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Counsel for CS Mining, LLC

IN THE UNITED STATES BANKRUPTCY COURT
DISTRICT OF UTAH, CENTRAL DIVISION

In re **CS MINING, LLC,** Debtor.	Bankruptcy Case No. 16-24818 (Chapter 11) Judge William T. Thurman

DEBTOR'S MOTION FOR THE ENTRY OF AN ORDER (A) CONDITIONALLY APPROVING THE DEBTOR'S COMBINED DISCLOSURE STATEMENT AND PLAN FOR SOLICITATION PURPOSES ONLY ON LIMITED NOTICE, (B) ESTABLISHING PROCEDURES FOR SOLICITATION AND TABULATION OF VOTES TO ACCEPT OR REJECT COMBINED DISCLOSURE STATEMENT AND PLAN, (C) APPROVING THE FORM OF BALLOTS AND SOLICITATION MATERIALS, (D) ESTABLISHING VOTING RECORD DATE, (E) FIXING THE DATE, TIME AND PLACE FOR THE CONFIRMATION HEARING AND THE DEADLINE FOR FILING OBJECTIONS THERETO, AND (F) APPROVING RELATED NOTICE PROCEDURES

The above-captioned debtor and debtor in possession (the "***Debtor***"), by and through its undersigned counsel, hereby moves (the "***Motion***"), pursuant to sections 105(a), 1125, 1126 and 1128 of title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (the "***Bankruptcy Code***") and Rules 2002(b), 3017, 3018, and 3020 of the Federal Rules of Bankruptcy Procedure (the "***Bankruptcy Rules***") for the entry of an order (a) conditionally approving the *Debtor's*

Combined Disclosure Statement and Chapter 11 Plan of Liquidation (the "***Combined Disclosure Statement and Plan***"), filed concurrently herewith, for solicitation purposes on limited notice, (b) establishing procedures for solicitation and tabulation of votes to accept or reject the Combined Disclosure Statement and Plan, (c) approving the form of ballots and solicitation materials, (d) establishing a voting record date, (e) fixing the date, time and place for the confirmation hearing and deadline for filing objections thereto, and (f) approving the related notice provisions. In support of the Motion, the Debtor respectfully represents as follows:

JURISDICTION, VENUE AND STATUTORY PREDICATES

1. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. sections 157 and 1334. Venue is proper in this District pursuant to 28 U.S.C. sections 1408 and 1409. This matter is a core proceeding pursuant to 28 U.S.C. section 157(b)(2).

2. The statutory bases for the relief requested herein are sections 105(a), 1125, 1126 and 1128 of the Bankruptcy Code, as supplemented by Bankruptcy Rules 2002(b), 3017, 3018 and 3020.

SUMMARY OF RELIEF REQUESTED

3. The Debtor submits this Motion in connection with the Debtor's proposed Combined Disclosure Statement and Plan, which is attached hereto as **Exhibit 1**. The Debtor seeks, among other things, entry of an Order, substantially in the form attached hereto as **Exhibit 2** (the "***Conditional Approval and Procedures Order***"), granting the following relief: (a) conditional approval of the Combined Disclosure Statement and Plan for solicitation purposes only on limited notice, (b) establishing procedures for solicitation and tabulation of votes to accept or reject the Combined Disclosure Statement and Plan, (c) approving the form of ballots and solicitation materials, (d) establishing a voting record date, (e) fixing the date, time and place

for the confirmation hearing and deadline for filing objections thereto, and (f) approving the related notice provisions.

BACKGROUND

4. On June 2, 2016 (the "***Petition Date***"), a chapter 11 involuntary petition was filed against the Debtor by petitioning creditors R.J. Bayer Professional Geologist, LC, Minerals Advisory Group, LLC, Rollins Construction & Trucking, LLC, Rollins Machine, Inc., and Oxbow Sulphur, Inc.

5. On August 4, 2016, the Court entered the Order for Relief (Docket No. 130) and directed the Debtor to continue to operate its business and manage its affairs as a debtor in possession in accordance with section 1101 *et seq.* of the Bankruptcy Code.

6. Pursuant to sections 1107(a) and 1108 of the Bankruptcy Code, the Debtor is operating its business and managing its affairs as debtor in possession. As of the date hereof, no trustee or examiner has been appointed in any of this chapter 11 case.

7. Article III of the Combined Disclosure Statement and Plan provides a detailed description of the Debtor's corporate structure, historical business operations and summarizes the Debtor's conduct and prior legal proceedings in this chapter 11 case and is incorporated herein by reference thereto.

8. The Combined Disclosure Statement and Plan attached as **Exhibit 1** has been proposed by the Debtor over the alternative of dismissing or converting the Debtor's bankruptcy case to a case under chapter 7 of the Bankruptcy Code. The Debtor believes that the Combined Disclosure Statement and Plan provides the most efficient means to conclude the Debtor's case and distribute the assets available to the holders of allowed claims. A summary of the Debtor's assets (the "***Remaining Assets***") is provided in Article V of the Combined Disclosure Statement and Plan. The Combined Disclosure Statement and Plan provides for,

among other things, distribution of the Remaining Assets to the holders of allowed claims asserted against the Debtor in accordance with the priorities of the Bankruptcy Code and the summary of treatment set forth in Article V of the Combined Disclosure Statement and Plan.

DISCLOSURE STATEMENT

Conditional Approval of the Combined Disclosure Statement and Plan for Solicitation Purposes

9. Section 1125 of the Bankruptcy Code requires that a disclosure statement be approved by the court as containing "adequate information" prior to a debtor's solicitation of acceptances or rejections of a plan. 11 U.S.C. § 1125(b). "Adequate information" is defined in the Bankruptcy Code as:

> [I]nformation of a kind, and in sufficient detail, as far as is reasonably practicable in light of the nature and history of the debtor and the condition of the debtor's books and records, including a discussion of the potential material Federal tax consequences of the plan to the debtor, any successor to the debtor, and a hypothetical investor typical of the holders of claims or interests in the case, that would enable such a hypothetical investor of the relevant case to make an informed judgment about the plan, but adequate information need not include such information about any other possible or proposed plan and in determining whether a disclosure statement provides adequate information, the court shall consider the complexity of the case, the benefit of additional information to creditors and other parties in interest, and the cost of providing additional information.

11 U.S.C. § 1125(a). The Debtor's Combined Disclosure Statement and Plan therefore must, as a whole, provide information that is reasonably practicable to permit an informed judgment by impaired creditors entitled to vote on the Plan. *See, e.g.*, *In re Stanley Hotel, Inc.*, 13 B.R. 926, 929 (Bankr. D. Colo. 1981) (the purpose of the disclosure statement is to inform equity holders and claimants as fully as possible, about the probable financial results of acceptance or rejection of a particular plan). The Combined Disclosure Statement and Plan "must clearly and succinctly inform the average unsecured creditor what it is going to get, when it is going to get it, and what

contingencies there are to getting its distribution." *In re Fevretti*, 128 B.R. 16, 19 (Bankr. D.N.H. 1991).

10. In evaluating whether a disclosure statement provides "adequate information," courts adhere to section 1125's instruction that making this determination is a flexible exercise based on the facts and circumstances of each case and is within the broad discretion of the court. *See* 11 U.S.C. § 1125(a)(1) ("'[A]dequate information' means information of a kind, and in sufficient detail, as far as is reasonably practicable *in light of the nature and history of the debtor and the condition of the debtor's books and records . . . .*") (emphasis added); *see also Stanley Hotel*, 13 B.R. at 930 (the words of section 1125 reflect an intent to establish a variable standard as to what is adequate in light of the debtor's books, records, nature, and history); S. Rep. No. 95-989, at 121 (1978), *reprinted in* 1978 U.S.C.C.A.N. 5787, 5907 ("[T]he information required will necessarily be governed by the circumstances of the case.").

11. The Combined Disclosure Statement and Plan provides a summary of the Debtor's case, assets and liabilities, and estimate of distributions to the holders of allowed claims.

12. Specifically, the Debtor's Combined Disclosure Statement and Plan contains the pertinent information necessary for holders of eligible claims to make an informed decision about whether to vote to accept or reject the Plan, including, among other things, information regarding: a summary of the classification and treatment of all classes of creditors and equity interests; a brief summary of the Debtor's remaining assets and liabilities; the Debtor's prepetition capital structure and indebtedness; certain risk factors to consider that may

affect the Plan; the provisions governing distributions under the Plan; and the means for implementation of the Plan.

13. The Debtor respectfully submits that the Combined Disclosure Statement and Plan complies with all aspects of section 1125 of the Bankruptcy Code. At the hearing on this Motion, the Debtor will seek only conditional approval of the Combined Disclosure Statement and Plan for solicitation purposes, as the Debtor will demonstrate on a final basis at the hearing on the approval of the Combined Disclosure Statement and Plan that the information set forth therein contains adequate information within the meaning of section 1125.

Objections

14. Any objections or proposed modifications to the Combined Plan and Disclosure Statement being conditionally approved at the hearing on this Motion shall (a) be in writing, (b) comply with the Bankruptcy Rules and the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Utah, Central Division (the "***Local Bankruptcy Rules***"), and (c) be filed with the Office of the Clerk of the Bankruptcy Court in accordance with the Local Bankruptcy Rules with a copy served upon: (i) counsel for the Debtor; (ii) the United States Trustee; and (iii) counsel for the Creditors' Committee, such that all written objections are received by the Bankruptcy Court and filed no later than 5:00 p.m. on January 29, 2018.

Limited Notice

15. Bankruptcy Rule 3017(a) requires "notice to the debtor, creditors, equity security holders and other parties in interest to consider the disclosure statement and any objections or modifications thereto." Fed. R. Bankr. P. 3017(a). The Debtor submits that it is in the best interests of its estate to limit the notice required under Bankruptcy Rule 3017(a). The Debtor will provide notice of this Motion to the parties set forth in paragraph 40 of this Motion.

16. As discussed herein, the Debtor filed the Motion because, among other reasons, the Debtor has limited assets remaining in its estate and wishes to maximize the funds available for unsecured creditors. Thus, limiting notice is in the best interests of the estate and its unsecured creditors because it will stop the accrual of additional administrative expenses.

17. Additionally, the Debtor submits that no creditor will be prejudiced if the Court limits notice of the Motion. All creditors and parties in interest will retain the right to object to the adequacy of the information contained in the Combined Disclosure Statement and Plan at the final hearing thereon.

18. The Debtor respectfully submits that it is in the best interests of the estate to limit notice of the hearing on this Motion and the related relief requested.

19. Accordingly, the Debtor respectfully requests that this Court enter an order approving on a conditional basis the Combined Disclosure Statement and Plan for solicitation purposes only.

SOLICITATION PROCEDURES

Procedures for Solicitation and Tabulation of Votes and Approval of Form of Ballots

20. In accordance with Bankruptcy Rules 3017(d) and 3018(c), the Debtor proposes to mail to the holders of Claims (the "***Claimholders***") entitled to vote on the Combined Disclosure Statement and Plan, one of the form ballots attached hereto as **Exhibit 3** and **Exhibit 4**, and incorporated herein by reference (each a "***Ballot***", collectively the "***Ballots***"). The Ballots are substantially similar to Official Form No. 14, but have been modified to be consistent with the specific provisions of the Combined Disclosure Statement and Plan. The instructions for completion of the Ballots are included in Article VI of the Combined Disclosure Statement and Plan. The Debtor proposes that the appropriate form of Ballot be distributed to the Claimholders in classes 1(b), 2(a), 2(b), 2(c), 2(d), and 3 (the "***Voting Classes***").

21. The Debtor respectfully submits that the proposed Ballots are appropriately tailored to the Combined Disclosure Statement and Plan and comply with Bankruptcy Rules 3017 and 3018. Accordingly, by this Motion, the Debtor requests that the Court approve the proposed Ballots.

22. The Voting Classes are the only classes that will receive a Ballot to vote to accept or reject the Combined Disclosure Statement and Plan. The remaining classes, classes 1(a), 2(e) and 4 (the "***Non-Voting Classes***" and, together with the Voting Class, the "***Classes***"), are not entitled to vote on the Combined Disclosure Statement and Plan as they have been conclusively presumed to have accepted the Combined Disclosure Statement and Plan in accordance with section 1126(f) or rejected the Combined Disclosure Statement and Plan in accordance with section 1126(g) of the Bankruptcy Code.

23. The Debtor proposes that all creditors will receive notice of the final hearing on the approval of the Combined Disclosure Statement and Plan (the "***Confirmation Notice"***), which will also include a Ballot for those creditors entitled to vote. A copy of the Confirmation Notice is annexed hereto as **Exhibit 5**. The Debtor shall serve a copy of the Confirmation Notice upon all creditors and a Ballot to those entitled to vote no later than five (5) business days after the entry of the Conditional Approval and Procedures Order. The Debtor will not serve hard copies of the Combined Disclosure Statement and Plan. Instead, a copy of the Combined Disclosure Statement and Plan will be made available at no charge to holders of Claims and Equity Interests upon request to Debtor's counsel, Pepper Hamilton LLP, by e-mail (detweild@pepperlaw.com) or telephone ((302) 777-6524).

Voting Deadline for the Receipt of Ballots

24. Bankruptcy Rule 3017(c) provides that, "[o]n or before approval of the disclosure statement, the court shall fix a time within which the holders of claims and interests

may accept or reject the plan . . . ." The Debtor anticipates commencing the solicitation period by mailing the Ballots and other approved solicitation materials to the Voting Classes no later than five (5) business days after the entry of the Conditional Approval and Procedures Order. The Debtor proposes that all Ballots being cast must be properly executed, completed and delivered by mail, overnight courier, or personal delivery, to Epiq Bankruptcy Solutions LLC (the "***Balloting Agent***"), so that the Ballots are actually received no later than the voting deadline fixed by the Court (the "***Voting Deadline***"). This date will give Claimholders sufficient time to review the solicitation materials and vote, and provides the Debtor with enough time to tabulate the Ballots and prepare for whatever issues the voted Ballots may raise in connection with the hearing on the final approval of the Combined Disclosure Statement and Plan.

Procedures for Tabulating Votes

25. Section 1126(c) of the Bankruptcy Code provides that a class of claims has accepted a plan if such plan has been accepted by creditors that hold at least two-thirds in dollar amount and more than one-half in number of the allowed claims in that class that have actually cast ballots for acceptance or rejection of the plan. *See* 11 U.S.C. § 1126(c). For purposes of voting on the Plan, the Debtor proposes that each claim, (i)(a) for which a proof of claim was timely received by the applicable deadline; or (b) that is listed in the Debtor's schedules of assets and liabilities (Docket No. 231) and not listed as disputed, contingent or unliquidated as to amount; and, in either case, as to which no objection to the allowance thereof has been filed prior to entry of the Conditional Approval and Procedures Order, or (ii) which has otherwise been allowed by a final order of the Court, be allowed for voting purposes only. The foregoing is subject to further order of the Court to the extent that a party moves for temporary allowance of its Claims in an amount that is different from the amount that otherwise would apply to such Claim under the foregoing.

26. The Debtor proposes that the following procedures be utilized in tabulating the Ballots with respect to Ballots submitted by the holder of an allowed claim (the "***Tabulation Procedures***"):

a. Except as permitted by the Court, any Ballots received after the Voting Deadline will not be accepted or counted by the Debtor in connection with the Debtor's request for confirmation of the Combined Disclosure Statement and Plan.

b. Any Ballot that does not indicate an acceptance or rejection of the Combined Disclosure Statement and Plan or that indicates both an acceptance and rejection of the Combined Disclosure Statement and Plan will not be counted.

c. Any Ballot that is returned indicating acceptance or rejection of the Plan but is unsigned or does not contain an original signature will not be counted.

d. any Ballot that is illegible, contains insufficient information to permit the identification of the Claimholder, or which the Balloting Agent cannot match to an existing database record of a Claimholder will not be counted.

e. any Ballot cast by a person or entity that does not hold a claim in a Voting Class will not be counted.

f. any Ballot cast for a claim that is scheduled as contingent, unliquidated or disputed or as zero or unknown in amount and for which no timely motion was filed pursuant to Bankruptcy Rule 3018(a) will not be counted.

g. any form of Ballot other than the official form sent by the Claims and Balloting Agent will not be counted.

h. Any Ballot returned by facsimile or electronic mail will not be counted.

i. Whenever a Claimholder casts more than one Ballot voting the same claim prior to the Voting Deadline, only the latest-dated Ballot timely received will be deemed to reflect the voter's intent and will thus supersede any prior Ballots.

j. If a Claimholder casts simultaneous duplicative Ballots that are voted inconsistently, such Ballots will not be counted.

k. Each Claimholder will be deemed to have voted the full amount of its Claim as set forth on the Ballot.

l. Claimholders may not split their vote within a Class, and thus each Claimholder will be required to vote all of its claims within the Voting Class either to accept or reject the Plan.

m. Ballots partially rejecting and partially accepting the Plan will not be counted.

n. The method of delivery of Ballots to the Balloting Agent is at the risk of each Claimholder, and such delivery will be deemed made only when the original Ballot is actually received by the Balloting Agent.

o. No Ballot should be sent directly to the Debtor or the Debtor's professionals.

p. The Debtor expressly reserves the right to amend the terms of the Plan (subject to compliance with section 1127 of the Bankruptcy Code). If the Debtor makes material changes in the terms of the Plan, the Debtor will disseminate additional solicitation materials and extend the solicitation period, in each case to the extent required by law or further order of the Court.

q. If a Ballot is executed by a trustee, executor, administrator, guardian, attorney-in-fact, officer of a corporation, or other person acting in a fiduciary or representative capacity on behalf of a Claimholder, such person will be required to indicate such capacity when signing and, at the Balloting Agent's discretion, must submit proper evidence satisfactory to the Balloting Agent to so act on behalf of the Claimholder.

r. Any Claimholder who has delivered a valid Ballot voting on the Plan may withdraw such vote solely in accordance with Bankruptcy Rule 3018(a).

s. Subject to any contrary order of the Court, the Debtor reserves the right to waive any defects or irregularities or conditions of delivery as to any particular Ballot unless otherwise directed by the Court.

t. Unless waived or as ordered by the Court, any defects or irregularities in connection with deliveries of Ballots must be cured by the Voting Deadline or within such time as the Court determines, and unless otherwise ordered by the Court, delivery of

such Ballots will not be deemed to have been made until such irregularities have been cured or waived.

u. Neither the Debtor, nor any other person or entity, will be under any duty to provide notification of defects or irregularities with respect to deliveries of Ballots, nor will any of them incur any liabilities for failure to provide such notification. Unless otherwise directed by the Court, delivery of such Ballots will not be deemed to have been made until such irregularities have been cured or waived. Ballots previously furnished (and as to which any irregularities have not theretofore been cured or waived) will not be counted.

v. For purposes of determining whether the numerosity and amount requirements of section 1126(c) of the Bankruptcy Code have been satisfied, the Balloting Agent will tabulate only those Ballots received prior to the Voting Deadline or otherwise ordered by the Court.

w. Ballots received that do not evidence the amount, or evidence an incorrect amount, of such creditor's claim shall be completed or corrected, as the case may be, based upon a final order of the Bankruptcy Court or, if no such final order exists, then (i) based upon timely filed proofs of claim, or (ii) the schedules of assets and liabilities filed by the Debtor if no proof of claim has been filed by such creditor, and counted as a vote to accept or reject the Plan.

Voting

27. Parties entitled to vote may choose to send in their Ballots by mail or overnight courier. Upon completion of balloting, the Balloting Agent will certify the amount and number of allowed claims of the Voting Classes accepting or rejecting the Combined Disclosure Statement and Plan. The Debtor will file such certifications with the Court prior to the hearing on the approval of the Combined Disclosure Statement and Plan.

28. The Debtor respectfully submits that the Tabulation Procedures will establish a fair and equitable voting process, particularly given the right of parties to seek temporary allowance of their claims on some other basis, as described in greater detail below. Therefore, the Debtor seeks this Court's approval of such proposed rules.

Procedures for Temporary Allowance of Claims

29. The Debtor proposes that any holder of a Claim that seeks to challenge the temporary allowance of its claim for voting purposes based on the Tabulation Procedures be required to file a motion, pursuant to Bankruptcy Rule 3018(a),[1] for an order temporarily allowing its claim in a different amount or classification for purposes of voting to accept or reject the Combined Disclosure Statement and Plan (a "***Rule 3018 Motion***") and serve the Rule 3018 Motion on the Debtor so that it is received no later than the date fixed by the Court. The Debtor will then have: (a) a deadline as determined by the Court to file and serve any responses to Rule 3018 Motions; and (b) to coordinate with the Court to adjudicate and resolve all pending Rule 3018 Motions prior to the approval of the Combined Disclosure Statement and Plan. In accordance with Bankruptcy Rule 3018, the Debtor further proposes that any Ballot submitted by a Claimholder that files a Rule 3018 Motion will be counted solely in accordance with the Tabulation Procedures and other applicable provisions contained herein unless and until the underlying claim is temporarily allowed by the Court for voting purposes in a different amount, after notice and a hearing.

CONFIRMATION HEARING, RECORD DATE AND SOLICITATION PACKAGES

Confirmation Hearing, Confirmation Objection Deadline and Notice Thereof

30. Bankruptcy Rule 3017(c) provides that, on or before the approval of the Disclosure Statement, the Court "may fix the date for the hearing on confirmation." In accordance with this provision, the Debtor requests that the hearing on final approval of the Combined Disclosure Statement and Plan be set for a date on or about February 28, 2018 (the

[1] Bankruptcy Rule 3018(a) provides that the "court after notice and hearing may temporarily allow the claim or interest in an amount which the court deems proper for the purposes of accepting or rejecting a plan."

"***Confirmation Hearing***"). In the interests of orderly procedure, the Debtor further requests that objections to confirmation of the Combined Disclosure Statement and Plan, if any, must (i) be in writing; (ii) state the name and address of the objecting party and the nature of the claim or equity interest of such party; and (iii) be filed with the Court and served on (a) counsel for the Debtor; (b) the United States Trustee; and (c) counsel for the Creditors' Committee, so that they are received no later than ten (10) days prior to the Confirmation Hearing (the "***Confirmation Objection Deadline***"). The Debtor reserves the right to file a consolidated reply to any such objections no later than three (3) days prior to the Confirmation Hearing.

31. Bankruptcy Rule 2002(b) requires that the Debtor provide notice to all creditors and parties in interest at least 28 days prior to the deadline for filing objections to confirmation of the Combined Disclosure Statement and Plan, and the hearing on the final approval of the Combined Disclosure Statement and Plan. Bankruptcy Rule 2002(d), in turn, requires that equity security holders be given notice of these matters in the manner and form directed by the Court. As discussed above, all parties in interest will be served the Confirmation Notice, and the Voting Classes will also receive a Ballot. In addition, the Debtor proposes to serve the Confirmation Notice on: (i) all parties filing a notice of appearance and request for service pursuant to Bankruptcy Rule 2002 in this chapter 11 case, (ii) state and local taxing authorities for jurisdictions in which the Debtor conducted business, (iii) the Internal Revenue Service, and (iv) the United States Trustee. The Debtor will serve a copy of the Confirmation Notice upon such parties no later than five (5) business days after the entry of the Conditional Approval and Procedures Order. The Confirmation Notice sets forth: (i) the Voting Deadline for the submission of Ballots to accept or reject the Combined Disclosure Statement and Plan; (ii) the deadline for filing Rule 3018 Motions; (iii) the Confirmation Objection Deadline; (iv) the

time, date and place of the hearing on the final approval of the Combined Disclosure Statement and Plan, and (v) instructions on how to obtain copies of the Combined Disclosure Statement and Plan.

The Record Date

32. Bankruptcy Rule 3017(d) provides that the Court may set the date on which the Disclosure Statement is approved or another date as the record date for determining which holders of claims and equity interests are entitled to receive solicitation materials, including Ballots for voting on a plan of reorganization. *See* Fed. R. Bankr. P. 3017(d). The Debtor proposes that the Court establish the date the Court enters the Conditional Approval and Procedures Order as the record date (the "***Record Date***") for purposes of determining which Claimholders in the Voting Classes are entitled to receive a Ballot to vote to accept or reject the Combined Disclosure Statement and Plan.

33. With respect to any transferred Claim, the Debtor proposes that the transferee will be entitled to receive and cast a Ballot on account of the transferred Claim only if: (a) all actions necessary to effect the transfer of payment and interest of the Claim pursuant to Bankruptcy Rule 3001(e) have been completed by the Record Date (including without limitation, the passage of any applicable objection period); or (b) the transferee files, no later than the Record Date, (i) the documentation required by Bankruptcy Rule 3001(e) to evidence the transfer and (ii) a sworn statement of the transferor supporting the validity of the transfer.

The Solicitation Packages

34. Bankruptcy Rule 3017(d) identifies the materials that must be provided to the claimholders for purposes of soliciting votes and providing adequate notice of the hearing on confirmation of a plan:

> Upon approval of a disclosure statement,--except to the extent that the court orders otherwise with respect to one or more unimpaired classes of creditors or equity security holders--the debtor in possession, trustee, proponent of the plan, or clerk as the court orders shall mail to all creditors and equity security holders, and in a chapter 11 reorganization case shall transmit to the United States trustee,
>
> (1) the disclosure statement approved by the court;
>
> (2) the plan or a court-approved summary of the plan;
>
> (3) notice of the time within which acceptances and rejections of the plan may be filed; and
>
> (4) any other information as the court may direct, including any court order approving the disclosure statement or a court-approved summary of the opinion.
>
> In addition, notice of the time fixed for filing objections and the hearing on confirmation shall be mailed to all creditors and equity security holders in accordance with [Bankruptcy] Rule 2002(b), and a form of ballot conforming to the appropriate Official Form shall be mailed to creditors and equity security holders entitled to vote on the plan . . . .

Fed. R. Bankr. P. 3017(d).

35. In accordance with Bankruptcy Rule 3017(d), the Debtor proposes that, after entry of the Conditional Approval and Procedures Order, the following materials be mailed by the Balloting Agent to all Claimholders in the Voting Classes (the "***Solicitation Package***"):

a. the Confirmation Notice, which will include: (i) an e-mail address (detweild@pepperlaw.com) at which parties may write to request a copy of the Combined Disclosure Statement and Plan and other documents related thereto; and (ii) a telephone number ((302) 777-6524) that parties may call to request a copy of the Combined Disclosure Statement and Plan; and

b. an appropriate form of Ballot.

36. Consistent with sections 1126(f) and 1126(g) of the Bankruptcy Code and Bankruptcy Rule 3017(d), the Debtor requests that no Solicitation Packages be mailed to holders

of claims and equity interests in Non-Voting Classes that are conclusively deemed to accept or reject the Plan. However, as previously noted, in accordance with Bankruptcy Rule 3017(d), the Debtor proposes that such parties will receive the Confirmation Notice and may request copies of the Combined Disclosure Statement and Plan.

37. The Balloting Agent will mail the Solicitation Packages no later than five (5) business days after the entry of the Conditional Approval and Procedures Order to: (i) the Claimholders in the Voting Classes, (ii) all parties that have filed requests for notice in the chapter 11 case on or before the Record Date (without the Ballot); (iii) counsel for the Creditors' Committee (without the Ballot); and (iv) the United States Trustee for this District (without the Ballot).

38. The Debtor submits that the foregoing procedures for providing notice of the final approval of the Combined Disclosure Statement and Plan, the Confirmation Objection Deadline and related matters fully comply with Bankruptcy Rules 2002 and 3017 and the time limits set forth therein, and are both fair to holders of claims and equity interests and other parties in interest and are calculated to result in votes and objections that will be known in sufficient time to permit an organized and efficient final hearing on the Combined Disclosure Statement and Plan. Accordingly, the Debtor respectfully requests that the Court approve such notice procedures as appropriate under the circumstances and in compliance with the requirements of the Bankruptcy Code, the Bankruptcy Rules and the Local Bankruptcy Rules.

NO PRIOR REQUEST

39. No prior request for the relief sought herein has been made by the Debtor to this or any other Court.

NOTICE

40. No trustee or examiner has been appointed in this chapter 11 case. A copy of the Motion was served upon the following parties via e-mail or overnight delivery: (i) the United States Trustee, (iii) counsel to the Creditors' Committee; and (iii) all parties filing a Notice of Appearance and Request for Service pursuant to Bankruptcy Rule 2002 in this chapter 11 case. In light of the nature of the relief requested herein and the irreparable harm to the Debtor, the estate and its creditors that will ensue if the relief herein is not granted, the Debtor submits that no other or further notice is required.

Dated: December 29, 2017

SNELL & WILMER L.L.P.

/s/ *Jeff Tuttle*
David E. Leta
Troy J. Aramburu
Jeffrey D. Tuttle

- and –

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Counsel for CS Mining, LLC

CERTIFICATE OF SERVICE – BY NOTICE OF ELECTRONIC FILING (CM/ECF)

I hereby certify that on the 29th day of December, 2017, I electronically filed the foregoing document with the United States Bankruptcy Court for the District of Utah by using the Court's CM/ECF system. I further certify that the parties of record in this case, as identified below, are listed as registered CM/ECF users and will be served through the CM/ECF system:

- James W. Anderson jwa@clydesnow.com, jritchie@clydesnow.com
- Troy J. Aramburu taramburu@swlaw.com, nharward@swlaw.com,docket_slc@swlaw.com,sballif@swlaw.com
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CERTIFICATE OF SERVICE – BY MAIL, OTHER

I further certify that on the 29th day of December, 2017, I caused the foregoing document to be sent by first class United States mail, postage fully prepaid, to the following at the addresses set for the below:

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/s/ *Nina Harward*

EXHIBIT 1

(Combined Disclosure Statement and Plan)

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Counsel for CS Mining, LLC

IN THE UNITED STATES BANKRUPTCY COURT
DISTRICT OF UTAH, CENTRAL DIVISION

In re **CS MINING, LLC,** Debtor.	Bankruptcy Case No. 16-24818 (Chapter 11) Judge William T. Thurman

DEBTOR'S COMBINED DISCLOSURE STATEMENT AND CHAPTER 11 PLAN OF LIQUIDATION

Dated: December 29, 2017

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NOTICE

THERE HAS BEEN NO INDEPENDENT AUDIT OF THE FINANCIAL INFORMATION CONTAINED IN THIS COMBINED PLAN AND DISCLOSURE STATEMENT EXCEPT AS EXPRESSLY INDICATED HEREIN. THIS COMBINED PLAN AND DISCLOSURE STATEMENT WAS COMPILED FROM INFORMATION OBTAINED FROM NUMEROUS SOURCES BELIEVED TO BE ACCURATE TO THE BEST OF THE DEBTOR'S KNOWLEDGE, INFORMATION AND BELIEF. NO GOVERNMENTAL AUTHORITY HAS PASSED ON, CONFIRMED OR DETERMINED THE ACCURACY OR ADEQUACY OF THE INFORMATION CONTAINED HEREIN.

THIS COMBINED PLAN AND DISCLOSURE STATEMENT HAS BEEN PREPARED IN ACCORDANCE WITH SECTIONS 1125 AND 1129 OF THE BANKRUPTCY CODE AND RULE 3016(c) OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE AND NOT IN ACCORDANCE WITH FEDERAL OR STATE SECURITIES LAWS OR OTHER RULES GOVERNING DISCLOSURE OUTSIDE THE CONTEXT OF CHAPTER 11 OF THE BANKRUPTCY CODE. NO GOVERNMENTAL AUTHORITY HAS PASSED ON, CONFIRMED OR DETERMINED THE ACCURACY OF THE INFORMATION CONTAINED HEREIN.

NOTHING STATED HEREIN SHALL BE DEEMED OR CONSTRUED AS AN ADMISSION OF ANY FACT OR LIABILITY BY ANY PARTY, OR BE ADMISSIBLE IN ANY PROCEEDING INVOLVING THE DEBTOR OR ANY OTHER PARTY, OR BE DEEMED CONCLUSIVE EVIDENCE OF THE TAX OR OTHER LEGAL EFFECTS OF THE COMBINED PLAN AND DISCLOSURE STATEMENT ON THE DEBTOR OR HOLDERS OF CLAIMS OR EQUITY INTERESTS. CERTAIN STATEMENTS CONTAINED HEREIN, BY NATURE, ARE FORWARD-LOOKING AND CONTAIN ESTIMATES AND ASSUMPTIONS. THERE CAN BE NO ASSURANCE THAT SUCH STATEMENTS WILL REFLECT ACTUAL OUTCOMES.

THE STATEMENTS CONTAINED HEREIN ARE MADE AS OF THE DATE HEREOF, UNLESS ANOTHER TIME IS SPECIFIED. THE DELIVERY OF THIS COMBINED PLAN AND DISCLOSURE STATEMENT SHALL NOT BE DEEMED OR CONSTRUED TO CREATE ANY IMPLICATION THAT THE INFORMATION CONTAINED HEREIN IS CORRECT AT ANY TIME AFTER THE DATE HEREOF.

HOLDERS OF CLAIMS AND EQUITY INTERESTS SHOULD NOT CONSTRUE THE CONTENTS OF THIS COMBINED PLAN AND DISCLOSURE STATEMENT AS PROVIDING ANY LEGAL, BUSINESS, FINANCIAL OR TAX ADVICE. THEREFORE, EACH SUCH HOLDER SHOULD CONSULT WITH THEIR OWN LEGAL, BUSINESS, FINANCIAL AND TAX ADVISORS AS TO ANY SUCH MATTERS CONCERNING THE COMBINED DISCLOSURE STATEMENT AND PLAN AND THE TRANSACTIONS CONTEMPLATED HEREBY.

NO REPRESENTATION CONCERNING THE DEBTOR OR THE VALUE OF THE DEBTOR'S ASSETS HAS BEEN AUTHORIZED BY THE BANKRUPTCY COURT OTHER THAN AS SET FORTH IN THIS COMBINED PLAN AND DISCLOSURE

STATEMENT OR ANY OTHER DISCLOSURE STATEMENT APPROVED BY THE BANKRUPTCY COURT. THE DEBTOR IS NOT RESPONSIBLE FOR ANY INFORMATION, REPRESENTATION OR INDUCEMENT MADE TO OBTAIN YOUR ACCEPTANCE, WHICH IS OTHER THAN OR INCONSISTENT WITH INFORMATION CONTAINED HEREIN.

EACH HOLDER OF A CLAIM OR EQUITY INTEREST SHOULD CONSIDER CAREFULLY ALL OF THE INFORMATION IN THIS COMBINED PLAN AND DISCLOSURE STATEMENT, INCLUDING THE RISK FACTORS DESCRIBED IN GREATER DETAIL HEREIN. HOLDERS OF CLAIMS AND EQUITY INTERESTS SHOULD NOT CONSTRUE THE CONTENTS OF THIS COMBINED PLAN AND DISCLOSURE STATEMENT AS PROVIDING ANY LEGAL, BUSINESS, FINANCIAL OR TAX ADVICE. THEREFORE, EACH SUCH HOLDER SHOULD CONSULT WITH ITS OWN LEGAL, BUSINESS, FINANCIAL AND TAX ADVISORS AS TO ANY SUCH MATTERS CONCERNING THE COMBINED PLAN AND DISCLOSURE STATEMENT AND THE TRANSACTIONS CONTEMPLATED HEREBY.

FOR EASE OF REFERENCE ONLY, AND WITH CERTAIN EXCEPTIONS, ARTICLE III THROUGH ARTICLE IV HEREIN GENERALLY SETS FORTH THE DISCLOSURES FOR THIS COMBINED PLAN AND DISCLOSURE STATEMENT. ARTICLE V THROUGH ARTICLE XVI SETS FOR THE TERMS AND PROVISIONS OF THE PROPOSED PLAN OF LIQUIDATION.

ARTICLE I

INTRODUCTION[1] AND SUMMARY OF PROPOSED PLAN

CS Mining, LLC, the Debtor in this Chapter 11 Case hereby proposes this Combined Plan and Disclosure Statement pursuant to sections 1125 and 1129 of the Bankruptcy Code. All Creditors are encouraged to read this Combined Plan and Disclosure Statement in its entirety before voting to accept or reject the Combined Plan and Disclosure Statement. For the avoidance of doubt, the Combined Plan and Disclosure Statement applies and preserves the maximum global jurisdiction possible under applicable U.S. law, including without limitation, over the assets of the Debtor wherever located.

This Combined Plan and Disclosure Statement constitutes a liquidating chapter 11 plan for the Debtor. The Combined Plan and Disclosure Statement, if approved and confirmed, provides for the proceeds received from the liquidation of the Debtor's Assets to be distributed to Holders of Allowed Claims in accordance with the provisions of this Combined Plan and Disclosure Statement and the United States Bankruptcy Code.

The Debtor proposes to implement the Combined Plan and Disclosure Statement through:

(i) establishing the Liquidation Trust for the benefit of the Holders of Allowed Claims who will become the Liquidation Trust Beneficiaries;

(ii) transferring, on the Effective Date, all of the Debtor's Remaining Assets, including all rights, title and interests in the Remaining Assets and proceeds thereof, to the Liquidation Trust for the benefit of the Liquidation Trust Beneficiaries.

