

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

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In re : Chapter 11  
: :  
CHISHOLM OIL AND GAS OPERATING, : Case No. 20-11593 (BLS)  
LLC, *et al.*, : :  
Debtors.<sup>1</sup> : (Jointly Administered)  
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**AMENDED JOINT CHAPTER 11 PLAN OF REORGANIZATION OF  
CHISHOLM OIL AND GAS OPERATING, LLC AND ITS AFFILIATED DEBTORS**

**WEIL, GOTSHAL & MANGES LLP**  
Matthew S. Barr  
Kelly DiBlasi  
Lauren Tauro  
767 Fifth Avenue  
New York, New York 10153  
Telephone: (212) 310-8000  
Facsimile: (212) 310-8007

**YOUNG CONAWAY STARGATT &  
TAYLOR, LLP**  
M. Blake Cleary (No. 3614)  
Jaime Luton Chapman (No. 4936)  
S. Alexander Faris (No. 6278)  
Rodney Square  
1000 North King Street  
Wilmington, Delaware 19801  
Telephone: (302) 571-6600  
Facsimile: (302) 571-1253

*Attorneys for the Debtors  
and Debtors in Possession*

Dated: August 3, 2020  
Wilmington, Delaware

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<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Chisholm Oil and Gas Operating II, LLC (8730); Chisholm Oil and Gas Operating, LLC (5382); Cottonmouth SWD, LLC (9849); Chisholm Oil and Gas Nominee, Inc. (1558); and Chisholm Oil and Gas Management II, LLC (8174). The Debtors' mailing address is 1 West Third Street, Suite 1700, Tulsa, OK 74103.

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Each of Chisholm Oil and Gas Operating II, LLC, Chisholm Oil and Gas Operating, LLC, Cottonmouth SWD, LLC, Chisholm Oil and Gas Nominee, Inc., and Chisholm Oil and Gas Management II, LLC (each, a “*Debtor*” and collectively, the “*Debtors*”) proposes the following joint chapter 11 plan of reorganization pursuant to section 1121(a) of the Bankruptcy Code. Capitalized terms used herein shall have the meanings set forth in Section 1.1 below.

## **ARTICLE I. DEFINITIONS AND INTERPRETATION.**

### **1.1 Definitions.**

The following terms shall have the respective meanings specified below:

***Adequate Protection Claim*** means any right to payment constituting a superpriority Administrative Expense Claim against each of the Debtors on a joint and several basis with priority over any and all other Administrative Expense Claims against the Debtors now existing or hereafter arising in the Chapter 11 Cases granted pursuant to the Cash Collateral Order.

***Administrative Expense Claim*** means any Claim for costs and expenses of administration of the Chapter 11 Cases pursuant to sections 327, 328, 330, 365, 503(b), 507(a)(2), or 507(b) of the Bankruptcy Code, including (i) the actual and necessary costs and expenses incurred on or after the Petition Date and through the Effective Date of preserving the Estates and operating the Debtors’ business, (ii) Fee Claims, and (iii) Restructuring Expenses.

***Administrative Expense Claims Bar Date*** means the first Business Day that is thirty (30) days following the Effective Date.

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

***Allowed*** means, with respect to any Claim or Interest, (i) any Claim or Interest arising on or before the Effective Date (a) as to which no objection to allowance has been asserted, or may be asserted, on or before the time period set forth in this Plan or an order of the Bankruptcy Court, and no request for estimation or other challenge, including pursuant to section 502(d) of the Bankruptcy Code or otherwise, has been interposed and not withdrawn within the applicable period or (b) as to which any objection has been determined by a Final Order of the Bankruptcy Court to the extent such objection is determined in favor of the respective holder, (ii) any Claim or Interest as to which the liability of the Debtors and the amount thereof are determined by a Final Order of a court of competent jurisdiction other than the Bankruptcy Court, (iii) any Claim or Interest expressly allowed under this Plan or by the Cash Collateral Order, or (iv) any Claim that is listed in the Debtors’ Schedules as liquidated, non-contingent, and undisputed; *provided, however*, that, the Reorganized Debtors shall retain all claims and defenses with respect to Allowed Claims that are Unimpaired pursuant to this Plan.

***Amended Organizational Documents*** means the forms of certificate of incorporation, certificate or articles of formation, bylaws, limited liability company agreement, shareholder agreement, or other similar organizational documents, as applicable, of the Reorganized Debtors.

**Ballot** means a ballot providing for the acceptance or rejection of the Plan and to make an election with respect to the releases by holders of Claims and Interests provided by Section 10.7(b).

**Bankruptcy Code** means title 11 of the United States Code, as amended from time to time, as applicable to these Chapter 11 Cases.

**Bankruptcy Court** means the United States Bankruptcy Court for the District of Delaware having jurisdiction over the Chapter 11 Cases and, to the extent of any reference made under section 157 of title 28 of the United States Code or if the Bankruptcy Court is determined not to have authority to enter a Final Order on an issue, the unit of such District Court having jurisdiction over the Chapter 11 Cases under section 151 of title 28 of the United States Code.

**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, applicable to the Chapter 11 Cases, and any local rules of the Bankruptcy Court.

**Bar Date Order** means the Order Pursuant to 11 U.S.C. § 502(b)(9) and Fed. R. Bankr. P. 2002 and 3003(c)(3) (I) Establishing Bar Dates, (II) Approving Form and Manner for Filing Proofs of Claim, (III) Approving Proposed Notice of Bar Dates, (IV) Approving M&M Claims Resolution Protocol, and (V) Granting Related Relief [Docket No. 163].

**Business Day** means any day other than a Saturday, a Sunday, or any other day on which banking institutions in New York, New York are authorized or required by law or executive order to close.

**Cash** means legal tender of the United States of America.

**Cash Collateral Order** means the interim and final orders entered by the Bankruptcy Court [Docket Nos. 65 and 172] authorizing the Debtors' use of cash collateral during the Chapter 11 Cases.

**Cause of Action** means any action, claim, cross-claim, third-party claim, cause of action, controversy, dispute, demand, right, lien, indemnity, contribution, guaranty, suit, obligation, liability, loss, debt, fee or expense, damage, interest, judgment, cost, account, defense, remedy, offset, power, privilege, proceeding, license, and franchise of any kind or character whatsoever, whether liquidated or unliquidated, contingent or non-contingent, matured or unmatured, known or unknown, foreseen or unforeseen, suspected or unsuspected, asserted or unasserted, assertable directly or derivatively (including any alter ego theories), accrued or unaccrued, disputed or undisputed, secured or unsecured, existing or hereinafter arising, arising before, on, or after the Petition Date, in contract or tort, in law, equity, or pursuant to any other theory of law (including under any state or federal securities laws), and whether arising under federal law, state statutory law, common law, or any other applicable international, foreign, or domestic law, rule, statute, regulation, treaty, right, duty, requirement or otherwise. For the avoidance of doubt, "Cause of Action" includes (i) any right of setoff, counterclaim, or recoupment and any claim for breach of contract or for breach of duties imposed by law or in equity, (ii) the right to object to Claims or Interests, (iii) any claim pursuant to section 362 or chapter 5 of the

Bankruptcy Code, (iv) any claim or defense including fraud, mistake, duress, and usury and any other defenses set forth in section 558 of the Bankruptcy Code, and (v) any state law fraudulent transfer claim.

**Chapter 11 Case** means, with respect to a Debtor, such Debtor's case under chapter 11 of the Bankruptcy Code commenced on the Petition Date in the Bankruptcy Court, jointly administered with all other Debtors' cases under chapter 11 of the Bankruptcy Code.

**Chisholm Borrower** means Chisholm Oil and Gas Operating, LLC.

**Chisholm Management** means Chisholm Oil and Gas Management II, LLC.

**Chisholm Management Equity Interests** means any Interest in Chisholm Management.

**Chisholm Parent** means Chisholm Oil and Gas Operating II, LLC.

**Chisholm Parent Equity Interests** means any Interest in Chisholm Parent.

**Claim** means a "claim," as defined in section 101(5) of the Bankruptcy Code, against any Debtor.

**Claims and Noticing Agent** means Omni Agent Solutions, the claims, noticing, and solicitation agent retained by the Debtors.

**Claims Objection Deadline** means the deadline for objecting to a Claim, which shall be on the date that is the later of (i) one-hundred and eighty (180) days after the Effective Date and (ii) such later date as may be fixed by the Bankruptcy Court, after notice and a hearing, upon a motion by the Reorganized Debtors filed before the day that is one-hundred and eighty (180) days after the Effective Date.

**Claims Register** means the official register of Claims maintained by the Claims and Noticing Agent in the Chapter 11 Cases.

**Class** means any group of Claims or Interests classified under this Plan pursuant to section 1122(a) of the Bankruptcy Code.

**Confirmation Date** means the date on which the Bankruptcy Court enters the Confirmation Order.

**Confirmation Hearing** means the hearing to be held by the Bankruptcy Court regarding confirmation of this Plan, as such hearing may be adjourned or continued from time to time.

**Confirmation Order** means the order of the Bankruptcy Court confirming this Plan pursuant to section 1129 of the Bankruptcy Code.



**Consenting Creditors** means the RBL Lenders that are party to the Restructuring Support Agreement and any other RBL Lender that subsequently becomes a party to the Restructuring Support Agreement in accordance with the terms thereof.

**Consenting Sponsors** means Chisholm Oil and Gas, LLC and Gastar Holdco LLC.

**Creditors' Committee** means the statutory committee of unsecured creditors appointed by the U.S. Trustee in the Chapter 11 Cases pursuant to section 1102 of the Bankruptcy Code [Docket Nos. 90 and 115].

**Cure Amount** means the payment of Cash or the distribution of other property (as the parties may agree or the Bankruptcy Court may order) as necessary to (i) cure a monetary default by the Debtors in accordance with the terms of an executory contract or unexpired lease of the Debtors and (ii) permit the Debtors to assume such executory contract or unexpired lease under section 365(a) of the Bankruptcy Code.

**Cure Notice** means the notice, prepared in consultation with the RBL Agent, of proposed Cure Amounts to be paid in connection with an executory contract or unexpired lease that may be assumed by the Debtors pursuant to this Plan.

