan as to any or all of the Debtors prior to Confirmation subject to the prior written consent of the Restructuring Support Parties. If the Debtors revoke or withdraw the Plan as to any or all of the Debtors, or if Confirmation as to any or all of the Debtors does not occur, then, with respect to such Debtors, the Plan will be null and void in all respects, and nothing contained in the Plan will: (1) constitute a waiver or release of any claims by or against, or any Interests in, such Debtors; or (2) prejudice in any manner the rights of any Debtors or any other party.

**D. Service of Certain Exhibits**

Certain Exhibits are not being Filed or served with copies of the Plan. The Debtors shall File such Exhibits no later than 10 days before the deadline to object to Confirmation. Once Filed, the Debtors shall make available for review the relevant Exhibits on their web site at <https://cases.primeclerk.com/shorelineenergy>.

**E. Payment of Fees and Expenses of the DIP Agent**

Prior to the Effective Date the Debtors shall pay in Cash all reasonable and documented unpaid fees and expenses of the DIP Agent and its advisors, including counsel, without application of approval of the Bankruptcy Court, subject to the DIP Order and the budget thereunder.

**F. Payment of Fees and Expenses of Purchaser, HB Parent and its Affiliates**

Subject to the terms of the Restructuring Support Agreement and the order approving the Restructuring Support Agreement, prior to the Effective Date, the Debtors shall pay in Cash to the Purchaser, HB Parent, and its affiliates for any reasonable and documented out-of-pocket costs and expenses of Vinson & Elkins LLP and one Louisiana licensed law firm as counsel to such parties incurred in connection with the Restructuring Transactions (as defined in the Restructuring Support Agreement) or in connection with the enforcement of any of such parties' rights and remedies under the Restructuring Support Agreement, so long as such costs and expenses are not incurred in connection with litigation or claims against any other Restructuring Support Party and only if the Purchaser, HB Parent, or their affiliates (as applicable) is successful in the enforcement its rights and remedies under the Restructuring Support Agreement.

**G. Service of Documents**

Any pleading, notice or other document required by the Plan or Confirmation Order to be served on or delivered to the Debtors, the Liquidating Trustee, or the U.S. Trustee must be sent by first class mail, overnight delivery service or courier service to:

**1. The Debtors and the Liquidating Debtors**

Thomas A. Howley (TX 24010115)  
Paul M. Green (TX 24059854)  
JONES DAY  
717 Texas, Suite 3300

Houston, Texas 77002  
Telephone: (832) 239-3939  
Facsimile: (832) 239-3600

**2. The Liquidating Trustee, at the address set forth in the Liquidating Trust Agreement**

**3. The Creditors' Committee**

Robert M. Hirsh  
George P. Angelich  
ARENT FOX LLP  
1675 Broadway  
New York, NY 10019  
Telephone: (212) 484-3900  
Facsimile: (212) 484-3990

**4. The U.S. Trustee**

Hector Duran  
Office of the United States Trustee  
515 Rusk Street, Suite 3516  
Houston, TX 77002

**XIII. CERTAIN FEDERAL INCOME TAX CONSEQUENCES**

**A. General**

A description of the United States federal income tax consequences of the Plan is provided below. This description is based on the Internal Revenue Code, Treasury Regulations issued thereunder, judicial decisions and Internal Revenue Service and administrative determinations, all as in effect on the date of this disclosure statement and all subject to change, possibly with retroactive effect. Changes in any of these authorities or in their interpretation could cause the United States federal income tax consequences of the Plan to differ materially from the consequences described below.

The United States federal income tax consequences of the Plan are complex and in important respects uncertain. No ruling has been requested from the Internal Revenue Service; no opinion has been requested from Debtors' counsel concerning any tax consequence of the Plan; and no tax opinion is given by this disclosure statement.

The description that follows does not cover all aspects of United States federal income taxation that may be relevant to the Debtors or holders of Claims. For example, the description does not address issues of special concern to certain types of taxpayers, such as dealers in securities, life insurance companies, financial institutions, tax exempt organizations and non-U.S. taxpayers nor does it address tax consequences to holders of Interests in the Debtors. In addition, the description does not discuss state, local or non-U.S. tax consequences.

For these reasons, the description that follows is not a substitute for careful tax planning and professional tax advice based upon the individual circumstances of each holder of a Claim or Interest. Holders of Claims or Interests are urged to consult with their own tax advisors regarding the federal, state, local and non-U.S. tax consequences of the Plan.