(iii) vesting, on the Effective Date, all rights and interests to and in the net proceeds received from the Fiduciary Litigation, which net proceeds shall inure to the benefit of the Liquidation Trust Beneficiaries and which shall be transferred to the Liquidation Trust free and clear of all Liens, Claims and encumbrances;

(iv) appointing a Liquidation Trustee for the Liquidation Trust, who will be responsible for, among other things, implementing the terms of the Combined Plan and Disclosure Statement, monetizing and otherwise liquidating the Liquidation Trust Assets, resolving all outstanding Claims asserted against the Debtor's bankruptcy Estate; and

[1]All capitalized terms used in this Combined Disclosure Statement and Plan shall have the same meaning ascribed to such terms in Article II of the Combined Plan and Disclosure Statement.

(v) distributing to the Liquidation Trust Beneficiaries the proceeds received from the Liquidation Trust Assets in accordance with the terms of this Combined Plan and Disclosure Statement and the Liquidation Trust Agreement.

Subject to the restrictions on modifications set forth in section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019 and those restrictions or modifications set forth in this Combined Plan and Disclosure Statement, the Debtor, and, to the extent applicable, the Post-Effective Date Debtor and Liquidation Trustee, expressly reserve the right to alter, amend or modify the proposed Combined Plan and Disclosure Statement one or more times before its substantial consummation.

ARTICLE II

DEFINITIONS AND CONSTRUCTION OF TERMS

A. Definitions

As used herein, the following terms have the respective meanings specified below, unless the context otherwise requires:

1. **"Administrative Expense Bar Date"** means (A) October 31, 2017 for an Administrative Expense Claim arising between the Involuntary Petition Date through and including the Sale Closing Date; but excluding Professional Fee Claims; and (B) the Supplemental Administrative Expense Bar Date.

2. "**Administrative Expense Claim**" means any right to payment constituting actual and necessary costs and expenses of preserving the Estate under sections 503(b) and 507(a) of the Bankruptcy Code including, without limitation, (a) any Professional Fee Claims, and (b) any fees or charges assessed against the Estate under section 1930 of chapter 123 of Title 28 of the United States Code.

3. "**Administrative, Priority and Secured Claim Escrow**" means the amount of cash to be set aside on the Effective Date by the Debtor and Liquidation Trustee for the payment of estimated Allowed Administrative Expense Claims, Allowed Professional Fee Claims, Allowed Priority Non-Tax Claims (including Allowed GAP Period Claims), Allowed Priority Tax Claims, Allowed WARN Act Claims, Allowed Other Prepetition Secured Claims, and Allowed Prepetition Secured Equipment Loan Claims, incurred, or to be incurred, through the Effective Date.

4. "**Affiliate**" means an affiliate as defined in section 101(2) of the Bankruptcy Code.

5. "**Allowed**" means, with reference to any Claim or Administrative Expense Claim against the Debtor: (i) any Claim that has been listed by the Debtor in the Debtor's Schedules as liquidated in amount and not Disputed or contingent and for which no contrary proof of Claim has been filed; provided, however, that any such Claim listed in the Schedules that has been (a) paid by the Debtor after the Involuntary Petition Date pursuant to order of the

Bankruptcy Court, or (b) assumed or purchased by Tamara as part of the Debtor's Sale of Assets to Tamara pursuant to the Sale Order, shall not be considered an Allowed Claim; (ii) any Claim or Administrative Expense Claim allowed pursuant to this Combined Plan and Disclosure Statement; (iii) any Claim or Administrative Expense Claim that is not timely Disputed by the Claims Objection Deadline; (iv) any Claim or Administrative Expense Claim that is compromised, settled, or otherwise resolved pursuant to the authority granted to the Post-Effective Date Debtor or Liquidation Trustee pursuant to a Final Order of the Bankruptcy Court or under this Combined Plan and Disclosure Statement; or (v) any Claim or Administrative Expense Claim that has been allowed by Final Order. Claims allowed solely for the purpose of voting to accept or reject the Plan pursuant to an order of the Bankruptcy Court shall not be considered "Allowed Claims" hereunder. Unless otherwise specified herein or by order of the Bankruptcy Court, "Allowed Administrative Expense Claim" or "Allowed Claim" shall not, for any purpose under this Combined Plan and Disclosure Statement, include interest on such Administrative Expense Claim or Claim from and after the Involuntary Petition Date. An Allowed Claim shall be net of any setoff or recoupment amount of any Claim that may be asserted by the Debtor against the Holder of such Claim, which amount shall be deemed setoff or recouped pursuant to the terms of this Combined Plan and Disclosure Statement.

6. "**Assets**" means all of the right, title and interest of the Debtor in and to property of whatever type and nature (real, personal, mixed, intellectual, tangible or intangible), including the proceeds of any such property.

7. "**Avoidance Actions**" means any and all actual or potential Claims and causes of action to avoid a transfer of property or an obligation incurred by the Debtor pursuant to any applicable section of the Bankruptcy Code, including sections 105, 502, 510, 542, 544, 545, 547 through 553, and 724(a) of the Bankruptcy Code or under similar or related state or federal statutes and common law, including fraudulent transfer laws.

8. "**Ballot**" means the form or forms distributed to certain Holders of Claims entitled to vote on the Combined Plan and Disclosure Statement by which such parties may indicate acceptance or rejection of the Combined Plan and Disclosure Statement.

9. "**Bankruptcy Code**" means title 11 of the United States Code, as amended from time to time.

10. "**Bankruptcy Court**" or "**Court**" means the United States Bankruptcy Court for the District Of Utah, Central Division, having jurisdiction over the Chapter 11 Case, or if such Court ceases to exercise jurisdiction over the Chapter 11 Case, such court or adjunct thereof that exercises jurisdiction over the Chapter 11 Case in lieu of the United States Bankruptcy Court for the District of Utah, Central Division.

11. "**Bankruptcy Exception**" means the exception to the recognition of COD Income under section 108(a)(l)(A) of the Tax Code when a taxpayer discharging indebtedness is under the jurisdiction of a court in a case under the Bankruptcy Code and when the discharge is granted, or is effected pursuant to a plan approved, by a United States Bankruptcy Court.

12. "**Bankruptcy Rules**" means the Federal Rules of Bankruptcy Procedure as promulgated by the United States Supreme Court under section 2075 of title 28 of the United States Code, as amended from time to time.

13. "**Bar Date**" means, as applicable, the (a) General Bar Date; (b) Governmental Bar Date; (c) Administrative Expense Bar Date; and (d) Supplemental Administrative Expense Bar Date.

14. "**Business Day**" means any day other than a Saturday, Sunday, or any "legal holiday" as defined in Bankruptcy Rule 9006(a).

15. "**Cash**" means legal tender of the United States of America and equivalents thereof.

16. "**Cash on Hand**" means the approximate $10.35 million in Cash held by the Debtor's Estate as of December 1, 2017.

17. "**Causes of Action**" means, without limitation, any and all of the Debtor's and the Estate's actions, causes of action, Avoidance Actions, controversies, liabilities, obligations, rights, suits, damages, judgments, Claims, and demands whatsoever, whether known or unknown, reduced to judgment, liquidated or unliquidated, fixed or contingent, matured or unmatured, disputed or undisputed, secured or unsecured, whether asserted by the Debtor, or capable of being asserted the Debtor, directly, indirectly, derivatively or in any representative or other capacity, now existing or hereafter arising, in law, equity, or otherwise, based in whole or in part upon any act, failure to act, error, omission, transaction, occurrence or other event arising or occurring prior to the Involuntary Petition Date or during the course of the Chapter 11 Case, including through the Effective Date, other than those released, enjoined, exculpated, or otherwise limited or prohibited under this Combined Plan and Disclosure Statement. The Causes of Action excludes the Fiduciary Litigation, which litigation shall be prosecuted, compromised, settled or abandoned by the Committee, or other authorized representative appointed by the Court, *provided however*, that the proceeds of the Fiduciary Litigation shall inure to the benefit of the Liquidation Trust Beneficiaries and shall be transferred to the Liquidation Trust free and clear of all Liens, Claims and encumbrances.

18. "**Chapter 11 Case**" means the case under chapter 11 of the Bankruptcy Code, styled as CS Mining, LLC, under Case No. 16-24818 WTT, currently pending in the Bankruptcy Court.

19. "**Charity**" means any non-profit organization that is unrelated to the Liquidation Trustee or its professionals, the Committee or its members, or the Debtor, whose primary purpose is the pursuit of philanthropic endeavors that may be selected by the Liquidation Trustee at his or her sole discretion.

20. "**Chief Wind-Down Officer**" means an individual designated by the Liquidation Trustee to serve as an officer of the Post-Effective Date Debtor. The Chief Wind-Down Officer may be affiliated with the Liquidation Trustee.

21. "**CKMC**" means Copper King Mining Corporation.

22. "**Claim**" or "**Claims**" shall have the meaning set forth in section 101(5) of the Bankruptcy Code.

23. "**Claims and Balloting Agent**" means the claims and balloting agent appointed in the Chapter 11 Case, Epiq Bankruptcy Solutions, LLC.

24. "**Claims Objection Deadline**" means one hundred and eighty (180) days after the Effective Date or such later date as may be approved by the Bankruptcy Court.

25. "**Claims Reserve"** means any reserve established by the Liquidation Trustee on account of Claims that are Disputed.

26. **"Claims Resolution**" means the "Claims Resolution" identified in the Court's August 18, 2017 Sale Order, which, among other things: (a) resolved the Debtor's objections to prepetition secured claims asserted by Waterloo Street (US) Limited and David J. Richards, LLC d/b/a Western US Minerals, Inc.; (b) resolved the Waterloo Adversary Action and the WUMI Adversary Action; (c) provided for the payment of certain proceeds of the Sale to Waterloo and WUMI, after the payment of Priming Obligations; and (d) granted certain subordinated unsecured deficiency claims to Waterloo and WUMI.

27. "**Clarity**" means Clarity Copper, LLC.

28. "**Class**" means any group of substantially similar Claims or Equity Interests as set forth and identified in Article VIII of this Combined Plan and Disclosure Statement, which Claims or Equity Interests are being established in accordance with sections 1122 and 1123(a)(1) of the Bankruptcy Code.

29. "**Class Counsel**" means Outten & Golden, LLP.

30. **"Class Order**" means the May 1, 2017 Order Granting Class Certification and Related Relief entered in the WARN Act Litigation [Chenault Adv. Dkt. No. 34].

31. "**Class Plaintiffs**" means the class of plaintiffs that was certified by the Court on May 1, 2017 in the WARN Act Litigation [Chenault Adv. Dkt. No. 34] comprised of: Matthew Chenault and other similarly situated employees of the Debtor: (i) who worked at or reported to Debtor's facilities and were terminated without cause on or about May 17, 2016, or within 30 days of that date, or (ii) were terminated without cause as the reasonably foreseeable consequence of the mass layoffs and/or plant closings ordered by the Debtor on May 17, 2016, or (iii) who are "affected employees" within the meaning of 29 U.S.C. 2101(a)(5), and (iv) who have not filed a timely request to opt-out of the class.

32. "**Class Representative**" means Matthew Chenault.

33. "**Clerk**" means the clerk of the Bankruptcy Court.

34. "**Closing Date**" means August 28, 2017, the closing date of the Debtor's sale of substantially all of its Assets to Tamra Mining Corporation, LLC. *See* Notice Of Closing Of (A) The Sale Of The Debtor's Assets Free And Clear Of All Liens, Claims, Encumbrances,

And Other Interests Pursuant To Sections 105, 363(b), (f) And (m) Of The Bankruptcy Code, (B) The Assumption, Assignment, And Sale Of Certain Executory Contracts And Unexpired Leases Pursuant To Sections 363 And 365 Of The Bankruptcy Code And Related Cure Amounts, And (C) Completion Of Related Matters (Dkt. No. 906).

35. "**COD Income**" means income (as defined in the Tax Code) arising from cancellation of indebtedness.

36. "**Combined Plan and Disclosure Statement**" means this Combined Disclosure Statement and Chapter 11 Plan of Liquidation, including, without limitation, all exhibits, supplements, appendices and schedules hereto, either in their present form or as the same may be altered, amended or modified from time to time.

37. "**Committee**" means the Official Committee of Unsecured Creditors appointed in the Chapter 11 Case by the Office of the United States Trustee on August 12, 2016.

38. "**Confirmation Date**" means the date on which the Confirmation Order is entered on the Docket.

39. "**Confirmation Hearing**" means the hearing held by the Bankruptcy Court to consider (i) approval of the Combined Plan and Disclosure Statement as providing adequate information pursuant to section 1125 of the Bankruptcy Code and (ii) confirmation of the proposed Combined Plan and Disclosure Statement pursuant to section 1129 of the Bankruptcy Code, as such hearing may be adjourned or continued from time to time.

40. "**Confirmation Objection Deadline**" means [_____ __], 2018 at 4:00 p.m. (Mountain Time).

41. "**Confirmation Order**" means the Order of the Bankruptcy Court confirming this Combined Plan and Disclosure Statement pursuant to section 1129 of the Bankruptcy Code.

42. "**Creditor**" means any Person that is the Holder of a Claim against the Debtor.

43. "**CSM Board**" means the Debtor's Board of Managers.

44. "**CS Mining**" means CS Mining LLC.

45. "**Debtor**" means CS Mining, LLC.

46. "**Disputed**" means, with reference to any Claim or Administrative Expense Claim, (i) any Claim or Administrative Expense Claim, proof of which was timely and properly filed, and which is disputed under this Combined Plan and Disclosure Statement or as to which the Debtor, the Liquidation Trustee or the Committee have interposed a timely objection and/or request for estimation in accordance with section 502(c) of the Bankruptcy Code and Bankruptcy Rule 3018, which objection and/or request for estimation has not been withdrawn or determined by a Final Order; (ii) any Claim or Administrative Expense Claim, proof of which

was required to be filed by order of the Bankruptcy Court, but as to which a proof of Claim was not timely and/or properly filed; (iii) any Claim that has been listed by the Debtor in the Debtor's Schedules, as such Schedules may be amended in accordance with Bankruptcy Rule 1009, as unliquidated, disputed or contingent; and (iv) any Claim for which an objection has been filed and/or an adversary proceeding has been commenced by the filing of a complaint seeking, among other things, entry of an order disallowing, subordinating or re-characterizing such Claim from debt to equity. To the extent an objection relates to the allowance of only a part of a Claim, such Claim shall be a Disputed Claim only to the extent of the objection and shall be deemed Allowed as to the portion for which no objection is made.

47. "**Distribution**" means any distribution of Cash or other property to the Holders of Allowed Claims pursuant to this Combined Plan and Disclosure Statement.

48. "**Distribution Date**" means any date that is (a) the Effective Date, (b) the Initial Distribution Date, (c) any Interim Distribution Date, or (d) the Final Distribution Date.

49. "**Distribution Record Date**" means [January 31], 2018.

50. "**Docket**" means the docket in the Chapter 11 Case maintained by the Clerk.

51. "**DXS**" means DXS Capital (U.S.) Limited.

52. "**Effective Date**" means the date on which the conditions to the occurrence of the effective date set forth in Article XIV of this Combined Plan and Disclosure Statement have been satisfied or waived.

53. "**Entity**" means an entity as defined in section 101(15) of the Bankruptcy Code.

54. "**Equity Interests**" means all equity or membership interests in the Debtor, including, but not limited to, all issued, unissued, authorized or outstanding shares or membership interests together with any warrants, options or contract rights to purchase or acquire such interests at any time.

55. "**Estate**" means the estate of the Debtor created upon the commencement of the Chapter 11 Case pursuant to section 541 of the Bankruptcy Code.

56. "**Exculpated Parties**" means, collectively and individually, the Debtor's officers (David McMulllin, Darrin Malcus, Stacey Riggs, Clent Tremmell), the Debtor's Chief Restructuring Officers (David Beckman, Randy Davenport, Michael Buenzow), the Debtor's Chief Liquidation Officer (Peter J. Kravitz, Esquire), the Debtor's attorneys (Pepper Hamilton LLP; Snell & Wilmer LLP), the Debtor's financial advisor (FTI Consulting, Inc.), the members of the Committee (Robert J. Bayer; Quality Crushing; Oxbow Sulphur, Inc.; Plasticon Composites; Rollins Construction and Trucking, LLC; Western Explosives Systems Company; and Wheeler Machinery Company), the Committee's attorneys (Levene, Neale, Bender, Yoo & Brill, LLP; Cohne Kinghorn, PC), the Tailings DIP Lenders (Wellington Financing Partners, LLC; Broadbill Partners, L.P.; St. Cloud Capital Partners II, L.P.; and Oxbow Carbon, LLC), the

Interim DIP Lenders (Wellington Financing Partners, LLC, Waterloo Street Limited; and Broadbill Partners, LP), the Final DIP Lenders (Wellington Financing Partners, LLC, Broadbill Partners, L.P. and St. Cloud Capital Partners II, L.P.), the Tailings DIP Lenders', the Final DIP Lenders' and the Interim DIP Lenders' attorneys and advisors (Durham Jones &Pinegar, P.C.; Kirton McConkie, LLC and Jones Day, LLC); and the other Professionals retained in the Chapter 11 Case (Epiq Bankruptcy Solutions, LLC and Province, Inc.).

57. "**Executory Contract**" means any unexpired executory contract as of the Involuntary Petition Date or Order for Relief Date between the Debtor and any other Person or Persons, specifically excluding contracts and agreements entered into pursuant to this Combined Plan and Disclosure Statement.

58. "**Exit Milestones**" means those certain deadlines regarding the Debtor's sale process as established by the Final DIP Financing Order, as amended thereafter by agreement of parties in interest or Court Order.

59. "**Fiduciary Litigation**" means the litigation and the claims and causes of action being prosecuted, or to be prosecuted, by the Committee or other authorized representative appointed by the Court, against the former officers and members of the Debtor's Board of Managers, SMP, or the members of SMP. Following the Effective Date, the Committee (or other authorized representative) shall be authorized to prosecute, compromise, settle or abandon the Fiduciary Litigation, *provided, however*, that the proceeds of the Fiduciary Litigation shall inure to the benefit of the Liquidation Trust Beneficiaries and shall be transferred to the Liquidation Trust free and clear of all Liens, Claims and encumbrances.

60. "**Fiduciary Litigation Motion**" means the Motion for Order Granting Standing to Pursue Certain Claims for the Benefit of the Debtor's Estate; Memorandum of Points and Authorities (Dkt. No. 1030) filed on December 28, 2017.

61. "**Final DIP Financing Facility**" means the financing facility provided to the Debtor pursuant to the terms of the Final DIP Financing Order.

62. "**Final DIP Financing Order**" means the Final Order Pursuant To Sections 105, 361, 362, 363, 364, 365 And 507 Of The Bankruptcy Code (I) Authorizing Debtor To Obtain Superpriority Secured Debtor-In-Possession Financing, (II) Authorizing Debtor To Use Cash Collateral, (III) Granting Adequate Protection To The Prepetition Secured Parties And (V) Granting Related Relief (Dkt. No. 352), entered on October 11, 2016**.**

63. "**Final DIP Lenders**" means Wellington Financing Partners, LLC, Broadbill Partners, L.P. and St. Cloud Capital Partners II, L.P.

64. "**Final Distribution Date**" means the date on which the Liquidation Trustee makes a final Distribution to Holders of Allowed Claims.

65. "**Final Order**" means an Order of the Bankruptcy Court or another court of competent jurisdiction, as applicable, with respect to the relevant subject matter, which has not been reversed, stayed, modified, or amended, and as to which the time to appeal or seek certiorari has expired and no appeal or petition for certiorari has been timely taken, or as to

which any appeal that has been taken or any petition for certiorari that has been or may be filed has been resolved by the highest court to which the order or judgment could be appealed or from which certiorari could be sought or the new trial, reargument, or rehearing shall have been denied, resulted in no modification of such order, or has otherwise been dismissed with prejudice; provided, however, that the possibility a motion under Rule 60 of the Federal Rules of Civil Procedure, or any analogous rule under the Bankruptcy Rules or the Local Rules, may be filed relating to such order shall not prevent such order from being a Final Order..

66. "**First GUC Priority Distribution**" means the first $5,000,000 of Cash available to be distributed Pro Rata to Holders of the Allowed Class 3 Claims, the Allowed General Unsecured Claims, after (i) the payment in full of Allowed Administrative Expense Claims, Allowed Supplemental Administrative Expense Claims, Allowed Statutory Fees, Allowed Priority Tax Claims, Allowed Priority Non-Tax Claims (including Allowed GAP Period Claims), Allowed WARN Act Claims, Allowed Other Prepetition Secured Claims, and Allowed Prepetition Secured Equipment Loan Claims; (ii) the funding and establishment of any Claim Reserves on account of any Disputed Claims; and (iii) the payment of, and reserving for, the Wind-Down Expenses of the Estate and Liquidation Trust.

67. "**GAP Period Claims**" means Claims arising from June 2, 2016, the Involuntary Petition Date, through August 4, 2016, the Order of Relief Date, that constitute Allowed Claims under sections 502(f) and 507(a)(3) of the Bankruptcy Code.

68. "**General Bar Date**" means February 16, 2017 at 4:00 p.m. (Mountain Time).

69. "**General Unsecured Claim**" means any unsecured non-priority Claim against the Debtor that arose before the Order for Relief Date that is not an Administrative Expense Claim, a Supplemental Administrative Expense Claim, Statutory Fees, a Priority Tax Claim, a Priority Non-Tax Claim (including GAP Period Claims), a WARN Act Claim, a WUMI Deficiency Claim, a Waterloo Deficiency Claim, a Skye Mineral Partners, LLC Prepetition Secured Claim, an Other Prepetition Secured Claim, or a Prepetition Secured Equipment Loan Claim.

70. "**Governmental Bar Date**" means May 17, 2017 at 4:00 p.m. (Mountain Time).

71. "**Governmental Unit**" shall have the meaning set forth in section 101(27) of the Bankruptcy Code.

72. "**Holder**" means the beneficial holder of any Claim or Equity Interest.

73. "**Impaired**" means, with respect to a Class of Claims or Equity Interests, a Class of Claims or Equity Interests that is impaired within the meaning of section 1124 of the Bankruptcy Code

74. "**Initial Distribution Date**" means the first Business Day that is sixty (60) days after the Effective Date, or such longer period as may be reasonably determined by the

Liquidation Trustee, on which the Liquidation Trustee makes an initial Distribution under this Combined Plan and Disclosure Statement.

75. "**Insurance Policies**" means all insurance policies issued at any time to the Debtor, its affiliates or predecessors, and all agreements related thereto.

76. "**Interim DIP Financing Facility**" means the financing facility provided to the Debtor pursuant to the terms of the Interim DIP Financing Order.

77. "**Interim DIP Financing Motion**" means the Motion For Interim And Final Orders (I) Authorizing The Debtor To Obtain Postpetition Financing; (II) Authorizing Use Of Cash Collateral; (III) Granting Adequate Protection; And (IV) Scheduling A Final Hearing (Dkt. No. 137) filed on August 5, 2016.

78. "**Interim DIP Financing Order**" means the Interim Order Pursuant To Sections 105, 361, 362, 363, 364, 365 And 507 Of The Bankruptcy Code (I) Authorizing Debtor To Obtain Superpriority Secured Debtor-In-Possession Financing, (II) Authorizing Debtor To Use Cash Collateral, (III) Granting Adequate Protection To The Prepetition Secured Parties, (IV) Scheduling A Final Hearing, And (V) Granting Related Relief (Dkt. No. 162) entered on August 9, 2016, and as supplemented by (a) Order Approving Stipulation By And Between Debtor, DIP Lenders And Committee Increasing The Interim DIP Loan And Extending Term Of Interim Financing (Dkt. No. 253) entered on September 8, 2016, and (b) Order Approving Second Stipulation By And Between Debtor, DIP Lenders And Committee Increasing The Interim DIP Loan And Extending Term Of Interim Financing (Dkt. No. 282) entered on September 16, 2016.

79. "**Interim DIP Lenders**" means Wellington Financing Partners, LLC, Waterloo Street Limited, Broadbill Partners, LP, and any other entity who participated in the Interim DIP Financing Facility.

80. "**Interim Distribution Date**" means any date, after the Initial Distribution Date and before the Final Distribution Date, as may be reasonably determined by the Liquidation Trustee, on which the Liquidation Trustee makes a further Distribution under this Combined Plan and Disclosure Statement to the Holders of Allowed Claims.

81. "**Involuntary Petition**" means the involuntary bankruptcy petition (Dkt. No. 1) filed against CS Mining by the Petitioning Creditors.

82. "**Involuntary Petition Date**" means June 2, 2016.

83. "**IRS**" means the Internal Revenue Service.

84. "**Lien**" means a lien as defined in section 101(37) of the Bankruptcy Code.

85. "**Liquidation Trust**" means the uncertificated trust created pursuant to this Combined Plan and Disclosure Statement and the Liquidation Trust Agreement.

86. "**Liquidation Trust Advisory Board**" shall have the meaning set forth in Article IX(D) of this Combined Plan and Disclosure Statement.

87. "**Liquidation Trust Agreement**" means the agreement governing, among other things, the retention and duties of the Liquidation Trustee, as described in Article IX of this Combined Plan and Disclosure Statement, which shall be in form and substance reasonably satisfactory to the Debtor and the Committee and filed as Exhibit B to this Combined Plan and Disclosure Statement.

88. "**Liquidation Trust Assets**" means all rights, title and interest in the Debtor's Remaining Assets as of the day prior to the Effective Date, including, without limitation, the Debtor's Cash, the Debtor's Insurance Policies, the Causes of Action, the right to proceeds received from the Fiduciary Litigation, and all proceeds realized or received from any of the foregoing assets. The Liquidation Trust Assets shall be transferred to the Liquidation Trust on the Effective Date, free and clear of all Liens, Claims and encumbrances, *provided, however*, the Committee or other authorized representative is authorized to continue to prosecute, compromise, settle or abandon the Fiduciary Litigation after the Effective Date, and *further provided*, that the net proceeds of the Fiduciary Litigation (net of associated costs, fees and expenses) shall be transferred to the Liquidation Trust free and clear of all Liens, Claims and encumbrances and inure to and for the benefit of the Liquidation Trust Beneficiaries.

89. "**Liquidation Trust Beneficiaries**" mean the Holders of Allowed Claims that are entitled to a Distribution under this Combined Plan and Disclosure Statement, solely to the extent that such Claims have not been paid in full.

90. "**Liquidation Trustee**" means the individual to be appointed and designated as the Trustee of the Liquidation Trust created pursuant to Article IX of this Combined Plan and Disclosure Statement and the Liquidation Trust Agreement attached as Exhibit B to this Combined Plan and Disclosure Statement, or any successor person designated in accordance with the Liquidation Trust Agreement.

91. "**Local Rules**" mean the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Utah, Central Division.

92. "**Offer of Judgment**" means the Offer of Judgment extended by the Debtor to the Class Representative and Class Counsel in the WARN Act Litigation on December 22, 2017.

93. "**Noble**" means Noble Americas Corp.

94. "**Noble/Waterloo Debt**" means the August 12, 2014 prepetition secured credit facility by and between the CS Mining, as borrower, and Noble as lender, consisting, as of the Involuntary Petition Date, of $30,000,000 in principal and $5,423,837 in estimated accrued interest.

95. "**Noble/Waterloo Loan**" means that certain multi-draw term Loan and Security Agreement entered into on August 12, 2014 between CS Mining, as borrower, and Noble, as lender.

96. "**Non-United States Person**" means a Holder of a Claim that is not subject to either federal or state income taxation unless such Holder is (i) engaged in a trade or business in the United States to which income, gain or loss from the exchange is "effectively connected" for United States federal income tax purposes, or (ii) is an individual and such Holder is present in the United States for 183 days or more during the taxable year of the exchange and certain other requirements are met.

97. "**Order**" means an order or judgment of the Bankruptcy Court as entered on the Docket.

98. "**Order for Relief**" means the *Order for Relief* (Dkt. No. 130), entered on August 4, 2016.

99. "**Order for Relief Date**" means August 4, 2016.

100. "**Other Prepetition Secured Claim**" means Claims related to mechanic's liens or mining liens not settled as part of the Sale.

101. "**PacNet**" means PacNet Capital (U.S.) Limited.

102. "**Person**" shall have the meaning set forth in section 101(41) of the Bankruptcy Code.

103. "**Petitioning Creditors**" means Minerals Advisory Group, LLC, R.J. Bayer Professional Geologist, LC, Rollins Construction & Trucking, LLC, Rollins Machine, Inc., and Oxbow Sulphur, Inc., and after July 28, 2016, included Brahma Group, Inc.

104. "**Plan Documents**" means this Combined Plan and Disclosure Statement and all exhibits, schedules, and appendices thereto.

105.

106. "**Post-Effective Date Debtor**" means the Debtor on and after the Effective Date.

107. "**Prepetition Secured Equipment Loan Claims**" means the Claims of any Creditor who sold equipment to the Debtor prior to the Order for Relief Date on a secured basis, including, but not limited to, filing, recording and maintaining a valid, perfected and enforceable Lien against such equipment.

108. "**Prepetition Secured Indebtedness**" means the Noble/Waterloo Debt, SMP Debt, WUMI Debt, other secured debt/mechanic's lien claims estimated at approximately $5,000,000, and the GAP Period Claims estimated at approximately $600,000.

109. "**Prepetition Secured Lenders**" means WUMI, SMP and Waterloo.

110. "**Priming Obligations**" means the obligations set forth in the Sale Order as follows: (a) the first priority Liens granted to the Final DIP Lenders and Tailings DIP Lenders

in the Chapter 11 Case, including all obligations thereunder and all obligations under any forbearance agreements regarding such priority Liens, including all Allowed Claims, fees, interest and costs; (b) all Allowed Administrative Expense Claims, Allowed priority unsecured Claims; Allowed Priority Tax Claims, Allowed Professional Fee Claims, Claims Allowed under section 502(f) of the Bankruptcy Code, or incurred in the ordinary course of operating the Debtor's business during the Chapter 11 Case; (c) the Cure Costs (other than the Nevada Star Cure Costs and any Excess Cure Costs) (as defined in the Sale Motion); (d) the "Completion Fee" due and payable to Debtor's Chief Restructuring Officer, FTI Consulting; (e) valid, allowed obligations of the Debtor for unpaid and accrued real and personal property taxes as of the Closing Date that are secured by Liens against the Purchased Assets (as defined in the Sale Order); (f) all Liabilities (as defined in the Sale Motion) arising under any key employee incentive plan or key employee retention plan previously approved by the Bankruptcy Court; (g) all Allowed GAP Period Claims which were incurred during the period from the Involuntary Petition Date (June 2, 2016) and the Order for Relief Date (August 4, 2016) and that remain unpaid; and (h) the fees incurred by the Petitioning Creditors in connection with the filing of the Involuntary Petition.

111. "**Priority Non-Tax Claim**" means a Claim entitled to priority under 11 U.S.C. 507, including GAP Period Claims, that is not an Administrative Expense Claim, a Supplemental Administrative Expense Claim, Statutory Fees, a WUMI Deficiency Claim, a Waterloo Deficiency Claim, a Skye Mineral Partners, LLC Prepetition Secured Claim, an Other Prepetition Secured Claim, a Prepetition Secured Equipment Loan Claim, a Priority Tax Claim, a WARN Act Claim or a General Unsecured Claim.

112. "**Priority Tax Claim**" means a Claim entitled to priority under 11 U.S.C. 507(a)(8) that is not an Administrative Expense Claim, a Supplemental Administrative Expense Claim, Statutory Fees, , a Priority Non-Tax Claim (including a GAP Period Claim), a WARN Act Claim, a WUMI Deficiency Claim, a Waterloo Deficiency Claim, a Skye Mineral Partners, LLC Prepetition Secured Claim, an Other Prepetition Secured Claim, a Prepetition Secured Equipment Loan Claim, or a General Unsecured Claim.

113. "**Professional**" means any professional Person employed in the Chapter 11 Case pursuant to section 327, 328, 363 or 1103 of the Bankruptcy Code pursuant to an Order of the Bankruptcy Court and to be compensated for services rendered pursuant to section 327, 328, 329, 330, 331 or 363 of the Bankruptcy Code.

114. "**Professional Fee Claims**" means all Claims for compensation and reimbursement of expenses by Professionals to the extent Allowed by the Bankruptcy Court.

115. "**Pro Rata**" means the proportion that an Allowed Claim in a particular Class bears to the aggregate amount of Allowed Claims in the same Class.

116. "**Remaining Assets**" means all of the Assets, of any type or form whatsoever, held by the Debtor's Estate after the Sale Closing Date, including, without limitation, all Cash and Cash on Hand, retained real and personal property, Unsecured Claim Distribution, Causes of Action, interests in the Fiduciary Litigation, and any proceeds thereof.

117. "**Sale**" means the sale of substantially all of the Debtor's Assets to Tamra pursuant to the Sale Motion.

118. "**Sale Hearing**" means the hearing in this Chapter 11 Case that occurred before the Court on August 18, 2017.

119. "**Sale Motion**" means the Motion Of Debtor For Entry Of (I) An Order (A) Approving Bidding Procedures In Connection With Sale Of Substantially All Of The Estate's Assets, (B) Approving Expense Reimbursement, (C) Scheduling An Auction And Hearing To Consider The Proposed Sale, And (D) Approving The Form And Manner Of Notice Thereof; (II) An Order (A) Approving The Sale, (B) Authorizing The Assumption And Assignment Of Executory Contracts And Unexpired Leases, And (C) Granting Certain Related Relief (Dkt. No. 365) filed on October 21, 2016.

120. "**Sale Order**" means the Order (A) Approving The Sale Of The Debtor's Assets Free And Clear Of All Liens, Claims, Encumbrances, And Other Interests Pursuant To Sections 105, 363(b), (f) And (m) Of The Bankruptcy Code, (B) Approving The Assumption, Assignment, And Sale Of Certain Executory Contracts And Unexpired Leases Pursuant To Sections 363 And 365 Of The Bankruptcy Code And Related Cure Amounts, And (C) Granting Related Relief (Dkt. No. 895) entered on August 18, 2017.

121. "**Schedules**" means the schedules of Assets and liabilities and the statement of financial affairs filed by the Debtor (Dkt. No. 231) under section 521 of the Bankruptcy Code and Bankruptcy Rule 1007, and all amendments and modifications thereto.

122. "**Skye Joint Loan Modification Agreement**" means that certain Joint Loan Modification Agreement entered into on November 10, 2011 between CS Mining, as borrower, and SMP, as lender.

123. "**SMP Prepetition Secured Claim**" means the alleged prepetition secured claim held by SMP, consisting of $25,886,653 in principal and $1,543,052 in interest, which Claim is subordinate in all respects, including the right to repayment, to the WUMI Loan, the WUMI Debt, the WUMI Deficiency Claim, the Noble/Waterloo Loan, the Noble/Waterloo Debt and the Waterloo Deficiency Claim.

124. "**SMI**" means Skye Mineral Investors, LLC.

125. "**SMP**" means Skye Mineral Partners, LLC.

126. **"SMP Board**" means the Board of Managers of SMP.

127. "**SMP Debt**" means the debt of SMP related to the SMP Debt Instruments, estimated, as of the Involuntary Petition Date, in excess of $27 million, consisting of $25,886,653 in principal and $1,543,052 in accrued interest.

128. "**SMP Debt Instruments**" means the debt instruments previously issued by, or obligations of, WUCC and CKMC as modified by the Skye Joint Loan Modification Agreement.

129. "**SMP/Noble Intercreditor and Subordination Agreement**" means that certain Intercreditor and Subordination Agreement entered into on August 12, 2014 between CS Mining, SMP and Noble in connection with the Noble Loan.

130. "**SMP/WUMI Subordination Agreement**" means that certain Subordination Agreement entered into on August 10, 2012, between SMP, WUMI and the Debtor.

131. "**Statutory Fees**" means fees due and payable pursuant to section 1930(a)(6) of Title 28 of the U.S. Code or accrued interest thereon arising under 31 U.S.C. § 3717 prior to the Effective Date.

132. "**Supplemental Administrative Expense Claim**" means any right to payment constituting actual and necessary costs and expenses of preserving the Estate under sections 503(b) and 507(a) of the Bankruptcy Code including, without limitation, (a) any Professional Fee Claims, and (b) any fees or charges assessed against the Estate under section 1930 of chapter 123 of Title 28 of the United States Code, that arises between August 29, 2017 through and including the Effective Date.

133. "**Supplemental Administrative Expense Bar Date**" means the first Business Day that is thirty (30) days after the Effective Date to file an Administrative Expense Claim arising from August 29, 2017 through and including the Effective Date.

134. **"SXEW Facility**" means the Debtor's solvent extraction and electro-wining facility.

135. "**Tailings DIP Financing Facility**" means the financing facility provided to the Debtor pursuant to the terms of the Tailings DIP Financing Order.