**Debtor(s)** has the meaning set forth in the introductory paragraph of this Plan.

**Definitive Documents** means the documents (including any related agreements, instruments, schedules, or exhibits) that are necessary to implement the Restructuring, including (i) the Restructuring Support Agreement, (ii) any material "first day" and "second day" motions and all orders sought pursuant thereto, including the Cash Collateral Order, (iii) the Solicitation materials, (iv) the order approving the Solicitation materials, (v) the motion seeking approval by the Bankruptcy Court of the Disclosure Statement and the Solicitation procedures, (vi) the Plan (including the Plan Supplement and all material documents, annexes, schedules, exhibits, amendments, modifications or supplements thereto, or other documents contained therein, including any schedules of rejected contracts), (vii) the Disclosure Statement, (viii) the Disclosure Statement Order, (ix) the Confirmation Order and any pleadings in support of entry of the Disclosure Statement Order and the Confirmation Order, (x) the Restructuring Transactions Memorandum, (xi) the Management Incentive Plan and additional documents or agreements thereto, (xii) the Warrant Agreement, (xiii) the Exit Credit Facilities Documents, (xiv) the Amended Organizational Documents, any and all conveyance instruments required to issue and distribute the New Equity Interests, and if applicable, any stockholders' agreement or registration rights agreement of the Reorganized Chisholm Parent, and (xv) any order, or amendment or modification of any order, entered by the Bankruptcy Court related to the foregoing items.

**Disbursing Agent** means any Entity in its capacity as a disbursing agent under Section 6.6 of this Plan, including any Debtor or Reorganized Debtor, as applicable, that acts in such capacity to make distributions pursuant to this Plan.

**Disclosure Statement** means the disclosure statement for this Plan, including all exhibits, schedules, supplements, modifications, amendments, and annexes thereto, each as supplemented from time to time, which is prepared and distributed in accordance with sections

1125, 1126(b), or 1145 of the Bankruptcy Code, Bankruptcy Rules 3016 and 3018, or other applicable law.

**Disclosure Statement Order** means the order of the Bankruptcy Court approving the Disclosure Statement, the Solicitation materials and the Solicitation of the Plan.

**Disputed** means (i) any Claim that is disputed under ARTICLE VII of this Plan or as to which the Debtors or any party in interest have interposed and not withdrawn an objection or request for estimation that has not been determined by a Final Order, (ii) any 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 or properly filed, (iii) any Claim that is listed in the Schedules as unliquidated, contingent, or disputed, and as to which no Proof of Claim has been filed, or (iv) any Claim that is otherwise disputed by any of the Debtors or Reorganized Debtors or any party in interest in accordance with applicable law or contract, which dispute has not been withdrawn, resolved or overruled by a Final Order.

**Disputed Claims Reserve** means the holdback from the GUC Cash Pool with respect to Disputed General Unsecured Claims, governed by Section 7.9 of this Plan.

**Distribution Record Date** means, except as otherwise provided in this Plan or the Plan Documents, the Effective Date.

**DTC** means Depository Trust Company, a limited-purpose trust company organized under the New York State Banking Law.

**Effective Date** means the date which is the first Business Day on which (i) all conditions to the effectiveness of this Plan set forth in Section 9.2 of this Plan have been satisfied or waived in accordance with Section 9.3 of this Plan and (ii) no stay of the Confirmation Order is in effect.

**Entity** has the meaning set forth in section 101(15) of the Bankruptcy Code.

**Estate(s)** means individually or collectively, the estate or estates of the Debtors created under section 541 of the Bankruptcy Code.

**Exculpated Fiduciaries** means, collectively, (i) the Debtors, (ii) the Reorganized Debtors, (iii) the Creditors' Committee and each of its members in their capacity as such, and (iv) with respect to each of the foregoing Persons in clauses (i) through (iii), such Persons' Related Persons and their respective heirs, executors, estates, and nominees, in each case in their capacity as such.

**Exculpated Parties** means, collectively, the Exculpated Fiduciaries and the Section 1125(e) Parties.

**Exit Facility Agents** means each of the administrative agents, collateral agents, trustees, or other similar agents under the Exit Facility Agreement, solely in such entity's capacity as such.

**Exit Facility Agreement** means that certain credit or loan agreement pursuant to which the Exit Credit Facilities shall be provided, to be dated as of the Effective Date, by and among Reorganized Chisholm Borrower, as borrower, Reorganized Chisholm Parent, as guarantor, the Exit Facility Agents, the issuing banks party thereto, the Exit Facility Lenders, and the other parties thereto.

**Exit Credit Facilities** means the FLFO RBL Facility and the FLSO Term Loan Facility.

**Exit Credit Facilities Documents** means, collectively, the Exit Facility Agreement, and all related amendments, supplements, agreements or ancillary agreements, assignments, notes, pledges, collateral agreements, loan and security agreements, guarantees, intercreditor agreements, instruments, mortgages or extension of mortgages, certificates, control agreements, insurance documents, opinions, deeds of trust, and other documents or instruments to be executed, delivered, or continued in force and effect in connection with the Exit Facility Agreement.

**Exit Facility Lenders** means FLFO RBL Lenders and FLSO Term Loan Lenders.

**Exit Secured Parties** means, collectively, the Exit Facility Agents, the Exit Facility Lenders, and any other Secured Party (as defined in, or such similar term that is contained in, the Exit Credit Facilities Documents).

**Fee Claim** means a Claim for professional services rendered or costs incurred on or after the Petition Date through the Confirmation Date by Professional Persons to the extent such costs have not been paid pursuant to an order of the Bankruptcy Court.

**Fee Escrow Account** means an interest-bearing account funded by the Debtors on the Effective Date with Cash in an amount equal to the total estimated amount of Fee Claims.

**Final Order** means an order or judgment of a court of competent jurisdiction that has been entered on the docket maintained by the clerk of such court, which has not been reversed, vacated, or stayed and as to which (i) the time to appeal, petition for *certiorari*, or move for a new trial, reargument, or rehearing has expired and as to which no appeal, petition for *certiorari*, or other proceedings for a new trial, reargument, or rehearing shall then be pending, or (ii) if an appeal, writ of *certiorari*, new trial, reargument, or rehearing thereof has been sought, such order or judgment shall have been affirmed by the highest court to which such order was appealed, or *certiorari* shall have been denied, or a new trial, reargument, or rehearing shall have been denied or resulted in no modification of such order, and the time to take any further appeal, petition for *certiorari*, or move for a new trial, reargument, or rehearing shall have expired. However, notwithstanding anything herein to the contrary, no order or judgment shall fail to be a “Final Order” solely because of the possibility that a motion under Rules 59 or 60 of the Federal Rules of Civil Procedure or any analogous Bankruptcy Rule (or any analogous rules applicable in another court of competent jurisdiction) or sections 502(j) or 1144 of the Bankruptcy Code has been or may be filed with respect to such order or judgment.

**FLFO RBL Facility** means a first-lien first-out new money exit reserve-based credit facility in an amount no less than \$15 million to be provided by the FLFO RBL Lenders.

**FLFO RBL Lenders** means the RBL Lenders and any other lenders that elect to become lenders under the FLFO RBL Facility by executing and delivering the Exit Facility Agreement.

**FLSO Term Loan** means the loan under the FLSO Term Loan Facility.

**FLSO Term Loan Facility** means a first-lien second-out take-back term loan facility, with a 7-year maturity, interest accrual at LIBOR plus 600bps, sized at 1.5x annualized corporate EBITDAX (calculated on the Effective Date based on balance of fiscal year 2020 business plan with 10% production risking) in a principal amount no greater than \$40 million.

**FLSO Term Loan Lenders** means the holders of RBL Claims receiving the FLSO Term Loan in accordance with Section 4.3 of this Plan that are deemed party to the Exit Facility Agreement as FLSO Term Loan Lenders as of the Effective Date.

**General Unsecured Claim** means any Claim other than (i) an Other Secured Claim, (ii) an Adequate Protection Claim, (iii) an Administrative Expense Claim, (iv) a Priority Tax Claim, (v) an Other Priority Claim, (vi) a RBL Claim, (vii) a Term Loan Claim, or (viii) an Intercompany Claim.

**Governmental Unit** has the meaning set forth in section 101(27) of the Bankruptcy Code.

**GUC Cash Pool** means Cash to be held in a segregated account for purposes of making Distributions to holders of Allowed General Unsecured Claims in accordance with Section 4.5 of this Plan, subject to the GUC Cash Pool Reduction.

**GUC Cash Pool Reduction** means a dollar-for-dollar reduction of the total amount of the GUC Cash Pool by the amount of any Allowed Fee Claims incurred by Professional Persons retained by the Creditors' Committee from and after July 27, 2020 through the Effective Date exceeding \$150,000 in the aggregate.

**GUC Claims Administrator** means the Person, if any, reasonably acceptable to the Debtors and the Creditors' Committee appointed to serve as the administrator of General Unsecured Claims in accordance with Section 7.3 of this Plan, to be identified in the Plan Supplement.

**Impaired** means, with respect to a Claim, Interest, or a Class of Claims or Interests, "impaired" within the meaning of such term in section 1124 of the Bankruptcy Code.

**Intercompany Claim** means any Claim against a Debtor held by another Debtor.

**Intercompany Interest** means any Interests in any of the Debtors held by another Debtor. For the avoidance of doubt, Intercompany Interest excludes Chisholm Parent Equity Interests and Chisholm Management Equity Interests.

**Interim Compensation Procedures Order** means the Order Pursuant to 11 U.S.C. §§ 105(a), 330, and 331 and Fed. R. Bankr. P. 2016 Establishing Procedures for Interim Compensation and Reimbursement of Expenses of Professionals [Docket No. 204].

**Interest** means any equity security (as defined in section 101(16) of the Bankruptcy Code) in a Debtor, including all ordinary shares, units, common stock, preferred stock, membership interest, partnership interest or other instrument, evidencing any fixed or contingent ownership interest in any Debtor, whether or not transferable and whether fully vested or vesting in the future, including any option, warrant, or other right, contractual or otherwise, to acquire any such interest in the applicable Debtor, that existed immediately before the Effective Date.

**IRS** means the Internal Revenue Service.

**Lien** has the meaning set forth in section 101(37) of the Bankruptcy Code.

**Lien Cap** means \$8,000,000 in the aggregate.

**Management Incentive Plan** means a post-emergence management incentive plan to be adopted by the New Board as further described in Section 5.8 of this Plan.

**MIP Equity** means 5% of the New Equity Interests on a fully diluted basis issued in connection with the Management Incentive Plan to directors, officers, or other management and employees of the Reorganized Debtors, based on the terms and conditions of the Management Incentive Plan.

**M&M Claims Resolution Protocol** means the set of procedures for reconciling Prepetition M&M Liens approved by the Bankruptcy Court pursuant to the Bar Date Order.

**New Board** means the initial board of directors of Reorganized Chisholm Parent.

**New Equity Interests** means the limited liability company interests of Reorganized Chisholm Parent to be issued (i) on the Effective Date pursuant to this Plan, (ii) upon implementation of the Management Incentive Plan, (iii) upon exercise of the Warrants, or (iv) as otherwise permitted pursuant to the Amended Organizational Documents.