**B. United States Federal Income Tax Consequences of Payment of Allowed Claims Pursuant to Plan**

The United States federal income tax consequences of Plan implementation to the holders of Allowed Claims will depend on, among other things, the consideration to be received by the holder, whether the holder reports income on the accrual or cash method, whether the holder receives distributions under the Plan in more than one taxable year, whether the holder's claim is allowed or disputed at the Effective Date, and whether the holder has previously taken a bad debt deduction or worthless security deduction with respect to its Claim.

**1. Recognition of Gain or Loss**

**a. In General**

In general, a holder of a Claim should recognize gain or loss in an amount equal to the difference between the amount realized under the Plan in respect of its Claim and the holders adjusted tax basis in the Claim. Any gain or loss recognized in the exchange may be long-term or short-term capital gain or loss or ordinary income or loss, depending upon the nature of the Claim and the holder, the length of time the holder held the Claim and whether the Claim was acquired at a market discount. If the holder realizes a capital loss, its deduction of the loss may be subject to limitation. The holder's aggregate tax basis for any property received (and deemed received) under the Plan generally will equal the fair market value of the property received. The holder's amount realized generally will equal the sum of the Cash and the fair market value of any other property received (or deemed received) by the holder under the Plan on the Effective Date or subsequent distribution date, less the amount (if any) allocable to Claims for interest, which generally will be treated as interest income.

**b. First Lien Credit Agreement Claims**

The consequences to holders of First Lien Credit Agreement Claims related to any credit bid or Deficiency Claim (if any) depends on whether the holders: (1) exchange or are treated as exchanging their credit bid claims for the Designated Assets and then contribute the Designated Assets to HB Parent in exchange for HB Parent equity; or (2) exchange or are treated as exchanging their credit bid claims for the equity of HB Parent, which then exchanges such claims for the Designated Assets. Under the former characterization, the Claim holders would recognize gain or loss equal to the difference, if any, between the fair market value of their respective shares of the Designated Assets and their basis in their Claims; and the basis of the Designated Assets in the hands of the Claim holders would equal their fair market value. Generally the fair market value of the Designated Assets is presumed to equal the face amount of the Claims that are credit bid. Claim holders would generally recognize no gain or loss on the deemed contribution of the Designated Assets to HB Parent in exchange for HB Parent equity, and would take the same basis in their HB Parent equity as their basis in the Designated Assets. Under the latter characterization, the Claim holders would recognize no gain or loss on the contribution of their Claims to HB Parent and would take the same basis in the HB Parent equity as their basis in their Claims. HB Parent would take the same basis in the Claims as they had in the hands of the Claim holders, and would recognize gain or loss on the exchange of the Claims for the Designated Assets equal to the difference, if any, between the fair market value of the Designated Assets and its basis in the Claims, and would take a fair market value basis in the Designated Assets. If HB Parent is treated as a partnership for tax purposes, any gain or loss that it recognizes would be allocated to its equity holders. In either case, the Claim holders generally will recognize gain or loss with respect to their non-credit bid claims, if any, to the extent that the amount they ultimately recover from the Liquidating Trust with respect to such Claims exceeds or is less than their basis in the non-credit bid Claims.

**c. Post-Effective Date Cash Distributions**

Because certain holders of Allowed Claims, including Disputed Claims that ultimately become Allowed Claims, may receive Cash distributions subsequent to the Effective Date of the Plan, the imputed interest provisions of the Internal Revenue Code may apply to treat a portion of the subsequent distributions as imputed interest. Additionally, because holders may receive distributions with respect to an Allowed Claim in a taxable year or years following the year of the initial distribution, any loss and a portion of any gain realized by the holder may be deferred. All holders of Allowed Claims are urged to consult their tax advisors regarding the possible application of (or ability to elect out of) the "installment method" of reporting with respect to their claims.



**d. Bad Debt and/or Worthless Securities Deduction**

A holder who, under the Plan, receives in respect of a Claim an amount less than the holder's tax basis in the claim may be entitled in the year of receipt (or in an earlier or later year) to a bad debt deduction in some amount under § 166(a) of the Internal Revenue Code or a worthless securities deduction under § 165(g) of the Internal Revenue Code. The rules governing the character, timing and amount of bad debt or worthless securities deductions place considerable emphasis on the facts and circumstances of the holder, the obligor and the instrument with respect to which a deduction is claimed. Holders of Claims, therefore, are urged to consult their tax advisors with respect to their ability to take such a deduction.