136. "**Tailings DIP Financing Order**" means the Final Order (I) Authorizing The Debtor To Enter Into Additional $2.65 Million Postpetition Financing Agreement With Vendor And Existing DIP Lender; (II) Authorizing Amendment To Existing Debtor-In-Possession Financing Facility; (III) Approving Sulfuric Acid Supply Agreement; (IV) Authorizing The Use Of Cash Collateral And (V) Granting Adequate Protection (Dkt. No. 505) entered on January 17, 2017.

137. "**Tailings DIP Lenders**" means Wellington Financing Partners, LLC, a Delaware limited liability company, St. Cloud Capital Partners II, L.P., and Oxbow Carbon LLC.

138. "**Tamra**" means Tamra Mining, LLC.

139. "**Tax Attributes**" means the collective attributes of the taxpayer, including net operating losses, general business and minimum tax credit carry forwards, capital loss carry forwards, the basis of the taxpayer's assets and foreign tax credit carry forwards.

140. "**Tax Code**" means the Internal Revenue Code of 1986, as amended.

141. "**Treasury Regulations**" means the regulations, including temporary regulations or any successor regulations promulgated under the United States Internal Revenue Code of 1986, as amended from time to time.

142. "**Unexpired Lease**" means any unexpired lease as of the Involuntary Petition Date between the Debtor and any other Person or Persons, specifically excluding leases entered into pursuant to this Combined Plan and Disclosure Statement.

143. "**Unimpaired**" means, with respect to a Class of Claims or Equity Interests, a Claim or Equity Interest that is unimpaired within the meaning of section 1124 of the Bankruptcy Code.

144. "**Unsecured Claim Distribution**" means the aggregate amount of Cash or funds realizable from the Liquidation Trust Assets, after: (i) payment in full of all Allowed Administrative Expense Claims, Allowed Supplemental Administrative Expense Claims, Allowed Professional Fee Claims, Allowed Statutory Fees, Allowed Priority Tax Claims, Allowed Priority Non-Tax Claims, Allowed WARN Act Claims, Allowed Prepetition Secured Equipment Loan Claims and Allowed Other Prepetition Secured Claims; (ii) the funding and establishment of any Claims Reserves on account of any Disputed Claims; and (iii) the payment of, and reserving for, the Wind-Down Expenses of the Estate, the Post-Effective Date Debtor, the Liquidation Trust, the Liquidation Trust Advisory Board and the Fiduciary Litigation. For the avoidance of doubt, the Holders of the WUMI Deficiency Claim (Class 2(a)) and the Waterloo Deficiency Claim (Class 2(b)) shall not receive any Distribution on the First GUC Priority Distribution ($5,000,000) of the Unsecured Claim Distribution.

145. **"UST**" means the Office of the United States Trustee for the District of Utah, Central Division.

146. "**Voting Deadline**" means [_____ __], 2018 at 4:00 p.m. (MT).

147. "**WARN Act Claims**" means the Claims asserted under the Worker Adjustment and Retraining Notification Act of 1988 against the Debtor in adversary proceeding number 16-02095, captioned *Matthew Chenault v. CS Mining, LLC*.

148. "**WARN Act Litigation**" means the adversary proceeding, number 16-02095, captioned *Matthew Chenault v. CS Mining, LLC*.

149. "**WARN Act Litigation Option**" means one of the two options offered to the Holder of a WARN Act Claim pursuant to this Combined Plan and Disclosure Statement. Under the WARN Act Litigation Option, the Holder of a WARN Act Claim may affirmatively elect to continue to litigate their WARN Act Claim through the WARN Act Litigation with any Distributions to be paid the Holder of the WARN Act Litigation Option in accordance with a nonappealable Final Order entered in connection with the WARN Act Litigation. The WARN Act Litigation Option is in lieu of the WARN Act Settlement Option and is the default election if the Holder of a WARN Act Claim does not elect either the WARN Act Litigation Option or the WARN Act Settlement Option.

150. "**WARN Act Settlement Option**" means one of the two options offered to the Holder of a WARN Act Claim pursuant to this Combined Plan and Disclosure Statement. Under the WARN Act Settlement Option, the Holder of a WARN Act Claim will receive, in full and final satisfaction of their WARN Act Claim: (a) an Allowed unsecured Priority Non-Tax Claim equal to 35% of the aggregate amount of the individual's WARN Act Claim (as identified on the Ballot distributed to such Holder); and (b) an Allowed General Unsecured Claim equal to 65% of the aggregate amount of the individual's WARN Act Claim (also as identified on the Ballot distributed to such Holder). Under the WARN Act Settlement Option, the Allowed unsecured Priority Non-Tax Claim portion of the Holder's WARN Act Claim (35% of the individual's WARN Act Claim) shall be treated as an Allowed Class 1(b) Claim and shall be paid in cash, in full, on the Effective Date of the Combined Plan and Disclosure Statement. The Allowed General Unsecured Claim portion of the Holder's WARN Act Claim (65% of the WARN Act Claim) shall be treated as an Allowed Class 3 General Unsecured Claim and entitled to Distributions in accordance with the Distributions to be paid to the Holders of Allowed Class 3 General Unsecured Claims. The WARN Act Settlement Option is in lieu of the WARN Act Litigation Option and must be affirmatively elected on the Ballot provided to the Holder of a WARN Act Claim.

151. "**Waterloo**" means Waterloo Street (US) Limited.

152. "**Waterloo Adversary Action**" means the adversary action filed by the Debtor against Waterloo and Noble at Adversary Case No. 17-02025.

153. "**Waterloo Deficiency Claim**" means the allowed unsecured deficiency claim of $17,000,000 held by Waterloo against the Debtor and subordinated to the First GUC Priority Distribution to be distributed to Holders of Class 3 Allowed General Unsecured Claims.

154. "**Wind-Down Expenses**" means: (a) any costs and expenses of winding down the Estate and/or the Post-Effective Date Debtor, including, without limitation, payment of statutory fees and taxes required to be paid in connection with dissolving the Debtor; and (b) any costs and expenses of the Chief Wind-Down Officer and the Liquidation Trust, including without limitation, any compensation paid to the Liquidation Trustee, professionals and consultant retained by the Liquidation Trust, and any fees and expenses associated with maintaining the Liquidation Trust Assets, making Distributions in accordance with this Combined Plan and Disclosure Statement, and otherwise administering the Liquidation Trust.

155. "**WUCC**" means Western Utah Copper Company.

156. "**WUMI**" means David J. Richards, LLC, an Ohio limited liability company d/b/a Western US Mineral Investors, LLC.

157. "**WUMI Adversary Action**" means the adversary action filed by the Debtor against WUMI at Adversary Case No. 17-02024.

158. "**WUMI Debt**" means the debt of WUMI related to the WUMI Loan, which is estimated as of the Involuntary Petition Date in excess of $24 million, consisting of $20,500,000 in principal and $4,426,036 in interest.

159. "**WUMI Deficiency Claim**" means the allowed unsecured deficiency claim of $17,000,000 held by WUMI against the Debtor and subordinated to the First GUC Priority Distribution to be distributed to Holders of Class 3 Allowed General Unsecured Claims.

160. "**WUMI Loan**" means that certain Loan and Security Agreement entered into on August 10, 2012 between CS Mining, as borrower, and WUMI, as lender.

161. "**WUMI/Noble Intercreditor Agreement**" means that certain Intercreditor Agreement entered into on August 12, 2014 between CS Mining, WUMI and Noble in connection with the Noble Loan.

B. Interpretation; Application of Definitions and Rules of Construction

Wherever from the context it appears appropriate, each term stated in either the singular or the plural shall include both the singular and the plural and pronouns stated in the masculine, feminine or neuter gender shall include the masculine, feminine and neuter. Unless otherwise specified, all section, article, schedule or exhibit references in the Combined Plan and Disclosure Statement are to the respective section in, article of, schedule to, or exhibit to the Combined Plan and Disclosure Statement. The words "herein," "hereof," "hereto," "hereunder" and other words of similar import refer to the Combined Plan and Disclosure Statement as a whole and not to any particular section, subsection or clause contained in the Combined Plan and Disclosure Statement. The rules of construction contained in section 102 of the Bankruptcy Code shall apply to the construction of the Combined Plan and Disclosure Statement. A term used herein that is not defined herein, but that is used in the Bankruptcy Code, shall have the meaning ascribed to that term in the Bankruptcy Code. The headings in the Combined Plan and Disclosure Statement are for convenience of reference only and shall not limit or otherwise affect the provisions of the Combined Plan and Disclosure Statement. To the extent there is any inconsistency between any of the provisions of this Combined Plan and Disclosure Statement and any of the provisions contained in the Plan Documents to be entered into as of the Effective Date, the Plan Documents shall control.

C. Appendices and Plan Documents

All Plan Documents and appendices to this Combined Plan and Disclosure Statement are incorporated into by reference and are a part of this Combined Plan and Disclosure Statement as if set forth in full herein. The documents contained in the exhibits and the Plan Supplement shall be approved by the Bankruptcy Court pursuant to the Confirmation Order. Holders of Claims and Equity Interests may inspect a copy of the Plan Documents, once filed, in the Office of the Clerk of the Bankruptcy Court during normal business hours, or at http://dm.epiq11.com/CSMining, or obtain a copy of the Plan Documents by sending a written request to the following address: Epiq Bankruptcy Solutions LLC, 777 Third Avenue, 12th Floor New York, NY 10017.

ARTICLE III

BACKGROUND AND DISCLOSURES REGARDING PROPOSED PLAN

A. The Commencement of the Chapter 11 Case

On June 2, 2016, the Involuntary Petition Date, the Petitioning Creditors filed the Involuntary Petition. Brahma Group, Inc. filed a joinder to the Involuntary Petition on July 18, 2016. On August 4, 2016, after several months of attempting to negotiate an orderly entrance into a voluntary chapter 11 proceeding, including negotiation of debtor-in-possession financing and a business plan for the bankruptcy case, the Debtor consented to entry of the Order for Relief under chapter 11 and the Chapter 11 Case commenced.

The Court entered the Order for Relief on August 4, 2016. Following the Order for Relief Date, the Debtor continued to operate its business and manage its properties as debtor in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code. On August 12, 2016, the Office of the United States Trustee appointed the Committee, which consists of seven (7) members: Robert J. Bayer; Quality Crushing; Oxbow Sulphur, Inc.; Plasticon Composites; Rollins Construction and Trucking, LLC; Western Explosives Systems Company; and Wheeler Machinery Company.

No trustee or examiner has been appointed in the Chapter 11 Case.

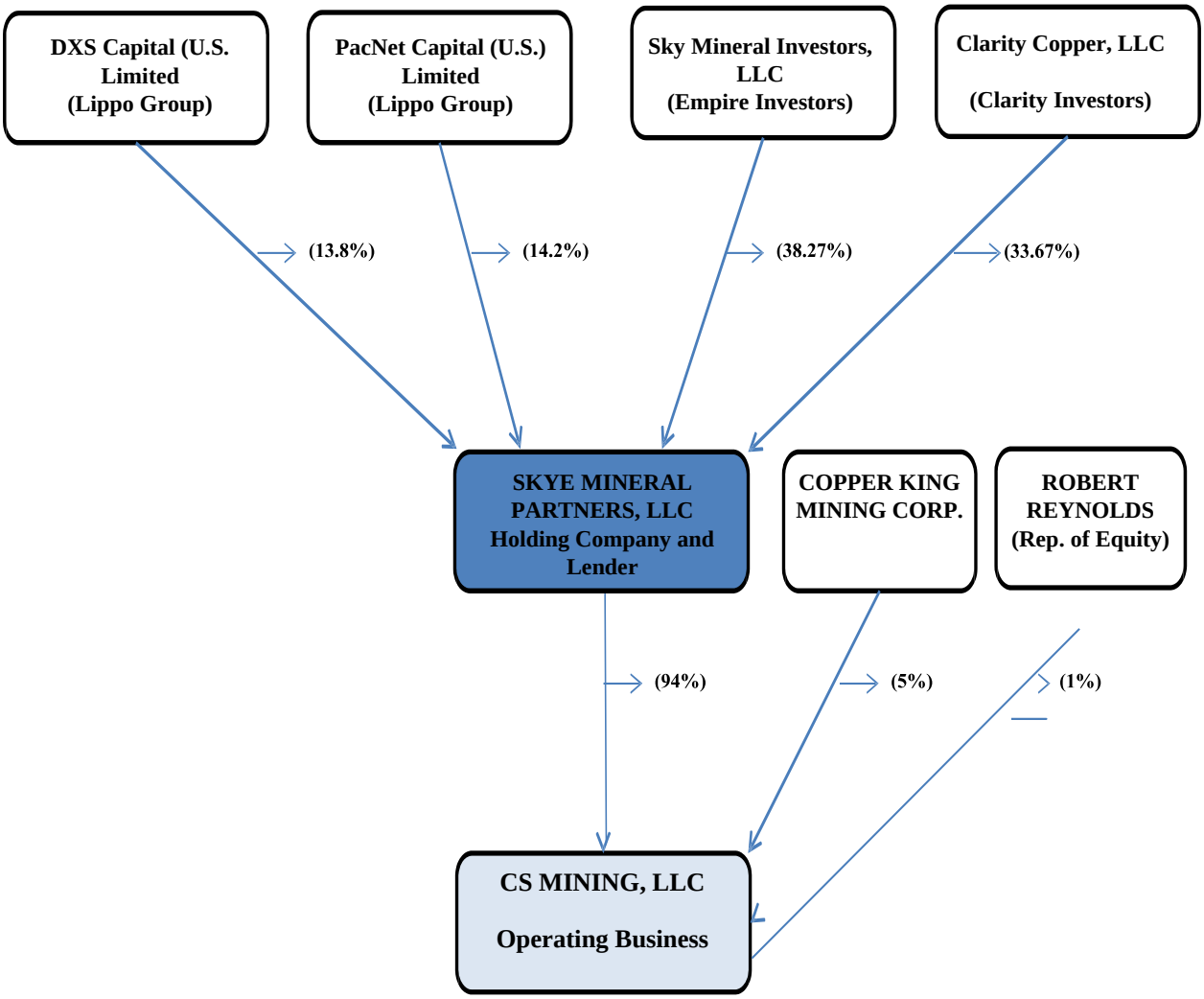
B. The Debtor's Corporate Structure

The Debtor is a Delaware limited liability company organized on June 20, 2011. The Debtor was formed and organized for purposes of purchasing substantially all of the assets of WUCC and CKMC, which assets were being sold in connection with WUCC's and CKMC's chapter 11 bankruptcy cases then pending in the Bankruptcy Court at Case No. 10-29159 WTT and Case No. 10-30002 WTT, respectively. The WUCC and CKMC assets included, among other property, certain mining, lease and equipment rights utilized by the Debtor prior to the Involuntary Petition Date.

The Debtor has three separate members, all of whom are parties to the certain Limited Liability Company Agreement of CS Mining, LLC dated as of October 31, 2011. The members of the Debtor include: (i) SMP; (ii) Robert Reynolds, as representative of the first lien lenders under that certain Equity Administration Agreement by and among the former first lien lenders of WUCC and CKMC, dated June 6, 2011; and (iii) CKMC.

SMP is the majority controlling member of the Debtor, owning approximately 94% of the common units, 100% of the preferred units, and 99.25% of the overall units of the Debtor. CKMC owns approximately 1% of the common units and 0.12% of the overall units of the Debtor, while Robert Reynolds represents approximately 5% of the common units and 0.62% of the overall units of the Debtor. SMP, in turn, is owned by DXS, PacNet, SMI, and Clarity. The Debtor also issued certain junior membership units in the Debtor to David McMullin, the Debtor's existing Chief Executive Officer and President, and Russell Alley, the Debtor's former Chief Executive Officer and President. The junior membership interests did not hold any voting or management rights in the Debtor.

The membership interests in the Debtor consisted of the following interests:



C. The Debtor's Business Operations

Prior to, and during the Chapter 11 Case, the Debtor was headquartered in Milford, Beaver County, Utah, near the mineral rich Anaconda Skarn. The Debtor owned, or otherwise controlled, approximately 60,000 acres of mineral rights and was in the business of mining and processing copper, gold, and silver. The Debtor possessed a 1,700 ton per day flotation mill and completed a bolt-on addition to its floatation plant to include an agitated leach/counter current decantation and solvent extraction and electro-wining facility, the SXEW Facility. As of the Involuntary Petition Date, the Debtor had identified 11 mining sites and estimated the life of its existing mining processing operations at four (4) years. This estimate did not include potential mining operations resulting from any future resource development.

The Debtor's state-of-art SXEW Facility consisted of a newly-constructed agitated leach processing facility designed to maximize recovery of oxide copper ore via an

agitated leach circuit and counter current decantation processing circuit, which would create copper cathode. The SXEW Facility included the construction of the six to eight year intermediate tailings dam for the acid tails produced from the operations. When in operation, the SXEW Facility could produce approximately 15+ million pounds of copper cathode per year (effectively 99.98% copper plates) with broad distribution opportunities.

The Debtor's mining operations were subject to certain regulatory review, oversight and approvals from the State of Utah and the United States Bureau of Land Management. The Debtor routinely provided required sampling and reporting data to the Utah Division of Water Quality and Utah Division of Oil Gas and Mining in connection with its operations. As of the Order for Relief Date, the Debtor was not in violation of any of its operating or reporting requirements in any material respect or that was not otherwise resolved or addressed to the satisfaction of the applicable regulating agency.

As of the Order for Relief Date, the Debtor employed approximately 25 employees on a part-time or full-time basis. At its peak at the end of December 2015, the Debtor employed 207 employees.

Following the Sale, the Debtor no longer maintains any mining operations or mining interests.

D. The Debtor's Management

The business and affairs of the Debtor are managed by and under the direction of the CSM Board. As of the Involuntary Petition Date, the CSM Board consisted of Marshall Cooper, David J. Richards and Clinton Walker. Messrs. Cooper, Richards, and Walker also serve on, and as, the Board of Managers of SMP, the majority member of the Debtor. In June of 2017, John Bryan, Sturges Karban, and Tom Reilly were appointed as additional managers to the CSM Board and the SMP Board.

Mr. Cooper and Mr. Reilly serve as DXS's and PacNet's designated representatives to the SMP Board and CSM Board. Mr. Richards and Mr. Karban serve as SMI's designated representatives to the SMP Board and CSM Board. Mr. Walker and Mr. Bryan serve as Clarity's designated representatives to the SMP Board and CSM Board.

The CSM Board appointed a management team to assist with the day-to-day operations of the Debtor. As of the Involuntary Petition Date, the Debtor's senior management team consisted of: David McMullin, President and Chief Executive Officer; Darin Malchus, Vice President of Finance; Stacey Riggs, Vice President Administration and Compliance; John Moyo, Mill Superintendent & Chief Metallurgist; and Clent D. Trammell, Director of Technology. David McMullin continues to serve as the Debtor's CEO.

Following the closing of the Sale, the CSM Board appointed and designated, pursuant to the Debtor's Limited Liability Operating Agreement, Peter Kravitz, Esquire and David McMullin as the Debtor's wind up designees for purposes of winding up the Debtor's business and affairs through a plan of liquidation. Following the appointment and designation of Messrs. Kravitz and McMullin, the members of the CSM Board resigned from the CSM Board,

and Messrs. Kravitz and McMullin are charged with winding up the Debtor's business and affairs.

On December 20, 2017, the Court entered an *Order Authorizing the Retention and Employment of Province, Inc. and the Designation of Peter J. Kravitz as Chief Liquidating Officer for CS Mining, LLC* [Dkt. No. 1022]. Pursuant to the Order, the Debtor was authorized to retain and employ Province, Inc. as its financial advisory and designate Peter S. Kravitz, Esquire as its Chief Liquidating Officer pursuant to section 327(a) of the Bankruptcy Code and on the terms set forth in Mr. Kravitz' engagement letter with the Debtor.

E. The Debtor's PrePetition Secured Indebtedness

Prior to the Involuntary Petition Date, the Debtor had over $93 million in Prepetition Secured Indebtedness, including:

(i) **The SMP Debt** - an alleged secured credit facility estimated in excess of $27,000,000 consisting of $25,886,653 in principal and $1,543,052 in accrued interest; and

(ii) **The WUMI Debt** - a secured credit facility estimated in excess of $24,000,000, consisting of $20,500,000 in principal and $4,426,036 in accrued interest;

(iii) **The Noble/Waterloo Debt** - a secured credit facility estimated in excess of $35,000,000, consisting of $30,000,000 in principal and $5,423,837 in accrued interest; and

(iv) **Other Secured Debt / Mechanic's Liens** – alleged claims relating to materialmen or mechanic's liens claims, estimated at approximately $5,000,000.

The Debtor's Prepetition Secured Indebtedness is discussed more fully below.

2. The SMP Debt.

On November 10, 2011, CS Mining, as borrower, and SMP, as lender, entered into the Skye Joint Loan Modification Agreement, wherein CS Mining and SMP agreed, in connection with the WUCC and CKMC bankruptcy cases, to modify the terms of certain debt instruments previously issued by, or were obligations of, WUCC and CKMC. The SMP Debt Instruments generally fell into four categories: (i) secured creditor debt instruments; (ii) Empire debt instruments; (iii) Republic debt instruments; and (iv) WUCC debtor-in-possession debt.

On August 10, 2012, SMP entered into that certain "Debt Subordination Agreement," the SMP/WUMI Subordination Agreement with CS Mining and WUMI. Pursuant to the SMP/WUMI Subordination Agreement, SMP agreed to subordinate (a) any and all rights of repayment under the Skye Joint Loan Modification and SMP Debt Instruments to the prior payment in full of all obligations owed by CS Mining to WUMI under the WUMI Loan and WUMI Debt instruments; and (b) all liens, security interests, mortgages, or deeds of trust

securing the obligations due and owing under the Skye Joint Loan Modification and SMP Debt Instruments, to the liens, security interests, mortgages or deeds of trust securing the WUMI Loan and WUMI Debt instruments. SMP further agreed pursuant to the SMP/WUMI Subordination Agreement, to not ask for, demand, sue or receive any payments of cash or property, or by set-off, from CS Mining unless and until all of CS Mining's obligations to WUMI were paid and satisfied in full in cash.

The Skye Joint Loan Modification was amended on August 12, 2014 to extend the maturity date under the SMP Debt Instruments to August 15, 2019. On the same date, SMP entered into that certain "Intercreditor and Subordination Agreement" by and among SMP, CS Mining and Noble, the SMP/Noble Subordination Agreement, wherein SMP agreed to wholly subordinate: (a) any and all rights of repayment under the Skye Joint Loan Modification and SMP Debt Instruments to the prior payment in full of all obligations owed by CS Mining to Noble under the Noble Loan and Noble/Waterloo Debt; and (b) all liens, security interests, mortgages, or deeds of trust securing the obligations due and owing under the Skye Joint Loan Modification and SMP Debt Instruments, to the liens, security interests, mortgages or deeds of trust securing the Noble Loan and Noble/Waterloo Debt. Pursuant to the SMP/Noble Subordination Agreement SMP further agreed to not ask for, demand, sue or receive any payments of cash or property, or by set-off, from CS Mining unless and until all of CS Mining's obligations to Noble were paid and satisfied in full in cash.

As of the Involuntary Petition Date, $25,866,653 in principal and $ 1,543,052 in interest were allegedly due and owing under the Skye Joint Loan Modification Agreement.

The Debtor disputes the nature, extent, validity and priority of the SMP Debt. Nevertheless, even if Allowed, the Skye Mineral Partners, LLC Prepetition Secured Claim and SMP Debt is subordinate to the right of payment in full of the Allowed Claims of WUMI and Waterloo. Moreover, insufficient assets and proceeds exist in the Debtor's Estate to make a Distribution to SMP thereby rendering the SMP Debt under-secured. The Debtor estimates that the Skye Mineral Partners, LLC Prepetition Secured Claim, if any, will not be entitled to, nor receive, any Distribution under this Combined Plan and Disclosure Statement.

3. <u>The WUMI Debt.</u>

On August 10, 2012, CS Mining, as borrower, and WUMI, as lender, entered into the WUMI Loan. The WUMI Loan originally consisted of a $3,500,000 capital expenditure line with a maturity date of July 31, 2017. The WUMI Loan was amended on 10 different occasions: (1) December 1, 2012, additional advance of $1,000,000 and added additional specified equipment to pledged collateral; (2) January 4, 2013, additional advance of $600,000 and added additional real property and personal property to pledged collateral; (3) April 24, 2013, additional advance of $1,000,000 and added real property and mining claims to pledged collateral; (4) May 14, 2013, additional advance of $8,400,000 and added additional real property and personal property interests to pledged collateral; (5) July 9, 2013, modifications of interest payments and covenants; (6) January 28, 2014, omnibus amendment to loan documents with additional advance of $2,000,000 and execution of a loan conversion and participation rights agreement; (7) February 4, 2014, additional advance of $2,000,000; (8) March 4, 2014, additional advance of $2,000,000; (9) July 21, 2014, additional advance of $2,500,000; and (10)

March 10, 2015, covenant requiring notice and consent before CS Mining could draw down more than $29,750,000 under the Noble/Waterloo Loan, also includes certain subordination agreements where WUMI subordinates certain rights under a fixture filing and deed of trust to Noble.

Pursuant to the January 28, 2014 loan conversion and participation rights agreement, WUMI, as lender, obtained the right to convert all or a portion of the amounts owed to it under the WUMI notes into membership interests in SMP. On July 21, 2014, the parties amended the Loan Conversion and Participation Rights Agreement to modify the "conversion price" associated with any conversion features of the WUMI Loan. WUMI's obligation to convert the WUMI Loan to equity of SMP is, and continues to be, the subject of dispute among holders of membership interests in SMP.

In connection with the WUMI Loan, CS Mining granted WUMI a security interest in all of its assets, with limited exclusions. The security interests granted to WUMI included a first priority deed of trust, Lien and security interest in all Assets of the Debtor, including all real and personal property and the proceeds thereof. The first position priority has been modified with respect to certain of the collateral pursuant to the debt subordination agreements, discussed more fully below, between the Debtor, SMP, WUMI, and Noble.

As of the Involuntary Petition Date, $20,500,000 in principal and $4,426,036 in interest, were allegedly due and owing under the WUMI Loan.

On February 17, 2017, the Debtor filed the WUMI Adversary Action, Adversary Case Number 17-02024, against WUMI, challenging the nature, extent, validity and priority of the WUMI Debt. The WUMI Adversary Action sought, among other relief, the disallowance, subordination and recharacterization of the WUMI Debt. The claims asserted by the Debtor against WUMI in the WUMI Adversary Action were ultimately settled and resolved as part of the Claims Resolution approved by the Bankruptcy Court in connection with the Sale and Sale Order.

Pursuant to the Claims Resolution, the Debtor, WUMI and Waterloo reached a settlement agreeing as follows:

(i) Waterloo shall have an allowed secured claim in the Chapter 11 Case in the amount of $23,000,000.00 (the "Waterloo Allowed Secured Claim"), secured by the Waterloo Collateral, and Waterloo's liens on the Waterloo Collateral shall be deemed validly perfected as of August 13, 2014, pursuant to various filed and recorded UCC financing statements and deeds of trust;

(ii) WUMI shall have an allowed secured claim in the Chapter 11 Case in the amount of $23,000,000.00 (the "WUMI Allowed Secured Claim"), secured by the WUMI Collateral, and WUMI's liens on the WUMI Collateral shall be deemed validly perfected as of August 10, 2012, pursuant to various filed and recorded UCC financing statements and deeds of trust;

(iii) WUMI and Waterloo shall withdraw, with prejudice, their respective objections to each other's Claims filed in the Chapter 11 Case or in any other manner, including any pending adversary proceedings brought by either WUMI or Waterloo against the other;

(iv) All obligations of the Debtor to WUMI or any of the Waterloo Parties, including the WUMI Allowed Secured Claim, the Waterloo Allowed Secured Claim, the WUMI Collateral and the Waterloo Collateral, shall be subordinate and subject to up to $23,000,000 of the Priming Obligations; and

(v) Waterloo and WUMI shall mutually release each other of any and all Released Claims that exist as of the Closing Date, except for claims related to each party's obligations under the Claims Resolution.

Pursuant to the Claims Resolution, which the Debtor incorporates into this Combined Plan and Disclosure Statement, the parties agreed to allocate the proceeds received from the Sale as follows: (i) $57,813.00 to be paid to Komatsu at Sale closing for the Estate's share of the Komatsu Financial Collateral; (ii) up to $23 million for the Priming Obligations; (iii) at Sale closing, $6 million to Waterloo in respect of the Waterloo Allowed Secured Claim; and (iv) at Sale closing, $6 million to WUMI in respect of the WUMI Allowed Secured Claim. The parties further agreed that at the Sale closing, WUMI and Waterloo shall contribute a portion of their initial distributions to the general unsecured creditors as follows: (a) WUMI will contribute the first $2 million it receives on account of the WUMI Initial Distribution to Debtor's Estate, free and clear of all Interests and (b) Waterloo will contribute the first $3 million it receives on account of the Waterloo Initial Distribution to Debtor's Estate, free and clear of all Claims and that each of Waterloo and WUMI shall retain an unsecured deficiency claim for those portions of the Waterloo Allowed Secured Claim and the WUMI Allowed Secured Claim that remain unpaid, *provided, however*, that such deficiency claims shall be subordinate to the aggregate $5,000,000 contribution payments and shall be subordinate to the First GUC Priority Distribution to the Holders of Allowed General Unsecured Claims.

4. <u>The Noble/Waterloo Debt</u>

On August 12, 2014, CS Mining, as borrower, and Noble, as lender, entered into the Noble Loan. Under the Noble Loan, Noble funded $30,000,000 to CS Mining on six separate occasions: (1) $15,000,000 on the closing date of the Noble Loan; (2) $3,750,000 on March 10, 2015; (3) $5,300,000 on April 29, 2015; (4) $3,988,889 on June 8, 2015; (5) $1,711,111 on July 8, 2015; and (6) $250,000 on February 3, 2016. As a further inducement for Noble to make the loans to CS Mining, SMP issued warrants to Noble. The warrants were exercisable by Noble and remained outstanding as of the Involuntary Petition Date.

CS Mining granted Noble a security interest in substantially all of its assets, with limited exclusions, in connection with the Noble Loan. The security interests granted to Noble under the Noble/Waterloo Debt and loan documents were junior in priority to the Liens, claims,

security interests and collateral granted to WUMI pursuant to the WUMI Debt, *except for* those Liens, claims, security interests and collateral that WUMI specifically agreed to subordinate to Noble pursuant to that certain August 12, 2014 WUMI/Noble Intercreditor Agreement by and among the Debtor, WUMI and Noble.

The Noble Loan was amended on four separate occasions: (1) March 9, 2015, extension of availability and equity contributions deadline; (2) April 15, 2015, extension of availability and equity contributions deadline; (3) June 1, 2015, inclusion of debt to equity ratio and audit delivery; and (4) December 4, 2015, inclusion of new provisions regarding excess cash flow, risk management, Chief Financial Officer, additional equity financing and update to projections. The December 4, 2015 amendment also provided for the waiver of existing defaults by CS Mining, as the borrower.

On or about December 31, 2015, Waterloo, an affiliate of DXS and PacNet, purchased the Noble Loan from Noble at a substantial discount. (Upon information and belief, Waterloo purchased the Noble Loan for $22 million, an approximate 27% discount from the face value of the Noble Loan.) Waterloo did not acquire the warrants issued to Noble as part of the Noble Loan, and those warrants remained outstanding as of the Involuntary Petition Date.

Waterloo's purchase of the Noble Loan was, and is, the subject of a continuing dispute among holders of membership interests in SMP.

As of the Involuntary Petition Date, $30,000,000 in principal (without reducing for the Original Issue Discount applicable to the warrants issued to Noble as part of the Noble Loan) and $5,423,837 in interest were allegedly due and owing under the Noble Loan.

On February 17, 2017, the Debtor filed the Waterloo Adversary Action, Adversary Case Number 17-02025, against Waterloo and Noble, challenging the nature, extent, validity and priority of the Noble/Waterloo Debt. The Waterloo Adversary Action sought, among other relief, the disallowance, subordination and recharacterization of the Noble/Waterloo Debt as well as disallowance of Noble's claims against the Debtor's Estate. The claims asserted in the Waterloo Adversary Action were ultimately settled and resolved as part of the "Claims Resolution" approved by the Bankruptcy Court.

F. Other Secured Debt and Security Interests

As of the Involuntary Petition Date, certain other Liens or secured Claims were asserted against CS Mining's assets, including alleged mechanic's lien and materialman's lien claims, mineral and mining rights claims, and secured lease claims. The Debtor settled or resolved the majority of the other secured debt and security interests claims in connection with the Sale. To the extent the Holder of an Allowed Claim related to other secured debt or security interests is determined to be senior in priority to the Holder of an Allowed Class 2(a) or Class 2(b) Claim, then the Allowed Class 2(d) Holder will be paid in full under this Combined Plan and Disclosure Statement.

G. The Intercreditor Subordination Agreements Affecting the Prepetition Secured Indebtedness

1. The SMP Subordination Agreement in Favor of WUMI

As noted above, on August 10, 2012, SMP, WUMI and the Debtor entered into the SMP/WUMI Subordination Agreement. Pursuant to the SMP/WUMI Subordination Agreement, SMP agreed to subordinate: (a) any and all rights of repayment under the Skye Joint Loan Modification and SMP Debt Instruments to the prior payment in full of all obligations owed by CS Mining to WUMI under the WUMI Loan and WUMI Debt instruments; and (b) all liens, security interests, mortgages, or deeds of trust securing the obligations due and owing under the Skye Joint Loan Modification and SMP Debt Instruments, to the liens, security interests, mortgages or deeds of trust securing the WUMI Loan and WUMI Debt instruments. SMP further agreed pursuant to the SMP/WUMI Subordination Agreement, to not ask for, demand, sue or receive any payments of cash or property, or by set-off, from CS Mining unless and until all of CS Mining's obligations to WUMI were paid and satisfied in full in cash.

2. The WUMI, Noble and CS Mining Intercreditor Agreement

On August 12, 2014, CS Mining, WUMI and Noble (before Waterloo's purchase of the Noble Loan) entered into that WUMI/Noble Intercreditor Agreement in connection with the Noble Loan. Pursuant to the WUMI/Noble Intercreditor Agreement, WUMI subordinated certain of the Liens, security interests, mortgages, deeds of trust and rights of repayment, granted to WUMI by the Debtor, to Noble. Pursuant to the WUMI/Noble Intercreditor Agreement, Noble held a first priority security interest and senior right of repayment in the "Noble Priority Collateral" (as set forth and defined in the WUMI/Noble Intercreditor Agreement), while WUMI held a first priority security interest and senior right of repayment in the "WUMI Priority Collateral" (also as set forth and defined in the WUMI/Noble Intercreditor Agreement).

3. The SMP Intercreditor and Subordination Agreement Between CS Mining, SMP and Noble

On August 12, 2014, CS Mining, SMP and Noble (before Waterloo's purchase of the Noble Loan) entered into the SMP/Noble Subordination Agreement in connection with the Noble Loan. Through the SMP/Noble Subordination Agreement, SMP agreed to wholly subordinate: (a) any and all rights of repayment under the Skye Joint Loan Modification and SMP Debt Instruments to the prior payment in full of all obligations owed by CS Mining to Noble under the Noble Loan and Noble/Waterloo Debt; and (b) all liens, security interests, mortgages, or deeds of trust securing the obligations due and owing under the Skye Joint Loan Modification and SMP Debt Instruments, to the liens, security interests, mortgages or deeds of trust securing the Noble Loan and Noble/Waterloo Debt. Pursuant to the Intercreditor and Subordination Agreement SMP further agreed to not ask for, demand, sue or receive any payments of cash or property, or by set-off, from CS Mining unless and until all of CS Mining's obligations to Noble were paid and satisfied in full in cash. The Debtor seeks to enforce the terms and conditions of the Debt Subordination Agreement and Intercreditor and Subordination Agreements as part of this Combined Plan and Disclosure Statement.

Pursuant to the SMP/WUMI Subordination Agreement and the SMP/Noble Subordination Agreement, SMP is not entitled to any repayment of the SMP Debt, unless, and until, the WUMI Debt and Noble/Waterloo Debt are indefeasibly paid in full. The Holders of the WUMI Deficiency Claim and the Waterloo Deficiency Claim have yet to be paid in full (*i.e.* each holding $17,000,000 in deficiency claims), and the Debtor does not believe it will generate sufficient proceeds from the liquidation of its Remaining Assets to pay the WUMI Deficiency Claim or the Waterloo Deficiency Claims in full, thereby obviating any distribution to the Holders of the SMP Debt, assuming the Skye Mineral Partners, LLC Prepetition Secured Claim is Allowed by the Bankruptcy Court.

H. The Debtor's Pre-Petition General Unsecured Claims

The Debtor estimates, as of the Involuntary Petition Date, it owed less than $20,000,000 in General Unsecured Claims. The General Unsecured Claims consist of Claims of trade vendors, lessors of equipment, service providers, employees, and other unsecured creditors. The Debtor's estimate does not include Claims arising from the rejection of any Executory Contracts or Unexpired Leases.