**Other Priority Claim** means any Claim other than an Administrative Expense Claim, Adequate Protection Claim, or a Priority Tax Claim that is entitled to priority of payment as specified in section 507(a) of the Bankruptcy Code.

**Other Secured Claim** means any Secured Claim other than a Priority Tax Claim, an RBL Claim, or a Term Loan Claim.

**Person** has the meaning set forth in section 101(41) of the Bankruptcy Code, including any individual, corporation, partnership, joint venture, association, joint stock company, limited liability company, limited partnership, trust, estate, unincorporated organization, Governmental Unit, or other Entity.

**Petition Date** means, with respect to a Debtor, the date on which such Debtor commenced its Chapter 11 Case.

**Plan** means this joint chapter 11 plan of reorganization, including all appendices, exhibits, schedules, and supplements hereto (including any appendices, schedules, and supplements to this Plan contained in the Plan Supplement), as may be modified from time to time in accordance with the Bankruptcy Code, the terms hereof, and the Restructuring Support Agreement.

**Plan Distribution** means the payment or distribution of consideration to holders of Allowed Claims and Allowed Interests under this Plan.

**Plan Document** means any Definitive Document or document in the Plan Supplement.

**Plan Supplement** means a supplement or supplements to this Plan containing certain documents relevant to the implementation of this Plan, to be filed with the Bankruptcy Court no later than seven (7) calendar days before the Voting Deadline, which shall include (i) the Amended Organizational Documents of Reorganized Chisholm Parent, (ii) to the extent known, the identities of the members of the New Board, (iii) with respect to the members of the New Board, information required to be disclosed in accordance with section 1129(a)(5) of the Bankruptcy Code, (iv) the Exit Facility Agreement, (v) the Warrant Agreement, (vi) the Schedule of Rejected Contracts, (vii) a schedule of retained Causes of Action, (viii) the Shareholders' Agreement, and (ix) the identity of the GUC Claims Administrator; *provided, however*, that, through the Effective Date, the Debtors shall have the right to amend documents contained in, and exhibits to, the Plan Supplement in accordance with the terms of this Plan and the Restructuring Support Agreement.

**Prepetition M&M Liens** means, collectively, any valid prepetition Liens on property or assets of the Debtors imposed by law, such as landlord's, vendors', suppliers', carriers', warehousemen's, repairmen's, construction contractors', workers' and mechanics' liens and other similar Liens, and having priority over the Liens granted to the RBL Credit Agreement Secured Parties pursuant to the RBL Credit Documents.

**Priority Tax Claim** means any Claim of a Governmental Unit of the kind entitled to priority of payment as specified in sections 502(i) and 507(a)(8) of the Bankruptcy Code.

**Pro Rata** means the proportion that an Allowed Claim or Interest in a particular Class bears to the aggregate amount of Allowed Claims or Interests in that Class.

**Professional Person** means any Person retained by the Debtors or the Creditors' Committee by order of the Bankruptcy Court in connection with these Chapter 11 Cases pursuant to sections 327, 328, 330, 331, 503(b), or 1103 of the Bankruptcy Code, excluding any ordinary course professional retained pursuant to an order of the Bankruptcy Court.

**Proof of Claim** means a proof of Claim filed against any of the Debtors in the Chapter 11 Cases.

**Quarterly Distribution Date** means the first Business Day after the end of each quarterly calendar period (*i.e.*, March 31, June 30, September 30, and December 31 of each calendar year) occurring after the Effective Date or as soon thereafter as is practicable.

**RBL Agent** means Citibank, N.A., in its capacity as administrative agent under the RBL Credit Agreement.

**RBL Claims** means all Claims of the RBL Credit Agreement Secured Parties against the Debtors arising under or in connection with the RBL Credit Documents, the Secured Hedge Agreements, and the Secured Cash Management Agreements (both as defined in the RBL Credit Agreement) and all documents related thereto.

**RBL Collateral Agent** means Wilmington Trust, National Association, in its capacity as collateral agent under the RBL Credit Agreement.

**RBL Credit Agreement** means that certain credit agreement, dated as of March 21, 2017 (as amended, modified, or otherwise supplemented from time to time), by and among Chisholm Borrower, as borrower, Chisholm Parent, as guarantor, the RBL Agent, the RBL Collateral Agent, the RBL Lenders party thereto from time to time, and the other RBL Credit Agreement Secured Parties party thereto.

**RBL Credit Agreement Secured Parties** means, collectively, the RBL Agent, the RBL Collateral Agent, the RBL Lenders, the “Issuing Banks,” “Cash Management Banks,” the “Hedge Banks,” and any holder of claims in respect of “Indemnified Liabilities” (as such terms are defined in the RBL Credit Agreement), and with respect to each of the foregoing entities, solely as to the release, exculpation and injunction provisions of the Plan or to the extent such obligation otherwise exists under the RBL Credit Documents, such Persons’ Related Persons, and their respective heirs, executors, estates, servants, and nominees, in each case in their capacity as such.

**RBL Credit Documents** means the “Credit Documents” as defined in the RBL Credit Agreement.

**RBL Facility** means the prepetition first-lien revolving credit facility provided pursuant to the RBL Credit Agreement.

**RBL Lenders** means the lenders from time to time party to the RBL Credit Agreement as lenders thereunder.

**Related Persons** means respect to a Person, that Person’s current and former Affiliates, and such Persons’ and their current and former Affiliates’ predecessors, successors, assigns, and current and former subsidiaries, officers, directors, principals, equity holders (regardless of whether such interests are held directly or indirectly), members, partners (including both general and limited partners), managers, employees, agents, advisory board members, management companies, managed accounts or funds, affiliated investment funds or investment vehicles, and Representatives.

**Released Parties** means, collectively, (i) the Debtors, (ii) the Consenting Creditors, (iii) the Consenting Sponsors, (iv) the Reorganized Debtors, (v) the RBL Credit Agreement

Secured Parties, (vi) the Creditors' Committee and each of its members in their capacity as such, (vii) the agents and lenders under the Exit Credit Facilities, (viii) the holders of all Claims and Interests who vote to accept the Plan, and (ix) with respect to each of the foregoing Persons in clauses (i) through (viii), such Persons' Related Persons, and their respective heirs, executors, estates, and nominees, in each case in their capacity as such. However, notwithstanding anything herein to the contrary, any Person that opts out of the releases set forth in Section 10.7 of this Plan shall not be a Released Party.

**Releasing Parties** means, collectively, (i) the holders of all Claims and Interests who vote to accept the Plan, (ii) the holders of all Claims and Interests whose vote to accept or reject the Plan is solicited but who do not vote either to accept or to reject the Plan, (iii) the holders of all Claims and Interests who vote, or are deemed, to reject the Plan but do not opt out of granting the releases set forth herein, (iv) the holders of all Claims and Interests who were given notice of the opportunity to opt out of granting the releases set forth Section 10.7 of this Plan but did not opt out, (v) all other holders of Claims and Interests to the maximum extent permitted by law, and (vi) the Released Parties.

**Reorganized Chisholm Borrower** means Chisholm Borrower as reorganized on the Effective Date in accordance with this Plan (which shall remain a Delaware limited liability company).

**Reorganized Chisholm Management** mean Chisholm Management as reorganized on the Effective Date in accordance with the Plan.

**Reorganized Chisholm Parent** means Chisholm Parent as reorganized on the Effective Date in accordance with this Plan (which shall remain a Delaware limited liability company).

**Reorganized Debtors** means, Reorganized Chisholm Parent, Reorganized Chisholm Borrower, and each of the other Debtors as reorganized as of the Effective Date in accordance with this Plan.

**Representative** means any Persons' attorneys, accountants, investment bankers, consultants, professional advisors, independent auditors, trustees, agents, Affiliates (as defined in the RBL Credit Agreement) (and any such Affiliates' attorneys, professional advisors, independent auditors, trustees or agents), fund advisors, investment managers, investment advisors, sub-advisors, and sub-managers, and other professionals, and each of their respective current and former officers, directors, principals, equity holders (regardless of whether such interests are held directly or indirectly), members, partners (including both general and limited partners), managers, employees, agents, and advisory board members, each in their capacity as such.

**Requisite Creditors** has the meaning set forth in the Restructuring Support Agreement.

**Restructuring** has the meaning set forth in the Restructuring Support Agreement.



**Restructuring Expenses** means the reasonable and documented out-of-pocket fees and expenses incurred by the RBL Agent, RBL Collateral Agent, and the Consenting Sponsors in connection with the Restructuring, as set forth in the Restructuring Support Agreement.

**Restructuring Support Agreement** means that certain Restructuring Support Agreement and all exhibits thereto, dated as of June 15, 2020, by and among the Debtors, the Consenting Creditors, and the Consenting Sponsors, as the same may be amended, restated, or otherwise modified in accordance with its terms.

**Restructuring Transactions** means one or more transactions pursuant to section 1123(a)(5)(D) of the Bankruptcy Code to occur following the Confirmation Date or as soon as reasonably practicable thereafter, that may be necessary or appropriate to effect any transaction described in, approved by, contemplated by, or necessary to effectuate this Plan, as set forth in the Restructuring Transactions Memorandum, including (i) the consummation of the transactions provided for under or contemplated by the Restructuring Support Agreement, (ii) the execution and delivery of appropriate agreements or other documents containing terms that are consistent with or reasonably necessary to implement the terms of this Plan and the Restructuring Support Agreement and that satisfy the requirements of applicable law, (iii) the execution and delivery of appropriate agreements or other documents containing terms that are consistent with or reasonable necessary to implement the terms of the Plan Supplement, including the terms of the Exit Credit Facilities Documents, (iv) the execution and delivery of appropriate instruments of transfer, assignment, assumption, or delegation of any property, right, liability, duty, or obligation on terms consistent with the terms of this Plan and the Restructuring Support Agreement, and (v) all other actions that the Debtors or Reorganized Debtors, as applicable, determine are necessary or appropriate and consistent with the Restructuring Support Agreement.

**Restructuring Transactions Memorandum** means a document, in form and substance reasonably acceptable to the RBL Agent, that will set forth the material components of the Restructuring Transactions, if any.

**Schedules** means, the schedules of assets and liabilities, statements of financial affairs, lists of holders of Claims and Interests and all amendments or supplements thereto filed by the Debtors with the Bankruptcy Court.

**Schedule of Rejected Contracts** means the schedule of executory contracts and unexpired leases to be rejected by the Debtors pursuant to this Plan, if any, as the same may be amended, modified, or supplemented from time to time.