**2. Pending Payments**

Cash and other Liquidating Trust Assets that a Trust Account holds as a Pending Payment after the Effective Date should be deemed to have been paid to the holder of the Claim entitled to receive such Pending Payment on the date that the Liquidating Trust received it and to have been contributed by such holder to the Trust Account as a grantor and beneficiary of the Liquidating Trust. Thus, the holder should recognize gain or loss based upon the amount deemed received and contributed to the Trust Account on the Effective Date, and any income subsequently realized by the Trust Account with respect to such Pending Payment will be reported by the Trustee as income of the grantor-beneficiary in the year realized, prior to the actual distribution of the Pending Payment to the holder of the Allowed Claim. The actual receipt of the Pending Payments from the Trust Account will not be a taxable event.

**3. Payments Other than Pending Payments**

If any payment other than a Pending Payment is to be made out of a Trust Account, such payment will not be deemed to have been made to any recipient until, and to the extent that, the amount to which the payee is entitled has been determined and distributed. Any income realized by the Trust Account prior to such time will be reported by the Liquidating Trustee as income of and taxable to the Trust Account.

**C. Certain Other Tax Consequences for Holders of Claims**

**1. Installment Method**

A holder of a Claim constituting an installment obligation for tax purposes may be required to recognize currently any gain remaining with respect to the obligation if, pursuant to the Plan, the obligation is considered to be satisfied at other than its face value, distributed, transmitted, sold or otherwise disposed of within the meaning of § 453B of the Internal Revenue Code.

**2. Information Reporting and Withholding**

Under the Internal Revenue Code's backup withholding rules, the holder of an Allowed Claim may be subject to backup withholding with respect to distributions or payments made pursuant to the Plan unless the holder comes within certain exempt categories (which generally include corporations) and, when required, demonstrates that fact, or provides a correct taxpayer identification number and certifies under penalty of perjury that the taxpayer identification number is correct and that the holder is not subject to backup withholding because of a failure to report all dividend and interest income. Backup withholding is not an additional tax, but merely an advance payment that may be refunded to the extent it results in an overpayment of tax. Holders of Allowed Claims may be required to establish exemption from backup withholding or to make arrangements with respect to the payment of backup withholding.

**3. Importance of Obtaining Professional Tax Assistance**

**The foregoing discussion is intended only as a summary of certain U.S. Federal income tax consequences of the Plan, and is not a substitute for careful tax planning with a tax professional. The above discussion is for information purposes only and is not tax advice. The tax consequences are in many cases**

**uncertain and may vary depending on a holder's individual circumstances. Accordingly, holders are urged to consult with their tax advisors about federal, state, local and non-U.S. tax consequences to the Plan.**

#### **XIV. ADDITIONAL INFORMATION**

Any statements in this Disclosure Statement concerning the provisions of any document are not necessarily complete, and in each instance reference is made to such document for the full text thereof. Certain documents described or referred to in this Disclosure Statement have not been attached as exhibits because of the impracticability of furnishing copies of these documents to all recipients of this Disclosure Statement. The Debtors will file all exhibits to the Plan with the Bankruptcy Court and make them available for review on <https://cases.primeclerk.com/shoreline/Home-Index> no later than ten days before the deadline to object to Confirmation.

#### **XV. RECOMMENDATION AND CONCLUSION**

For all of the reasons set forth in this Disclosure Statement, the Debtors believe that the Confirmation and consummation of the Plan is preferable to all other alternatives. Consequently, the Debtors urge all holders of Claims in Classes 3, 4 and 6, the only Classes entitled to vote on the Plan, to vote to accept the Plan and to evidence their acceptance by duly completing and returning their ballots so that they will be received on or before the Voting Deadline.

Dated: December 12, 2016

Respectfully submitted,

SHORELINE ENERGY LLC (for itself and on behalf of  
its debtor affiliates )

By: /s/

Name: Daniel P. Hurley

Title: Chief Executive Officer

Counsel:

Thomas A. Howley (TX 24010115)

Paul M. Green (TX 24059854)

JONES DAY

717 Texas, Suite 3300

Houston, Texas 77002

Telephone: (832) 239-3939

Facsimile: (832) 239-3600

ATTORNEYS FOR DEBTORS AND  
DEBTORS IN POSSESSION