I. The Circumstances Leading To The Debtor's Chapter 11 Case

Unfortunately, a confluence of a number of factors impacted the Debtor's business and operations leading directly to the Debtor's decision to consent to the Order for Relief. These factors included: (i) a highly leveraged balance sheet, consisting of over $93 million of alleged secured debt; (ii) a depressed copper commodity market, including a three to four year low price of copper; (iii) ongoing differences of opinion and disputes among the Equity Interests/members of the Debtor, including disputes with respect to the priority of the Debtor's Prepetition Secured Indebtedness and raising additional capital; (iv) cost overruns and delays relating to the Debtor's SXEW Facility; (v) a decline in "floatation only" ore reserves while the SXEW Facility was being built; (vi) a stoppage in continued resource development and resource enhancement programs due to a lack of capital; and (vii) ongoing disputes and litigation asserted by and among the Debtor's Equity Interests/members and the Debtor's alleged Prepetition Secured Lenders.

Despite the Debtor's good faith efforts, including the Debtor actively seeking to raise capital both externally and internally (i.e., including exploring an out-of-court balance sheet restructuring that would have included the infusion of significant capital from one of the Debtor's existing members), the Debtor was unable to continue to fund its mining and business operations and was forced to suddenly lay off several employees. The above factors, coupled with unforeseen business and market circumstances, led to the Debtor's ultimate decision to consent to a voluntary Order for Relief under chapter 11 of the United States Bankruptcy Code.

J. Significant Events In The Chapter 11 Case

The following is a brief description of certain significant events that occurred during this Chapter 11 Case.

1. The Involuntary Petition and Order for Relief

On June 2, 2016, the Petitioning Creditors filed the Involuntary Petition. Pursuant to Rule 1011(b), CS Mining initially had 21 days from service of the summons to contest or otherwise respond to the Involuntary Petition. The Debtor and Petitioning Creditors agreed to extend the deadline to respond to the Involuntary Petition on several occasions.

On August 4, 2016, CS Mining filed a letter with the Court consenting to the entry of the Order for Relief. On August 4, 2016, the Court entered the Order for Relief.

2. First Day Motions and Orders

On August 5, 2016, the day after the Order for Relief Date, the Debtor filed a number of motions and applications seeking certain "first day" relief, including the following:

Motion For Order Authorizing Payment Of Prepetition Wages, Compensation, And Employee Benefits And Related Relief. The Debtor sought entry of an Order authorizing, but not directing, the Debtor to pay: (i) prepetition wages, salaries, and paid time off; (ii) unreimbursed or unpaid, as applicable, prepetition business expenses; (iii) prepetition contributions to, and benefits under, employee benefit plans; and (iv) prepetition withholdings to the appropriate parties. On August 10, 2016, the Bankruptcy Court granted the motion.

Motion For Interim And Final Orders Establishing Adequate Assurance Procedures With Respect To Debtor's Utility Companies. The Debtor sought an Order (i) establishing procedures for determining requests for additional assurance of payment by utility companies currently providing, or providing in the future, services to the Debtor; (ii) prohibiting the utility companies from altering, refusing or discontinuing services to, or discriminating against the Debtor; and (iii) approving an adequate assurance deposit as adequate assurance of postpetition payment to the utility companies. On August 9, 2016, the Bankruptcy Court approved the motion on an interim basis. On September 7, 2016, the Bankruptcy Court entered a final Order granting the motion.

Motion For Interim And Final Orders Authorizing The Debtor To Continue Its Insurance Programs And Pay Related Obligations. The Debtor sought an Order authorizing the Debtor to (i) continue its Insurance Policies for coverage related to general liability, automobile, workers' compensation, umbrella, excess, pollution, property, and director and officer liability; and (ii) pay certain prepetition and postpetition obligations related thereto. On August 10, 2016, the Bankruptcy Court entered an Order granting the motion on an interim basis. On September 7, 2016, the Bankruptcy Court entered a final Order granting the motion.

Motion For Interim And Final Orders Approving The Continued Use Of The Debtor's Cash Management System. The Debtor requested that the Bankruptcy Court (i) approve the Debtor's continued use of its current cash management system, existing bank accounts and business forms, including authorizing the Debtor to open and close bank accounts; (ii) grant the Debtor a 45-day extension to comply with the requirements of Bankruptcy Code section 345(b) and interim approval of the Debtor's current investment and deposit guidelines; and (iii) authorize the bank participating in the cash management system (Wells Fargo Bank, N.A.) to honor certain transfers and charge bank fees and certain other amounts. On August 9,

2016, the Bankruptcy Court entered an interim Order granting the motion. On September 30, 2016, the Bankruptcy Court entered a final Order granting the motion.

Motion For Interim And Final Orders (I) Authorizing The Debtor To Obtain Postpetition Financing; (II) Authorizing Use Of Cash Collateral; (III) Granting Adequate Protection; And (IV) Scheduling A Final Hearing. The Debtor sought an Order (i) authorizing the Debtor to obtain postpetition financing on a senior secured, priming, superpriority basis; (ii) authorizing the Debtor to use cash collateral; (iii) granting adequate protection to the holders of Prepetition Secured Indebtedness for the priming of the prepetition Liens and the Debtor's use of the cash collateral; and (iv) scheduling a final hearing on the Motion. Several objections to the Interim DIP Financing Motion were filed. On August 9, 2016, the Bankruptcy Court entered an Order granting the Interim DIP Financing Motion on an interim basis, and allowing the Debtor to borrow $2,675,000 to fund its business and the prosecution of the Chapter 11 Case.

The amount of the Interim DIP Financing was increased by agreement of the Debtor, the Prepetition Secured Lenders, the Interim DIP Lenders and the Committee on September 7, 2016. Pursuant to the *Order Approving Stipulation By And Between Debtor, DIP Lenders And Committee Increasing The Interim DIP Loan And Extending Term Of Interim Financing* (Dkt. No. 253), the Debtor was authorized to borrow an additional $1,000,000 under the Interim DIP Financing Motion, for total approved borrowings of $3,675.000, while the term of the Interim DIP Financing Facility was extended to September 23, 2016.

On September 16, 2016, the Debtor, Prepetition Secured Lenders, the Interim DIP Lenders and Committee agreed to extend the term of the Interim DIP Financing Facility through September 30, 2016, pursuant to the *Order Approving Second Stipulation By And Between Debtor, DIP Lenders And Committee Increasing The Interim DIP Loan And Extending Term Of Interim Financing* (Dkt. No. 282**)**.

On October 11, 2016, the Bankruptcy Court entered the Final DIP Financing Order approving the Final DIP Financing Facility. Pursuant to the Final DIP Financing Order, certain "Exit Milestones" were established for the sale of the Debtor's Assets. The Final DIP Financing Order also authorized the Debtor to borrow and spend up to $7,675,000 in connection with its ongoing business operations and Chapter 11 Case. In return for the Final DIP Financing Facility, the Final DIP Lenders were granted certain priming and superpriority Liens and Claims over the Debtor's Assets.

On December 7, 2016, the Debtor filed a motion seeking authority to enter into a Tailings DIP Financing Facility with a related sulfuric acid supply agreement. Pursuant to the Tailings DIP Financing Order, entered by the Court on January 17, 2017, the Exit Milestones, including the timeline established for the Debtor to sell its Assets, were extended an additional four (4) months. Moreover, the Debtor was authorized: (a) to borrow an additional $2,675.000, for total post-petition secured borrowings in excess of $10,000,000; and (b) to expend a total of $4.0 million of its borrowings in connection with the Debtor's resource development program. The extension of the Exit Milestones, coupled with an expanded resource development program, allowed the Debtor to attract additional bidders to the sale process. Like the Final DIP Lenders, the Tailings DIP Lenders were granted certain priming and superpriority Liens and claims over the Debtor's Assets.

The Debtor has satisfied and paid in full all obligations due and owing under the Interim DIP Financing Facility, the Final DIP Financing Facility and Tailings DIP Financing Facility.

3. Employment and Compensation of Debtor's Professionals and Advisors

On July 15, 2016, the Bankruptcy Court entered Orders authorizing the Debtor to retain Pepper Hamilton LLP as Debtor's primary bankruptcy counsel and Snell & Wilmer L.L.P. as Debtor's local counsel.

On August 24, 2016, the Bankruptcy Court entered an Order authorizing the Debtor to retain: (a) FTI Consulting, Inc. as interim management and restructuring advisor to the Debtor; and (b) Michael Buenzow, David Beckman and Randy Davenport as the Debtor's Chief Restructuring Officers.

4. Appointment of Committee

On August 12, 2016, the UST appointed the Committee pursuant to Bankruptcy Code section 1102. The members of the Committee are Robert J. Bayer, Quality Crushing, Oxbow Sulphur, Inc., Plasticon Composites, Rollins Construction and Trucking, LLC, Western Explosives Systems Company and Wheeler Machinery Company. To assist the Committee in carrying out its duties, the Committee selected Levene, Neale, Bender, Yoo & Brill L.L.P. and Cohne Kinghorn as its counsel. On September 7, 2016, the Bankruptcy Court entered an Order authorizing the Committee to employ Levene, Neale, Bender, Yoo & Brill L.L.P. as primary bankruptcy counsel and Cohne Kinghorn as local counsel.

5. Claims Process and Bar Dates

Section 341(a) Meeting of Creditors. On September 9, 2016, the UST presided over the Section 341(a) meeting of creditors in the Chapter 11 Case.

Schedules and Statement. The Debtor filed its Schedules and Statement of Financial Affairs with the Bankruptcy Court on September 2, 2016.

Bar Date(s). The Bankruptcy Court fixed February 16, 2017 at 4:00 p.m. Mountain Time as the General Bar Date by which Creditors had to file proofs of Claim for prepetition Claims against the Debtor in this Chapter 11 Case. The Governmental Bar Date for filing a proof of Claim for prepetition Claims held by Governmental Units against the Debtor was May 17, 2017 at 4:00 p.m. Mountain Time. The notice of the General Bar Date was served on the Debtor's Creditors, including each of the Class Plaintiffs in the WARN Act Litigation. Despite notice of the General Bar Date, the Class Plaintiffs did not file any individual proofs of Claims. The Class Representative did not seek authority to file a proof of Claim on behalf of the Class Plaintiffs. Neither the Class Plaintiffs nor the Class Representative filed any motion to extend the General Bar Date.

The Bankruptcy Court further fixed October 31, 2017 as the date by which Creditors have to file proofs of Claims for Administrative Expense Claims that arose in this

Chapter 11 Case from the Involuntary Petition Date through and including August 28, 2017. Professional Fee Claims are excluded from the Administrative Expense Bar Date.

Under the Combined Plan and Disclosure Statement, Administrative Expense Claims arising after August 28, 2017 through and including the Effective Date, including Professional Fee Claims, must be filed by the Supplemental Administrative Expense Bar Date, which is the first Business Day that is 30 days after the Effective Date.

6. The WUMI and Noble/Waterloo Adversary Actions

On February 17, 2017, the Debtor commenced the WUMI Adversary Action and Waterloo Adversary Action. By the WUMI Adversary Action, the Debtor sought to disallow, subordinate and recharacterize WUMI's Claims against the Debtor. By the Waterloo Adversary Action, the Debtor sought to disallow, subordinate and recharacterize Waterloo's Claims against the Debtor, while also disallowing and subordinating Noble's Claims against the Debtor.

The Debtor engaged in extensive discovery in connection with the two adversary actions. The adversary actions were ultimately resolved in connection with the "Claims Resolutions" approved by the Bankruptcy Court in connection with the Sale and Sale Order. The Claims Resolutions have provided significant value to the Debtor's Estate, including: (a) the payment of $5 million of unencumbered funds to the Debtor's Estate free and clear of Liens and Claims; (b) the subordination of WUMI's and Waterloo's Claims to the Priming Obligations; (c) the subordination of WUMI's and Waterloo's Claims to the First GUC Priority Distribution; and (d) the reduction, in the approximate amount of $20 million, of WUMI's and Waterloo's Claims against the Estate.

7. Key Employee Retention Plan and Key Employee Incentive Plan

On October 31, 2016, the Debtor filed the *Motion Of Debtor For Entry Of An Order Approving Key Employee Retention Plan and Key Employee Incentive Plan.* The Debtor sought approval of the two plans for purposes of retaining certain key employees, who were integral to maximizing post-petition value for Creditors, during the Chapter 11 Case. On December 13, 2016 the Bankruptcy Court approved the motion and the amounts due and owing under the two plans have since been paid out to the participants in the plans.

8. The Sale of Substantially All of the Debtor's Assets

On October 21, 2016, the Debtor filed the Sale Motion. The Sale Motion sought, among other things: (i) approval of "Bid Procedures" in connection with the Sale; (ii) approval of the form and manner of notice of the Sale; (iii) approval of an auction date and hearing to approve the Sale; and (iv) approval of an Order approving the Sale and authorizing the assumption and assignment of Executory Contracts and Unexpired Leases.

The Sale Motion proposed an auction and sale deadline consistent with the Exit Milestones previously established by the Bankruptcy Court in the Final DIP Financing Order. However, on November 1, 2016, the Debtor, after consultation with the Final DIP Lenders and the Debtor's Chief Restructuring Officers, determined that an additional forty-five (45) day extension of the Exit Milestones would further maximize the value of the Debtor's Assets and

improve the sale process. Consequently, on November 18, 2016, the Court entered an Order granting and approving the proposed Bid Procedures (as defined in the Sale Motion) and extended Exit Milestones. The Exit Milestones were further extended on January 17, 2017 and July 12, 2017. *See* Dkt. Nos. 506 and 723.

No stalking horse bid was received for the Assets, and on August 7 and 8, 2017, the Debtor held the auction. Tamra Mining Company, LLC was announced as the highest and best bidder at the conclusion of the auction.

On August 18, 2017, the Bankruptcy Court entered the Sale Order approving the Sale to Tamra. The Debtor closed on the Sale to Tamra on August 28, 2017. The Debtor received $35,000,000 from the Sale, of which approximately $23,000,000 will be used to pay the Priming Obligations and $12,000,000 of which was used to pay the Allowed Secured Claims of WUMI and Waterloo in accordance with the Claims Resolution set forth in the Sale Order. Pursuant to the Sale Order, WUMI and Waterloo agreed to contribute a portion of their $12,000,000 distributions to the Debtor's Estate free and clear of any Liens, Claims or Interests with: (i) WUMI contributing $2,000,000 to the Debtor's Estate; and (ii) Waterloo contributing $3,000,000 to the Debtor's Estate.

As of December 1, 2017, the Debtor held approximately $10,000,000 in Cash, $5,000,000 of which represents the contributions received from WUMI and Waterloo pursuant to the Sale Order, the balance of which represents funds received from the Sale to pay any unpaid Priming Obligations identified in the Sale Order, as well as other Cash received, generated or held by the Debtor outside of the proceeds received from Sale. The Cash held by the Debtor will be used to implement and fund the Combined Plan and Disclosure Statement and Distributions, including the costs and expenses of the Liquidation Trust and the Fiduciary Litigation, as well as fund the Distributions to the Holders of Allowed Claims.

9. The Appointment of Wind-Up Designees and Resignation of the Members of the CSM Board

Following the closing of the Sale, the CSM Board appointed and designated, pursuant to the Debtor's Limited Liability Operating Agreement, Peter Kravitz, Esquire and David McMullin as the Debtor's wind up designees for purposes of winding up the Debtor's business and affairs through a plan of liquidation. The members of the CSM Board subsequently resigned from the CSM Board following the appointment Messrs. Kravitz and McMullin. Messrs. Kravitz and McMullin are charged with winding up the Debtor's business and affairs.

10. Retention of Peter J. Kravitz, Esquire as Chief liquidation Officer

On November 22, 2017, the Debtor filed a *Motion For Entry Of An Order Authorizing The Retention And Employment Of Province Inc. And The Designation Of Peter S. Kravitz As Chief Liquidating Officer For CS Mining, LLC* [Dkt No. 1002]. On December 20, 2017, the Court entered its *Order Approving Retention And Employment Of Province Inc. And The Designation Of Peter S. Kravitz As Chief Liquidating Officer For CS Mining, LLC* [Dkt. No. 1022].

Mr. Kravitz continues to serve as the Debtor's Chief Liquidation Officer and CSM Board wind up designee. Mr. McMullin continues to serve as the Debtor's Chief Executive Officer and CSM Board Wind Up Designee.

11. Motion of Committee for Standing to Prosecute Fiduciary Litigation

On December 28, 2017, the Committee filed the Fiduciary Litigation Motion [Dkt. No. 1030]. By the Fiduciary Litigation Motion, the Committee seeks standing, and authority, to prosecute certain breach of fiduciary duty and derivative claims against certain officers and members of the CSM Board. The Fiduciary Litigation Motion is pending before the Court and is set to be heard by the Court on January 31, 2018. Pursuant to the Fiduciary Litigation Motion, all proceeds of the Fiduciary Litigation, including any proceeds received from any of the Debtor's Insurance Policies, shall be remitted to the Liquidation Trust to and for the benefit of the Liquidation Trust Beneficiaries. No executive, officer or member of the CSM Board shall assist, participate or solicit the Committee in the prosecution of the Fiduciary Litigation.

The Fiduciary Litigation seeks to recover damages against certain former officers and members of the CSM Board, as well as certain members of SMP, arising from the individual defendants' alleged breaches of fiduciary duty and alleged aiding and abetting breaches of fiduciary duty. The Debtor does not oppose the relief sought by the Fiduciary Litigation Motion and believes the Committee, or another authorized representative, should be granted standing to prosecute, compromise, settle, pursue or abandon the Fiduciary Litigation, *provided however*, the proceeds of the Fiduciary Litigation, net of fees, costs and expenses incurred by the Committee in connection with the Fiduciary Litigation, shall inure to the benefit of the Liquidation Trust Beneficiaries and be transferred to the Liquidation Trust free and clear of all Liens, Claims and encumbrances. It is contemplated that the Fiduciary Litigation will be handled on a contingency fee basis, or a partial contingency reduced fee basis, upon application approved by the Bankruptcy Court.

The likelihood of realizing a successful verdict, settlement or recovery against the defendants in the Fiduciary Litigation remains uncertain. For purposes of this Combined Plan and Disclosure Statement the Debtor assumes no recovery will be realized on the Fiduciary Litigation, and, therefore, the Fiduciary Litigation will not result in any further Distribution to Holders of Allowed Claims.

12. The WARN Act Litigation

On June 7, 2016, Matthew Chenault commenced the WARN Act Litigation by filing a complaint against the Debtor. The WARN Act Litigation is captioned *Matthew Chenault v. CS Mining, LLC*, and was assigned Adversary No. 16-02095. The complaint filed by Mr. Chenault asserts a "Class Action Adversary Proceeding Complaint For Violation Of WARN Act 29 U.S.C. 2101 *et. seq.*" The complaint seeks a class action for the recovery by Mr. Chenault and other similarly situated employees of the Debtor for damages in the amount of 60 days' pay and ERISA benefits by reason of the Debtor's alleged violations of the Worker Adjustment and Retraining Notification Act, 29 U.S.C. §§ 2101 *et seq.* The Complaint sought relief against the Debtor, including: (a) certification of the action as a class action; (b) designation of Mr. Chenault

as the Class Representative; (c) appointment of Outten & Golden as Class Counsel; (d) an Allowed wage priority Claim up to $12,475 of the WARN Act Claims of the Class Plaintiffs and each other similarly situated former employee pursuant to sections 507(a)(4) and 507(a)(5) of the Bankruptcy Code, with the remainder as a General Unsecured Claim, equal to the sum of: (i) unpaid wages, salary, commissions, bonuses, accrued holiday pay, accrued vacation pay pension and 401(k) contributions and other ERISA benefits, for 60 days, that would have been covered and paid under the then applicable employee benefit plans had that coverage continued for that period, all determined in accordance with the federal WARN Act, 29 U.S.C. § 2104(a)(1)(A) or, in the alternative a first priority administrative expense claim against the Debtor pursuant to section 503(b)(1)(A)(ii) in favor of Mr. Chenault and the other similarly situated former employees equal to those sums; (e) reasonable attorneys' fees and the costs and disbursements that Mr. Chenault will incur in prosecuting the WARN Act Litigation, as authorized by the federal WARN Act; and (f) such other and further relief the court deems just and proper.

On August 23, 2016, the Debtor filed its Answer and Affirmative Defenses to the WARN Act Litigation complaint. In its Answer, the Debtor asserted fifteen (15) separate affirmative defenses: (i) failure to state a claim upon which relief could be granted; (ii) failure to set forth facts which give rise to a claim; (iii) unforeseeable business exception; (iv) faltering business exception; (v) wages paid; (vi) good faith; (vii) length of employment; (viii) status as employee; (ix) failure to mitigate; (x) credit or set-off against damages; (xi) improper class action; (xii) absence of similarly situated employees; (xiii) failure to satisfy Rule 23 of the Federal Rules of Civil Procedure; (xiv) plaintiffs are not entitled to any allowed priority wage claim or priority status under section 507(a)(4) or 507(a)(5) of the Bankruptcy Code; and (xv) plaintiffs are not allowed attorneys' fees or costs in prosecuting the WARN Act Litigation before the Court.

On December 19, 2016, the Court entered an *Order Governing Scheduling and Preliminary Matters* [Chenault Adv. Dkt. No. 20]. The deadlines governing scheduling and preliminary matters were extended by the Class Plaintiff and Debtor on several occasions.

On April 3, 2017, Mr. Chenault filed a *Motion for Leave to File Plaintiff's Motion for Class Certification and Related Relief* (the "Class Certification Motion"). [Chenault Adv. Dkt. No. 30.] On May 1, 2017, the Court entered an *Order Granting Class Certification and Related Relief.* [Chenault Adv. Dkt. No. 34]. Through the Class Order, the Court granted the Plaintiff's Class Certification Motion and ordered that "a class is certified and compromised of: [Mr. Chenault] and other similarly situated employees of the [Debtor]: (i) who worked at or reported to [Debtor's] facilities and were terminated without cause on or about May 17, 2016, within 30 days of that date, (ii) or were terminated without cause as the reasonably foreseeable consequence of the mass layoffs and/or plant closings ordered by the [Debtor] on that date, (iii) who are 'affected employees' within the meaning of 29 U.S.C. § 2101(a)(5), and (iv) who have not filed a timely request to opt-out of the class[.]" [Chenault Adv. Dkt. No. 34.] The Court further appointed Outten & Golden LLP as Class Counsel and Plaintiff Matthew Chenault as Class Representative.

On June 1, 2017, Mr. Chenault filed an affidavit /declaration of *Mailing of Notice of Class Action.* [Chenault Adv. Dkt. No 35.] On June 30, 2017, Class Counsel filed its *Declaration of Class Counsel Concerning Class Members Who Have Opted-Out of the Class.*

[Chenault Adv. Dkt. No. 36.] On September 8, 2017, Class Counsel filed an *Amended Declaration of Class Counsel Concerning Class Members Who Have opted-out of the Class*. [Chenault Adv. Dkt. No. 39.]

Class Plaintiff and Debtor exchanged and responded to written discovery served upon each other. Neither the Class Plaintiff, nor the Debtor, examined or deposed any potential witnesses under oath. Discovery in the WARN Act Litigation has concluded.

On November 6, 2017, the Class Plaintiff filed a *Motion for Summary Judgment and Memorandum in Support of Plaintiff's Motion to Strike Affirmative Defenses, or in the Alternative, for Partial Summary Judgment.* [Chenault Adv. Dkt. No. 44.] On November 20, 2017, the Debtor filed a *Memorandum in Opposition to Motion for Summary Judgment*. [Chenault Adv. Dkt. No. 51.] On November 27, 2017, the Class Plaintiff filed a *Reply in Support of Plaintiffs' Motion for Summary Judgment*. [Chenault Adv. Dkt. No. 59.] On November 30, 2017 the Court held a hearing on the *Class Plaintiffs' Motion for Summary Judgment and Motion to Strike Affirmative Defenses, or in the Alternative for Partial Summary Judgment*. At the conclusion of the hearing, the Court granted the Class Plaintiffs' motion, and on December 20, 2017, entered the *Order Granting Motion to Strike Affirmative Defenses, or in the Alternative, for Partial Summary Judgment and Denying CS Mining LLC's Expedited Motion for Relief under Fed. R. Civ. P. 56(d).* [Chenault Adv. Dkt. No. 68.]

Pursuant to the *Order Granting Motion to Strike Affirmative Defenses, or in the Alternative, for Partial Summary Judgment and Denying CS Mining LLC's Expedited Motion for Relief under Fed. R. Civ. P. 56(d),* [Chenault Adv. Dkt. No. 68], the Court struck the "foreseeable consequences" and "faltering business" affirmative defenses asserted by the Debtor in its answer to the complaint. The Debtor may appeal the Court's Order depending upon the outcome of the WARN Act Litigation.

The Class Plaintiff and Debtor have exchanged a form of Pretrial Order in accordance with the Court's scheduling deadlines.

The Debtor estimates the WARN Act Claims, if allowable, in the approximate amount of $1,300,000. However, the Debtor disputes the nature, amount and priority of the amounts due and payable to the Class Plaintiffs, including the fact that none of the Class Plaintiffs, or any of their representatives, filed a proof of Claim in support of their alleged WARN Act Claims and did not seek to extend the General Bar Date. As discussed in Article VIII of this Combined Plan and Disclosure Statement, the Debtor believes the range of possible Distributions to the Holders of WARN Act Claims ranges from: (a) disallowance of the WARN Act Claims in full (a zero, $0.00, Distribution) as a result of the Class Plaintiffs' failure to file a timely proof of Claim in support of the alleged WARN Act Claims, as well as the possibility that the Debtor will prevail on the "good faith" defense asserted in the Debtor's Answer to the WARN Act complaint; to (b) allowance of the WARN Act Claims in full as unsecured Priority Non-Tax Claims in accordance with Sections 507(a)(4) and 507(a)(5) of the Bankruptcy Code (Distributions estimated to approximate $1,300,000). Because the WARN Act Litigation is grounded in equity, the Court has discretion in determining the amount of any damage award.

On December 22, 2017, the Debtor served an Offer of Judgment, pursuant to Rule 68 of the Federal Rules of Civil Procedure and Bankruptcy Rule 7068. Pursuant to the Offer of Judgment, the Debtor offered to allow judgment to be taken against the Debtor in the WARN Act Litigation as follows:

(i) Judgment to be entered in favor of Class Representative, Matthew Chenault, and each class member who has not opted out of the class certified in the WARN Act Litigation (the "**Judgment Class**").

(ii) The Judgment will provide for: (i) the allowance of an of an unsecured priority claim pursuant to 11 U.S.C. §§ Sections 507(a)(4) and 507(a)(5) on behalf of the Judgment Class in the amount of $450,000 (the "**$450,000 Unsecured Priority Claim**"), inclusive of attorneys' fees and costs incurred as of the date of the Offer of Judgment; **plus**, (ii) the allowance of a general unsecured non-priority claim on behalf of the Judgment Class in the amount of $800,000 (the "$**800,000 General Unsecured Claim**"), inclusive of attorneys' fees and costs incurred as of the date of the Offer of Judgment.

(iii) The $450,000 Unsecured Priority Claim and $800,000 General Unsecured Claim shall be deemed timely filed and allowable pursuant to 11 U.S.C. §§ Sections 501 and 502 and shall not be subject to further objection, reduction or offset.

(iv) The $450,000 Unsecured Priority Claim shall be payable in full on the Effective Date of any plan of reorganization or plan of liquidation confirmed by the Court.

(v) The $800,000 General Unsecured Claim shall be payable in accordance with the terms and conditions of any plan of reorganization or plan of liquidation confirmed by the Court.

(vi) The $450,000 Unsecured Priority Claim and $800,000 General Unsecured Claim are being offered and will be deemed allowed in full and final satisfaction of all relief sought in the WARN Act Litigation (including but not limited to damages, attorneys' fees, costs, expenses, interest, and any other amounts recoverable in the WARN Act Litigation, accrued to the date of the Offer of Judgment) with the payment amount to be apportioned among the Judgment Class, Class Representative (Matthew Chenault), and Class Counsel (Outten & Golden LLP) in the manner deemed to be most appropriate by Class Counsel and Class Representative.

(vii) The Offer of Judgment is not to be construed either as an admission that the Debtor is liable in the WARN Act Litigation or that the Class Plaintiffs are entitled to any damages; and

(viii) The Offer of Judgment is conditioned on acceptance by the whole Judgment Class.

Class Representative, Mr. Chenault, has fourteen (14) days within which to accept the Offer of Judgment, after which it is deemed withdrawn. If the Offer of Judgment is not accepted within fourteen (14) days, the Class Plaintiffs may become obligated to pay CS Mining's costs incurred after the making of the Offer of Judgment.

The deadline for the Class Representative to respond to the Offer of Judgment expires on Monday, January 8, 2018.

A trial date has yet to be established by the Court for a trial on the merits of the WARN Act Litigation.

To the extent the Class Representative accepts the Offer of Judgment, the Holder of an Allowed WARN Act Claim will be entitled to their *Pro Rata* portion of the $450,000 Unsecured Priority Claim and $800,000 General Unsecured Claim in full and final satisfaction of all relief sought in the WARN Act Litigation (including but not limited to damages, attorneys' fees, costs, expenses, interest, and any other amounts recoverable in the WARN Act Litigation, accrued to the date of the Offer of Judgment, December 22, 2017) with the payment amount to be apportioned among the Judgment Class, Class Representative (Matthew Chenault), and Class Counsel (Outten & Golden LLP) in the manner deemed to be most appropriate by Class Counsel and Class Representative.

13. Proposed Treatment of WARN Act Claims Under This Combined Plan and Disclosure Statement

Because the nature, amount and priority of the WARN Act Claims is disputed, and it remains to be seen if the Class Representative will accept the Offer of Judgment, the Debtor proposes, to the extent the Class Representative fails to accept the Debtor's Offer of Judgment, to allow the Holders of WARN Act Claims to select one of two options for their proposed treatment under the Combined Plan and Disclosure Statement: (i) Option 1: the WARN Act Settlement Option; or (ii) Option 2: the WARN Act Litigation Option.

Option 1 –the "WARN Act Settlement Option." In lieu of continuing to litigate the WARN Act Litigation and the Debtor's likely objection to the allowance of any WARN Act Claim, the Holder of a WARN Act Claim may affirmatively elect to participate in the WARN Act Settlement Option by affirmatively selecting on the Holder's Ballot "WARN Act Settlement Option provided for under the Combined Plan and Disclosure Statement." Unless otherwise agreed to by a Holder of an Allowed Class 1(b)

Claim and the Debtor, the Holder of a Class 1(b) Claim who affirmatively selects the "WARN Act Settlement Option" will receive, in full and final satisfaction of their Class 1(b) Claim: (a) an Allowed unsecured Priority Non-Tax Claim equal to 35% of the aggregate amount of the individual's WARN Act Claim; and (b) an Allowed General Unsecured Claim equal to 65% of the aggregate amount of the individual's WARN Act Claim. The aggregate amount of the Holder's WARN Act Claim will be identified on the Ballot distributed to the Holder. The Allowed unsecured Priority Non-Tax Claim portion of the Holder's WARN Act Claim (35% of the individual's WARN Act Claim) shall be treated as an Allowed Class 1(b) Claim and shall be paid in cash, in full, on the Effective Date of the Combined Plan and Disclosure Statement. The Allowed General Unsecured Claim portion of the Holder's WARN Act Claim (65% of the WARN Act Claim) shall be treated as an Allowed Class 3 General Unsecured Claim and entitled to Distributions in accordance with the Distributions to be paid to the Holders of Allowed Class 3 General Unsecured Claims. The Holder's WARN Act Claim shall not be reduced or surcharged for any litigation expenses or attorneys' fees associated with the WARN Act Litigation.

Option 2 – the "WARN Act Litigation Option." The Holder of a WARN Act Claim may affirmatively elect to continue to litigate their WARN Act Claim through the WARN Act Litigation by affirmatively selecting on the Holder's Ballot "WARN Act Litigation Option provided for under the Combined Plan and Disclosure Statement." The Holder of a WARN Act Claim who affirmatively elects to continue to litigate their WARN Act Claim through the WARN Act Litigation will be entitled to Distributions in accordance with the Court's findings and decision in connection with the WARN Act Litigation. The treatment afforded a Holder of WARN Act Claim who affirmatively elects the "Litigation Option" will vary depending upon the entry of a Final Order in WARN Act Litigation, after the exhaustion of all appeals and rights of appeal. No Distributions shall be made to the Holders of WARN Act Claims that elect the "WARN Act Litigation Option provided for under the Combined Plan and Disclosure Statement" until entry of a nonappealable Final Order or judgment in connection with the WARN Act Litigation.

Unless otherwise agreed to by the Holder of an Allowed Class 1(b) Claim and the Debtor, Holders of Allowed Class 1(b) Claims, if any, shall receive Cash, in full and final satisfaction of such Allowed Class 1(b) Claim. Distributions to Allowed Class 1(b) Claims shall occur as soon as reasonably practicable after the later of the occurrence of the Effective Date and the date such Class 1(b) Claim becomes an Allowed Claim.

FOR THE AVOIDANCE OF DOUBT, IF THE HOLDER OF A WARN ACT CLAIM FAILS TO AFFIRMATIVELY ELECT ON THE HOLDER'S BALLOT EITHER: (A) "OPTION 1: THE WARN ACT SETTLEMENT OPTION," OR (B) "OPTION 2: THE WARN ACT LITIGATION OPTION," SUCH HOLDER WILL BE DEEMED TO HAVE AFFIRMATIVELY ELECTED TO CONTINUE TO LITIGATE SUCH HOLDER'S WARN ACT CLAIM IN THE WARN ACT LITIGATION AS IF THE HOLDER AFFIRMATIVELY SELECTED OPTION 2 THE WARN ACT LITIGATION OPTION.

K. Certain Federal Income Tax Consequences

1. Importance of Obtaining Professional Tax Assistance

THE FOLLOWING DISCUSSION IS INTENDED ONLY AS A SUMMARY OF CERTAIN INCOME TAX CONSEQUENCES OF THE COMBINED PLAN AND DISCLOSURE STATEMENT. THE FOLLOWING DISCUSSION IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT TAX ADVICE. THE TAX CONSEQUENCES ARE IN MANY CASES UNCERTAIN AND MAY VARY DEPENDING ON A CLAIM OR EQUITY INTEREST HOLDER'S PARTICULAR CIRCUMSTANCES. ACCORDINGLY, CLAIM AND EQUITY INTEREST HOLDERS ARE URGED TO CONSULT THEIR TAX ADVISORS ABOUT THE UNITED STATES FEDERAL, STATE AND LOCAL, AND APPLICABLE FOREIGN INCOME AND OTHER, TAX CONSEQUENCES OF THE COMBINED PLAN AND DISCLOSURE STATEMENT.

2. Classification of the Liquidation Trust

The Liquidation Trust will be established for the sole purpose of distributing the Liquidation Trust Assets, and any proceeds therefrom, in accordance with Treasury Regulation section 301.7701-4(d) and Revenue Procedure 94-45, with no objective to continue or engage in the conduct of a trade or business. The Liquidation Trust is intended to qualify as a liquidating trust for U.S. federal income tax purposes. In general, a liquidating trust is not a separate taxable entity for U.S. federal income tax purposes, but is instead treated as a grantor trust, i.e., pass-through entity. All parties must treat the transfer of the portion of the Liquidation Trust Assets attributable to the Liquidation Trust Beneficiaries as a transfer of such assets directly to the Liquidation Trust Beneficiaries. Consistent therewith, all parties must treat the Liquidation Trust as a grantor trust of which the Liquidation Trust Beneficiaries are the owners and grantors. Subject to the terms of the Liquidation Trust Agreement, the Liquidation Trustee will determine the fair market value of the Liquidation Trust Assets as soon as possible after the Effective Date, and the Liquidation Trust Beneficiaries and the Liquidation Trustee must consistently use this valuation for all U.S. federal income tax purposes, including for determining gain, loss or tax basis.

The Liquidation Trust shall establish a Claims Reserve on account of Disputed Claims. The Liquidation Trust may, for U.S. federal income tax purposes (and, to the extent permitted by law, for state and local income tax purposes), (i) make an election pursuant to Treasury Regulation section 1.468B-9 to treat the Claims Reserve as a "disputed ownership fund" within the meaning of that section, (ii) allocate taxable income or loss to the Claims

Reserve, with respect to any given taxable year (but only for the portion of the taxable year with respect to which such Claims are Disputed), and (iii) distribute assets from the Claims Reserve as, when, and to the extent, such Disputed Claims cease to be Disputed, whether by virtue of becoming Allowed or otherwise resolved. The Liquidation Trust Beneficiaries shall be bound by such election, if made by the Liquidation Trustee, and as such shall, for U.S. federal income tax purposes (and, to the extent permitted by law, for state and local income tax purposes), report consistently therewith.