**Section 1125(e) Parties** means collectively, (i) the RBL Credit Agreement Secured Parties, (ii) the agents and lenders under the Exit Credit Facilities, (iii) the Consenting Sponsors, and (iv) with respect to each of the foregoing Persons in clauses (i) through (iii), such Persons' Related Persons, and their respective heirs, executors, estates, and nominees, in each case in their capacity as such.

**Secured Claim** means a Claim to the extent (i) secured by a Lien on property of a Debtor's Estate, the amount of which is equal to or less than the value of such property (a) as set forth in this Plan, (b) as agreed to by the holder of such Claim and the Debtors, or (c) as determined

by a Final Order in accordance with section 506(a) of the Bankruptcy Code or (ii) subject to any valid setoff right of the holder of such Claim under section 553 of the Bankruptcy Code.

**Securities Act** means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

**Security** means any “security” as such term is defined in section 101(49) of the Bankruptcy Code.

**Shareholders’ Agreement** means the shareholders agreement, if any, to be entered into (or deemed entered into) by Reorganized Chisholm Parent and holders of the New Equity Interests on the Effective Date in accordance with this Plan.

**Solicitation** means the solicitation of votes for this Plan pursuant to, and in compliance with, the Bankruptcy Code.

**Statutory Fees** means all fees and charges assessed against the Estates pursuant to sections 1911 through 1930 of chapter 123 of title 28 of the United States Code.

**Term Loan Agent** means Wilmington Trust, National Association, in its capacity as administrative agent and collateral agent under the Term Loan Agreement.

**Term Loan Agreement** means the certain term loan agreement, dated as of March 21, 2017, by and among Chisholm Borrower, as borrower, Chisholm Parent, as guarantor, the Term Loan Agent, and the Term Loan Lenders party thereto from time to time.

**Term Loan Claim** means any Claim against the Debtors arising under or in connection with the Term Loan Agreement and all documents relating thereto.

**Term Loan Documents** means the Term Loan Agreement and all documentation executed in connection therewith.

**Term Loan Lenders** means the lenders from time to time party to the Term Loan Agreement.

**Unimpaired** means, with respect to a Claim, Interest, or Class of Claims or Interests, not “impaired” within the meaning of such term in section 1124 of the Bankruptcy Code.

**U.S. Trustee** means the United States Trustee for Region 3.

**Voting Deadline** means September 11, 2020 at 4:00 p.m. Prevailing Eastern Time, or such other date and time as may set by the Bankruptcy Court.

**Warrant Agreement** means a warrant agreement to be entered into by and among Reorganized Chisholm Parent and the warrant agent named therein that shall govern the terms of the Warrants.

**Warrants** means warrants to purchase New Equity Interests representing in the aggregate 11% of the total outstanding New Equity Interests issued pursuant to the Plan as of the Effective Date (subject to dilution by the MIP Equity), exercisable in Cash for a 5-year period commencing on the Effective Date at an aggregate exercise strike price in an amount equal to a 100% recovery to the RBL Lenders on account of the RBL Claims (inclusive of accrued and unpaid interest) as of the Petition Date.

**Warrant Equity** means New Equity Interests issuable upon the exercise of the Warrants, subject to dilution by the MIP Equity.

**1.2 Interpretation; Application of Definitions; Rules of Construction.**

Unless otherwise specified, all section or exhibit references in this Plan are to the respective section in or exhibit to this Plan, as the same may be amended, waived, or modified from time to time in accordance with the terms hereof and the Restructuring Support Agreement. The words “herein,” “hereof,” “hereto,” “hereunder,” and other words of similar import refer to this Plan as a whole and not to any particular section, subsection, or clause contained therein and have the same meaning as “in this Plan,” “of this Plan,” “to this Plan,” and “under this Plan,” respectively. The words “includes” and “including” are not limiting. The headings in this Plan are for convenience of reference only and shall not limit or otherwise affect the provisions hereof. For purposes herein: (i) in the appropriate context, each term, whether stated in the singular or plural, shall include both the singular and plural, and pronouns stated in the masculine, feminine, or neuter gender shall include the masculine, feminine, and the neuter gender; (ii) any reference herein to a contract, lease, instrument, release, or other agreement or document being in a particular form or on particular terms and conditions means that the referenced document shall be substantially in that form or substantially on those terms and conditions; (iii) the rules of construction set forth in section 102 of the Bankruptcy Code shall apply; (iv) any term used in capitalized form herein that is not otherwise defined but that is used in the Bankruptcy Code or the Bankruptcy Rules shall have the meaning assigned to that term in the Bankruptcy Code or the Bankruptcy Rules, as the case may be; and (v) all references herein to consent, acceptance, or approval may be conveyed by counsel for the respective parties that have such consent, acceptance, or approval rights, including by electronic mail. Nothing in clause (ii) of this Section 1.2 shall affect any parties’ consent rights over any of the Definitive Documents or any amendments thereto, as provided for in the Restructuring Support Agreement.

**1.3 Reference to Monetary Figures.**

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

**1.4 Consent Rights.**

Notwithstanding anything herein to the contrary, any and all notice and consent rights of the Debtors, the Consenting Creditors, the RBL Agent, and the Consenting Sponsors set forth in the Restructuring Support Agreement (including the exhibits thereto) with respect to the form and substance of this Plan, and any other Definitive Documents, including any amendments, restatements, supplements, or other modifications to such documents, and any and all consents,

waivers, or other deviations under or from any such documents, shall be incorporated herein by this reference and fully enforceable as if stated in full herein.

### **1.5 Controlling Document.**

In the event of an inconsistency between this Plan and the Plan Supplement, the terms of the relevant document in the Plan Supplement shall control unless otherwise specified in such Plan Supplement document. In the event of an inconsistency between this Plan and any other instrument or document created or executed pursuant to this Plan, or between this Plan and the Disclosure Statement, this Plan shall control. The provisions of this Plan and of the Confirmation Order shall be construed in a manner consistent with each other so as to effectuate the purposes of each. If there is any inconsistency between any provision of this Plan and any provision of the Confirmation Order that cannot be so reconciled, then, solely to the extent of such inconsistency, the provisions of the Confirmation Order shall govern, and any such provisions of the Confirmation Order shall be deemed a modification of this Plan.

## **ARTICLE II. ADMINISTRATIVE EXPENSE CLAIMS, ADEQUATE PROTECTION CLAIMS, FEE CLAIMS, AND PRIORITY TAX CLAIMS.**

### **2.1 Treatment of Adequate Protection Claims.**

(a) In lieu of the Cash payment to which the RBL Lenders otherwise would be entitled to receive, the RBL Agent, as the holder of an Allowed Adequate Protection Claim on behalf of the RBL Lenders, has agreed that the New Equity Interests and the FLSO Term Loan received by the RBL Lenders on account of their Allowed RBL Claims, as set forth in Section 4.3 of this Plan, shall also be in full and final satisfaction of such Allowed Adequate Protection Claim.

(b) In lieu of the Cash payment, if any, to which the Term Loan Lenders otherwise would be entitled to receive for any Allowed Adequate Protection Claim, the Term Loan Agent, on behalf of the Term Loan Lenders, has agreed that the distribution to be received by the Term Loan Lenders as set forth in Section 4.4 of this Plan, shall also be in full and final satisfaction of such Allowed Adequate Protection Claim, if any.

### **2.2 Treatment of Administrative Expense Claims.**

(a) Except to the extent that a holder of an Allowed Administrative Expense Claim agrees to a different treatment, each holder of an Allowed Administrative Expense Claim (other than Restructuring Expenses or Fee Claims) shall receive, in full and final satisfaction of such Claim, on or as soon as reasonably practicable after the later of (i) the Effective Date and (ii) the first Business Day that is thirty (30) calendar days after the date such Administrative Expense Claim becomes an Allowed Administrative Expense Claim, Cash in an amount equal to such Allowed Administrative Expense Claim; *provided, however*, that Allowed Administrative Expense Claims representing liabilities incurred in the ordinary course of business by the Debtors shall be paid by the Debtors or the Reorganized Debtors, as applicable, in the ordinary course of business, consistent with past practice and in accordance with the terms and subject to the conditions of any orders or agreements governing, instruments evidencing, or other documents establishing, such liabilities.

(b) Except as otherwise provided in this Section 2.2, and except with respect to Fee Claims and Administrative Expense Claims that arose in the ordinary course of business during the Chapter 11 Cases, requests for payment of Allowed Administrative Expense Claims must be filed pursuant to the procedures specified in the Confirmation Order and any notice related thereto no later than the Administrative Expense Claims Bar Date.

### **2.3 Treatment of Fee Claims.**

(a) All Professional Persons seeking awards by the Bankruptcy Court of compensation for services rendered or reimbursement of expenses incurred through and including the Confirmation Date under sections 327, 328, 330, 331, 503(b)(2), 503(b)(3), 503(b)(4), 503(b)(5), or 1103 of the Bankruptcy Code shall (i) file, on or before the date that is forty-five (45) days after the Confirmation Date, their respective applications for final allowances of compensation for services rendered and reimbursement of expenses incurred and (ii) be paid in full, in Cash, in such amounts as are Allowed by the Bankruptcy Court or authorized to be paid in accordance with the order(s) relating to or allowing any such Fee Claim. The Debtors are authorized to pay compensation for professional services rendered and reimbursement of expenses incurred after the Confirmation Date in the ordinary course and without the need for Bankruptcy Court approval.

(b) Any Allowed Fee Claims of Professional Persons retained by the Creditors' Committee incurred on or after July 27, 2020 through the Effective Date that exceeds \$150,000 in the aggregate shall be paid from the GUC Cash Pool.

(c) On the Effective Date, the Debtors shall establish and fund the Fee Escrow Account. The Debtors, after consultation with the RBL Agent and the Creditors' Committee, shall fund the Fee Escrow Account with Cash equal to the Professional Persons' good faith estimates of the Fee Claims. Funds held in the Fee Escrow Account shall not be considered property of the Debtors' Estates or property of the Reorganized Debtors, but shall revert to the Reorganized Debtors only after all Allowed Fee Claims have been irrevocably paid in full. The Fee Escrow Account shall be held in trust for Professional Persons and for no other parties until all Allowed Fee Claims have been paid in full. Fee Claims shall be paid in full, in Cash, in such amounts as are Allowed by the Bankruptcy Court (i) on or as soon as reasonably practicable after the date upon which a Final Order relating to any such Allowed Fee Claim is entered, (ii) on such other terms as may be mutually agreed upon between the holder of such an Allowed Fee Claim and the Debtors or the Reorganized Debtors, as applicable, or (iii) in accordance with the Interim Compensation Procedures Order. The Reorganized Debtors' obligations with respect to Fee Claims shall not be limited by nor deemed limited to the balance of funds held in the Fee Escrow Account. To the extent that funds held in the Fee Escrow Account are insufficient to satisfy the amount of Allowed Fee Claims owing to the Professional Persons, such Professional Persons shall have an Allowed Administrative Expense Claim for any such deficiency, which shall be satisfied in accordance with Section 2.2 of this Plan. When such Allowed Fee Claims have been paid in full, any remaining amount in the Fee Escrow Account shall be promptly returned to the Reorganized Debtors without any further action or order of the Bankruptcy Court. No Liens, claims, or interests shall encumber the Professional Fee Escrow in any way, other than customary liens in favor of the depository bank at which the Fee Escrow Account is maintained.