The Liquidation Trust shall be dissolved no later than five (5) years from the Effective Date, unless the Bankruptcy Court, upon motion made prior to such fifth (5th) anniversary, determines that a fixed period extension, not to exceed three (3) years, together with any prior extensions, without a favorable letter ruling from the IRS or opinion of counsel that any further extension would not adversely affect the status of the Liquidation Trust as a liquidating trust for federal income tax purposes, is necessary to facilitate or complete the recovery on and liquidation of the Liquidation Trust Assets. Upon the filing of any motion for an extension of the date of dissolution of the Liquidation Trust, such date shall be deemed automatically extended until an order of the Bankruptcy Court is entered with respect to such motion or the motion is withdrawn.

To the extent the interests in the Liquidation Trust are deemed to be "securities," the issuance of such interests under the Plan are exempt, pursuant to section 1145 of the Bankruptcy Code, from registration under the Securities Act of 1933, as amended, and any applicable state and local laws requiring registration of securities.

Due to the complexity of certain aspects of the Combined Plan and Disclosure Statement, the lack of applicable legal precedent, the possibility of changes in the law, the differences in the nature of the Claims, and each Holder's status and method of accounting and the potential for disputes as to legal and factual matters with the IRS, the tax consequences described herein are uncertain. No legal opinions have been requested from counsel with respect to any of the tax aspects of the Combined Plan and Disclosure Statement, and no rulings have been or will be requested from the IRS with respect to the any of the issues discussed below. Further, legislative, judicial or administrative changes may occur, perhaps with retroactive effect, which could affect the accuracy of the statements and conclusions set forth below as well as the tax consequences to the Debtor and the Holders of Claims and Equity Interests.

3. Sale of the Debtor's Assets.

The sale of substantially all of the Debtor's Assets in the Chapter 11 Case is a taxable transaction. Thus, the Debtor must recognize any gain or loss realized on any sale(s). To determine the amount of gain or loss realized on any sale, the total consideration (net of selling expenses) received in such sale must be allocated among the assets sold in accordance with their relative fair market values. The gain or loss realized with respect to each asset is then determined separately by subtracting the selling Debtor's tax basis in such asset from the amount of consideration received for such asset. To the extent that the Debtor recognizes a net gain from the asset sale, such gain may be offset either by (i) net operating losses ("NOLs") that accrue during the taxable year of the sale, (ii) the Debtor's existing NOLs from prior taxable years, or (iii) capital loss carryforwards from prior years. The Debtor's ability to use certain losses

(including loss carryforwards) to offset taxable gains and income may be subject to certain limitations under the consolidated return rules and Section 382 of the Tax Code.

4. Cancellation of Indebtedness and Reduction of Tax Attributes.

As a result of the consummation of the Combined Plan and Disclosure Statement, certain indebtedness of the Debtor will be deemed to be discharged for U.S. federal income tax purposes. Generally, gross income includes the amount of any such cancellation of indebtedness ("COD") income. The amount of the COD income generally equals the amount by which the indebtedness discharged (reduced by any unamortized discount) exceeds any consideration given in exchange therefor, subject to certain statutory or judicial exceptions that can apply to limit the amount of COD income (such as where the payment of the cancelled debt would have given rise to a tax deduction). Because the Debtor is in a Chapter 11 bankruptcy proceeding, however, the Debtor will not be required to recognize COD income. Instead, the Debtor will be required to reduce certain tax attributes to the extent of unrecognized COD income. The order and manner prescribed for the reduction of the Debtor's tax attributes is set forth in Section 108(b)(2) of the Tax Code. The tax attributes of the Debtor subject to reduction include NOLs, NOL carryforwards, capital losses and loss carryovers, certain tax credits, and, subject to certain limitations, the income tax basis of Debtor's property (including stock of subsidiaries).

5. General Tax Reporting by the Liquidation Trusts and Liquidation Trust Beneficiaries.

The Plan requires all parties (including the Debtor, the Liquidation Trustee and the Liquidation Trust Beneficiaries) to treat the transfer of assets by the Debtor to the Liquidation Trust, for United States federal income tax purposes, as a transfer of such assets directly to the Liquidation Trust Beneficiaries, followed by the transfer of such assets by the Liquidation Trust Beneficiaries to the Liquidation Trust. The Plan also requires the Debtor, the Liquidation Trustee, and the Liquidation Trust Beneficiaries to treat the Liquidation Trust as a grantor trust of which the Liquidation Trust Beneficiaries are the owners and grantors. As a consequence, the Liquidation Trust Beneficiaries (and any subsequent transferees of beneficial interests in the Liquidation Trust) will be treated for United States federal income tax purposes as the direct owners of a specified undivided interest in the assets of the Liquidation Trust (which assets will have a tax basis equal to their fair market value on the date transferred to the Liquidation Trust).

The United States federal income tax reporting obligation of a Liquidation Trust Beneficiary is not dependent upon the Liquidation Trust distributing any cash or other proceeds. The Plan provides that the Liquidation Trust will allocate items of income, gain, loss, expense and other tax items to the Liquidation Trust Beneficiaries in accordance with their relative beneficial interest in the Liquidation Trust. Therefore, a Liquidation Trust Beneficiary may incur an income tax liability with respect to its allocable share of the income of the Liquidation Trust whether or not the Liquidation Trust has made any concurrent distribution of Cash or other assets to the Liquidation Trust Beneficiary.

The Plan requires the Liquidation Trustee to file tax returns for the Liquidation Trust as a "grantor trust" pursuant to Treasury Regulation section 1.671-4(a). The Liquidation

Trust is expected to send each Liquidation Trust Beneficiary a separate statement setting forth the Liquidation Trust Beneficiary's share of items of income, gain, loss, deduction, or credit, and such Liquidation Trust Beneficiary will be responsible for any reporting requirements with respect to the allocated amounts and the payment of any taxes that result from such allocations.

LIQUIDATION TRUST BENEFICIARIES ARE URGED TO CONSULT THEIR OWN TAX ADVISORS REGARDING THE APPROPRIATE FEDERAL INCOME TAX REPORTING OF ALLOCATIONS FROM THE LIQUIDATION TRUSTS.

6. In General.

Generally, a Holder of a Claim will recognize gain or loss equal to the difference between the "amount realized" by such Holder in exchange for the Holder's Claim and such Holder's adjusted tax basis in the Claim. The "amount realized" is equal to the sum of the Cash and the fair market value of any other consideration received under the Combined Plan and Disclosure Statement in respect of a Holder's Claim, including, in the case of the Liquidation Trust Beneficiaries, the fair market value of each Liquidation Trust Beneficiary's proportionate share of the assets transferred to the Liquidation Trust on the behalf of and for the benefit of such Holder (to the extent that such Cash or other property is not allocable to any portion of the Claim representing accrued but unpaid interest (see discussion below)). The tax basis of a Holder in a Claim will generally be equal to the Holder's cost therefore. The holding period of a Liquidation Trust Beneficiary in its proportionate share of the assets held by the Liquidation Trust will begin on the day following the deemed Distribution of assets to the Holder.

The character of any recognized gain or loss (i.e., as ordinary income or as short-term or long-term capital gain or loss) will depend upon the status of the Holder, the nature of the Claim in the Holder's hands, the purpose and circumstances of the Claim's acquisition, the Holder's holding period of the Claim, and the extent to which the Holder of the Claim previously claimed a deduction for the worthlessness of all or a portion of the Claim. If the Claim is a capital asset in the Holder's hands, any gain or loss realized will generally be characterized as capital gain or loss and will constitute long-term capital gain or loss if the Holder has held such Claim for more than one year. There are limitations on the deduction of capital losses by both corporate and non-corporate taxpayers.

7. Allocation of Consideration to Accrued Interest.

A portion of the consideration received by a Holder of a Claim in satisfaction of that Claim pursuant to this Combined Plan and Disclosure Statement may be allocated to the portion of such Claim (if any) that represents accrued but unpaid interest. If any portion of the distribution is required to be allocated to accrued interest, such portion would be taxable to the Holder as interest income, except to the extent the Holder has previously reported such interest as income. A Holder will generally recognize a loss to the extent that any accrued interest was previously included in the Holder's gross income and is not paid in full.

Pursuant to this Combined Plan and Disclosure Statement, all Distributions in respect of any Claim will be allocated first to the principal amount of such Claim, as determined for U.S. federal income tax purposes, and then, to the extent the consideration exceeds such

amount, to any portion of such Claim representing accrued but unpaid interest. However, there is no assurance that the IRS will respect such allocation for U.S. federal income tax purposes.

In the event that a portion of the consideration received by a Holder of a Claim represents accrued but unpaid interest, only the balance of the Distribution would be considered received by the Holder in respect of the principal amount of the Claim. Such an allocation would reduce the amount of the gain, or increase the amount of loss, realized by the Holder with respect to the Claim. If any such loss were a capital loss, it would not offset any amount of the Distribution that was treated as ordinary interest income (except, in the case of individuals, to the limited extent that capital losses may be deducted against ordinary income).

To the extent that any portion of the Distribution is treated as interest, Holders may be required to provide certain tax information in order to avoid the withholding of taxes.

8. Market Discount.

A Holder that acquires a debt instrument at a market discount generally is required to treat any gain realized on the disposition of the instrument as ordinary income to the extent of accrued market discount not previously included in gross income by the Holder.

9. Information Reporting and Backup Withholding.

The Debtor, the Liquidation Trustee, or their respective paying agents may be obligated to furnish information to the IRS regarding the consideration paid to Holders (other than corporations and other exempt Claim Holders) pursuant to this Combined Plan and Disclosure Statement.

Holders of Claims may be subject to backup withholding on the consideration received pursuant to this Combined Plan and Disclosure Statement. A Holder of a Claim that is not otherwise exempt from backup withholding requirements generally may avoid backup withholding by furnishing to the Debtor, the Liquidation Trustee, or their respective paying agents, the Holder's taxpayer identification number and certifying, under penalties of perjury, that the taxpayer identification number provided is correct, and that the Holder has not been notified by the IRS that the Holder is subject to backup withholding.

Backup withholding is not an additional tax. Taxpayers may use amounts withheld as a credit against federal income tax liability or may claim a refund of any excess amounts withheld by timely filing an appropriate claim for refund with the IRS.

10. Reservation of Rights

The foregoing discussion is subject to change (possibly substantially) based on subsequent changes to the Combined Plan and Disclosure Statement or subsequent events. The Debtor, the Post-Effective Date Debtor and Liquidation Trustee reserve the right to modify, revise, or supplement this discussion and other tax related sections of this Combined Plan and Disclosure Statement.

ARTICLE IV

CERTAIN RISK FACTORS TO BE CONSIDERED

A. Risk Factors to Be Considered

The Combined Plan and Disclosure Statement and its implementation are subject to certain risks. Prior to voting on the Combined Plan and Disclosure Statement, Holders of Claims and Equity Interests should read and consider carefully the risk factors discussed below, as well as the other information set forth in this Combined Plan and Disclosure Statement, the documents attached to this Combined Plan and Disclosure Statement, and the documents referred to or incorporated by reference in this Combined Plan and Disclosure Statement. These factors should not be regarded as constituting the only risks present in connection with this Combined Plan and Disclosure Statement and its implementation.

B. The Combined Plan and Disclosure Statement May Not Be Accepted

There can be no assurance that the requisite acceptances to confirm the Combined Plan and Disclosure Statement will be obtained.

C. The Combined Plan and Disclosure Statement May Not Be Confirmed

Section 1129 of the Bankruptcy Code sets forth the requirements for confirmation of a chapter 11 plan. While the Debtor believes that this Combined Plan and Disclosure Statement complies with or will comply with all such requirements, there can be no guarantee that the Bankruptcy Court will agree.

D. Risk of Non-Occurrence of the Effective Date

There can be no assurance as to such timing, or as to whether the Effective Date will, in fact, occur.

E. Parties May Object to the Classification of Claims and Equity Interests

Section 1122 of the Bankruptcy Code provides that a plan may place a claim or an equity interest in a particular class only if such claim or equity interest is substantially similar to the other claims or equity interests in such class. The Debtor believes that the classification of Claims and Equity Interests under the Combined Plan and Disclosure Statement complies with the requirements set forth in the Bankruptcy Code. Nevertheless, there can be no assurance the Bankruptcy Court will reach the same conclusion.

F. Alternate Plan and Disclosure Statement

If this Combined Plan and Disclosure Statement is not confirmed, the Debtor could attempt to formulate a different plan. The additional cost, including, among other amounts, additional Professional fees, would constitute Administrative Expense Claims (subject to allowance) that may be so significant that one or more parties in interest could request that the Chapter 11 Case be converted to chapter 7. The Debtor believes that conversion of this Chapter

11 Case to a case under chapter 7 of the Bankruptcy Code will result in the incurrence of significant additional fees and expenses (which would have priority over Administrative Expense Claims of the Chapter 11 Case and General Unsecured Claims), to the detriment of Creditors. Accordingly, the Debtor believes that the Combined Plan and Disclosure Statement enables Creditors to realize the best return under the circumstances.

ARTICLE V

THE PLAN - SUMMARY OF DEBTOR'S ASSETS, TREATMENT OF CLAIMS AND EQUITY INTERESTS AND ESTIMATED RECOVERIES

A. Summary of Assets

On the Effective Date, the assets of the Post-Effective Date Debtor shall include all of the Debtor's Remaining Assets, including without limitation, all Cash, All Cash on hand, the Causes of Action (including those net recoveries realized from the prosecution and/or settlement of Causes of Action or the Fiduciary Litigation), the proceeds received from the Fiduciary Litigation, any tax refunds, all rights of setoff and recoupment and other defenses that the Debtor or Post-Effective Date Debtor may have with respect to any Claim and all Insurance Policies and the proceeds related to such Insurance Policies.

The following chart provides a summary of the Remaining Assets, the estimated value of such assets, and the realized value of such assets that are available to Creditors of the Debtor's Estate:

Asset	Estimated Value	Realized Value
Cash on Hand (as of December 31, 2017)	~$9,600,000	~$9,600,000
Proceeds from Causes of Action and Fiduciary Causes of Action	Unknown	Unknown
Administrative, Priority and Secured Claim Escrow[2]	($4,600,000)	($4,600,000)

B. Summary of Plan and Treatment of Claims and Equity Interests

This Combined Plan and Disclosure Statement is a plan of liquidation, pursuant to which the net proceeds from the Sale, the disposition of any Remaining Assets, any recoveries in connection with the Causes of Action, and the proceeds of the Fiduciary Litigation, are being

[2]Escrow established to pay certain unclassified Claims that are payable by Order of the Court or upon confirmation of the Combined Plan and Disclosure Statement.

pooled and distributed to persons or entities holding Allowed Claims in accordance with the priorities of the Bankruptcy Code and the summary of treatment of Claims and Equity Interests set forth below. The number and amount of Allowed Claims will not affect Distributions to Holders of Allowed Administrative Expense Claims, Allowed Supplemental Administrative Expense Claims, Allowed Statutory Fees, Allowed Professional Fee Claims, Allowed Priority Non-Tax Claims (including Allowed GAP Period Claims), or Allowed Priority Tax Claims, as such Claims are to be paid in full.

THE FOLLOWING CHART IS A SUMMARY OF THE CLASSIFICATION AND TREATMENT OF CLAIMS AND EQUITY INTERESTS AND THE POTENTIAL DISTRIBUTIONS UNDER THE PLAN. THE AMOUNTS SET FORTH BELOW ARE ESTIMATES ONLY. REFERENCE SHOULD BE MADE TO THE ENTIRE COMBINED PLAN AND DISCLOSURE STATEMENT FOR A COMPLETE DESCRIPTION OF THE CLASSIFICATION AND TREATMENT OF CLAIMS AND EQUITY INTERESTS. THE RECOVERIES SET FORTH BELOW ARE PROJECTED RECOVERIES AND ARE THEREFORE SUBJECT TO CHANGE. THE ALLOWANCE OF CLAIMS MAY BE SUBJECT TO LITIGATION OR OTHER ADJUSTMENTS, AND ACTUAL ALLOWED CLAIM AMOUNTS MAY DIFFER MATERIALLY FROM THESE ESTIMATED AMOUNTS.

Class	Treatment and Voting Status	Range of Estimated Allowed Claim Amount[3]	Estimated Recoveries of Amounts Available for Distribution[4]
Class 1(a): Priority Non-Tax Claims (Excluding WARN Act Claims)	Unimpaired. Deemed to accept Combined Plan and Disclosure Statement; Not entitled to vote.	$350,000 - $700,000 Consists of unsecured priority claims and unpaid GAP Period Claims.	100%
Class 1(b): WARN Act Claims	Impaired. Entitled to vote.	$0.00 - $1,300,000	0.00% to 100% Estimated Distribution if Offer of Judgment Accepted: Assuming the Class Representative accepts the Offer of Judgment extended by the

[3]These amounts represent estimated Allowed Claims and do not represent amounts actually asserted by Creditors in proofs of Claims or otherwise. The Debtor has not completed its analysis of Claims in the Chapter 11 Case, and objections to such Claims have not been fully litigated and may continue following the Effective Date.

[4]The estimated percentage recovery is based upon, among other things, an estimate of the Allowed Claims in the Chapter 11 Case. As set forth in the above footnote, the actual amount of the Allowed Claims may be greater or lower than estimated. Thus, the actual recoveries may be higher or lower than projected depending upon, among other things, the amounts and priorities of Claims that are actually Allowed by the Bankruptcy Court.

Class	Treatment and Voting Status	Range of Estimated Allowed Claim Amount[3]	Estimated Recoveries of Amounts Available for Distribution[4]
			Debtor to the Class Representative on December 22, 2017, the Debtor estimates, depending upon how the Class Representative and Class Counsel apportion the proceeds of the Offer of Judgment, to range between 25% to 60% of the Holder's Allowed WARN Act Claim. <u>Estimated Distribution if Holder Selects Option 1: the WARN Act Settlement Option</u>. The Debtor estimates the Distributions to the Holders of an Allowed WARN Act Claim who affirmatively select Option 1: the WARN Act Settlement Option, at approximately 60% of the amount of such Holder's WARN Act Claim. <u>Estimated Distribution if Holder Selects Option 2: the WARN Act Litigation Option</u>. The Debtor estimates the Distributions to the Holders of Allowed WARN Act Claims who affirmatively select "Option 2: the WARN Act Litigation Option," will, depending upon the Court's findings and decision in connection with the WARN Act Litigation, range between 0% to 100% of the amount of such Holder's WARN Act Claim.

Class	Treatment and Voting Status	Range of Estimated Allowed Claim Amount[3]	Estimated Recoveries of Amounts Available for Distribution[4]
			The Debtor understands the Class Representative and Class Counsel believe the Class Representative will prevail on the WARN Act Litigation and the WARN Act Claims will be entitled to full payment under sections 507(a)(4) and 507(a)(5) of the Bankruptcy Code. The Debtor disagrees, and to the extent the Class Representative rejects the Debtor's Offer of Judgment, the Debtor, nevertheless, proposes to allow Holders of Allowed WARN Act Claims to select one of the two options for their proposed treatment under this Combined Plan and Disclosure Statement.
Class 2(a): WUMI Deficiency Claim	Impaired. Entitled to vote.	$23,000,000 In connection with the Sale, and pursuant to the Claims Resolution, WUMI was granted the WUMI Allowed Secured Claim in the amount of $23,000,000.00. WUMI agreed to subordinate its Allowed Secured Claim to $23,000,000 of Priming Obligations (as defined in the Sale Order) and received an initial Distribution of $6,000,000, $2,000,000 of which was contributed to the Debtor's Estate, free and	0.0% Class 2(a) received a Distribution of $6,000,000 from the proceeds of the Sale as a part of the agreed treatment of the WUMI Allowed Secured Claim. Pursuant to the Claims Resolution, Class 2(a) agreed that the balance of its Claim, $17,000,000, will be treated as unsecured deficiency Claim that is subordinate to the First GUC Priority Distribution (i.e. the first $5,000,000 of the

Class	Treatment and Voting Status	Range of Estimated Allowed Claim Amount[3]	Estimated Recoveries of Amounts Available for Distribution[4]
		clear of all Liens, claims and interests. Pursuant to the Claims Resolution, WUMI further agreed that the balance of its Claim, $17,000,000, will be treated as unsecured deficiency Claim that is subordinate to the First GUC Priority Distribution (i.e. the first $5,000,000 of the Unsecured Claim Distributions to be made to the Holders of Allowed Class 3 General Unsecured Claims).	Unsecured Claim Distributions to be made to the Holders of Allowed Class 3 General Unsecured Claims). The estimated recovery on the Class 2(a) Claim, not including the $6,000,000 initial Distribution paid to Class 2(a) in connection with the secured portion of its Claim, is estimated at 0.0%.
Class 2(b): Waterloo Deficiency Claim	Impaired. Entitled to vote.	$23,000,000 In connection with the Sale, and pursuant to the Claims Resolution, Waterloo was granted the Waterloo Secured Claim in the amount of $23,000,000.00. Waterloo agreed to subordinate its Allowed Secured Claim to $23,000,000 of Priming Obligations (as defined in the Sale Order) and received an initial Distribution of $6,000,000; $3,000,000 of which was contributed to the Debtor's Estate, free and clear of all Liens, claims and interests. Pursuant to the Claims Resolution, Waterloo further agreed that the balance of its Claim, $17,000,000, will be treated as an unsecured deficiency Claim that is subordinate to the First GUC Priority Distribution (i.e. the first $5,000,000 of the Unsecured Claim Distributions to be made to the Holders of	0.0% Class 2(b) received a Distribution of $6,000,000 from the proceeds of the Sale, as part of the agreed treatment of the Waterloo Allowed Secured Claim. Pursuant to the Claims Resolution, Class 2(b) agreed that the balance of its Claim, $17,000,000, will be treated as unsecured deficiency Claim that is subordinate to the First GUC Priority Distribution (i.e. the first $5,000,000 of the Unsecured Claim Distributions to be made to the Holders of Allowed Class 3 General Unsecured Claims). The estimated recovery on the Class 2(b), not including the $6,000,000 initial Distribution paid to Class 2(a) in connection with the secured portion of its Claim, is estimated at

Class	Treatment and Voting Status	Range of Estimated Allowed Claim Amount[3]	Estimated Recoveries of Amounts Available for Distribution[4]
		Allowed Class 3 General Unsecured Claims).	0.0%.
Class 2(c): Skye Mineral Partners, LLC Prepetition Secured Claim	Impaired. Entitled to vote	$27,300,000 The Class 2(c) Claim is contractually subordinated to the Claims of Class 2(a) and Class 2(b). The Class 2(c) Claim is also Disputed and subject to potential recharacterization and subordination.	0% Given Class 2(c) is contractually subordinate to $34,000,000 of the Allowed Claims of Class 2(a) and Class 2(b), the Debtor does not anticipate that any Distributions will be made to the Holders of Allowed Class 2(c) Claims.
Class 2(d): Other Prepetition Secured Claims	Impaired. Entitled to vote	$0.00 - $500,000 Claims relate to mechanic's lien claims, materialman's claims, mineral rights claims, secured lease claims or other prepetition secured claims not settled, or otherwise resolved, as part of the Sale.	100% If an Allowed Class 2(d) Claim is determined to be junior in priority to the Holder of an Allowed Class 2(a) or Class 2(b) Claim, then the Allowed Class 2(d) Claim will be paid its *Pro Rata* share from the Distributions to be paid to Allowed General Unsecured Claims. If an Allowed Class 2(d) Claim is determined to be senior in priority to the Holder of an Allowed Class 2(a) or Class 2(b) Claim, then the Allowed Class 2(d) Claim will be paid in full, 100%.
Class 2(e): Prepetition Secured Equipment Loan Claims	Unimpaired. Deemed to accept Combined Plan and Disclosure Statement; Not entitled to vote.	$0.00 to $350,000 Amount expected to decrease based on return of collateral to claimants.	0% to 100% To the extent the Holder of an Allowed Class 2(e) Claim holds a valid and perfected security interest in equipment owned by the Debtor, the Holder will be entitled to payment in full or the return of the

Class	Treatment and Voting Status	Range of Estimated Allowed Claim Amount[3]	Estimated Recoveries of Amounts Available for Distribution[4]
			equipment. To the extent the Holder of an Allowed Class 2(e) Claim holds an unsecured or deficiency claim, such Allowed Class 2(e) Claim will be paid its *Pro Rata* share from the Distributions to be paid Allowed Class 3 General Unsecured Claims.
Class 3: General Unsecured Claims	Impaired. Entitled to vote	$17,500,000 to $20,000,000[5] This estimate does not include the undersecured portion of the Class 2(c) and Class 2(d) Claims or the subordinated portion of the Class 2(a) and Class 2(b) Claims.	25.0% - 28.5% Per the Claims Resolution, $5,000,000 was paid to the Debtor's Estate free and clear of any Liens, Claims or encumbrances. The Holders of the Class 2(a) and Class 2(b) Claims agreed to subordinate any Distribution from the First GUC Priority Distribution ($5,000,000) to be paid to the Holders of Allowed Class 3 General Unsecured Claims. The Debtor estimates that the Liquidation Trustee will be able to distribute $5,000,000 to Holders of Allowed Class 3 General Unsecured Claims as part of the First GUC Priority Distribution. The First GUC Priority Distribution shall be made after (i) the payment in full of all senior Allowed Administrative Expense Claims, Allowed Supplemental

[5]The estimated amount of Class 3 Claims does not include Claims arising from the Debtor's rejection of any Executory Contracts or Unexpired Leases pursuant to section 365 of the Bankruptcy Code as the amount of such Claims are currently unknown and any estimate at this time would be purely speculative.

Class	Treatment and Voting Status	Range of Estimated Allowed Claim Amount[3]	Estimated Recoveries of Amounts Available for Distribution[4]
			Administrative Expense Claims, Allowed Professional Fee Claims, Allowed Priority Tax Claims, Allowed Priority Non-Tax Claims, Allowed Statutory Fees, Allowed Prepetition Secured Equipment Loan Claims and Allowed Other Prepetition Secured Claims; (ii) the funding of a Claims Reserve for any Disputed Claims; and (iii) the funding of all anticipated Wind Down Expenses of the Estate, the Post-Effective Date Debtor and the Liquidation Trust. The Holders of a Allowed Class 2(a) or Allowed Class 2(b) Claims will receive *Pro Rata* Distributions of any amounts distributable to Holders of General Unsecured Claims after the payment and Distribution of the First GUC Priority Distributions to the Holders of Allowed Class 3 General Unsecured Claims. The estimated First GUC Priority Distribution to be paid to Holders of Allowed Class 3 General Unsecured Claims is estimated at 25.0%. The Debtor does not estimate any Distribution to Holders of Allowed Class 3 General Unsecured Claims and the Holders of

Class	Treatment and Voting Status	Range of Estimated Allowed Claim Amount[3]	Estimated Recoveries of Amounts Available for Distribution[4]
			the WUMI Deficiency Claim and Waterloo Deficiency Claim after the expected First GUC Priority Distribution of $5,000,000. Distributions to Holders of Allowed Class 3 General Unsecured Claims and the WUMI Deficiency Claim and Waterloo Deficiency Claim may increase depending upon the liquidation of the Remaining Assets, recoveries from Causes of Action and the proceeds received from the Fiduciary Litigation.
Class 4: Equity Interests	Impaired. Deemed to reject Combined Plan and Disclosure Statement; Not entitled to vote.	Equity Interests to be eliminated under the Combined Plan and Disclosure Statement and have been assigned no value. The Equity Interests include the membership interests of three separate members of the Debtor: (i) SMP; (ii) Robert Reynolds, as representative of the first lien lenders under that certain Equity Administration Agreement by and among the former first lien lenders of WUCC and CKMC, dated June 6, 2011; and (iii) CKMC. The Equity Interests also include the minority membership interests granted to Mr. McMullin	0%

Class	Treatment and Voting Status	Range of Estimated Allowed Claim Amount[3]	Estimated Recoveries of Amounts Available for Distribution[4]
		and Mr. Alley.	

ARTICLE VI

CONFIRMATION AND VOTING PROCEDURES

A. Confirmation Procedure

1. Confirmation Hearing

A hearing before the Honorable William T. Thurman has been scheduled for **February** [_____]**, 2018 at [__:__] _.m. (prevailing Mountain Time)**, at the Bankruptcy Court to consider: (i) approval of the Combined Plan and Disclosure Statement as providing adequate information pursuant to section 1125 of the Bankruptcy Code; and (ii) confirmation of the Combined Plan and Disclosure Statement pursuant to section 1129 of the Bankruptcy Code. The Confirmation Hearing may be adjourned from time to time by the Bankruptcy Court without further notice, except for an announcement of the adjourned date made at the Confirmation Hearing or by filing a notice with the Bankruptcy Court.

2. Procedure for Objections

Any objection to confirmation of this Combined Plan and Disclosure Statement must be made in writing and identify: (i) in detail the name and address of the objector, (ii) all grounds for the objection; and (iii) the amount of the Claim held by the objector. Any such objection must conform to the Bankruptcy Rules and Local Rules, and be filed with the Bankruptcy Court on or before **the Confirmation Objection Deadline, February [____], 2018 at 4:00 p.m. (prevailing Mountain Time).** Any such objection shall be served on (i) counsel to the Debtor, Pepper Hamilton LLP, Hercules Plaza, Suite 5100, 1313 N. Market Street, P.O. Box 1709, Wilmington, DE 19899-1709, Attn: Donald J. Detweiler and Francis J. Lawall; (ii) counsel to the Debtor, Snell & Wilmer, 15 W. South Temple, #1200, Salt Lake City, UT 84101, Attn: David Leta and Jeff Tuttle; (iii) counsel to the Committee, Levene, Neale, Bender, Yoo & Brill, L.L.P., 10250 Constellation Blvd. Suite 1700 Los Angeles, CA 90067, Attn: Martin J. Brill; (iv) local counsel to the Committee, Cohne Kinghorn, P.C., 111 East Broadway, 11th Floor, Salt Lake City, UT 84111, Attn: Adam Reiser; and (v) the Office of the United States Trustee, 405 South Main Street, Suite 300 Salt Lake City, UT 84111.

Unless an objection is timely filed and served by the Confirmation Objection Deadline, the objection may not be considered by the Bankruptcy Court at the Confirmation Hearing.

3. Requirements for Confirmation

The Bankruptcy Court will confirm the Combined Plan and Disclosure Statement only if it meets all the applicable requirements of section 1129 of the Bankruptcy Code. Among the requirements for confirmation in this Chapter 11 Case are that the Combined Plan and Disclosure Statement be: (i) accepted by all Impaired Classes of Claims and Equity Interests or, if rejected by an Impaired Class, that the Combined Plan and Disclosure Statement "does not discriminate unfairly" against and is "fair and equitable" with respect to such Class; and (ii) feasible. The Bankruptcy Court must also find that:

- The Combined Plan and Disclosure Statement has classified Claims and Equity Interests in a permissible manner;
- The Combined Plan and Disclosure Statement complies with the technical requirements of chapter 11 of the Bankruptcy Code; and
- The Combined Plan and Disclosure Statement has been proposed in good faith.

B. Liquidation Analysis and Best Interests of Creditors

Section 1129(a)(7) of the Bankruptcy Code requires that each Holder of an Impaired Claim or Equity Interest either (a) accept the Combined Plan and Disclosure Statement or (b) receive or retain under the Combined Plan and Disclosure Statement property of a value, as of the Effective Date, that is not less than the value such Holder would receive if the Debtor were liquidated under chapter 7 of the Bankruptcy Code.

The Combined Plan and Disclosure Statement will provide Holders of Allowed Claims and Equity Interests not less than what would be available to them in a chapter 7 liquidation. A hypothetical chapter 7 liquidation analysis is attached to this Combined Plan and Disclosure Statement as **Exhibit A**. In a chapter 7 liquidation, the fees and expenses of a chapter 7 trustee and his or her professionals will be substantial. The new chapter 7 trustee and his or her retained professionals would require time and effort to get up to speed and to administer the chapter 7 case. The Debtor believes that if the Debtor's Chapter 11 Case were converted to a case under chapter 7 of the Bankruptcy Code the value of any Distributions would be less than the value of Distributions under the Combined Plan and Disclosure Statement. Accordingly, the Debtor believes that the "best interests" test of Bankruptcy Code section 1129(a)(7) is satisfied.

C. Feasibility

Section 1129(a)(11) of the Bankruptcy Code requires that confirmation of the Combined Plan and Disclosure Statement is not likely to be followed by the liquidation, or the need for further financial reorganization, of the Debtor or any successors to the Debtor under the Combined Plan and Disclosure Statement, unless such liquidation or reorganization is proposed in the Combined Plan and Disclosure Statement.

The Debtor's Estate will not be subject to future reorganization or liquidation. The Debtor has effectuated the Sale of substantially all of its Assets and is no longer mining or

operating its business. Moreover, the Post-Effective Date Debtor will similarly not be mining or conducting any business operations after the Effective Date. As such, the Debtor believes that the Combined Plan and Disclosure Statement is feasible and meets the requirements of section 1129(a)(11) of the Bankruptcy Code.

D. Classification of Claims and Equity Interests

Section 1122 of the Bankruptcy Code requires the Combined Plan and Disclosure Statement to place a Claim or Equity Interest in a particular Class only if such Claim or Equity Interest is substantially similar to the other Claims or Equity Interests in such Class. The Combined Plan and Disclosure Statement creates separate Classes to deal respectively with the various Classes of Claims and Equity Interests. The Debtor believes that the Combined Plan and Disclosure Statement places substantially similar Claims or Equity Interests in the same Class, and thus meet the requirements of section 1122 of the Bankruptcy Code.

E. Impaired Claims or Equity Interests

Section 1124 of the Bankruptcy Code provides that a Class of Claims or Equity Interests may be Impaired if the Combined Plan and Disclosure Statement alters the legal, equitable or contractual rights of the Holders of such Claims or Equity Interests. Holders of Claims or Equity Interests that are Impaired are entitled to vote on the Combined Plan and Disclosure Statement. Holders of Claims that are Unimpaired by the Combined Plan and Disclosure Statement are deemed to accept the Combined Plan and Disclosure Statement and do not have the right to vote on the Combined Plan and Disclosure Statement.

Under the Combined Plan and Disclosure Statement, Holders of Priority Non-Tax Claims (Class 1(a)), and Prepetition Secured Equipment Loan Claims (Class 2(e)) are: (i) Unimpaired; (ii) deemed to accept the Combined Plan and Disclosure Statement; and (iii) not entitled to vote on the Combined Plan and Disclosure Statement.

Under the Combined Plan and Disclosure Statement, Holders of WARN Act Claims (Class1(b)), the WUMI Deficiency Claim (Class 2(a)), Waterloo Deficiency Claim (Class 2(b)), Skye Mineral Partners, LLC Prepetition Secured Claim (Class 2(c)), Other Prepetition Secured Claims (Class 2(d), if not paid in full), or General Unsecured Claim (Class 3) will receive their *Pro Rata* share of the available Cash from the Liquidation Trust Assets and Fiduciary Litigation and therefore are Impaired and entitled to vote on the Combined Plan and Disclosure Statement.

The Holders of Class 1(b) WARN Act Claims will receive a special Ballot identifying: (i) the Holder's name; (ii) the estimated amount of the Holder's WARN Act Claim (if such claim were allowed in full); (iii) the estimated Distribution to the Holder of the WARN Act Claim under "Option 1: WARN Act Settlement Option;" and (iv) whether the Holder votes to accept or reject the Combined Plan and Disclosure Statement. The Debtor estimates the Distributions to the Holder of an Allowed WARN Act Claim who elects Option 1: the WARN Act Settlement Option at approximately 60% of the Holder's estimated WARN Act Claim. The Debtor estimates the range of Distributions to Holders of Allowed WARN Act Claims who elect

Option 2: the WARN Act Litigation Option, to range between 0.00% to 100% depending upon the Court's findings and decision in connection with the WARN Act Litigation.

Under the Combined Plan and Disclosure Statement, Holders of Equity Interests (Class 4) will not receive or retain any property under the Combined Plan and Disclosure Statement, are deemed to reject the Combined Plan and Disclosure Statement and do not have the right to vote on the Combined Plan and Disclosure Statement. Finally, the Holders of Claims that are not classified under the Combined Plan and Disclosure Statement (Administrative Expense Claims, Professional Fee Claims, Priority Tax Claims and Statutory Fees) are not entitled to vote on the Combined Plan and Disclosure Statement.

F. Eligibility to Vote on the Plan

Unless otherwise ordered by the Bankruptcy Court, only Holders of Claims in Classes 1(b), 2(a), 2(b), 2(c), 2(d) and 3 may vote on the Combined Plan and Disclosure Statement. In order to vote on the Combined Plan and Disclosure Statement, you must hold a Claim in one of these voting Classes. For purposes of calculating the number of Allowed Claims in Class 3 that have voted to accept or reject the Combined Plan and Disclosure Statement under section 1126(c) of the Bankruptcy Code, all Allowed Claims in Class 3 held by one Entity or any Affiliate thereof shall be aggregated and treated as one Allowed Claim in Class 3.