(d) Any objections to Fee Claims shall be served and filed (i) no later than twenty-one (21) days after the filing of the final applications for compensation or reimbursement or (ii) such later date ordered by the Bankruptcy Court.

#### **2.4 Treatment of Priority Tax Claims.**

Except to the extent that a holder of an Allowed Priority Tax Claim agrees to a different treatment, each holder of an Allowed Priority Tax Claim shall receive, in full and final satisfaction of such Allowed Priority Tax Claim, at the sole option of the Debtors or the Reorganized Debtors, as applicable (i) Cash in an amount equal to such Allowed Priority Tax Claim on or as soon as reasonably practicable after the later of (a) the Effective Date, (b) the first Business Day that is thirty (30) calendar days after the date such Priority Tax Claim becomes an Allowed Priority Tax Claim, and (c) the date such Allowed Priority Tax Claim is due and payable in the ordinary course, or (ii) such other treatment consistent with the provisions of section 1129(a)(9) of the Bankruptcy Code.

#### **2.5 Restructuring Expenses.**

The Restructuring Expenses incurred, or estimated to be incurred, up to and including the Effective Date, shall be paid in full in Cash on the Effective Date or as soon as reasonably practicable thereafter (to the extent not previously paid during the course of the Chapter 11 Cases) in accordance with, and subject to, the terms of the Restructuring Support Agreement, without any requirement to file a fee application with the Bankruptcy Court and without any requirement for Bankruptcy Court review or approval. All Restructuring Expenses to be paid on the Effective Date shall be estimated prior to and as of the Effective Date and such estimates shall be delivered to the Debtors at least two (2) Business Days before the anticipated Effective Date. Notwithstanding the foregoing, such estimates shall not be considered an admission or limitation with respect to such Restructuring Expenses. On the Effective Date or as soon as practicable thereafter, final invoices for all Restructuring Expenses incurred prior to and as of the Effective Date shall be submitted to the Reorganized Debtors. In addition, the Debtors and the Reorganized Debtors (as applicable) shall continue to pay when due pre- and post-Effective Date Restructuring Expenses of the RBL Agent and the RBL Collateral Agent related to implementation, consummation, and defense of the Plan, including in connection with the claims allowance process, whether incurred before, on or after the Effective Date. With respect to Restructuring Expenses arising prior to the Effective Date, such amounts shall be paid consistent with the terms and conditions of the Restructuring Support Agreement and the Cash Collateral Order.

### **ARTICLE III. CLASSIFICATION OF CLAIMS AND INTERESTS.**

#### **3.1 Classification in General.**

A Claim or Interest is placed in a particular Class for all purposes, including voting, confirmation, and distribution under this Plan and under sections 1122 and 1123(a)(1) of the Bankruptcy Code. A Claim or Interest is placed in a particular Class for the purpose of receiving distributions pursuant to this Plan only to the extent that such Claim or Interest is an Allowed Claim or Allowed Interest in that Class and such Claim or Interest has not been satisfied, released, or otherwise settled prior to the Effective Date.

### **3.2 Formation of Debtor Groups for Convenience Only.**

Solely with respect to Class 5, and solely for purposes of (i) describing treatment under this Plan, (ii) tabulating votes for such Class and confirmation of this Plan, and (iii) making Plan Distributions in respect of such Class, this Plan groups the Debtors together. Such groupings shall not affect any Debtor's status as a separate legal entity, change the organizational structure of the Debtors' business enterprise, constitute a change of control of any Debtor for any purpose, cause a merger or consolidation of any legal entities, or cause the transfer of any assets. Except as otherwise provided by or permitted under this Plan, all Debtors shall continue to exist as separate legal entities.

### **3.3 Summary of Classification of Claims and Interests.**

The following table designates the Classes of Claims against and Interests in the Debtors and specifies which Classes are (i) Impaired and Unimpaired under this Plan, (ii) entitled to vote to accept or reject this Plan in accordance with section 1126 of the Bankruptcy Code, and (iii) presumed to accept or deemed to reject this Plan. In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Expense Claims and Priority Tax Claims have not been classified. The classification of Claims and Interests set forth herein shall apply separately to each Debtor.

<b>Class</b>	<b>Type of Claim or Interest</b>	<b>Impairment</b>	<b>Entitled to Vote</b>
Class 1	Other Priority Claims	Unimpaired	No (Presumed to accept)
Class 2	Other Secured Claims	Unimpaired	No (Presumed to accept)
Class 3	RBL Claims	Impaired	Yes
Class 4	Term Loan Claims	Impaired	Yes
Class 5	General Unsecured Claims	Impaired	Yes
Class 6	Intercompany Claims	Unimpaired	No (Presumed to accept)
Class 7	Chisholm Parent Equity Interests	Impaired	Yes
Class 8	Chisholm Management Equity Interests	Impaired	No (Presumed to accept as Plan proponent)
Class 9	Intercompany Interests	Unimpaired	No (Presumed to accept)

### **3.4 Special Provision Governing Unimpaired Claims.**

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

**3.5 Elimination of Vacant Classes.**

Any Class that, as of the commencement of the Confirmation Hearing, does not have at least one Claim or Interest that is Allowed in an amount greater than zero for voting purposes shall be considered vacant, deemed eliminated from this Plan for purposes of acceptance or rejection of this Plan, and disregarded for purposes of determining whether this Plan satisfies section 1129(a)(8) of the Bankruptcy Code with respect to such Class.

**3.6 Voting Classes; Presumed Acceptance by Non-Voting Classes.**

With respect to each Debtor, if a Class contained Claims or Interests eligible to vote and no holder of such Claims or Interests, as applicable, votes to accept or reject this Plan, this Plan shall be presumed accepted by the holders of such Claims or Interests, as applicable, in such Class.

**3.7 Voting; Presumptions; Solicitation.**

(a) **Acceptance by Certain Impaired Classes.** Only holders of Claims in Class 3, Class 4, and Class 5, and Interests in Class 7 are entitled to vote to accept or reject this Plan. An Impaired Class of Claims shall have accepted this Plan if (i) the holders of at least two-thirds (2/3) in amount of the Allowed Claims actually voting in such Class have voted to accept this Plan and (ii) the holders of more than one-half (1/2) in number of the Allowed Claims actually voting in such Class have voted to accept this Plan. An Impaired Class of Interests shall have accepted this Plan if the holders of at least two-thirds (2/3) in amount of the Allowed Interests actually voting in Class 7 have voted to accept this Plan.

(b) **Presumed Acceptance by Unimpaired Classes.** Holders of Claims and Interests in Classes 1, 2, 6, 8, and 9 are conclusively presumed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Accordingly, such holders are not entitled to vote to accept or reject this Plan.

**3.8 Cramdown.**

If any Class is deemed to reject this Plan or is entitled to vote on this Plan and does not vote to accept this Plan, the Debtors may (i) seek confirmation of this Plan under section 1129(b) of the Bankruptcy Code or (ii) amend or modify this Plan in accordance with the terms hereof and the Bankruptcy Code. If a controversy arises as to whether any Claim or Interest, or any Class of Claims or Interests, is Impaired, the Bankruptcy Court shall, after notice and a hearing, determine such controversy on or before the Confirmation Date.

**3.9 No Waiver.**

Nothing contained in this Plan shall be construed to waive a Debtor's or other Person's right to object on any basis to any Claim.



**ARTICLE IV. TREATMENT OF CLAIMS AND INTERESTS.**

**4.1 Class 1: Other Priority Claims.**

(a) **Treatment:** The legal, equitable, and contractual rights of the holders of Allowed Other Priority Claims are unaltered by this Plan. Except to the extent that a holder of an Allowed Other Priority Claim agrees to different treatment, in full and final satisfaction of such Allowed Other Priority Claim, each holder of an Allowed Other Priority Claim shall receive, at the option of the Debtors or the Reorganized Debtors (as applicable), (i) on or as soon as reasonably practicable after the later of the Effective Date and the date that is ten (10) Business Days after the date such Other Priority Claim becomes an Allowed Claim, payment in full in Cash or (ii) other treatment consistent with the provisions of section 1129 of the Bankruptcy Code.

(b) **Impairment and Voting:** Allowed Other Priority Claims are Unimpaired. In accordance with section 1126(f) of the Bankruptcy Code, the holders of Allowed Other Priority Claims are conclusively presumed to accept this Plan and are not entitled to vote to accept or reject this Plan, and the votes of such holders shall not be solicited with respect to such Allowed Other Priority Claims.

**4.2 Class 2: Other Secured Claims.**

(a) **Treatment:** The legal, equitable, and contractual rights of the holders of Allowed Other Secured Claims are unaltered by this Plan. Except to the extent that a holder of an Allowed Other Secured Claim agrees to different treatment, on or as soon as reasonably practicable after the later of the Effective Date and the date that is ten (10) Business Days after the date such Other Secured Claim becomes an Allowed Claim, in full and final satisfaction of such Allowed Other Secured Claim, each holder of an Allowed Other Secured Claim shall receive, at the option of the Debtors or Reorganized Debtors (as applicable), with the consent of the RBL Agent (which consent shall not be unreasonably withheld), (i) payment in full in Cash, (ii) reinstatement of such Allowed Other Secured Claim, or (iii) such other treatment necessary to render such Allowed Other Secured Claim Unimpaired.

(b) **Impairment and Voting:** Allowed Other Secured Claims are Unimpaired. In accordance with section 1126(f) of the Bankruptcy Code, the holders of Allowed Other Secured Claims are conclusively presumed to accept this Plan and are not entitled to vote to accept or reject this Plan, and the votes of such holders shall not be solicited with respect to such Allowed Other Secured Claims.