G. Solicitation Notice

All Holders of Claims in Class 1(b), Classes 2(a), (b), (c) and (d), and Class 3 will receive, among other documents, the confirmation notice and a form of Ballot. All other Creditors are not entitled to vote on the Combined Plan and Disclosure Statement and will only receive the confirmation notice containing: (a) the website address, http://dm.epiq11.com/CSMining, where parties in interest may download electronic copies of the Combined Plan and Disclosure Statement and other related pleadings in the Chapter 11 Case for free; and (b) contact information for Debtor's counsel (detweild@pepperlaw.com; ((302) 777-6524) through which parties in interest may request copies of the Combined Plan and Disclosure Statement, Ballot, and related documents for a free.

H. Voting Procedure and Voting Deadline

In order for your Ballot to count, you must (i) complete, date and properly execute the Ballot, and (ii) properly deliver the Ballot to the Claims and Balloting Agent by First Class Mail to the following address:

If By First Class Mail	If By Hand Delivery or Overnight Mail
Epiq Bankruptcy Solutions LLC 777 Third Avenue, 12th Floor New York, NY 10017	Epiq Bankruptcy Solutions LLC 777 Third Avenue, 12th Floor New York, NY 10017

The Claims and Balloting Agent must ACTUALLY RECEIVE Ballots on or before the Voting Deadline. Except as otherwise ordered by the Bankruptcy Court or agreed to by the Debtor, you may not change your vote or election once a Ballot is submitted to the Claims

and Balloting Agent. Any Ballot that is timely received from a party entitled to vote, that contains sufficient information to permit the identification of the party casting the Ballot, and that is cast as an acceptance or rejection of the Combined Plan and Disclosure Statement will be counted and will be deemed to be cast as an acceptance or rejection, as the case may be, of the Combined Plan and Disclosure Statement; provided, however, that the following Ballots will not be counted or considered for any purpose in determining whether the Combined Plan and Disclosure Statement has been accepted or rejected:

(i) any Ballot received after the Voting Deadline (unless extended by the Bankruptcy Court or Debtor);

(ii) any Ballot that is illegible or contains insufficient information to permit the identification of the claimant;

(iii) any Ballot cast by a Person or Entity that does not hold a Claim in a Class that is entitled to vote to accept or reject the Combined Plan and Disclosure Statement;

(iv) any Ballot cast for a Claim that is scheduled as contingent, unliquidated or Disputed or as zero or unknown in amount and for which no timely motion was filed pursuant to Bankruptcy Rule 3018(a);

(v) any Ballot that indicates neither an acceptance nor a rejection, or indicates both an acceptance and rejection of the Combined Plan and Disclosure Statement;

(vi) any Ballot that casts part of its vote in the same Class to accept the Combined Plan and Disclosure Statement and part to reject the Combined Plan and Disclosure Statement;

(vii) any form of Ballot other than the official form sent by the Claims and Balloting Agent;

(viii) any form of Ballot received that the Claims and Balloting Agent cannot match to an existing database record of a Creditor;

(ix) any original Ballot that does not contain an original signature;

(x) any Ballot that is submitted by facsimile or electronic mail; or

(xi) any Ballot sent only to the Debtor or the Debtor's Professionals and not the Claims and Balloting Agent.

I. Acceptance of the Plan

As a Creditor, your acceptance of the Combined Plan and Disclosure Statement is important. In order for the Combined Plan and Disclosure Statement to be accepted by an

Impaired Class of Claims, a majority in number (i.e., more than half) and two-thirds in dollar amount of the Claims voting (of each Impaired Class of Claims) must vote to accept the Combined Plan and Disclosure Statement. At least one Impaired Class of Creditors, excluding the votes of insiders, must actually vote to accept the Combined Plan and Disclosure Statement. The Debtor urges that you vote to accept the Combined Plan and Disclosure Statement.

ARTICLE VII

TREATMENT OF UNCLASSIFIED CLAIMS

In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Expense Claims and Priority Tax Claims have not been classified and thus are excluded from the Classes of Claims and Equity Interests identified in Article VIII.

A. Administrative Expense Bar Date

The Court established October 31, 2017 as the bar date for any Administrative Expense Claims arising from the Involuntary Petition Date through August 28, 2017. Holders of an Administrative Expense Claim that did not file a request for allowance and payment thereof by the Administrative Expense Bar Date shall forever be barred from asserting such Administrative Expense Claim, absent further order of the Bankruptcy Court.[6]

Unless the Debtor, Post-Effective Date Debtor or Liquidation Trustee, as applicable, object to an Administrative Expense Claim by the Claims Objection Deadline, such Administrative Expense Claim shall be deemed Allowed in the amount requested. In the event that the Debtor or the Liquidation Trustee object to an Administrative Expense Claim, and the objection is not otherwise resolved, the Bankruptcy Court shall determine the Allowed amount of such Administrative Expense Claim. Except to the extent that any Person entitled to payment of an Allowed Administrative Expense Claim agrees to a different treatment, each Holder of an Allowed Administrative Expense Claim shall receive, in full satisfaction of such Allowed Administrative Expense Claim, Cash in an amount equal to such Allowed Administrative Expense Claim as soon as reasonably practicable after the later of the occurrence of the Effective Date and the date such Administrative Expense Claim becomes an Allowed Claim.

B. Supplemental General Administrative Claims Bar Date

Any request for an Administrative Expense Claim arising on August 29, 2017 through the Effective Date must be filed no later than the first Business Day that is 30 days after the Effective Date, which date shall be known as the Supplemental Administrative Expense Claims Bar Date. Holders of a Supplemental Administrative Expense Claim that do not file requests for the allowance and payment thereof on or before the Supplemental Administrative Expense Bar Date shall forever be barred from asserting such Supplemental Administrative Expense Claim absent further order of the Bankruptcy Court.

[6]Professional Fee Claims, however, are governed by the Supplemental Administrative Expense Bar Date.

Unless the Debtor or the Liquidation Trustee objects to a Supplemental Administrative Expense Claim by the Claims Objection Deadline, such Supplemental Administrative Expense Claim shall be deemed Allowed in the amount requested. In the event that the Debtor or the Liquidation Trustee objects to a Supplemental Administrative Expense Claim, and the objection is not otherwise resolved, the Bankruptcy Court shall determine the Allowed amount of such Supplemental Administrative Expense Claim. Except to the extent that any Person entitled to payment of a Supplemental Allowed Administrative Expense Claim agrees to a different treatment, each Holder of a Supplemental Allowed Administrative Expense Claim shall receive, in full satisfaction of such Supplemental Allowed Administrative Expense Claim, Cash in an amount equal to such Supplemental Allowed Administrative Expense Claim as soon as reasonably practicable after the such Supplemental Administrative Expense Claim becomes an Allowed Claim.

C. Professional Fee Claims

1. Final Fee Applications

Final fee applications seeking payment of Professional Fee Claims for fees and expenses incurred through the Effective Date shall be filed no later than the first Business Day that is thirty (30) days after the Effective Date unless otherwise extended by the Bankruptcy Court; *provided, however*, that Professionals may continue to receive compensation and reimbursement of expenses pursuant to the terms of the *Order Establishing Procedures For Interim Monthly Compensation And Reimbursement Of Expenses Of Professionals* (Dkt. No. 318).

After notice and a hearing, in accordance with the procedures established by the Bankruptcy Code, Bankruptcy Rules and Local Rules, the Allowed amounts of such Professional Fee Claims shall be determined by the Bankruptcy Court.

2. Post-Effective Date Fees and Expenses

After the Effective Date, any requirement that retained Professionals comply with sections 327 through 331 and 1103 of the Bankruptcy Code in seeking retention or compensation for services rendered after such date shall terminate, and the Liquidation Trustee and Post-Effective Date Debtor may employ and pay any retained professional in the ordinary course of business without any further notice to, or action, order, or approval of, the Bankruptcy Court.

3. Statutory Fees

All Statutory Fees that become due and payable prior to the Effective Date shall be paid by the Liquidation Trust within thirty (30) days after the Effective Date. After the Effective Date, the Liquidation Trust shall pay any and all such fees when due and payable, and shall file quarterly reports in the form prescribed by the UST. The Liquidation Trust shall remain obligated to pay quarterly fees to the UST until the earliest of the Chapter 11 Case being closed, dismissed or converted to a case under chapter 7 of the Bankruptcy Code.

D. Priority Tax Claims

Except to the extent that a Holder of an Allowed Priority Tax Claim has been paid prior to the Effective Date or agrees to a different treatment, each Holder of an Allowed Priority Tax Claim shall receive, in full and complete settlement, satisfaction and discharge of its Allowed Priority Tax Claim, at the option of the Debtor, (a) Cash in an amount equal to such Allowed Priority Tax Claim on the later of the Effective Date and the date such Priority Tax Claim becomes an Allowed Priority Tax Claim, or as soon thereafter as is practicable, (b) in accordance with section 1129(a)(9)(C) of the Bankruptcy Code, equal annual Cash payments commencing on the first anniversary of the Effective Date in an aggregate amount equal to such Allowed Priority Tax Claim, together with interest on any outstanding balance from the Effective Date at the applicable rate under non-bankruptcy law, over a period not exceeding five years after the Order for Relief Date or (c) upon such other terms determined by the Bankruptcy Court to provide the Holder of such Allowed Priority Tax Claim with deferred Cash payments having a value, as of the Effective Date, equal to such Allowed Priority Tax Claim; *provided, however*, that the Liquidation Trust shall have the right to pay any Allowed Priority Tax Claim, or any remaining balance, in full, at any time on or after the Effective Date, without premium or penalty. All Allowed Priority Tax Claims that are not due and payable on or before the Effective Date shall be paid in the ordinary course of business, without interest, as such obligations become due.

ARTICLE VIII

CLASSIFICATION AND TREATMENT OF CLAIMS AND EQUITY INTERESTS

A. Classification of Claims

Claims and Equity Interests, other than Administrative Expense Claims, Supplemental Administrative Expense Claims, Priority Tax Claims, Professional Fee Claims and Statutory Fees, are classified for all purposes, including voting, confirmation and Distribution pursuant to this Combined Plan and Disclosure Statement, as follows:

Class	Status	Voting Status
Class 1(a): Priority Non-Tax Claims	Unimpaired	Deemed to Accept
Class 1(b): WARN Act Claims	Impaired	Entitled to Vote
Class 2(a): WUMI Deficiency Claim	Impaired	Entitled to Vote
Class 2(b): Waterloo Deficiency Claim	Impaired	Entitled to Vote
Class 2(c):	Impaired	Entitled to Vote

Class	Status	Voting Status
Skye Mineral Partners, LLC Prepetition Secured Claim		
Class 2(d): Other Prepetition Secured Claims	Impaired	Entitled to Vote
Class 2(e): Prepetition Secured Equipment Loan Claims	Unimpaired	Deemed to Accept
Class 3: General Unsecured Claims	Impaired	Entitled to Vote
Class 4: Equity Interests	Impaired	Deemed to Reject

B. Treatment of Claims and Equity Interests

1. Class 1(a) – Priority Non-Tax Claims

Classification. Class 1 consists of all Priority Non-Tax Claims against the Debtor, including GAP Period Claims, if any.

Impairment and Voting. Class 1 is Unimpaired by the Combined Plan and Disclosure Statement. Holders of Class 1 Claims are conclusively presumed to have accepted the Combined Plan and Disclosure Statement and, therefore, are not entitled to vote to accept or reject the Combined Plan and Disclosure Statement.

Treatment. Unless otherwise agreed to by Holders of Allowed Class 1 Claims and the Debtor, Holders of Allowed Class 1 Claims, if any, shall receive Cash, in full satisfaction of such Allowed Class 1 Claim. Distributions to Allowed Class 1 Claims shall occur as soon as reasonably practicable after the later of the occurrence of the Effective Date and the date such Class 1 Claim becomes an Allowed Claim.

2. Class 1(b) –WARN Act Claims

Classification. Class 1 (b) consists of the WARN Act Claims asserted by the Class Plaintiffs in the WARN Act Litigation.

Allowance, Impairment and Treatment. The Debtor disputes that nature, amount and priority of the amounts due and payable to the Class Plaintiffs, including the fact that none of the Class Plaintiffs, or any of their representatives, filed a proof of Claim in support of their alleged WARN Act Claims, or a motion to extend the deadline for filing any such proof of Claim. The Debtor believes the range of possible distributions to the Holders of WARN Act Claims ranges from: (a) disallowance of the WARN Act Claims in full (a zero, $0.00, Distribution) as a result of the Class Plaintiffs' failure to file a timely proof of Claim in support of the alleged WARN Act Claims, as well as the possibility that the Debtor's may prevail on the

"good faith" defense asserted in the Debtor's Answer to the WARN Act Complaint; to (b) allowance of the WARN Act Claims in full as unsecured Priority Non-Tax Claims in accordance with Sections 507(a)(4) and 507(a)(5) of the United States Bankruptcy Code (distributions estimated to approximate $1,300,000). Because the WARN Act Litigation is grounded in equity, the Court has discretion in determining the amount of any damage award.

The Debtor has extended an Offer of Judgment to the Class Representative, which if accepted would resolve the WARN Act Litigation in full, Under the Offer of Judgment, the Debtor offers to allow judgment to be taken against the Debtor in the WARN Act Litigation as follows:

> (i) Judgment to be entered in favor of Class Representative, Matthew Chenault, and each class member who has not opted out of the class certified in the WARN Act Litigation (the "**Judgment Class**").
>
> (ii) The Judgment will provide for: (i) the allowance of an of an unsecured priority claim pursuant to 11 U.S.C. §§ Sections 507(a)(4) and 507(a)(5) on behalf of the Judgment Class in the amount of $450,000 (the "**$450,000 Unsecured Priority Claim**"), inclusive of attorneys' fees and costs incurred as of the date of the Offer of Judgment; **plus**, (ii) the allowance of a general unsecured non-priority claim on behalf of the Judgment Class in the amount of $800,000 (the "$**800,000 General Unsecured Claim**"), inclusive of attorneys' fees and costs incurred as of the date of the Offer.
>
> (iii) The $450,000 Unsecured Priority Claim and $800,000 General Unsecured Claim shall be deemed timely filed and allowable pursuant to 11 U.S.C. Sections §§ 501 and 502 and shall not be subject to further objection, reduction or offset.
>
> (iv) The $450,000 Unsecured Priority Claim shall be payable in full on the Effective Date of any plan of reorganization or plan of liquidation confirmed by the Court.
>
> (v) The $800,000 General Unsecured Claim shall be payable in accordance with the terms and conditions of any plan of reorganization or plan of liquidation confirmed by the Court.
>
> (vi) The $450,000 Unsecured Priority Claim and $800,000 General Unsecured Claim are being offered and will be deemed allowed in full and final satisfaction of all relief sought in the WARN Act Litigation (including but not limited to damages, attorneys' fees, costs, expenses, interest, and any other amounts recoverable in the WARN Act Litigation, accrued to the date of the Offer of Judgment) with the payment amount to be apportioned

among the Judgment Class, Class Representative (Matthew Chenault), and Class Counsel (Outten & Golden LLP) in the manner deemed to be most appropriate by Class Counsel and Class Representative.

(vii) The Offer of Judgment is not to be construed either as an admission that Debtor is liable in the WARN Act Litigation or that the Class Plaintiffs are entitled to any damages; and

(viii) The Offer of Judgment is conditioned on acceptance by the whole Judgment Class.

Class Representative, Mr. Chenault, has fourteen (14) days within which to accept the Offer of Judgment, after which it is deemed withdrawn. If the Offer of Judgment is not accepted within fourteen (14) days, the Class Plaintiffs may become obligated to pay CS Mining's costs incurred after the making of the Offer of Judgment.

The deadline for the Class Representative to respond to the Offer of Judgment expires on Monday, January 8, 2018. Depending upon how the Class Representative and Class Counsel apportion the $450,000 Unsecured Priority Claim and the $800,000 WARN General Unsecured Claim, the Debtor estimates the range or Distributions payable to the Holder of a WARN Act Claim between 45% to 60% of the Holder's Allowed WARN Act Claim if the Class Representative accepts the Offer of Judgment.

Because the nature, amount and priority of the WARN Act Claims is disputed, the Debtor proposes to allow the Holders of Warn Act Claims to select one of two options for their proposed treatment under the Combined Plan and Disclosure Statement: Option 1: WARN Act Settlement Option; and Option 2: WARN Act Litigation Option.

WARN Act Claim Option 1 –"Settlement Option." In lieu of continuing to litigate the WARN Act Litigation and the Debtor's likely objection to the allowance of any WARN Act Claim, the Holder of a WARN Act Claim may affirmatively elect to participate in the WARN Act Settlement Option by affirmatively selecting on the Holder's Ballot "Option 1: the WARN Act Settlement Option" provided for under the Combined Plan and Disclosure Statement. Unless otherwise agreed to by a Holder of an Allowed Class 1(b) Claim and the Debtor, the Holder of a Class 1(b) Claim who affirmatively selects "Option 1: the WARN Act Settlement Option" will receive, in full and final satisfaction of their Class 1(b) Claim: (a) an Allowed unsecured Priority Non-Tax Claim equal to 35% of the aggregate amount of the individual's WARN Act Claim; and (b) an Allowed General Unsecured Claim equal to 65% of the aggregate amount of the individual's WARN Act Claim. The aggregate amount of the Holder's WARN Act

Claim will be identified on the Ballot distributed to the Holder. The Allowed unsecured Priority Non-Tax Claim portion of the Holder's WARN Act Claim (35% of the individual's WARN Act Claim) shall be treated as an Allowed Class 1(b) Claim and shall be paid in cash, in full, on the Effective Date of the Combined Plan and Disclosure Statement. The Allowed General Unsecured Claim portion of the Holder's WARN Act Claim (65% of the WARN Act Claim) shall be treated as an Allowed Class 3 General Unsecured Claim and entitled to Distributions in accordance with the Distributions to be paid to the Holders of Allowed Class 3 General Unsecured Claims. The Holder's WARN Act Claim shall not be reduced or surcharged for any litigation expenses or attorneys' fees associated with the WARN Act Litigation.

WARN Act Claim Option 2 –"Litigation Option." The Holder of a WARN Act Claim may affirmatively elect to continue to litigate their WARN Act Claim through the WARN Act Litigation by affirmatively selecting on the Holder's Ballot "Option 2: the WARN Act Litigation Option" provided for under the Combined Plan and Disclosure Statement. The Holder of a WARN Act Claim who affirmatively elects to continue to litigate their WARN Act Claim through "Option 2: the WARN Act Litigation Option" will be entitled to Distributions in accordance with the Court's findings and decision in connection with the WARN Act Litigation. The treatment afforded a Holder of WARN Act Claim who affirmatively elects "Option 2: the WARN Act Litigation Option" will vary depending upon the entry of a Final Order in WARN Act Litigation, after the exhaustion of all appeals and rights of appeal. No Distributions shall be made to the Holders of WARN Act Claims that elect "Option 2: the WARN Act Litigation Option provided for under the Combined Plan and Disclosure Statement" until entry of a nonappealable Final Order or judgment in connection with the WARN Act Litigation.

Unless otherwise agreed to by the Holder of an Allowed Class 1(b) Claim and the Debtor, Holders of Allowed Class 1(b) Claims, if any, shall receive Cash, in full satisfaction of such Allowed Class 1(b) Claim. Distributions to Allowed Class 1(b) Claims shall occur as soon as reasonably practicable after the later of the occurrence of the Effective Date and the date such Class 1(b) Claim becomes an Allowed Claim.

FOR THE AVOIDANCE OF DOUBT, IF THE HOLDER OF A WARN ACT CLAIM FAILS TO AFFIRMATIVELY ELECT ON THE HOLDER'S BALLOT EITHER: (A) "OPTION 1: THE WARN ACT SETTLEMENT OPTION," OR (B) "OPTION 2: THE WARN ACT LITIGATION OPTION," SUCH HOLDER WILL BE DEEMED TO HAVE AFFIRMATIVELY ELECTED TO CONTINUE TO LITIGATE SUCH HOLDER'S WARN ACT CLAIM IN THE WARN ACT LITIGATION AS IF THE

HOLDER AFFIRMATIVELY SELECTED OPTION 2 THE WARN ACT LITIGATION OPTION.

Voting. Class 1(b) is Impaired by the Combined Plan and Disclosure Statement. Holders of Class 1(b) Claims are entitled to vote to accept or reject the Combined Plan and Disclosure Statement. Regardless of the Class 1(b) Option selected by the Holder, the aggregate amount of each Holder's Class 1(b) Claim will be used in determining whether the Holders of Class 1(b) Claims have voted to accept the Plan in accordance with the two-thirds acceptance requirements set forth in Section 1126(c) of the United States Bankruptcy Code.

3. Class 2(a) – WUMI Deficiency Claim

Classification. Class 2(a) consists of the WUMI Deficiency Claim against the Debtor.

Impairment and Voting. Class 2(a) is Impaired by the Combined Plan and Disclosure Statement. The Holder of the Class 2(a) Claim is entitled to vote to accept or reject the Combined Plan and Disclosure Statement.

Allowance & Treatment. In connection with the Sale and the Claims Resolution, WUMI: (i) received an Allowed secured Claim in the amount of $23,000,000.00; (ii) subordinated its Allowed secured Claim to $23,000,000 of Priming Obligations; (iii) accepted an initial Distribution of $6,000,000 from the proceeds received from the Sale as a part of the agreed treatment of the WUMI Allowed Secured Claim; (iii) paid $2,000,000 to the Debtor's Estate, free and clear of all Liens, Claims and interests; and (iv) agreed that the balance of its Claim, $17,000,000, will be treated as unsecured deficiency Claim that is subordinate to the First GUC Priority Distribution of $5,000,000. Unless a lesser treatment is agreed to by the Holder of an Allowed Class 2(a) Claim, the Holder of the Allowed Class 2(a) Claim shall receive a *Pro Rata* Distribution from the Unsecured Claim Distribution *after* the payment and Distribution of the First GUC Priority Distribution to the Holders of Allowed Class 3 General Unsecured Claims. Distributions to Allowed Class 2(a) Claims shall occur as soon as reasonably practicable after the Effective Date.

4. Class 2(b) – Waterloo Deficiency Claim

Classification. Class 2(b) consists of Waterloo Deficiency Claim against the Debtor.

Impairment and Voting. Class 2(b) is Impaired by the Combined Plan and Disclosure Statement. The Holder of the Class 2(b) Claim is entitled to vote to accept or reject the Combined Plan and Disclosure Statement.

Allowance & Treatment. In connection with the Sale and the Claims Resolution, Waterloo: (i) received an Allowed secured Claim in the amount of $23,000,000.00; (ii) subordinated its Allowed secured Claim to $23,000,000 of Priming Obligations; (iii) accepted an initial Distribution of $6,000,000 from the proceeds received from the Sale as part of the agreed treatment of the Waterloo Allowed Secured Claim; (iii) paid $3,000,000 to the Debtor's Estate, free and clear of all Liens, Claims and interests; and (iv) agreed that the balance of its Claim,

$17,000,000 will be treated as unsecured deficiency Claim that is subordinate to the First GUC Priority Distribution of $5,000,000. Unless a lesser treatment is agreed to by the Holder of an Allowed Class 2(b) Claim, the Holder of the Allowed Class 2(b) Claim shall receive a *Pro Rata* Distribution from the Unsecured Claim Distribution *after* the payment and Distribution of the First GUC Priority Distribution to the Holders of Allowed Class 3 General Unsecured Claims. Distributions to Allowed Class 2(b) Claims shall occur as soon as reasonably practicable after the Effective Date.

5. Class 2(C) – Skye Mineral Partners, LLC Prepetition Secured Claim

Classification. Class 2(c) consists of Skye Mineral Partners, LLC Prepetition Secured Claim against the Debtor.

Impairment and Voting. Class 2(c) is Impaired by the Combined Plan and Disclosure Statement. The Holder of a Class 2(c) Claim is entitled to vote to accept or reject the Combined Plan and Disclosure Statement.

Allowance & Treatment. The Class 2(c) Claim, if Allowed, is subordinated by contract, to the Allowed Class 2(a) and Class 2(b) Claims. The Debtor does not anticipate receiving enough proceeds from its Remaining Assets to make any Distributions to the Holder of the Class 2(c) Claim. The Debtor disputes the nature, extent and validity of the Class 2(c) Claim, and the Class 2(c) Claim is subject to further dispute, recharacterization and subordination by order of the Bankruptcy Court.

To the extent the Class 2(c) Claim is Allowed, and unless a lesser treatment is agreed to by the Holder of the Allowed Class 2(c) Claim and the Debtor, the Holder of the Allowed Class 2(c) Claim shall receive a *Pro Rata* Distribution from the Unsecured Claim Distribution *after* (i) the First GUC Priority Distributions of $5,000,000; ***and*** (ii) the Allowed Class 2(a) WUMI Deficiency Claim and Allowed Class 2(b) Waterloo Deficiency Claim are paid in full. Distributions to the Allowed Class 2(c) Claim shall occur as soon as reasonably practicable after the later of: (i) the occurrence of the Effective Date; (ii) the date such Class 2(c) Claim becomes an Allowed Claim; ***and***, (iii) the Allowed Class 2(a) Claim and Allowed Class 2(b) Claim are paid in full.

6. Class 2(d) – Other Prepetition Secured Claims

Classification. Class 2(d) consists of Other Prepetition Secured Claims filed against the Debtor.

Impairment and Voting. Class 2(d) is Impaired by the Combined Plan and Disclosure Statement. Holders of Class 2(d) Other Prepetition Secured Claims are entitled to vote to accept or reject the Combined Plan and Disclosure Statement.

Treatment. If a Holder of an Allowed Class 2(d) Other Prepetition Secured Claim is determined to hold a valid, perfected and enforceable Lien senior in priority to the Liens of the Allowed Class 2(a) Claim or Allowed Class 2(b) Claim, then the Holder of the Allowed Class 2(d) Claims shall be paid Cash equal to the full amount of their Allowed Class 2(d) Claim. If an Allowed Class 2(d) Claim is determined to be junior in priority to the Allowed Class 2(a) Claim

or Allowed Class 2(b) Claim, the Holder of such Allowed Class 2(d) Claim shall be entitled to receive a *Pro Rata* Distribution from the Unsecured Claim Distribution as if such Class 2(d) Other Prepetition Secured Claim was an Allowed Class 3 General Unsecured Claim. Distributions to Allowed Class 2(d) Claims shall occur as soon as reasonably practicable after the later of the occurrence of the Effective Date or the date such Class 2(d) Claim becomes an Allowed Claim.

7. Class 2(e) – Prepetition Secured Equipment Loan Claims

Classification. Class 2(e) consists of Prepetition Secured Equipment Loan Claims filed against the Debtor.

Impairment and Voting. Class 2(e) is Unimpaired by the Combined Plan and Disclosure Statement. Holders of Class 2(e) Claims are conclusively presumed to have accepted the Combined Plan and Disclosure Statement and, therefore, are not entitled to vote to accept or reject the Combined Plan and Disclosure Statement.

Treatment. To the extent the Holder of an Allowed Class 2(e) Claim holds a valid and perfected security interest in equipment owned by the Debtor; which has not otherwise been assumed, assigned and cured by the Debtor as part of the Sale, the Holder of such Allowed Class 2(e) Claim is entitled to: (i) payment in full of the Allowed Class 2(e) Claim; or (ii) the return of its equipment. Any Claim asserted by the Holder of a Class 2(e) Claim that is determined to be undersecured, unsecured or a deficiency claim shall be entitled to receive a *Pro Rata* Distribution from the Unsecured Claim Distribution as if such Class 2(e) Claim were an Allowed Class 3 General Unsecured Claim. Distributions to Allowed Class 2(e) Claims shall occur as soon as reasonably practicable after the later of the occurrence of the Effective Date and the date such Class 2(e) Claim becomes an Allowed Claim.

8. Class 3 – General Unsecured Claims

Classification. Class 3 consists of General Unsecured Claims filed against the Debtor.

Impairment and Voting. Class 3 is Impaired by the Combined Plan and Disclosure Statement. Holders of Class 3 Claims are entitled to vote to accept or reject the Combined Plan and Disclosure Statement.

Treatment. Holders of Allowed Class 3 Claims shall be paid Cash equal to: (i) their *Pro Rata* share of the First GUC Priority Distribution of $5,000,000, and no share of the First GUC Priority Distribution shall be paid or distributed to the Holders of Allowed Class 2(a) Claim or Allowed Class 2(b) Claim; *plus, if any,* (ii) their *Pro Rata* share of the Distributions payable to all Allowed Class 3 General Unsecured Claims, the Allowed Class 2(a) Claim and the Allowed Class 2(b) Claims, after the payment of the First GUC Priority Distribution of $5,000,000. Distributions to Allowed Class 3 Claims shall occur as soon as reasonably practicable after the later of the occurrence of the Effective Date and the date such Class 3 Claim becomes an Allowed Claim.

9. Class 4 – Equity Interests

Classification. Class 4 consists of the Equity Interests in the Debtor.

Impairment and Voting. Class 4 is Impaired under the Combined Plan and Disclosure Statement. The Holders of the Class 4 Equity Interests are deemed to have rejected the Combined Plan and Disclosure Statement and, therefore, are not entitled to vote to accept or reject the Combined Plan and Disclosure Statement.

Treatment. The Holders of Class 4 Equity Interests will receive no Distribution. On the Effective Date, all outstanding Equity Interests will be cancelled. Upon cancellation, no property will be distributed to, or retained by, Holders of such Equity Interests.

C. Modification of Treatment of Claims and Equity Interests

The Debtor, the Post-Effective Date Debtor and Liquidation Trustee, as may be applicable, reserve the right to modify the treatment of any Allowed Claim in any manner adverse only to the Holder of such Claim at any time after the Effective Date upon the consent of the Holder of the Claim whose Allowed Claim is being adversely affected.

ARTICLE IX

IMPLEMENTATION AND EFFECT OF CONFIRMATION OF COMBINED PLAN AND DISCLOSURE STATEMENT

A. Implementation of the Plan

The Plan will be implemented by the Debtor, the Post-Effective Debtor and Liquidation Trustee in a manner consistent with the terms and conditions set forth in the Plan and the Confirmation Order.

B. Plan Funding

The funds utilized to make Cash payments under the Plan have been and/or will be generated from, among other things, Cash on Hand, the proceeds received from the Sale, the liquidation or other disposition of the Remaining Assets, and the proceeds received from the Causes of Action and Fiduciary Litigation.

C. Good Faith

Confirmation of this Combined Plan and Disclosure Statement shall constitute a finding that: (i) this Combined Plan and Disclosure Statement has been proposed in good faith and in compliance with applicable provisions of the Bankruptcy Code; and (ii) the solicitation of acceptances or rejections of this Combined Plan and Disclosure Statement by all Persons has been in good faith and in compliance with applicable provisions of the Bankruptcy Code.

D. Liquidation Trust

1. Creation of the Liquidation Trust

On or before the Effective Date, the Liquidation Trust shall be formed pursuant to the Liquidation Trust Agreement and the filing of a certificate of trust with the Delaware Secretary of State. The Liquidation Trustee shall administer the Liquidation Trust, and shall have the powers and duties set forth in the Liquidation Trust Agreement. The Liquidation Trustee shall report to an advisory board of individuals appointed in accordance with Article IX(D)(4) of this Plan, the Liquidation Trust Advisory Board. The Liquidation Trustee will have authority to retain, on behalf of the Liquidation Trust, any counsel, financial advisors, claims agent, auditors, or other such professionals as it deems appropriate at all times. The Liquidation Trust may select any of the foregoing professionals in its sole discretion, and prior employment in any capacity in the Chapter 11 Case on behalf of the Debtor, its Estate, or the Committee shall not preclude the Liquidation Trust's retention of such professionals. The Liquidation Trust Beneficiaries' interests in the Liquidation Trust shall be uncertificated and, subject to applicable law, shall only be transferable upon the death of the applicable Liquidation Trust Beneficiary or pursuant to applicable law.

2. Purpose of the Liquidation Trust

On the Effective Date, the Debtor shall transfer, on behalf of the Liquidation Trust Beneficiaries, the Liquidation Trust Assets to the Liquidation Trust. The Liquidation Trust shall be established as a liquidating trust for the primary purpose of monetizing and distributing the Liquidation Trust Assets to the Liquidation Trust Beneficiaries. In connection with the vesting and transfer of the Liquidation Trust Assets any attorney-client privilege, work-product protection or other privilege or immunity attaching to any documents or communications (whether written or oral) transferred to the Liquidation Trust shall vest in the Liquidation Trust. The Debtor, the Post-Effective Debtor and the Liquidation Trustee are authorized to take all necessary actions to effectuate the transfer of such privileges, protections and immunities. For the avoidance of doubt, if after the Effective Date it is later determined that any of the assets transferred to the Liquidation Trust are assets purchased by Tamra in the Sale, the Liquidation Trust shall use its reasonable best efforts to convey such assets to Tamra.

3. Vesting of Assets

Upon the Effective Date and the transfer of the Liquidation Trust Assets to the Liquidation Trust, pursuant to sections 1141(b) and (c) of the Bankruptcy Code, any assets of the Debtor and its Estate shall vest in the Liquidation Trust, in each case free and clear of all Claims, Liens, encumbrances, charges, and other interests, except as otherwise provided herein or in the Confirmation Order. Pursuant to section 1123(b)(3) of the Bankruptcy Code and the terms of this Combined Plan and Disclosure Statement, the Liquidation Trust shall retain and shall have the exclusive right, in its discretion to enforce against any Person any and all Causes of Action. The Committee shall continue to retain, and shall have the exclusive right, in its discretion, to enforce, litigate or settle the Fiduciary Litigation, the net proceeds of which shall be transferred to the Liquidation Trust for Distribution to Holders of Allowed Claims in accordance with this

Combined Plan and Disclosure Statement, after payment of all costs, fees and expenses of the Fiduciary Litigation.

4. Liquidation Trust Advisory Board

The Liquidation Trust Advisory Board shall consist of three (3) Persons and be formed on or before the Effective Date. Two (2) of the members of the Liquidation Trust Advisory Board shall be designated by the Committee, in consultation with the Debtor, and one (1) member of the Liquidation Trust Advisory Board shall be designated by the Debtor.

The initial members of the Liquidation Trust Advisory Board shall be identified through a filing with the Bankruptcy Court on or before the Effective Date. In the event that no one is willing to serve on the Liquidation Trust Advisory Board after its formation or there shall have been no Liquidation Trust Advisory Board for a period of thirty (30) consecutive days, then the Liquidation Trustee may, during such vacancy, and thereafter, ignore any reference in this Plan, the Liquidation Trust Agreement or the Confirmation Order to the Liquidation Trust Advisory Board, and all such references in this Plan, the Liquidation Trust Agreement or the Confirmation Order shall be null and void. Any deadlock in a vote by the members of the Liquidation Trust Advisory Board may be broken by a vote by the Liquidation Trustee. The Liquidation Trust Advisory Board shall monitor and oversee the Liquidation Trustee, and all liquidation, distribution and other activities required in connection with management of the Liquidation Trust Assets, as more fully set forth in the Liquidation Trust Agreement. The members of the Liquidation Trust Advisory Board shall not be paid for their services except for reimbursement of actual and reasonable out of pocket expenses incurred by such members. Except as otherwise expressly set forth in this Combined Plan and Disclosure Statement, the Confirmation Order or the Liquidation Trust Agreement, the Liquidation Trustee shall at all times take direction from the Liquidation Trust Advisory Board and shall not make any material decision absent approval of the Liquidation Trust Advisory Board.

5. Liability of Liquidation Trustee and Liquidation Trust Advisory Board

Neither the Liquidation Trustee, Liquidation Trust Advisory Board, nor any of its members or designees, nor any duly designated agent or representative of the Liquidation Trust Advisory Board, nor their respective employees, shall be liable for the act or omission of any other member, designee, agent, or representative of the Liquidation Trust Advisory Board, nor shall any member be liable for any act or omission to be taken or not taken in its capacity as a member of the Liquidation Trust Advisory Board, other than acts resulting from such member's willful misconduct or gross negligence.

6. Management of the Liquidation Trust Assets

After the Effective Date, all property of the Liquidation Trust shall be managed and administered by the Liquidation Trustee in a manner reasonably designed to maximize values. The Liquidation Trust is authorized to prosecute, compromise, settle or abandon the Causes of Action for the benefit of any Holders of Allowed Claims who shall receive a Distribution hereunder without further order of the Bankruptcy Court. If the Liquidation

Trustee, in consultation with the Liquidation Trust Advisory Board, decides not to sell any non-Cash asset or property, or if such asset or property cannot, in the Liquidation Trustee's judgment and in consultation with the Liquidation Trust Advisory Board, be sold or liquidated in a commercially reasonable manner prior to the Final Distribution Date, the Liquidation Trustee shall have the right to abandon or otherwise dispose of such property without the prior approval of the Bankruptcy Court. Absent willful misconduct, intentional misconduct, gross negligence or fraud in connection therewith, no party in interest shall have a cause of action against either the Liquidation Trustee, the Liquidation Trust, the Debtor or the Post-Effective Date Debtor, or their respective directors, officers, employees, consultants, trustees or professionals arising from or related to the disposition of non-Cash property in accordance with this Section.