**4.3 Class 3: RBL Claims.**

(a) **Allowance:** The RBL Claims shall be deemed Allowed on the Effective Date in the aggregate principal amount of not less than \$263,000,000, plus all outstanding interest, fees, expenses and other obligations due under the RBL Credit Agreement, the Secured Hedge Agreements, the Secured Cash Management Agreements and the other RBL Credit Documents as of the Petition Date, and shall not be subject to any avoidance, reductions, setoff, offset, recoupment, recharacterization, subordination (whether equitable, contractual or otherwise), counterclaims, cross-claims, defenses, disallowance, impairment, objection or any other challenge under any applicable law or regulation by any Person.

(b) **Treatment:** On the Effective Date, each holder of an Allowed RBL Claim shall receive, in full and final satisfaction of such Allowed RBL Claim, such holder's Pro Rata share of:

- (i) 95% of the New Equity Interests, subject to dilution by (y) the MIP Equity and (z) if (A) Class 4, Class 5, and Class 7 vote to accept the Plan and (B) as of the Confirmation Date, the Consenting Sponsors have not terminated their obligations under the Restructuring Support Agreement pursuant to Section 6(d)(xii) thereof, the Warrant Equity;
- (ii) if Class 4 does not vote to accept the Plan, an additional 5% of the New Equity Interests, subject to dilution by the MIP Equity;
- (iii) if (A) Class 4 votes to accept the Plan but (B) (x) either Class 5 or Class 7 does not vote to accept the Plan or (y) prior to the Confirmation Date, the Consenting Sponsors terminate their obligations under the Restructuring Support Agreement pursuant to Section 6(d)(xii) thereof, an additional 1% of the New Equity Interests, subject to dilution by the MIP Equity; and
- (iv) the FLSO Term Loan.

(c) **Impairment and Voting:** RBL Claims are Impaired. Holders of Allowed RBL Claims are entitled to vote on this Plan.

#### **4.4 Class 4: Term Loan Claims.**

(a) Treatment:

- (i) If Class 4 votes to accept the Plan, then on the Effective Date (x) the Term Loan Claims shall be deemed Allowed in the aggregate principal amount of not less than \$253,827,034.71 (which includes payment in kind interest that has been added to the principal), plus all outstanding interest, fees, expenses, and other obligations due under the Term Loan Documents as of the Petition Date, and shall not be subject to any avoidance, reductions, setoff, offset, recoupment, recharacterization, subordination (whether equitable, contractual or otherwise), counterclaims, cross-claims, defenses, disallowance, impairment, objection, or any other challenge under any applicable law or regulation by any Person, and (y) each holder of an Allowed Term Loan Claim shall receive, in full and final satisfaction of such Allowed Term Loan Claim, such holder's Pro Rata share of 4% of the New Equity Interests, subject to dilution by the Warrant Equity and the MIP Equity.

- (ii) If Class 4 does not vote to accept the Plan, then no holder of a Term Loan Claim shall receive any distribution on account of such Term Loan Claim.

(b) **Impairment and Voting:** Term Loan Claims are Impaired. Holders of Term Loan Claims are entitled to vote on this Plan.

**4.5 Class 5: General Unsecured Claims.**

(a) Treatment:

- (i) If Class 5 votes to accept the Plan, then on or as soon as reasonably practicable after the later of the Effective Date and the date on which a General Unsecured Claim becomes an Allowed General Unsecured Claim, each holder of an Allowed General Unsecured Claim shall receive, in full and final satisfaction of such Allowed General Unsecured Claim, such holder's Pro Rata share of the GUC Cash Pool, which GUC Cash Pool shall be in the total amount of \$3 million, subject to the GUC Cash Pool Reduction.
- (ii) If Class 5 does not vote to accept the Plan, then on or as soon as reasonably practicable after the later of the Effective Date and the date on which a General Unsecured Claim becomes an Allowed General Unsecured Claim, each holder of an Allowed General Unsecured Claim shall receive, in full and final satisfaction of such Allowed General Unsecured Claim, such holder's Pro Rata share of the GUC Cash Pool, which GUC Cash Pool shall be in the total amount of \$1.5 million, subject to the GUC Cash Pool Reduction.

(b) **Impairment and Voting:** General Unsecured Claims are Impaired. Holders of General Unsecured Claims are entitled to vote on this Plan.

**4.6 Class 6: Intercompany Claims.**

(a) **Treatment:** On or after the Effective Date, all Intercompany Claims shall be paid, adjusted, continued, settled, reinstated, discharged, or eliminated, in each case to the extent determined to be appropriate by the Debtors or Reorganized Debtors, as applicable, with the consent of the RBL Agent.

(b) **Impairment and Voting:** All Allowed Intercompany Claims are deemed Unimpaired. In accordance with section 1126(f) of the Bankruptcy Code, the holders of Allowed Intercompany Claims are conclusively presumed to accept this Plan and are not entitled to vote to accept or reject this Plan, and the votes of such holders shall not be solicited with respect to such Allowed Intercompany Claims.

**4.7 Class 7: Chisholm Parent Equity Interests.**

(a) **Treatment:** On the Effective Date, Chisholm Parent Equity Interests shall be cancelled and extinguished and will be of no further force and effect.

(i) If (A) Class 4, Class 5, and Class 7 vote to accept the Plan and (B) as of the Confirmation Date, the Consenting Sponsors have not terminated their obligations under the Restructuring Support Agreement pursuant to Section 6(d)(xii) thereof, then on the Effective Date, each holder of Chisholm Parent Equity Interests shall receive, in full and final satisfaction of such Chisholm Parent Equity Interests, such holder's Pro Rata share of:

1. 1% of the New Equity Interests, subject to dilution by the Warrant Equity and the MIP Equity; and
2. Warrants for up to 11% of the New Equity Interests, subject to dilution by the MIP Equity.

(ii) If (A) Class 4, Class 5, or Class 7 does not vote to accept the Plan or (B) prior to the Confirmation Date, the Consenting Sponsors terminate their obligations under the Restructuring Support Agreement pursuant to Section 6(d)(xii) thereof, then no holder of Chisholm Parent Equity Interests shall receive any distribution on account of such Chisholm Parent Equity Interests.

(b) **Impairment and Voting:** Chisholm Parent Equity Interests are Impaired. Holders of Chisholm Parent Equity Interests are entitled to vote on this Plan.

**4.8 Class 8: Chisholm Management Equity Interests.**

(a) **Treatment:** On the Effective Date, the Chisholm Management Equity Interests shall be cancelled and extinguished, and holders of Chisholm Management Equity Interests shall not receive or retain any property under this Plan on account of such Chisholm Management Equity Interests.

(b) **Impairment and Voting:** Chisholm Management Equity Interests are Impaired. As proponents of the Plan, the holders of Chisholm Management Equity Interests are conclusively presumed to accept the Plan, and the votes of such holders shall not be solicited with respect to such Chisholm Management Equity Interests.

**4.9 Class 9: Intercompany Interests.**

(a) **Treatment:** On the Effective Date, all Intercompany Interests shall be adjusted, continued, settled, reinstated, discharged, or eliminated as determined by the Debtors or the Reorganized Debtors (as applicable) with the consent of the RBL Agent.

(b) **Impairment and Voting:** Allowed Intercompany Interests are Unimpaired. In accordance with section 1126(f) of the Bankruptcy Code, the holders of Allowed Intercompany Interests are conclusively presumed to accept this Plan and are not entitled to vote to accept or reject this Plan, and the votes of such holders shall not be solicited with respect to such Allowed Intercompany Interests.

## **ARTICLE V. MEANS FOR IMPLEMENTATION.**

### **5.1 Sources of Consideration for Plan Distribution.**

The Reorganized Debtors shall fund Cash Plan Distributions with (i) Cash available on or after the Effective Date and (ii) Cash proceeds from the FLFO RBL Facility, to the extent applicable.

### **5.2 Compromise and Settlement of Claims, Interests, and Controversies.**

Subject to approval by the Bankruptcy Court in connection with confirmation of the Plan, the provisions of the Plan and other documents entered into in connection with the Plan constitute a good faith compromise and settlement among the Debtors, the Consenting Creditors, the Consenting Sponsors, the Creditors' Committee, and the Term Loan Lenders of claims, Causes of Action, and controversies among such parties. The Plan shall be deemed a motion to approve the compromises and settlements contained in the Plan and the good faith compromise and settlement of all of the claims, Causes of Action and controversies described in the foregoing sentence pursuant to sections 363 and 1123(b)(3) of the Bankruptcy Code and Bankruptcy Rule 9019. Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of such compromises and settlements, as well as a finding by the Bankruptcy Court that the compromises and settlements are fair, equitable, reasonable, and in the best interests of the Debtors and their Estates.

### **5.3 Continued Corporate Existence; Effectuating Documents; Further Transactions.**

(a) Except as otherwise provided in this Plan, the Debtors shall continue to exist after the Effective Date as Reorganized Debtors in accordance with the applicable laws of the respective jurisdictions in which they are incorporated or organized and pursuant to the Amended Organizational Documents or other applicable corporate documents.

(b) On or after the Effective Date, without prejudice to the rights of any party to a contract or other agreement with any Reorganized Debtor, each Reorganized Debtor may, in its sole discretion, take such action as permitted by applicable law and the Amended Organizational Documents, as such Reorganized Debtor may determine is reasonable and appropriate, including causing (i) a Reorganized Debtor to be merged into another Reorganized Debtor or an affiliate of a Reorganized Debtor, (ii) a Reorganized Debtor to be dissolved, (iii) the legal name of a Reorganized Debtor to be changed, or (iv) the closure of a Reorganized Debtor's Chapter 11 Case on the Effective Date or any time thereafter, and such action and documents are deemed to require no further action or approval (other than any requisite filings required under applicable state, federal, or foreign law).

(c) On the Effective Date or as soon as reasonably practicable thereafter, the Reorganized Debtors may take all actions as may be necessary or appropriate to effect any transaction described in, approved by, or necessary or appropriate to effectuate this Plan, including (i) the execution and delivery of appropriate agreements or other documents of merger, consolidation, restructuring, conversion, disposition, transfer, dissolution, or liquidation containing terms that are consistent with the terms of this Plan and the Definitive Documents and that satisfy the requirements of applicable law and any other terms to which the applicable entities may agree, (ii) the execution and delivery of appropriate instruments of transfer, assignment, assumption, or delegation of any asset, property, right, liability, debt, or obligation on terms consistent with the terms of this Plan and having other terms to which the applicable parties agree, (iii) the filing of appropriate certificates or articles of incorporation or formation and amendments thereto, reincorporation, merger, consolidation, conversion, or dissolution pursuant to applicable law, (iv) the Restructuring Transactions, and (v) all other actions that the applicable entities determine to be necessary or appropriate, including, without limitation, making filings or recordings that may be required by applicable law.

#### **5.4 Corporate and Limited Liability Company Action.**

Upon the Effective Date, all actions contemplated by the Plan shall be deemed authorized and approved in all respects, including (i) those set forth in Sections 5.3 and 5.13 of the Plan and (ii) all other actions contemplated by the Plan (whether to occur before, on, or after the Effective Date), in each case, in accordance with and subject to the terms hereof. All matters provided for in the Plan involving the corporate or limited liability company structure of the Debtors or the Reorganized Debtors shall be deemed to have occurred and shall be in effect, without any requirement of further action by the Security holders, directors, managers, or officers of the Debtors or the Reorganized Debtors. On or (as applicable) before the Effective Date, the appropriate managers, directors, and officers of the Debtors shall be authorized and directed to issue, execute, and deliver the agreements, documents, Securities, and instruments contemplated by the Plan (or necessary or desirable to effect the transactions contemplated by the Plan) in the name of and on behalf of the Reorganized Debtors, including (i) the Amended Organizational Documents, (ii) the Exit Credit Facilities Documents, (iii) the New Equity Interests, (iv) Warrants, and (v) any and all other agreements, documents, Securities, and instruments relating to the foregoing. The authorizations and approvals contemplated by this Section 5.4 shall be effective notwithstanding any requirements under nonbankruptcy law.

#### **5.5 Cancellation of Existing Securities and Agreements.**

Except for the purpose of evidencing a right to a distribution under this Plan and except as otherwise set forth in this Plan, or in any Plan Document, on the Effective Date, all agreements, instruments, notes, certificates, indentures, mortgages, Securities and other documents evidencing any Claim or Interest (other than Intercompany Claims and Intercompany Interests, to the extent they are not modified by this Plan) and any rights of any holder in respect thereof shall be deemed cancelled and of no force or effect and the obligations of the Debtors thereunder shall be deemed fully satisfied, released, and discharged and, as applicable, shall be deemed to have been surrendered to the Disbursing Agent. The holders of or parties to such cancelled instruments, Securities, and other documentation shall have no rights arising from or related to such instruments, Securities, or other documentation or the cancellation thereof, except

the rights provided for pursuant to this Plan. Notwithstanding the foregoing, any provision in any agreement, instrument, note, certificate, indenture, mortgage, Security or other document that causes or effectuates, or purports to cause or effectuate, a default, termination, waiver, or other forfeiture of, or by, the Debtors of their interests as a result of the cancellations, terminations, satisfaction, releases, or discharges provided for in this Section 5.5 shall be deemed null and void and shall be of no force and effect.

#### **5.6 Cancellation of Certain Existing Security Interests.**

Upon the full payment or other satisfaction of an Allowed Other Secured Claim, or promptly thereafter, the holder of such Allowed Other Secured Claim shall deliver to the Debtors or Reorganized Debtors, as applicable, any collateral or other property of a Debtor held by such holder, together with any termination statements, instruments of satisfaction, or releases of all security interests with respect to its Allowed Other Secured Claim that may be reasonably required to terminate any related financing statements, mortgages, mechanics' or other statutory Liens, or lis pendens, or similar interests or documents.

#### **5.7 Officers and Boards of Directors.**

(a) On the Effective Date, the New Board shall consist of five (5) directors selected by the Requisite Creditors. The identity and affiliations of any Person proposed to serve on the New Board shall be disclosed in accordance with section 1129(a)(5) of the Bankruptcy Code.

(b) Except as otherwise provided in the Plan Supplement, the officers of the respective Reorganized Debtors immediately before the Effective Date, as applicable, shall serve as the initial officers of each of the respective Reorganized Debtors on and after the Effective Date. After the Effective Date, the selection of officers of the Reorganized Debtors shall be as provided by their respective Amended Organizational Documents.

(c) Except to the extent that a member of the board of directors or a manager, as applicable, of a Debtor continues to serve as a director or manager of such Debtor on and after the Effective Date, the members of the board of directors or managers, as applicable, of each Debtor prior to the Effective Date, in their capacities as such, shall have no continuing obligations or duties to the Reorganized Debtors on or after the Effective Date and each such director or manager shall be deemed to have resigned or shall otherwise cease to be a director or manager of the applicable Debtor on the Effective Date. Commencing on the Effective Date, each of the directors and managers, as applicable, of each of the Reorganized Debtors shall be deemed elected and serve pursuant to the terms of the applicable Amended Organizational Documents of such Reorganized Debtor and may be replaced or removed in accordance with such organizational documents.

#### **5.8 Management Incentive Plan.**

As soon as practicable after the Effective Date, the New Board shall adopt the Management Incentive Plan. The MIP Equity shall be reserved for grants made from time to time to directors, officers, or other management and employees of the Reorganized Debtors. The New Board shall determine the form, allocation, amounts, and timing of such grants.

**5.9 Authorization and Issuance of New Equity Interests and Warrants.**

(a) On the Effective Date, Reorganized Chisholm Parent is authorized to issue or cause to be issued and shall issue (i) the New Equity Interests and (ii) the Warrants (if Class 4 and Class 7 are entitled to receive a distribution in accordance with ARTICLE IV hereof) for distribution in accordance with the terms of this Plan without the need for any further corporate or shareholder action. All of the New Equity Interests and the Warrants issuable under this Plan, when so issued, shall be duly authorized, validly issued, and, in the case of the New Equity Interests, fully paid, and non-assessable. The Warrant Equity (upon payment of the exercise price in accordance with the terms of such Warrants) issued pursuant to this Plan shall be duly authorized, validly issued, fully paid, and non-assessable.

(b) The Warrants (if Class 4 and Class 7 are entitled to receive a distribution in accordance with ARTICLE IV hereof) shall be issuable pursuant to the terms of the Warrant Agreement. Each Warrant shall, subject to the terms of the Warrant Agreement, be exercisable for one (1) New Equity Interest.

**5.10 Securities Exemptions.**

The offer, issuance, and distribution of the New Equity Interests, and the Warrants (and the Warrant Equity issuable upon exercise thereof) under ARTICLE IV of this Plan shall be exempt, pursuant to section 1145 of the Bankruptcy Code, without further act or actions by any Person, from registration under the Securities Act, and all rules and regulations promulgated thereunder, and any other applicable securities laws, to the fullest extent permitted by section 1145 of the Bankruptcy Code. The New Equity Interests and the Warrants (and the Warrant Equity issuable upon exercise thereof) issued pursuant to section 1145(a) of the Bankruptcy Code may be resold without registration under the Securities Act or other federal securities laws pursuant to the exemption provided by section 4(a)(1) of the Securities Act, subject to: (i) the holder not being an “underwriter” with respect to such securities, as that term is defined in subsection (b) of section 1145 the Bankruptcy Code; (ii) the holder (a) not being an “affiliate” of Reorganized Chisholm Parent as defined in Rule 144(a)(1) under the Securities Act, (b) not having been such an “affiliate” within ninety (90) days of such transfer and/or (c) not having acquired such securities from an “affiliate” within one year of such transfer (other than, with respect to clause (ii), such resales as may be permitted by and subject to the conditions of Rule 144 of the Securities Act); (iii) compliance with any rules and regulations of the Securities and Exchange Commission applicable at the time of any future transfer of such securities or instruments; (iv) any restrictions on the transferability of the New Equity Interests contained in the Shareholders’ Agreement; and (v) any applicable regulatory approval. In addition, such section 1145 exempt Securities generally may be resold without registration under state securities laws pursuant to various exemptions provided by the respective laws of the several states.

**5.11 Exit Credit Facilities.**

(a) The Reorganized Debtors shall enter into the Exit Credit Facilities Documents, and the Exit Credit Facilities will be made available to the Reorganized Debtors, pursuant to and subject to the terms and conditions set forth in the Exit Credit Facilities Documents.



(b) Confirmation shall be deemed approval of the entry into and incurrence of the Exit Credit Facilities (including the transactions contemplated thereby, and all actions to be taken, undertakings to be made, and obligations and guarantees to be incurred and fees paid in connection therewith), and to the extent not approved by the Court previously, the Reorganized Debtors shall be authorized to execute and deliver any Exit Credit Facilities Documents and any liens and security interests in favor of the Exit Secured Parties under the Exit Credit Facilities securing such obligations, and perform their obligations thereunder, including the payment of any fees, expenses, losses, damages, or indemnities, without further notice to or order of the Court, act or action under applicable law, regulation, order or rule or vote, consent, authorization, or approval of any Person, subject to such modifications as the Debtors (with the prior written consent of the RBL Agent) or Reorganized Debtors may deem necessary to consummate the Exit Credit Facilities. The Exit Credit Facilities Documents, including any and all such documents that serve to evidence and secure the Reorganized Debtors' respective obligations under the Exit Credit Facilities and any liens and security interests in favor of the Exit Secured Parties under the Exit Credit Facilities securing such obligations, shall constitute legal, valid, and binding obligations of the Reorganized Debtors and be enforceable in accordance with their respective terms.

**5.12 General Unsecured Claims Recoveries.**

(a) On or prior to the Effective Date, the Debtors shall establish and fund the GUC Cash Pool, which shall be held in trust for distributions on account of Allowed General Unsecured Claims, subject to the GUC Cash Pool Reduction.

(b) The GUC Cash Pool (i) shall not be deemed property of the Debtors or Reorganized Debtors, (ii) shall be held in trust to fund distributions, subject to the GUC Cash Pool Reduction, on account of Allowed General Unsecured Claims as provided herein, and (iii) shall not be encumbered by any Liens, Claims, or Interests.

(c) Any funds remaining in the GUC Cash Pool after all Allowed General Unsecured Claims have been paid pursuant to the terms of this Plan shall revert to the Reorganized Debtors.

**5.13 Restructuring Transactions.**

On the Effective Date or as soon as reasonably practicable thereafter, the Debtors or Reorganized Debtors, as applicable, may take all actions consistent with this Plan as may be necessary or appropriate to effect any transaction described in, approved by, contemplated by, or necessary to effectuate the Restructuring Transactions under and in connection with this Plan.

**5.14 Separate Plans.**

Notwithstanding the combination of separate plans of reorganization for the Debtors set forth in this Plan for purposes of economy and efficiency, this Plan constitutes a separate chapter 11 plan for each Debtor. Accordingly, if the Bankruptcy Court does not confirm this Plan with respect to one or more Debtors, it may still confirm this Plan with respect to any other Debtor that satisfies the confirmation requirements of section 1129 of the Bankruptcy Code.

**5.15 Tax Structure.**

To the extent practicable, the Restructuring will be structured so as to obtain the most beneficial structure for the Company, its equity holders post-transaction and the Consenting Sponsors, given the totality of the circumstances, as determined by the Debtors in its business judgment and reasonably acceptable to the RBL Agent and the Requisite Creditors.