7. Transfer Taxes

Any transfer of the Liquidation Trust Assets to the Liquidation Trust shall be exempt from any stamp, real estate transfer, mortgage reporting, sales, use or other similar tax to the extent permitted under section 1146(a) of the Bankruptcy Code.

8. Federal Income Tax Treatment of the Liquidation Trust

The Liquidation Trust will be established for the sole purpose of distributing the Liquidation Trust Assets, and any proceeds therefrom, in accordance with Treasury Regulation section 301.7701-4(d) and Revenue Procedure 94-45, with no objective to continue or engage in the conduct of a trade or business. The Liquidation Trust is intended to qualify as a liquidating trust for U.S. federal income tax purposes. In general, a liquidating trust is not a separate taxable entity for U.S. federal income tax purposes, but is instead treated as a grantor trust, i.e., pass-through entity. All parties must treat the transfer of the portion of the Liquidation Trust Assets attributable to the Liquidation Trust Beneficiaries as a transfer of such assets directly to the Liquidation Trust Beneficiaries. Consistent therewith, all parties must treat the Liquidation Trust as a grantor trust of which the Liquidation Trust Beneficiaries are the owners and grantors. Subject to the terms of the Liquidation Trust Agreement, the value of a Liquidation Trust Beneficiary's Allowed Claim shall be the value of such Liquidation Trust Beneficiary's interest in the Liquidation Trust, and the Liquidation Trust Beneficiaries and the Liquidation Trustee must consistently use this valuation for all U.S. federal income tax purposes, including for determining gain, loss or tax basis.

9. Reserve

The Liquidation Trust shall establish a Disputed Claim Reserve on account of Disputed Claims. The Liquidation Trust may, for U.S. federal income tax purposes (and, to the extent permitted by law, for state and local income tax purposes), (i) make an election pursuant to Treasury Regulation section 1.468B-9 to treat the Disputed Claim Reserve as a "disputed ownership fund" within the meaning of that section, (ii) allocate taxable income or loss to the Disputed Claim Reserve, with respect to any given taxable year (but only for the portion of the taxable year with respect to which such Claims are Disputed), and (iii) distribute assets from the Disputed Claim Reserve as, when, and to the extent, such Disputed Claims cease to be Disputed, whether by virtue of becoming Allowed or otherwise resolved. The Liquidation Trust Beneficiaries shall be bound by such election, if made by the Liquidation Trustee, and as such

shall, for U.S. federal income tax purposes (and, to the extent permitted by law, for state and local income tax purposes), report consistently therewith.

10. Dissolution

The Liquidation Trust shall be dissolved no later than five (5) years from the Effective Date, unless the Bankruptcy Court, upon motion made prior to such fifth (5th) anniversary, determines that a fixed period extension, not to exceed three (3) years, together with any prior extensions, without a favorable letter ruling from the IRS or opinion from counsel that any further extension would not adversely affect the status of the Liquidation Trust as a liquidating trust for federal income tax purposes, is necessary to facilitate or complete the recovery on and liquidation of the Liquidation Trust Assets. Upon the filing of any motion for an extension of the date of dissolution of the Liquidation Trust, such date shall be deemed automatically extended until an order of the Bankruptcy Court is entered with respect to such motion or the motion is withdrawn.

11. Securities Law Matters

To the extent the interests in the Liquidation Trust are deemed to be "securities," the issuance of such interests under the Plan are exempt, pursuant to section 1145 of the Bankruptcy Code, from registration under the Securities Act of 1933, as amended, and any applicable state and local laws requiring registration of securities.

E. Approval of Plan Documents; Effectuating Documents; Further Transactions

The solicitation of votes on the Combined Plan and Disclosure Statement shall be deemed a solicitation for the approval of the Plan Documents and all transactions contemplated hereunder. Entry of the Confirmation Order shall constitute approval of the Plan Documents and such transactions. On the Effective Date, the Post-Effective Date Debtor shall be authorized to enter into, file, execute and/or deliver each of the Plan Documents and any other agreement or instrument issued in connection with any Plan Document without the necessity of any further corporate, board or shareholder action.

F. Preservation of Causes of Action

To the extent not otherwise waived in writing, released, settled, assigned or sold pursuant to a prior Order, the Debtor, Post-Effective Date Debtor and Liquidation Trust specifically retain and reserve the right to assert, after the Effective Date, any and all of the claims, Causes of Action, defenses and related rights, whether or not asserted as of the Effective Date, and all proceeds of the foregoing. Subject to Liquidation Trust Advisory Board review and approval, the Liquidation Trustee, on behalf of the Debtor, the Post-Effective Date Debtor and the bankruptcy Estate, may pursue, abandon, settle or release any or all such Causes of Action he or she deems appropriate, without the need to obtain approval or any other or further relief from the Bankruptcy Court.

For the avoidance of doubt, the Committee shall continue to prosecute, compromise, settle or abandon the Fiduciary Litigation, *provided however*, that the proceeds of

the Fiduciary Litigation, net of fees, costs and expenses incurred by the Committee in connection with the Fiduciary Litigation, shall inure to the benefit of the Liquidation Trust Beneficiaries and be transferred to the Liquidation Trust free and clear of all Liens, Claims and encumbrances.

G. Corporate Governance and Management of Post-Effective Date Debtor

1. Post-Effective Date Corporate Existence

The Chief Wind-Down Officer and any successor thereto (including without limitation any other designated officer or trustee or representative of the Pre-Effective Date Debtor) is authorized and empowered to effect the dissolution of the Post-Effective Date Debtor as soon as practicable after the Effective Date. On the Effective Date, upon cancellation of the Equity Interests, the Liquidation Trustee shall be become the sole managing member of the Post-Effective Date Debtor, without the need for any further corporate, member or shareholder action. The foregoing actions are pursuant to Section 303 of Delaware General Corporation Law or other applicable law of the states in which the Debtor is organized, without any requirement of further action by the stockholders, directors, members, managers, or partners of the Debtor or Post-Effective Date Debtor.

2. Corporate Action

All matters provided for under this Combined Plan and Disclosure Statement that would otherwise require approval of the stockholders, directors, members, managers or partners of the Debtor or Post-Effective Date Debtor, including (i) the effectiveness of the certificates of incorporation and by-laws of the Post-Effective Date Debtor, and (ii) the election or appointment, as the case may be, of directors and officers of the Post-Effective Date Debtor are deemed to have occurred and will be in effect from and after the Effective Date pursuant to Section 303 of the Delaware General Corporation Law or other applicable law of the states in which the Debtor is organized, without any requirement of further action by the stockholders, directors, members, managers, or partners of the Debtor or Post-Effective Date Debtor. On the Effective Date, or as soon thereafter as is practicable, the Post-Effective Date Debtor shall, if required, file its amended certificate of incorporation with the Secretary of State of the state in which the entity is (or will be) incorporated, in accordance with the applicable general corporation law of that state.

3. Officers and Boards of Directors

On the Effective Date, the board of managers of the Post-Effective Date Debtor shall be comprised solely of the Chief Wind-Down Officer. Effective as of the Effective Date, members of the CSM Board serving in such capacities prior to the Effective Date, in their capacities as such, shall have no continuing obligations to the Post-Effective Date Debtor on or after the Effective Date. Effective as of the Effective Date, the sole officer of the Post-Effective Date Debtor shall be the Chief Wind-Down Officer.

4. Payment of Wind-Down Expenses

Wind-Down Expenses of the Post-Effective Date Debtor shall be paid by the Liquidation Trustee from the Liquidation Trust Assets.

5. Cancellation of Existing Securities and Agreements

On the Effective Date, any document, agreement or instrument evidencing any Claim against or Equity Interest in the Debtor shall be deemed cancelled without further act or action under any applicable agreement, law, regulation, order, or rule and the obligations of the Debtor under such documents, agreements, or instruments evidencing such Claims and Equity Interests, as the case may be, shall be discharged.

ARTICLE X

PROVISIONS GOVERNING DISTRIBUTIONS

A. Method of Payment

Unless otherwise expressly agreed, in writing, all Cash payments to be made pursuant to the Combined Plan and Disclosure Statement shall be made by check drawn on a domestic bank or an electronic wire.

B. Distributions on Allowed Claims

Distributions to be made on account of Claims that are Allowed Claims as of the Effective Date or become Allowed Claims thereafter shall be made by the Liquidation Trustee pursuant to the terms and conditions of the Combined Plan and Disclosure Statement. Notwithstanding any other provision of the Combined Plan and Disclosure Statement to the contrary, no Distribution shall be made on account of any Allowed Claim or portion thereof that: (i) has been satisfied after the Involuntary Petition Date; (ii) is listed in the Schedules as contingent, unliquidated, Disputed or in a zero amount, and for which a proof of Claim has not been timely filed; or (iii) is evidenced by a proof of Claim that has been amended by a subsequently filed proof of Claim.

C. Objections to and Resolution of Claims

Except as to applications for allowance of compensation and reimbursement of expenses under sections 330, 331 and 503 of the Bankruptcy Code, the Liquidation Trustee, on and after the Effective Date, shall have the exclusive right to make and file objections to Claims asserted against the Debtor or the Post-Effective Date Debtor. The Liquidation Trustee shall have the exclusive right to file objections and/or motions to estimate any and all Claims after the Effective Date. The Liquidation Trustee shall have the authority to compromise, settle, or otherwise resolve or withdraw any objections, without approval of the Bankruptcy Court.

D. Claims Objection Deadline

The Liquidation Trustee shall file and serve any objections to any Claims, including Administrative Expense Claims and Supplemental Administrative Expense Claims, no later than the Claims Objection Deadline; *provided, however,* the Claims Objection Deadline may be extended by the Bankruptcy Court from time to time upon motion (on notice) by the Liquidation Trustee.

E. No Distribution Pending Allowance

Notwithstanding any other provision of the Combined Plan and Disclosure Statement, no payment or Distribution of Cash or other property shall be made with respect to any portion of a Disputed Claim unless and until all objections to such Claim are resolved by Final Order or as otherwise permitted by this Combined Plan and Disclosure Statement and such Disputed Claim has become an Allowed Claim.

F. Estimation

The Debtor or Liquidation Trustee may, at any time, request that the Bankruptcy Court estimate any contingent or Disputed Claim pursuant to section 502(c) of the Bankruptcy Code regardless of whether the Debtor or Liquidation Trustee has previously objected to such Claim. In the event the Bankruptcy Court estimates any contingent or Disputed Claim, the estimated amount may constitute a maximum limitation on such Claim, as determined by the Bankruptcy Court. Notwithstanding this, the Debtor or Liquidation Trustee may elect to pursue any supplemental proceedings to object to the allowance and payment of such Claim. All of the aforementioned Claims objection and estimation procedures are cumulative and not exclusive of one another.

G. Claims Reserve

On any date that Distributions are to be made under the terms of the Combined Plan and Disclosure Statement, the Liquidation Trustee shall reserve Cash or property equal to one-hundred percent (100%) of the Cash or property that would be Distributed on such date on account of Disputed Claims as if each such Disputed Claim were an Allowed Claim but for the pendency of a dispute with respect thereto, unless otherwise Ordered by the Bankruptcy Court following notice to the affected Claim Holder. Such Cash or property, as the case may be, shall be held for the benefit of the Holders of all such Disputed Claims pending determination of their entitlement thereto.

H. Distribution After Allowance

Except as provided herein, within the later of (i) seven (7) Business Days after such Claim becomes an Allowed Claim and (ii) thirty (30) days after the expiration of the Claims Objection Deadline, the Liquidation Trustee shall distribute all Cash or other property to which a Holder of an Allowed Claim is then entitled.

I. Late Claims and Amendments to Claims After the Confirmation Date

Except as provided herein or otherwise agreed, any and all Holders of proofs of Claim filed after the Bar Date, shall not be treated as Creditors for purposes of Distribution pursuant to Bankruptcy Rule 3003(c)(2) unless on or before the Confirmation Date such late Claim has been deemed timely filed by a Final Order. After the Confirmation Date, a proof of Claim may not be filed or amended without the authorization of the Bankruptcy Court.

J. Distribution Record Date

Except as otherwise provided in a Final Order of the Bankruptcy Court, the transferees of Claims that are transferred pursuant to Bankruptcy Rule 3001 on or prior to the Distribution Record Date will be treated as the Holders of those Claims for all purposes. The Liquidation Trustee shall have no obligation to recognize any transfer of any Claim occurring after the Distribution Record Date. In making any Distribution with respect to any Claim, the Liquidation Trustee shall be entitled instead to recognize and deal with, for all purposes hereunder, only the Entity that is listed on the filed proof of Claim or on the Schedules as the Holder thereof as of the close of business on the Distribution Record Date and upon such other evidence or record of transfer or assignment that are actually known to the Liquidation Trustee as of the Distribution Record Date or are filed with the Bankruptcy Court.

K. Delivery of Distributions

Except as provided herein, Distributions to Holders of Allowed Claims shall be made: (1) at the addresses set forth on the respective proofs of Claims filed by such Holders; (2) at the addresses set forth in any written notices of address changes delivered to the Liquidation Trustee after the date of any related proof of Claim; or (3) at the address reflected in the Schedules if no proof of Claim or is filed and the Liquidation Trustee has not received a written notice of a change of address.

L. Satisfaction of Subordination Rights

All Claims against the Debtor and all rights and claims between or among claimholders relating in any manner whatsoever to Claims against the Debtor, based upon any subordination rights shall be deemed satisfied by the Distributions under this Combined Plan and Disclosure Statement, and such subordination rights shall be deemed waived, released, and terminated as of the Effective Date.

M. Undeliverable and Unclaimed Distributions

If any Allowed Claim Holder's Distribution is returned as undeliverable, the Liquidation Trustee will take reasonable steps to attempt to deliver the Distribution to the Holder of the Allowed Claim. Any Holder of an Allowed Claim that does not advise the Liquidation Trustee that it has not received its, his or her Distribution within ninety (90) days after the date of attempted Distribution will forfeit Distribution on such Claim against the Debtor or its property. Distributions must be negotiated within ninety (90) days of the date of Distribution. Any Distributions which are undeliverable and unclaimed or have not been cashed within the time periods set forth above shall become available for Distribution to the Holders of Allowed Claims in accordance with the Combined Plan and Disclosure Statement and the Holder of an unclaimed or undeliverable Distribution shall not be entitled to any further Distribution under the Combined Plan and Disclosure Statement.

N. Escheatment

Notwithstanding any state escheatment law, any state that was entitled to file a Claim in its own right in connection with claims for property that had been deemed abandoned

and had escheated to the state prepetition, but failed to comply with the Bar Date and file a proof of Claim, will be forever barred from assertion of such Claim against the Debtor and its Estate unless otherwise ordered by the Bankruptcy Court.

O. De Minimis Distributions

Distributions of fractions of dollars will not be made, but will be rounded to the nearest dollar (up or down), with half dollars being rounded down. The Liquidation Trustee shall not be required to make any Distribution to a Holder of an Allowed Claim of less than fifty dollars ($50.00) on account of such Allowed Claim. If a Holder of an Allowed Claim would be entitled to receive less than $50 as of the time of a particular Distribution, but would be entitled to receive more than $50 in combination with later Distributions, the Liquidation Trustee shall combine such Distribution with later Distributions so that the Holder may eventually be entitled to a Distribution of at least $50 in value.

P. Remaining Available Cash

If in connection with closing the Chapter 11 Case, the available Cash remaining is less than $10,000, the Liquidation Trustee, in his or her sole discretion, may donate such amount to a Charity.

Q. Setoff and Recoupment

The Liquidation Trustee shall retain the right to reduce any Claim by way of setoff and recoupment in accordance with the Debtor's books and records.

R. Allocation of Distributions Between Principal and Interest

To the extent that any such Allowed Claim entitled to a Distribution under the Combined Plan and Disclosure Statement is comprised of indebtedness and accrued but unpaid interest thereon, such Distribution shall be allocated to the principal amount (as determined for federal income tax purposes) of the Claim first, and then to accrued but unpaid interest.

S. Interest on Claims

Unless otherwise specifically provided for in the Combined Plan and Disclosure Statement or the Confirmation Order, or required by applicable bankruptcy law, post-petition interest shall not accrue or be paid on any Claims, and no Holder of a Claim shall be entitled to interest accruing on or after the Involuntary Petition Date on any Claim. Interest shall not accrue or be paid upon any Disputed Claim in respect of the period from the Involuntary Petition Date to the date a final Distribution is made thereon, if and after such Disputed Claim becomes an Allowed Claim.

T. Withholding and Reporting Requirements

In connection with the consummation of the Combined Plan and Disclosure Statement, the Liquidation Trustee shall comply with all withholding and reporting requirements imposed by any federal, state, local or foreign taxing authority, and all Distributions hereunder

shall be subject to any such withholding and reporting requirements. Notwithstanding the above, each Holder of an Allowed Claim that is to receive a Distribution under the Combined Plan and Disclosure Statement shall have the sole and exclusive responsibility for the satisfaction and payment of any tax obligations imposed on such Holder by any Governmental Unit, including income, withholding and other tax obligations, on account of such Distribution. The Liquidation Trustee has the right, but not the obligation, not to make a Distribution until such Holder has made satisfactory arrangements for payment of any such tax obligations.

Liquidation Trustee may require, as a condition to receipt of a Distribution, that the Holder of an Allowed Claim complete and return a Form W-8 or W-9, as applicable to each such Holder. If the Liquidation Trustee makes such a request and the Holder fails to comply before the date that is 180 days after the request is made, the amount of such Distribution shall irrevocably revert to the Post-Effective Date Debtor and the right to a Distribution on account of such Claim shall be forfeited.

ARTICLE XI

INJUNCTION, EXCULPATION AND RELEASES

A. Injunction

Except as expressly otherwise provided in the Combined Plan and Disclosure Statement or a further Order of the Bankruptcy Court, on the Effective Date all Entities or Persons that hold, have held or may hold or have asserted, assert or may assert Claims against or Equity Interests in the Debtor and the bankruptcy Estate shall be permanently, forever and completely stayed, restrained, prohibited, barred and enjoined from taking any of the following actions against the Debtor, the Post-Effective Date Debtor, the Estate, the Liquidation Trust, the Liquidation Trustee, the Released Parties or any of the Post-Effective Date Debtor's or Liquidation Trust's property, whether directly or indirectly, derivatively or otherwise, on account of or based on the subject matter of such Claim or Equity Interest:

(i) commencing, conducting or continuing in any manner, directly or indirectly, any suit, action or other proceeding (including, without limitation, any judicial, arbitral, administrative or other proceeding) in any forum;

(ii) enforcing, attaching (including, without limitation, any prejudgment attachment), collecting, or in any way seeking to recover any judgment, award, decree, or other order;

(iii) creating, perfecting or in any way enforcing in any matter, directly or indirectly, any Lien;

(iv) setting off, seeking reimbursement or contributions from, or subrogation against, or otherwise recouping in any manner, directly or indirectly, any amount against any liability or obligation owed to any Person or Entity released under this Combined Plan and Disclosure Statement, except with respect to any right of setoff

asserted prior to the entry of the Confirmation Order, whether asserted in a proof of Claim or otherwise, or as otherwise contemplated or allowed by the Combined Plan and Disclosure Statement; and

(v) commencing or continuing in any manner, in any place of any judicial, arbitration or administrative proceeding in any forum that does not comply with or is inconsistent with the provisions of the Combined Plan and Disclosure Statement or the Confirmation Order.

B. Exculpation

Except for any Claims and Causes of Action for actual fraud, gross negligence or willful misconduct as determined by Final Order of a court of competent jurisdiction, the Exculpated Parties shall not have or incur any liability to any Person or Entity, including any Holder of a Claim or Equity Interest, and such Holder of a Claim or Equity Interest shall have no right of action against the Exculpated Parties, for any act or omission taken or not taken in connection with, relating to, or arising out of (i) the filing of the Chapter 11 Case and entry of the Order for Relief; (ii) the Chapter 11 Case; (iii) the prosecution or settlement of Claims and Causes; (iv) the performance, assumption, assignment, termination, or rejection of Executory Contracts and Unexpired Leases; (v) the sale of the Debtor's Assets pursuant to section 363 of the Bankruptcy Code (v) the negotiation and filing of this Combined Plan and Disclosure Statement; (vi) the pursuit of confirmation of this Combined Plan and Disclosure Statement; (vii) the consummation of this Combined Plan and Disclosure Statement (viii) the administration of this Combined Plan and Disclosure Statement or (ix) the Distribution of property under this Combined Plan and Disclosure Statement. Nothing herein shall preclude the Exculpated Parties from asserting as a defense to any claim of actual fraud, gross negligence or willful misconduct that he or she reasonably relied upon the advice of counsel with respect to his or her duties and responsibilities under the Combined Plan and Disclosure Statement or otherwise.

C. Liabilities to, and Rights of, Governmental Units

Nothing in this Combined Plan and Disclosure Statement or Confirmation Order shall discharge, release, or preclude: (1) any liability to a Governmental Unit that is not a Claim; (2) any Claim of a Governmental Unit arising on or after the Confirmation Date; (3) any liability to a Governmental Unit on the part of any Entity other than the Debtor or Post-Effective Date Debtor; (4) any valid right of setoff or recoupment by a Governmental Unit; or (5) any criminal liability. Nothing in the Plan or Confirmation Order shall enjoin or otherwise bar any Governmental Unit from asserting or enforcing, outside the Bankruptcy Court, any liability described in the preceding sentence. The discharge and injunction provisions contained in the Plan and Confirmation Order are not intended, and shall not be construed, to bar any Governmental Unit from, after the Effective Date, pursuing any police or regulatory action.

ARTICLE XII

EXECUTORY CONTRACTS AND UNEXPIRED LEASES

A. Rejection of Executory Contracts and Unexpired Leases

Pursuant to sections 365(a) and 1123(b)(2) of the Bankruptcy Code, all Executory Contracts and Unexpired Leases that exist between the Debtor and any Person or Entity shall be deemed rejected by the Debtor on the Confirmation Date and effective as of the Confirmation Date, except for any Executory Contract or Unexpired Lease (i) that has been assumed or rejected pursuant to an Order of the Bankruptcy Court entered prior to the Confirmation Date, or (ii) as to which a motion for approval of the assumption or rejection of such Executory Contract or Unexpired Lease has been filed and served prior to the Confirmation Date. The Confirmation Order shall constitute an Order approving such rejection as of the Confirmation Date.

B. Deadline for Filing Proofs of Claim Relating to Executory Contracts and Unexpired Leases Rejected Pursuant to the Combined Plan and Disclosure Statement

If the rejection by the Debtor, pursuant to the Combined Plan and Disclosure Statement or otherwise, of an Executory Contract or Unexpired Lease gives rise to a Claim, a proof of Claim must be filed with the Claims and Balloting Agent at Epiq Bankruptcy Solutions, LLC, 777 Third Avenue, 12th Floor, New York, NY 10017 Attn. CS Mining Claims and Balloting Agent by no later than twenty-four (24) days after service of the later of (i) notice of entry of the Confirmation Order, and (ii) other notice that the Executory Contract has been rejected. Any proofs of Claims not filed and served within such time periods will be forever barred from assertion against the Debtor and its Estate.

C. Debtor's Insurance Policies

Nothing in the Combined Plan and Disclosure Statement or the Confirmation Order alters the rights and obligations of the Debtor (and its Estate) and the Debtor's insurers (and third-party claims administrators) under the Insurance Policies or modifies the coverage or benefits provided thereunder or the terms or conditions thereof or diminishes or impairs the enforceability of the Insurance Policies.

ARTICLE XIII

CAUSES OF ACTION

A. Retention of Causes of Action

The Liquidation Trust and Post-Effective Date Debtor expressly reserve all rights to prosecute any and all claims and Causes of Action against any Entity or Person, except as otherwise expressly provided in the Combined Plan and Disclosure Statement. Unless any claims or Causes of Action against an Entity or Person are expressly waived, relinquished, exculpated, released, compromised or settled in the Combined Plan and Disclosure Statement or a Bankruptcy Court Order, the Liquidation Trust and Post-Effective Date Debtor expressly

reserve all claims and Causes of Action for later adjudication. Therefore, no preclusion doctrine, including the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion, estoppels (judicial, equitable or otherwise) or laches shall apply to such claims or Causes of Action upon, after or as a consequence of the Confirmation or Effective Date of the Combined Plan and Disclosure Statement.

For the avoidance of doubt, the Committee is authorized to continue to prosecute, compromise, settle or abandon the Fiduciary Litigation, *provided however*, that the proceeds of the Fiduciary Litigation shall inure to the benefit of the Liquidation Trust Beneficiaries and be transferred to the Liquidation Trust free and clear of all Liens, Claims and encumbrances.

B. Reservation of Rights

Except as specifically provided in the Combined Plan and Disclosure Statement or in the Confirmation Order, nothing contained in the Combined Plan and Disclosure Statement or in the Confirmation Order shall be deemed to be a waiver or relinquishment of any Claim, Cause of Action, right of setoff, or other legal or equitable defense that the Debtor had immediately prior to the Involuntary Petition Date, against or with respect to any Claim left Unimpaired by the Combined Plan and Disclosure Statement. The Debtor, Post-Effective Date Debtor and (upon transfer of the Remaining Assets to the Liquidation Trust) the Liquidation Trust, shall have, retain, reserve and be entitled to assert all such claims, Causes of Action, rights of setoff or other legal or equitable defenses which the Debtor had immediately prior to the Involuntary Petition Date fully as if the Chapter 11 Case had not been commenced, and all legal and equitable rights of the Debtor, Post-Effective Date Debtor and Liquidation Trust respecting any Claim left Unimpaired by the Combined Plan and Disclosure Statement may be asserted after the Confirmation Date to the same extent as if the Chapter 11 Case had not been commenced.

The Liquidation Trustee's right to commence and prosecute Causes of Action shall not be abridged or materially altered in any manner by reason of confirmation of the Combined Plan and Disclosure Statement. No defendant party to any Causes of Action brought by the Debtor or the Liquidation Trustee shall be entitled to assert any defense based, in whole or in part, upon confirmation of the Combined Plan and Disclosure Statement or the Confirmation Order, and confirmation of the Combined Plan and Disclosure Statement shall not have any *res judicata* or collateral estoppel effect upon the commencement and prosecution of the Causes of Action.

ARTICLE XIV

CONDITIONS PRECEDENT TO AND OCCURRENCE OF CONFIRMATION AND THE EFFECTIVE DATE

A. Conditions Precedent to Confirmation

The following are conditions precedent to confirmation that must be satisfied or waived:

(i) The Confirmation Order and Plan Documents, including any exhibits or schedules incorporated thereto, shall be reasonably acceptable in form and substance to the Debtor and Committee;

(ii) The Bankruptcy Court shall have approved this Combined Plan and Disclosure Statement in an order in form and substance reasonably acceptable to the Debtor; and

(iii) In each case subject to the occurrence of the Effective Date, to the extent necessary or appropriate, the Plan Documents, including the Liquidation Trust Agreement, to be entered into by the Post-Effective Date Debtor shall have been entered and delivered, all actions, documents, and agreements necessary to implement the Combined Plan and Disclosure Statement shall have been effected or executed and the Debtor shall have received all material authorizations, consents, regulatory approvals, rulings, letters, no-action letters, opinions, or documents that are reasonably necessary to implement the Combined Plan and Disclosure statement and that are required by law, regulation, or order.

B. Conditions Precedent to the Effective Date

The Combined Plan and Disclosure Statement shall not become effective unless and until the following conditions shall have been satisfied or waived by the Debtor:

(i) Entry of the Confirmation Order;

(ii) The Confirmation Order becomes a Final Order;

(iii) The Plan Documents shall have been executed and become effective; and

(iv) There shall exist sufficient available Cash to satisfy Administrative Expense Claims, Priority Tax Claims and Priority Non-Tax Claims which are Allowed Claims.

C. Establishing the Effective Date

The calendar date to serve as the Effective Date shall be a Business Day, on or promptly following the satisfaction or waiver of all conditions to the Effective Date, which date will be selected by the Debtor, after reasonable consultation with the Committee. On or within three (3) Business Days of the Effective Date, the Post-Effective Date Debtor shall file and serve a notice of occurrence of the Effective Date. Such notice shall contain, among other things, the Supplemental Administrative Expense Bar Date, the deadline by which Professionals must file and serve any Professional Fee Claims and the deadline to file a proof of Claim relating to damages from the rejection of any Executory Contract or Unexpired Lease pursuant to the terms of the Combined Plan and Disclosure Statement.

D. Effect of Failure of Conditions

If each condition to the Effective Date has not been satisfied or duly waived within forty-five (45) days after the Confirmation Date, then upon motion by any party in interest, made before the time that each of the conditions has been satisfied or duly waived and upon notice to such parties in interest as the Bankruptcy Court may direct, the Confirmation Order may be vacated by the Bankruptcy Court; *provided, however*, that notwithstanding the filing of such motion, the Confirmation Order shall not be vacated if each of the conditions to the Effective Date is either satisfied or duly waived by the Debtor before any Order granting such relief becomes a Final Order. If the Confirmation Order is vacated pursuant to this Section, the Combined Plan and Disclosure Statement shall be deemed null and void in all respects and nothing contained herein shall (a) constitute a waiver or release of any Claims by or against the Debtor, or (b) prejudice in any manner the rights of the Debtor.

E. Waiver of Conditions to Confirmation and Effective Date

The Debtor, in consultation with the Committee, and to the extent not prohibited by applicable law, may waive one or more of the conditions precedent: (i) to effectiveness of the Combined Plan and Disclosure Statement set forth in Article XIV(B) of this Combined Plan and Disclosure Statement in whole or part, upon five (5) Business Days' notice to the Bankruptcy Court without a hearing; or (ii) to confirmation of the Combined Plan and Disclosure Statement set forth in Article XIV(A) of the Combined Plan and Disclosure Statement prior to the Confirmation Date without any hearing. The failure to satisfy or waive any condition to the Confirmation Date or the Effective Date may be asserted by the Debtor regardless of the circumstances giving rise to the failure of such conditions to be satisfied (including any action or inaction by the Debtor in its sole discretion). The failure of the Debtor to exercise any of the foregoing rights shall not be deemed a waiver of any other rights, and each such right shall be deemed an ongoing right, which may be asserted at any time.

F. Waiver of Bankruptcy Rule 3020(e) Stay

Pursuant to Bankruptcy Rule 3020(e), the Confirmation Order shall be immediately effective upon its entry and shall not be subject to the stay provided in Bankruptcy Rule 3020(e).

ARTICLE XV

RETENTION OF JURISDICTION

Notwithstanding the entry of the Confirmation Order and the occurrence of the Effective Date, following the Effective Date, the Bankruptcy Court shall retain such jurisdiction over the Chapter 11 Case as is legally permissible, including, without limitation, such jurisdiction as is necessary to ensure that the interests and purposes of the Combined Plan and Disclosure Statement are carried out. The Bankruptcy Court shall have exclusive jurisdiction of all matters arising out of, and related to, the Chapter 11 Case and the Combined Plan and Disclosure Statement pursuant to, and for the purposes of, sections 105(a) and 1142 of the Bankruptcy Code and for, among other things, the following purposes:

(i) To determine the allowance, priority and classification of Claims to hear and determine any objections to Claims and to address any issues relating to Disputed Claims;

(ii) To hear and determine pending applications for the assumption or rejection of Executory Contracts or Unexpired Leases, if any are pending, and the allowance of any Claims resulting therefrom;

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

(iv) To issue such Orders in aid of execution and consummation of the Combined Plan and Disclosure Statement, to the extent authorized by section 1142 of the Bankruptcy Code;

(v) To consider any amendments to, or modifications of, the Combined Plan and Disclosure Statement, to cure any defect or omission, or reconcile any inconsistency in any Order of the Bankruptcy Court, including, without limitation, the Confirmation Order;

(vi) To hear and determine all requests for compensation and reimbursement of expenses under sections 330, 331 or 503 of the Bankruptcy Code;

(vii) To hear and determine disputes arising in connection with the interpretation, implementation or enforcement of the Combined Plan and Disclosure Statement;

(viii) To recover all assets and property of the Debtor, Liquidation Trust and Post-Effective Date Debtor, wherever located;

(ix) To hear, determine and decide all Causes of Action and the Fiduciary Litigation, to the extent the Court has jurisdiction over such Causes of Action and Fiduciary Litigation;

(x) To hear and determine matters concerning state, local and federal taxes in accordance with sections 346, 505 and 1146 of the Bankruptcy Code (including, without limitation, any request by the Liquidation Trustee for an expedited determination of tax under section 505(b) of the Bankruptcy Code);

(xi) To hear any other matter not inconsistent with the Bankruptcy Code;

(xii) To issue such Orders as may be necessary or appropriate to expand or otherwise modify the powers and duties of the Liquidation Trustee;

(xiii) To enter a final decree closing the Chapter 11 Case;

(xiv) To ensure that Distributions to Holders of Allowed Claims are accomplished pursuant to the provisions of the Combined Plan and Disclosure Statement;

(xv) To decide or resolve any motions, adversary proceedings, contested or litigated matters and any other matters and grant or deny any applications involving the Debtor that may be pending on the Effective Date;

(xvi) To issue injunctions, enter and implement other Orders or take such other actions as may be necessary or appropriate to restrain interference by any Person or Entity with the occurrence of the Effective Date or enforcement of the Combined Plan and Disclosure Statement, except as otherwise provided herein;

(xvii) To determine any other matters that may arise in connection with or related to the Combined Plan and Disclosure Statement, the Confirmation Order or any contract, instrument, release, indenture or other agreement or document created or implemented in connection with the Combined Plan and Disclosure Statement;

(xviii) To enforce, interpret, and determine any disputes arising in connection with any stipulations, orders, judgments, injunctions, exculpations, and rulings entered in connection with the Chapter 11 Case (whether or not the Chapter 11 Case has been closed);

(xix) To resolve any disputes concerning whether a Person or Entity had sufficient notice of the Chapter 11 Case, the Bar Date, or the hearing on the approval of the Combined Plan and Disclosure Statement for the purpose of determining whether a Claim or Equity Interest is discharged or enjoined hereunder or for any other purpose; and

(xx) To resolve any other matter or for any purpose specified in the Combined Plan and Disclosure Statement, the Confirmation Order, or any other document entered into in connection with any of the foregoing.

ARTICLE XVI

MISCELLANEOUS PROVISIONS

A. Books and Records

On the Effective Date, the Debtor's books and records shall be transferred to the Liquidation Trustee. After the Effective Date, the Liquidation Trustee shall be free, in his or her discretion to abandon, destroy or otherwise dispose of the books and records in compliance with applicable non-bankruptcy law, without the need for any other or further Order.

B. Termination of Injunctions or Stays

Unless otherwise provided herein or in the Confirmation Order, all injunctions or stays provided for in the Chapter 11 Case under sections 105 or 362 of the Bankruptcy Code or otherwise, and extant on the Confirmation Date shall terminate on the Effective Date, at which time the injunctions and stays set forth in this Combined Plan and Disclosure Statement shall take effect.

C. Exemption from Transfer Taxes

Pursuant to section 1146(a) of the Bankruptcy Code, the making or assignment of any lease or sublease, or the making or delivery of any deed or other instrument of transfer under, in furtherance of, or in connection with the Combined Plan and Disclosure Statement shall not be subject to any stamp or similar tax.

D. Amendment or Modification of the Combined Plan and Disclosure Statement

Alterations, amendments or modifications of the Combined Plan and Disclosure Statement may be proposed in writing by the Debtor, at any time before the Confirmation Date, provided that the Combined Plan and Disclosure Statement, as altered, amended or modified, satisfies the conditions of sections 1122 and 1123 of the Bankruptcy Code, and the Debtor shall have complied with section 1125 of the Bankruptcy Code. A Holder of a Claim that has accepted the Combined Plan and Disclosure Statement shall be deemed to have accepted the Combined Plan and Disclosure Statement, as altered, amended or modified, if the proposed alteration, amendment or modification does not materially and adversely change the treatment of the Claim of such Holder. Prior to the Effective Date, the Debtor may make appropriate technical non-material modifications to the Combined Plan and Disclosure Statement without further Order or approval of the Bankruptcy Court, provided that such technical modifications do not adversely affect the treatment of Holders of Claims or Equity Interests.

E. Severability

In the event the Bankruptcy Court determines, before the Confirmation Date, that any provision in the Combined Plan and Disclosure Statement is invalid, void or unenforceable, such provision shall be invalid, void or unenforceable with respect to the Holder or Holders of such Claims or Equity Interests as to which the provision is determined to be invalid, void or

unenforceable. The invalidity, voidability or unenforceability of any such provision shall in no way limit or affect the enforceability and operative effect of any other provision of the Combined Plan and Disclosure Statement and shall not require the re-solicitation of any acceptance or rejection of the Combined Plan and Disclosure Statement unless otherwise Ordered by the Bankruptcy Court.

F. Withdrawal of Plan

1. Right to Revoke or Withdraw

The Debtor reserves the right to revoke or withdraw the Combined Plan and Disclosure Statement at any time prior to the Effective Date.

2. Effect of Withdrawal, Revocation or Non-Consummation

If the Debtor revokes or withdraws the Combined Plan and Disclosure Statement prior to the Effective Date, or if the Confirmation Date or the Effective Date does not occur, the Combined Plan and Disclosure Statement, any settlement or compromise embodied in the Combined Plan and Disclosure Statement (including the fixing or limiting to an amount certain any Claim or Equity Interest or Class of Claims or Equity Interests), the assumption or rejection of Executory Contracts, Unexpired Leases, any release, exculpation or indemnification provided for in the Combined Plan and Disclosure Statement, and any document or agreement executed pursuant to the Combined Plan and Disclosure Statement shall be null and void; provided, however, any settlements or compromises embodied in the Combined Plan and Disclosure Statement that have been otherwise approved by separate order of the Bankruptcy Court shall remain in full force in effect notwithstanding withdrawal or revocation of the Combined Plan and Disclosure Statement or the failure of the Confirmation Date or Effective Date to occur. In such event, nothing contained herein, and no acts taken in preparation for consummation of the Plan shall be deemed to constitute a waiver or release of any Claims by or against or Equity Interest in the Debtor or any other Person, to prejudice in any manner the rights of the Debtor or any Person in any further proceedings involving the Debtor, or to constitute an admission of any sort by the Debtor or any other Person.

G. Binding Effect

The Combined Plan and Disclosure Statement shall be binding upon and inure to the benefit of the Debtor, the Holders of Claims and the Holders of Equity Interests, and their respective successors and assigns, whether or not the Claim or Equity Interest of such Holder is Impaired under the Plan and whether or not such Holder has accepted the Combined Plan and Disclosure Statement.

H. Committee

Other than continuing to prosecute any Fiduciary Litigation on behalf of the Post-Effective Date Debtor and Liquidation Trust, as soon as practicable after the Effective Date and upon final resolution of the Fiduciary Litigation, the Committee shall be dissolved and its members released and discharged of any further duties and responsibilities and the retention or employment of the Committee's Professionals shall also terminate, except that the Committee

and its Professionals may prepare, file and seek approval of their respective applications for final allowances of compensation and reimbursement of expenses. The Professionals retained by the Committee and the members thereof will not be entitled to assert any fee or expense claims for any services rendered or expenses incurred in the service of the Committee after the Effective Date, other than in connection with final allowances of compensation and reimbursement of expenses and in connection with any fee arrangement approved by the Bankruptcy Court regarding the conduct of the Fiduciary Litigation.

I. Notices

All notices, requests and demands to or upon the Post-Effective Date Debtor to be effective shall be in writing and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when actually delivered or, in the case of notice by facsimile transmission, when received and telephonically confirmed, addressed as follows:

If to the Post-Effective Date Debtor:

CS Mining, LLC
C/o Pepper Hamilton LLP
Hercules Plaza, Suite 5100
1313 N. Market Street
P.O. Box 1709
Wilmington, DE 19899-1709
Attn: Donald J. Detweiler and Francis J. Lawall

If to the Liquidation Trust or Liquidation Trustee:

Province Inc.
2360 Corporate Circle
Suite 330
Henderson, NV 89074
Attn: Peter S. Kravitz

After the Effective Date, any Entities or Persons that want to continue to receive notice in this Chapter 11 Case must file a renewed request to receive documents pursuant to Bankruptcy Rule 2002 no later than thirty (30) days after the Effective Date of the Combined Plan and Disclosure Statement; *provided, however*; that the UST shall be excused from this requirement and shall remain on the Bankruptcy Rule 2002 service list. To the extent a renewed request is not timely filed with the Bankruptcy Court, the Post-Effective Date Debtor is authorized to limit notice and not include such Entities or Persons on any post-Effective Date Bankruptcy Rule 2002 service list.

J. Governing Law

Except to the extent the Bankruptcy Code, Bankruptcy Rules or other federal law is applicable, or to the extent an exhibit to the Combined Plan and Disclosure Statement provides otherwise, the rights and obligations arising under the Combined Plan and Disclosure Statement

shall be governed by, and construed and enforced in accordance with, the laws of the State of Delaware, without giving effect to the principles of conflicts of law of such jurisdiction.

K. Headings

Headings are used in the Combined Plan and Disclosure Statement for convenience and reference only and shall not constitute a part of the Combined Plan and Disclosure Statement for any other purpose.

L. Exhibits/Schedules

All exhibits and schedules to the Combined Plan and Disclosure Statement are incorporated into and are a part of the Combined Plan and Disclosure Statement as if set forth in full herein.

M. Filing of Additional Documents

On or before substantial consummation of the Combined Plan and Disclosure Statement, the Debtor may file with the Bankruptcy Court such agreements and other documents as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Combined Plan and Disclosure Statement.

N. No Admissions

Notwithstanding anything herein to the contrary, nothing contained in the Combined Plan and Disclosure Statement shall be deemed as an admission by any Entity with respect to any matter set forth herein.

O. Successors and Assigns

The rights, benefits and obligations of any Person or Entity named or referred to in the Combined Plan and Disclosure Statement shall be binding on, and shall inure to the benefit of, any heir, executor, administrator, successor or assign of such Person or Entity.

P. Return of Deposits

Unless the Debtor has agreed otherwise in a written agreement or stipulation approved by the Bankruptcy Court, all deposits provided by the Debtor to any Person or Entity at any time shall be returned to the Post-Effective Date Debtor within twenty (20) days after the Effective Date, without deduction or offset of any kind.

Q. Reservation of Rights

Except as expressly set forth herein, the Combined Plan and Disclosure Statement shall have no force or effect unless the Bankruptcy Court shall enter the Confirmation Order. None of the filing of the Combined Plan and Disclosure Statement, any statement or provision contained herein, or the taking of any action by the Debtor with respect to the Combined Plan

and Disclosure Statement shall be or shall be deemed to be an admission or waiver of any rights of the Debtor or Holders of Claims or Equity Interests before the Effective Date.

R. Implementation

The Debtor, the Post-Effective Date Debtor and Liquidation Trustee, as applicable, shall take all steps, and execute all documents, including appropriate releases, necessary to effectuate the provisions contained in this Combined Plan and Disclosure Statement.

S. Inconsistency

In the event of any inconsistency among the Combined Plan and Disclosure Statement and any other instrument or document created or executed pursuant to the Combined Plan and Disclosure Statement, the provisions of the Combined Plan and Disclosure Statement shall govern.

T. Cancellation of Equity Interests

On the Effective Date, all existing Equity Interests shall, without further act or action by any party, be cancelled, annulled, and extinguished, and any certificates representing such cancelled, annulled and extinguished Equity Interests shall be null and void.

U. Compromise of Controversies

Pursuant to Bankruptcy Rule 9019, and in consideration for the classification, Distribution and other benefits provided under the Combined Plan and Disclosure Statement, the provisions of this Combined Plan and Disclosure Statement shall constitute a good faith compromise and settlement of all Claims or controversies resolved pursuant to the Combined Plan and Disclosure Statement and in this Chapter 11 Case. The entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of each of the foregoing compromises or settlements, and all other compromises and settlements provided for in the Combined Plan and Disclosure Statement and the Chapter 11 Case, and the Bankruptcy Court's findings shall constitute its determination that such compromises and settlements are in the best interests of the Debtor, the Estate and all Holders of Claims and Equity Interests against the Debtor.

V. Request for Expedited Determination of Taxes

The Liquidation Trustee shall have the right to request an expedited determination under section 505(b) of the Bankruptcy Code with respect to tax returns filed, or to be filed, for any and all taxable periods ending after the Involuntary Petition Date through the Effective Date.

ARTICLE XVII

CONCLUSION AND RECOMMENDATION OF THE DEBTOR AND COMMITTEE

THE DEBTOR AND THE COMMITTEE BOTH BELIEVE THAT CONFIRMATION AND CONSUMMATION OF THE PLAN IS IN THE BEST INTERESTS OF CREDITORS AND HOLDERS OF EQUITY INTERESTS AND THAT THE PLAN SHOULD BE CONFIRMED. THE DEBTOR AND COMMITTEE ALSO BELIEVE THAT CONFIRMATION OF THE PLAN IS PREFERABLE TO ALL OTHER ALTERNATIVES BECAUSE IT WILL PROVIDE RECOVERIES TO CREDITORS IN EXCESS OF THOSE WHICH WOULD OTHERWISE BE AVAILABLE IF THE CHAPTER 11 CASE WAS DISMISSED OR CONVERTED TO A CASE UNDER CHAPTER 7 OF THE BANKRUPTCY CODE. THE DEBTOR AND COMMITTEE STRONGLY RECOMMEND THAT ALL CREDITORS RECEIVING A BALLOT VOTE IN FAVOR OF THE PLAN.

Dated: December 29, 2017

CS MINING, LLC

By:_____
Name: David McMullin
Title: President and CEO

PROVINCE INC.

By:_____
Name: Peter Kravitz
Title: Principal
Debtor's Chief Liquidation Officer

EXHIBIT A

LIQUIDATION ANALYSIS

[To be filed on Docket 14 days prior to hearing on
conditional approval of Combined Plan and Disclosure Statement]

EXHIBIT B

LIQUIDATION TRUST AGREEMENT

[To be filed on Docket 14 days prior to hearing on
conditional approval of Combined Plan and Disclosure Statement]

EXHIBIT 2

(Proposed Conditional Approval and Procedures Order)

IN THE UNITED STATES BANKRUPTCY COURT
DISTRICT OF UTAH, CENTRAL DIVISION

In re **CS MINING, LLC,** Debtor.	Bankruptcy Case No. 16-24818 (Chapter 11) Judge William T. Thurman

ORDER (A) APPROVING ON CONDITIONAL BASIS COMBINED DISCLOSURE STATEMENT AND PLAN FOR SOLICITATION PURPOSES ONLY, (B) ESTABLISHING PROCEDURES FOR SOLICITATION AND TABULATION OF VOTES TO ACCEPT OR REJECT COMBINED DISCLOSURE STATEMENT AND PLAN, (C) APPROVING THE FORM OF BALLOTS AND SOLICITATION MATERIALS, (D) ESTABLISHING VOTING RECORD DATE, (E) FIXING THE DATE, TIME AND PLACE FOR THE CONFIRMATION HEARING AND THE DEADLINE FOR FILING OBJECTIONS THERETO, AND (F) APPROVING RELATED NOTICE PROCEDURES

Upon consideration of the Debtor's *Motion for the Entry of an Order: (A) Conditionally Approving the Debtor's Combined Disclosure Statement and Plan for Solicitation Purposes Only, (B) Establishing Procedures for Solicitation and Tabulation of Votes to Accept or Reject Combined Disclosure Statement and Plan, (C) Approving the Form of Ballots and Solicitation Materials, (D) Establishing Voting Record Date, (E) Fixing the Date, Time and Place for the Confirmation Hearing, and (F) Approving Related Notice Procedures* (the "***Motion***")[2]; and upon consideration of the Motion and all pleadings related thereto, including the statements of counsel and evidence proffered at the hearing on the Motion (the "***Hearing***"); and the Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein;

[2] Capitalized terms used but not defined shall have the meaning given to them in the Motion.

THE COURT HEREBY FINDS AS FOLLOWS:

A. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334.

B. This is a core proceeding pursuant to 28 U.S. C. § 157(b)(2).

C. Notice of the Motion and the Hearing was sufficient and proper under the circumstances and complied with the requirements of the Bankruptcy Code, the Bankruptcy Rules and the Local Bankruptcy Rules.

D. The relief requested in the Motion and granted herein is warranted under the circumstances and is in the best interests of the Debtor, its estate and creditors.

E. The forms of ballots attached to the Motion as **Exhibit 3** and **Exhibit 4** (the "***Ballots***"): (i) are consistent with Official Form No. 14, (ii) adequately address the particular needs of this chapter 11 case, (iii) are appropriate for the Voting Classes, and (iv) comply with Bankruptcy Rule 3017(d).

F. Ballots need not be provided to holders of claims or equity interests in the following Classes, as such Non-Voting Classes are either unimpaired and are conclusively presumed to have accepted the Plan in accordance with section 1126(f) of the Bankruptcy Code or are impaired but will neither retain nor receive any property under the Plan and are thus conclusively deemed to have rejected the Plan under section 1126(g) of the Bankruptcy Code:

Class 1(a) – Priority Non-Tax Claims	Unimpaired, Deemed to Accept
Class 2(e) – Prepetition Secured Equipment Loan Claims	Unimpaired, Deemed to Accept
Class 4 – Equity Interests	Impaired (will not receive or retain any property), Deemed to Reject

G. The period during which the Debtor may solicit votes to accept or reject the Plan, as established by this Order, provides sufficient time for Claimholders to make informed decisions to accept or reject the Plan and submit their Ballots in a timely fashion.

H. The Tabulation Procedures for the solicitation and tabulation of votes to accept or reject the Plan, as approved herein, provide a fair and equitable voting process and are consistent with section 1126 of the Bankruptcy Code.

I. The contents of the Solicitation Packages and the procedures for providing notice of the Confirmation Hearing and the other matters set forth in the Confirmation Notice comply with Bankruptcy Rules 2002 and 3017 and constitute sufficient notice to all interested parties in accordance with the Bankruptcy Code, the Bankruptcy Rules and the Local Bankruptcy Rules.

IT IS HEREBY FOUND AND DETERMINED THAT:

1. The Motion is **GRANTED**.

2. The Combined Disclosure Statement and Plan is conditionally approved for solicitation purposes only.

3. The Ballots substantially in the forms attached to the Motion as **Exhibit 3** and **Exhibit 4** are approved.

4. The Ballots shall be distributed to the Claimholders in the Voting Classes entitled to vote to accept or reject the Plan.

5. In order to be counted as votes to accept or reject the Plan, all Ballots must be properly executed, completed and delivered, by either mail, overnight courier or personal delivery so that they are actually received by the Balloting Agent no later than [____:___] __.m.

([_____] Time) on [_____ __], 2018 (the "***Voting Deadline***"). Ballots transmitted by facsimile or electronic mail will not be counted.

6. For the purposes of voting on the Plan, each claim, (i)(a) for which a proof of claim was timely received by the applicable deadline; or (b) that is listed in the Debtor's schedules of assets and liabilities (Docket No. 231) and not listed as disputed, contingent or unliquidated as to amount; and, in either case, as to which no objection to the allowance thereof has been filed prior to entry of this Order, or (ii) which has otherwise been allowed by a final order, shall be allowed for voting purposes only. The foregoing is subject to further order of this Court to the extent that a party moves for temporary allowance of its claims in an amount which is different from the amount that otherwise would apply to such Claim under the foregoing.

7. The following procedures shall be utilized in tabulating the Ballots (the "***Tabulation Procedures***"):

a. Except as permitted by the Court, any Ballots received after the Voting Deadline will not be accepted or counted by the Debtor in connection with the Debtor's request for confirmation of the Combined Disclosure Statement and Plan.

b. Any Ballot that does not indicate an acceptance or rejection of the Combined Disclosure Statement and Plan or that indicates both an acceptance and rejection of the Combined Disclosure Statement and Plan will not be counted.

c. Any Ballot that is returned indicating acceptance or rejection of the Plan but is unsigned or does not contain an original signature will not be counted.

d. any Ballot that is illegible, contains insufficient information to permit the identification of the Claimholder, or which the Balloting Agent cannot match to an existing database record of a Claimholder will not be counted.

e. any Ballot cast by a person or entity that does not hold a claim in a Voting Class will not be counted.

f. any Ballot cast for a claim that is scheduled as contingent, unliquidated or disputed or as zero or unknown in amount and for which no timely motion was filed pursuant to Bankruptcy Rule 3018(a) will not be counted.

g. any form of Ballot other than the official form sent by the Claims and Balloting Agent will not be counted.

h. Any Ballot returned by facsimile or electronic mail will not be counted.

i. Whenever a Claimholder casts more than one Ballot voting the same claim prior to the Voting Deadline, only the latest-dated Ballot timely received will be deemed to reflect the voter's intent and will thus supersede any prior Ballots.

j. If a Claimholder casts simultaneous duplicative Ballots that are voted inconsistently, such Ballots will not be counted.

k. Each Claimholder will be deemed to have voted the full amount of its Claim as set forth on the Ballot.

l. Claimholders may not split their vote within a Class, and thus each Claimholder will be required to vote all of its claims within the Voting Class either to accept or reject the Plan.

m. Ballots partially rejecting and partially accepting the Plan will not be counted.

n. The method of delivery of Ballots to the Balloting Agent is at the risk of each Claimholder, and such delivery will be deemed made only when the original Ballot is actually received by the Balloting Agent.

o. No Ballot should be sent directly to the Debtor or the Debtor's professionals.

p. The Debtor expressly reserves the right to amend the terms of the Plan (subject to compliance with section 1127 of the Bankruptcy Code). If the Debtor makes material changes in the terms of the Plan, the Debtor will disseminate additional solicitation materials and extend the solicitation period, in each case to the extent required by law or further order of the Court.

q. If a Ballot is executed by a trustee, executor, administrator, guardian, attorney-in-fact, officer of a corporation, or other person

acting in a fiduciary or representative capacity on behalf of a Claimholder, such person will be required to indicate such capacity when signing and, at the Balloting Agent's discretion, must submit proper evidence satisfactory to the Balloting Agent to so act on behalf of the Claimholder.

r. Any Claimholder who has delivered a valid Ballot voting on the Plan may withdraw such vote solely in accordance with Bankruptcy Rule 3018(a).

s. Subject to any contrary order of the Court, the Debtor reserves the right to waive any defects or irregularities or conditions of delivery as to any particular Ballot unless otherwise directed by the Court.

t. Unless waived or as ordered by the Court, any defects or irregularities in connection with deliveries of Ballots must be cured by the Voting Deadline or within such time as the Court determines, and unless otherwise ordered by the Court, delivery of such Ballots will not be deemed to have been made until such irregularities have been cured or waived.

u. Neither the Debtor, nor any other person or entity, will be under any duty to provide notification of defects or irregularities with respect to deliveries of Ballots, nor will any of them incur any liabilities for failure to provide such notification. Unless otherwise directed by the Court, delivery of such Ballots will not be deemed to have been made until such irregularities have been cured or waived. Ballots previously furnished (and as to which any irregularities have not theretofore been cured or waived) will not be counted.

v. For purposes of determining whether the numerosity and amount requirements of section 1126(c) of the Bankruptcy Code have been satisfied, the Balloting Agent will tabulate only those Ballots received prior to the Voting Deadline or otherwise ordered by the Court.

w. Ballots received that do not evidence the amount, or evidence an incorrect amount, of such creditor's claim shall be completed or corrected, as the case may be, based upon a final order of the Bankruptcy Court or, if no such final order exists, then (i) based upon timely filed proofs of claim, or (ii) the schedules of assets and liabilities filed by the Debtor if no proof of claim has been filed by such creditor, and counted as a vote to accept or reject the Plan.

8. Upon completion of the balloting, the Balloting Agent will certify the amount and number of allowed claims of the Voting Classes accepting or rejecting the Combined Disclosure Statement and Plan. The Debtor shall cause such certification to be served on the Committee and the United States Trustee and filed with the Court prior to the Confirmation Hearing.

9. If any Claimholder seeks to challenge the allowance of its claim for voting purposes in accordance with the Tabulation Procedures, such Claimholder must file a motion, pursuant to Bankruptcy Rule 3018(a) for an order temporarily allowing its claim or equity interest in a different amount or classification for purposes of voting to accept or reject the Combined Disclosure Statement and Plan (a "***Rule 3018 Motion***") and serve the Rule 3018 Motion on the Debtor so that it is received no later than [___:___] ___.m. (Mountain Time), on [_____ __], 2018. The Debtor shall then (a) have until [_____ __], 2018 at [___:___] ___.m. (Mountain Time) to file and serve any responses to such Rule 3018 Motions, and (b) to coordinate with the Court to adjudicate and resolve all pending Rule 3018 Motions prior to the Confirmation Hearing. Any Ballot submitted by a Claimholder that files a Rule 3018 Motion shall be counted solely in accordance with the Tabulation Procedures and the other applicable provisions of this Order unless and until the underlying claim or equity interest is temporarily allowed by the Court for voting purposes in a different amount, after notice and a hearing.

10. The Confirmation Hearing is hereby scheduled for [_____ __], 2018 at [___:___] ___.m. (Mountain Time). The Confirmation Hearing may be continued from time to time by the Court without further notice other than the announcement of the adjourned

date(s) at the final hearing on the approval of the Combined Disclosure Statement and Plan or any continued hearing.

11. Objections to confirmation of the Combined Plan and Disclosure Hearing on any ground including adequacy of disclosure, if any, must: (i) be in writing; (ii) be filed with the Court and served on: (a) counsel for the Debtor, (b) the United States Trustee; and (c) counsel for the Creditors' Committee so that they are received no later than [_____ __], 2018 at [____:____] ___.m. (Mountain Time) (the "***Confirmation Objection Deadline***").

12. The Confirmation Notice in substantially the form attached to the Motion as **Exhibit 5** is APPROVED. The Debtor shall serve the Confirmation Notice on: (i) all parties filing a Notice of Appearance and Request for Service pursuant to Bankruptcy Rule 2002 in this chapter 11 case, (ii) state and local taxing authorities for jurisdictions in which the Debtor conducted business, (iii) the Internal Revenue Service, (iv) the United States Trustee, and (v) Claimholders in Non-Voting Classes, no later than five (5) business days after the entry of this Conditional Approval and Procedures Order.

13. Pursuant to Bankruptcy Rule 3017(d), the date on which this Order is entered shall be the record date for purposes of determining which Claimholders are entitled to receive Solicitation Packages and, where applicable, vote on the Combined Disclosure Statement and Plan (the "***Record Date***").

14. The Balloting Agent shall mail or transmit Solicitation Packages no later than five (5) business days after the entry of this Conditional Approval and Procedures Order to the Voting Classes containing copies of: (a) the Confirmation Notice; (b) an email address (detweild@pepperlaw.com) where parties may write to request copies of the Combined Disclosure Statement and Plan and other documents related thereto; (c) a telephone number

((302) 777-6524) where parties may call to request copies of the Combined Disclosure Statement and Plan and other documents related thereto; and (d) a form of Ballot. The Debtor shall also serve copies of the Solicitation Package (excluding the Ballot) on (i) all parties that have filed requests for notice in this chapter 11 case on or before the Record Date; (ii) counsel for the Creditors' Committee; and (iii) the United States Trustee for this District.

15. The Debtor is authorized to make non-substantive and ministerial changes to any documents in the Solicitation Package without further approval of the Court prior to its dissemination, including, without limitation, changes to correct typographical and grammatical errors and to make conforming changes among the Combined Disclosure Statement and Plan and any other materials included in the Solicitation Package prior to their distribution, provided, however, the Debtor will provide the Committee with written notice of all such changes to any documents in the Solicitation Package.

16. The Debtor is authorized to take or refrain from taking any action necessary or appropriate to implement the terms of, and the relief granted in, this Order without seeking further order of the Court.

17. The Court shall retain jurisdiction as to all matters relating to the interpretation, implementation, and enforcement of this Order.

18. This Order is effective immediately upon entry.

Dated: _____

THE HONORABLE WILLIAM T. THURMAN
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT 3

(General Ballot)

IN THE UNITED STATES BANKRUPTCY COURT
DISTRICT OF UTAH, CENTRAL DIVISION

In re **CS MINING, LLC,** Debtor.	Bankruptcy Case No. 16-24818 (Chapter 11) Judge William T. Thurman

Ballot For Accepting or Rejecting the
Debtor's Combined Disclosure Statement and Plan

This Ballot is submitted to you by the above-captioned debtor and debtor in possession to solicit your vote to accept or reject the Combined Disclosure Statement and Plan [Docket No. ___], dated [_____] (the "Combined Disclosure Statement and Plan"). Capitalized terms used in this Ballot not otherwise defined have the meanings given to them in the Combined Disclosure Statement and Plan or the Bankruptcy Court's Order approving the Combined Disclosure Statement and Plan [Docket No. ___], entered on [_____] (the "Conditional Approval and Procedures Order").

You should review the Combined Disclosure Statement and Plan before you vote. **Copies of the Combined Disclosure Statement and Plan and the Conditional Approval and Procedures Order are available for review without charge by contacting Debtor's counsel by email (detweild@pepperlaw.com) or telephone ((302) 777-6524).** You may wish to seek legal advice concerning the Combined Disclosure Statement and Plan and your classification and treatment under the Combined Disclosure Statement and Plan.

If your Ballot is not received by the Balloting Agent on or before [__:__] _.m. ([_____] Time) on [_____], and such deadline is not extended, your vote will not count as either an acceptance or rejection of the Combined Disclosure Statement and Plan.

If the Combined Disclosure Statement and Plan is confirmed by the Bankruptcy Court it will be binding on you whether or not you vote. To have your vote counted, you must complete, sign and return this Ballot to the Claims and Balloting Agent so that is received by the deadline indicated above at the following address:

If by First-Class Mail:	**If by Hand Delivery or Overnight Mail:**
Epiq Bankruptcy Solutions LLC 777 Third Avenue, 12th Floor New York, NY 10017	Epiq Bankruptcy Solutions LLC 777 Third Avenue, 12th Floor New York, NY 10017

YOU SHOULD CAREFULLY READ AND FOLLOW THE VOTING INSTRUCTIONS SET FORTH IN ARTICLE VI OF THE COMBINED DISCLOSURE STATEMENT AND PLAN BEFORE COMPLETING AND RETURNING THIS BALLOT.

Your claim has been placed in Class [2(a)] [2(b)] [2(c)] [2(d)] [3] under the Combined Disclosure Statement and Plan.

Item 1. Amount of Claim. The undersigned is a holder of a Class [2(a)] [2(b)] [2(c)] [2(d)] [3] [Name of Class] in the unpaid principal amount of Dollars:

$ _____

Item 2. Vote. The owner of the Claim set forth in Item 1 votes (please check one):

[ ] To Accept the Combined Disclosure Statement and Plan

[ ] To Reject the Combined Disclosure Statement and Plan

Item 3. Certifications. By signing this Ballot, the undersigned certifies that: (a) no other Ballots have been cast with respect to the Claim identified in Item 1, and that to the extent any such Ballots have been cast, such earlier Ballots are hereby revoked; (b) he or she was aware that a copy of the Combined Disclosure Statement and Plan was available for review and to the extent he or she wanted to do so he or she has reviewed the Combined Disclosure Statement and Plan; (c) as the Record Holder of the Claim set forth in Item 1, the undersigned has full power and authority to vote to accept or reject the Combined Disclosure Statement and Plan. The undersigned also acknowledges that this solicitation is subject to all the terms and conditions set forth in the Combined Disclosure Statement and Plan, and that all authority conferred or agreed to be conferred pursuant to this Ballot, and every obligation of the undersigned hereunder shall be binding upon the transferees, successors, assigns, heirs, executors, administrators, trustees in bankruptcy and legal representatives of the undersigned and shall not be affected by, and shall survive, the death or incapacity of the undersigned.

Dated: _____

Signature: _____

Name of Voter: _____

Title: _____

Social Security or Tax I.D. No.: _____

Street Address: _____

City, State & Zip Code: _____

Tel. Number: _____

EXHIBIT 4

(Class 1(b) Ballot)

IN THE UNITED STATES BANKRUPTCY COURT
DISTRICT OF UTAH, CENTRAL DIVISION

In re **CS MINING, LLC,** Debtor.	Bankruptcy Case No. 16-24818 (Chapter 11) Judge William T. Thurman

Class 1(b) Ballot For Accepting or Rejecting the Debtor's Combined Disclosure Statement and Plan

This Ballot is submitted to you by the above-captioned debtor and debtor in possession to solicit your vote to accept or reject the Combined Disclosure Statement and Plan [Docket No. ___], dated [_____] (the "Combined Disclosure Statement and Plan"). Capitalized terms used in this Ballot not otherwise defined have the meanings given to them in the Combined Disclosure Statement and Plan or the Bankruptcy Court's Order approving the Combined Disclosure Statement and Plan [Docket No. ___], entered on [_____] (the "Conditional Approval and Procedures Order").

You should review the Combined Disclosure Statement and Plan before you vote. **Copies of the Combined Disclosure Statement and Plan and the Conditional Approval and Procedures Order are available for review without charge by contacting Debtor's counsel by email (detweild@pepperlaw.com) or telephone ((302) 777-6524).** You may wish to seek legal advice concerning the Combined Disclosure Statement and Plan and your classification and treatment under the Combined Disclosure Statement and Plan.

If your Ballot is not received by the Balloting Agent on or before [__:__] _.m. ([_____] Time) on [_____], and such deadline is not extended, your vote will not count as either an acceptance or rejection of the Combined Disclosure Statement and Plan.

If the Combined Disclosure Statement and Plan is confirmed by the Bankruptcy Court it will be binding on you whether or not you vote. To have your vote counted, you must complete, sign and return this Ballot to the Claims and Balloting Agent so that is received by the deadline indicated above at the following address:

If by First-Class Mail:	**If by Hand Delivery or Overnight Mail:**
Epiq Bankruptcy Solutions LLC 777 Third Avenue, 12th Floor New York, NY 10017	Epiq Bankruptcy Solutions LLC 777 Third Avenue, 12th Floor New York, NY 10017

YOU SHOULD CAREFULLY READ AND FOLLOW THE VOTING INSTRUCTIONS SET FORTH IN ARTICLE VI OF THE COMBINED DISCLOSURE STATEMENT AND PLAN BEFORE COMPLETING AND RETURNING THIS BALLOT.

Your claim has been placed in Class 1(b) – WARN Act Claims (Asserted in the WARN Act Litigation) under the Combined Disclosure Statement and Plan.

Item 1. Amount of Claim. The Debtor estimates that the undersigned is a Holder of a Class 1(b) Claim in the unpaid principal amount of:

$ _____

- If the undersigned elects "Option 1: WARN Act Settlement Option," the Debtor estimates that he or she will receive, in full and final satisfaction of his or her Class 1(b) Claim, $_____ as an Allowed unsecured Priority Non-Tax Claim (35% of undersigned's Class 1(b) Claim) and $_____ as an Allowed General Unsecured Claim (65% of undersigned's Class 1(b) Claim).
  - The Debtor estimates the Distributions to the Holders of an Allowed WARN Act Claim who affirmatively select "Option 1: the WARN Act Settlement Option" at approximately 60% of the amount of such Holder's WARN Act Claim.

- If the undersigned elects "Option 2: WARN Act Litigation Option," the Debtor is unable to provide an estimated recovery on behalf of the undersigned's Class 1(b) Claim.
  - The Debtor estimates the Distributions to the Holders of Allowed WARN Act Claims who affirmatively select "Option 2: the WARN Act Litigation Option" will, depending upon the Court's findings and decision in connection with the WARN Act Litigation, range between 0% to 100% of the amount of such Holder's WARN Act Claim.

Item 2. Vote. The owner of the Claim set forth in Item 1 votes (please check one):

[ ] To Accept the Combined Disclosure Statement and Plan

[ ] To Reject the Combined Disclosure Statement and Plan

Item 3. Election of Treatment. The owner of the Claim set forth in Item 1 elects the following treatment of its Class 1(b) Claim pursuant to Article VIII(B)(2) of the Combined Plan and Disclosure Statement (please check one):

[ ] Option 1: WARN Act Settlement Option, ***or***

[ ] Option 2: WARN Act Litigation Option

Any Holder of a Class 1(b) Claim that fails to make a treatment election on its Ballot or that fails to properly submit a Ballot by the Voting Deadline shall be deemed to have elected Option 2: WARN Act Litigation Option for its Class 1(b) Claim. Once the Holder of a Class 1(b) Claim makes a treatment election on its Ballot or is deemed hereby to have made such a treatment election, such Treatment election may only be changed with the written consent of the Debtor or Liquidation Trustee, as applicable, acting in its sole discretion.

Item 4. Certifications. By signing this Ballot, the undersigned certifies that: (a) no other Ballots have been cast with respect to the Claim identified in Item 1, and that to the extent any such Ballots have been cast, such earlier Ballots are hereby revoked; (b) he or she was aware that a copy of the Combined Disclosure Statement and Plan was available for review and to the extent he or she wanted to do so he or she has reviewed the Combined Disclosure Statement and Plan; (c) as the Record Holder of the Claim set forth in Item 1, the undersigned has full power and authority to vote to accept or reject the Combined Disclosure Statement and Plan. The undersigned also acknowledges that this solicitation is subject to all the terms and conditions set forth in the Combined Disclosure Statement and Plan, and that all authority conferred or agreed to be conferred pursuant to this Ballot, and every obligation of the undersigned hereunder shall be binding upon the transferees, successors, assigns, heirs, executors, administrators, trustees in bankruptcy and legal representatives of the undersigned and shall not be affected by, and shall survive, the death or incapacity of the undersigned.

Dated: _____

Signature: _____

Name of Voter: _____

Title: _____

Social Security or Tax I.D. No.: _____

Street Address: _____

City, State & Zip Code: _____

Tel. Number: _____

EXHIBIT 5

(Confirmation Notice)

IN THE UNITED STATES BANKRUPTCY COURT
DISTRICT OF UTAH, CENTRAL DIVISION

In re **CS MINING, LLC,** Debtor.	Bankruptcy Case No. 16-24818 (Chapter 11) Judge William T. Thurman

NOTICE OF (I) DEADLINE FOR CASTING VOTES TO ACCEPT OR REJECT THE DEBTOR'S COMBINED DISCLOSURE STATEMENT AND PLAN, (II) THE HEARING TO CONSIDER CONFIRMATION OF THE COMBINED PLAN AND DISCLOSURE STATEMENT AND (III) CERTAIN RELATED MATTERS

PLEASE TAKE NOTICE OF THE FOLLOWING:

1. On December 29, 2017, the above-captioned debtor and debtor in possession (the "***Debtor***") filed the Debtor's Combined Disclosure Statement and Plan (Docket No. [___]).

2. Pursuant to an Order (Docket No. [____]) dated [_____ __], 2018 (the "***Conditional Approval and Procedures Order***"), the Bankruptcy Court conditionally approved the Combined Disclosure Statement and Plan for solicitation purposes only.

3. A hearing to consider the confirmation of the Combined Disclosure Statement and Plan (the "***Confirmation Hearing***") will be held before the Honorable William T. Thurman, United States Bankruptcy Judge, United States Bankruptcy Court, on [_____ __], 2018 at [__:__] _.m. (Mountain Time).

4. Objections to confirmation of the Combined Disclosure Statement and Plan, including any objection to the adequacy of the disclosures if any, must: (i) be in writing; (ii) state the name and address of the objecting party and the nature of the claim or equity interest of such party; and (iii) be filed with the Court and served on: (a) counsel for the Debtor; (b) the United States Trustee; and (c) counsel for the Creditors' Committee, so that they are received no

later than [__:__] _.m. (Mountain Time) on [_____ __], 2018. The Debtor reserves the right to file a consolidated reply to any such objection no later than [__:__] _.m. (Mountain Time) on [_____ __], 2018.

5. Pursuant to the Conditional Approval and Procedures Order, the Bankruptcy Court approved the use of certain materials in the solicitation of votes to accept or reject the Combined Disclosure Statement and Plan and certain procedures for the tabulation of votes to accept or reject the Combined Disclosure Statement and Plan. If you are a holder of a claim against the Debtor as of [_____ ___], 2018 (the "***Record Date***") and entitled to vote, you have received with this Notice a ballot form (a "***Ballot***") and instructions for completing the Ballot.

6. For a vote to accept or reject the Combined Disclosure Statement and Plan to be counted, the holder of a Ballot must complete all required information on the Ballot, execute the Ballot and return the completed Ballot in accordance with the instructions so that it is received by [__:__] _.m. ([_____] Time) on [_____ __], 2018 (the "***Voting Deadline***"). Any failure to follow the instructions included with the Ballot or to return a properly completed Ballot so that it is received by the Voting Deadline may disqualify such Ballot and vote on the Combined Disclosure Statement and Plan. The rules and procedures for the tabulation of the votes are outlined in the Conditional Approval and Procedures Order.

7. If a holder of a claim wishes to challenge the allowance or disallowance of a claim for voting purposes under the Tabulation Procedures (as defined in the Conditional Approval and Procedures Order), such entity must file a motion, pursuant to Bankruptcy Rule 3018(a), for an order temporarily allowing such claim in a different amount or classification for purposes of voting to accept or reject the Combined Disclosure Statement and Plan and serve

such motion on the undersigned counsel to the Debtor so that it is received no later than [__:__] _.m. (Mountain Time) on [_____ __], 2018. The Debtor shall have until [__:__] _.m. (Mountain Time) on [_____ __], 2018 to file and serve any responses to such motions. Unless the Court orders otherwise, such claim will not be counted for voting purposes in excess of the amount determined in accordance with the Tabulation Procedures.

8. If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought and may enter an order confirming the Combined Disclosure Statement and Plan.

9. Copies of the Combined Disclosure Statement and Plan and the Conditional Approval and Procedures Order are available for review without charge by contacting Debtor's counsel by email **(detweild@pepperlaw.com)** or telephone **((302) 777-6524))**, or at**:** http://dm.epiq11.com/CSMining

Dated: CS Mining, LLC
[City, State]

By: _____
[ ]