**5.16 Closing of Chapter 11 Cases.**

The Reorganized Debtors shall, promptly after the full administration of the Chapter 11 Cases, file with the Bankruptcy Court all documents required by Bankruptcy Rule 3022 and any applicable order of the Bankruptcy Court to close the Chapter 11 Cases. As of the Effective Date, the Reorganized Debtors may submit separate orders to the Bankruptcy Court under certification of counsel closing certain individual Chapter 11 Cases and changing the caption of the Chapter 11 Cases accordingly. Matters concerning Claims may be heard and adjudicated in a Debtor's Chapter 11 Case that remains open regardless of whether the applicable Claim is against a Debtor in a chapter 11 case that is closed. Nothing in this Plan shall authorize the closing of any case *nunc pro tunc* to a date that precedes the date any such order is entered. Any request for *nunc pro tunc* relief shall be made on motion served on the United States Trustee, and the Bankruptcy Court shall rule on such request after notice and a hearing. Upon the filing of a motion to close the last Chapter 11 Case remaining open, the Reorganized Debtors shall file a final report with respect to all of the Chapter 11 Cases pursuant to Local Rule 3022-1(c).

**ARTICLE VI. DISTRIBUTIONS.**

**6.1 Distributions Generally.**

The Disbursing Agent shall make all Plan Distributions to the appropriate holders of Allowed Claims and Allowed Interests in accordance with the terms of this Plan.

**6.2 No Postpetition Interest on Claims.**

Unless otherwise provided in this Plan, the Plan Documents, the Confirmation Order, or other order of the Bankruptcy Court, or required by applicable bankruptcy law, postpetition interest shall not accrue or be paid on any Claim and no holder of a Claim shall be entitled to interest accruing on or after the Petition Date on any such Claim.

**6.3 Date of Distributions.**

Unless otherwise provided in this Plan, any distributions and deliveries to be made under this Plan shall be made on the Effective Date or as soon as reasonably practicable thereafter, and any subsequent distributions will be made at least as frequently as each subsequent Quarterly Distribution Date. In the event that any payment or act under this Plan is required to be made or performed on a date that is not a Business Day, then the making of such payment or the performance of such act may be completed on the next succeeding Business Day, but shall be deemed to have been completed as of the required date. If and to the extent that there are Disputed Claims, distributions on account of any such Disputed Claims shall be made pursuant to the provisions set forth in ARTICLE VII hereof.

**6.4 Distribution Record Date.**

As of the close of business on the Distribution Record Date, the various lists of holders of Claims in each Class, as maintained by the Debtors or their agents, shall be deemed closed, and there shall be no further changes in the record holders of any Claims after the Distribution Record Date. Neither the Debtors nor the Disbursing Agent shall have any obligation to recognize any transfer of a Claim occurring after the close of business on the Distribution Record Date. In addition, with respect to payment of any Cure Amounts or disputes over any Cure Amounts, neither the Debtors nor the Disbursing Agent shall have any obligation to recognize or deal with any party other than the non-Debtor party to the applicable executory contract or unexpired lease, even if such non-Debtor party has sold, assigned, or otherwise transferred its Claim for a Cure Amount.

**6.5 Distributions after Effective Date.**

Distributions made after the Effective Date to holders of Disputed Claims that are not Allowed Claims as of the Effective Date but which later become Allowed Claims shall be deemed to have been made on the Effective Date.

**6.6 Disbursing Agent.**

All Plan Distributions shall be made by the Disbursing Agent on and after the Effective Date as provided herein. The Disbursing Agent shall not be required to give any bond or surety or other security for the performance of its duties. The Reorganized Debtors shall use commercially reasonable efforts to provide the Disbursing Agent (if other than the Reorganized Debtors) with the amounts of Claims and the identities and addresses of holders of Claims, in each case, as set forth in the Debtors' or Reorganized Debtors' books and records. The Reorganized Debtors shall cooperate in good faith with the applicable Disbursing Agent (if other than the Reorganized Debtors) to comply with the reporting and withholding requirements outlined in Section 6.18 of this Plan.

**6.7 Delivery of Distributions.**

(a) Subject to Bankruptcy Rule 9010, the Disbursing Agent shall make all distributions to any holder of an Allowed Claim as and when required by this Plan at (i) the address of such holder on the books and records of the Debtors or their agents or (ii) at the address in any written notice of address change delivered to the Debtors or the Disbursing Agent, including any addresses included on any transfers of Claim filed pursuant to Bankruptcy Rule 3001. Subject to Section 6.8, in the event that any distribution to any holder is returned as undeliverable, no distribution or payment to such holder shall be made unless and until the Disbursing Agent has been notified of the then-current address of such holder, at which time or as soon thereafter as reasonably practicable, such distribution shall be made to such holder without interest.

(b) Provided the Warrants are DTC-eligible and the Debtors, in their sole discretion, elect to deliver such Warrants through the facilities of DTC, the Warrants shall be distributed in accordance with the customary practices of DTC for a mandatory distribution, as and to the extent practicable. To the extent the Warrants are not delivered through the facilities of

DTC, the Debtors shall facilitate registration of the Warrants into the names of the relevant beneficial owners as soon as practicable following the Effective Date.

(c) In connection with any Plan Distribution to be effected through the facilities of DTC (whether by means of book entry exchange, free delivery, or otherwise), the Debtors and the Reorganized Debtors, as applicable, shall be entitled to recognize and deal for all purposes under this Plan with holders of New Equity Interests and Warrants to the extent consistent with the customary practices of DTC used in connection with such distributions. All New Equity Interests and Warrants to be distributed under this Plan shall be issued in the names of such Holders or their nominees in accordance with DTC's book entry exchange procedures to the extent that the Holders of New Equity Interests and Warrants held any Claims and/or Interests through the facilities of DTC; *provided, however*, that to the extent the New Equity Interests and/or Warrants are not eligible for distribution in accordance with DTC's customary practices, Reorganized Chisholm Parent shall take all such reasonable actions as may be required to cause the distributions of the New Equity Interests and Warrants under this Plan. Notwithstanding anything in this Plan to the contrary, no Person (including, for the avoidance of doubt, DTC) may require a legal opinion regarding the validity of any transaction contemplated by this Plan, including whether the New Equity Interests and Warrants are exempt from registration and/or eligible for DTC book-entry delivery, settlement, and depository services.

#### **6.8 Unclaimed Property.**

(a) One year from the later of: (i) the Effective Date and (ii) the date that is ten (10) Business Days after the date a Claim or Interest is first Allowed, all distributions payable on account of such Claim or Interest that are not claimed or accepted by such date shall be deemed unclaimed property under section 347(b) of the Bankruptcy Code and shall revert to the Reorganized Debtors or their successors or assigns, and all claims of any other Person (including the holder of a Claim in the same Class) to such distribution shall be discharged and forever barred. The Reorganized Debtors and the Disbursing Agent shall have no obligation to attempt to locate any holder of an Allowed Claim other than by reviewing the Debtors' books and records and the Bankruptcy Court's filings.

(b) A distribution shall be deemed unclaimed if a holder has not (i) accepted a particular distribution or, in the case of distribution made by check by ninety (90) days after issuance, negotiated such check, (ii) given notice to the Reorganized Debtors of an intent to accept a particular distribution, (iii) responded to the Debtors' or Reorganized Debtors', as applicable, request for information necessary to facilitate a particular distribution, or (iv) taken any other action necessary to facilitate such distribution.

#### **6.9 Satisfaction of Claims.**

Unless otherwise provided in this Plan, any distributions and deliveries to be made on account of Allowed Claims under this Plan shall be in complete and final satisfaction, settlement, and discharge of and exchange for such Allowed Claims.

**6.10 Manner of Payment under Plan.**

Except as specifically provided herein, at the option of the Debtors or the Reorganized Debtors, as applicable, any Cash payment to be made under this Plan may be made by a check or wire transfer or as otherwise required or provided in applicable agreements or customary practices of the Debtors or Reorganized Debtors, as applicable.

**6.11 Fractional Shares.**

No fractional shares of New Equity Interests shall be distributed. When any distribution would otherwise result in the issuance of a number of shares of New Equity Interests that is not a whole number, the New Equity Interests subject to such distribution shall be rounded to the next higher or lower whole number as follows: (i) fractions equal to or greater than 1/2 shall be rounded to the next higher whole number, and (ii) fractions less than 1/2 shall be rounded to the next lower whole number. The total number of New Equity Interests to be distributed on account of Allowed Claims or Interests shall be adjusted as necessary to account for the rounding provided for herein. No consideration shall be provided in lieu of fractional shares that are rounded down. Fractional amounts of New Equity Interests that are not distributed in accordance with this Section 6.11 shall be returned to, and ownership thereof shall vest in, Reorganized Chisholm Parent.

**6.12 Minimum Distribution.**

Neither the Reorganized Debtors nor the Disbursing Agent, as applicable, shall have an obligation to make a distribution pursuant to this Plan that is less than one (1) share of New Equity Interests or \$100.00 in Cash.

**6.13 No Distribution in Excess of Amount of Allowed Claim.**

Notwithstanding anything to the contrary in this Plan, no holder of an Allowed Claim shall receive, on account of such Allowed Claim, Plan Distributions in excess of the Allowed amount of such Claim (plus any postpetition interest on such Claim solely to the extent permitted by Section 6.2 of the Plan).

**6.14 Allocation of Distributions Between Principal and Interest.**

Except as otherwise required by law (as determined by the Debtors or Reorganized Debtors), distributions with respect to an Allowed Claim shall be allocated first to the principal portion of such Allowed Claim (as determined for United States federal income tax purposes) and, thereafter, to the remaining portion of such Allowed Claim, if any.

**6.15 Setoffs and Recoupments.**

Each Debtor or Reorganized Debtor, or such entity's designee as instructed by such Debtor or Reorganized Debtor, may, pursuant to section 553 of the Bankruptcy Code or applicable nonbankruptcy law, set off or recoup against any Allowed Claim and the distributions to be made pursuant to this Plan on account of such Allowed Claim, any and all claims, rights, and Causes of Action of any nature whatsoever that a Debtor or Reorganized Debtor or its successors may hold

against the holder of such Allowed Claim after the Effective Date. Notwithstanding the foregoing, neither the failure to effect a setoff or recoupment nor the allowance of any Claim hereunder shall constitute a waiver or release by a Debtor or Reorganized Debtor or its successor of any claims, rights, or Causes of Action that a Debtor or Reorganized Debtor or its successor or assign may possess against the holder of such Claim.

**6.16 Rights and Powers of Disbursing Agent.**

The Disbursing Agent shall be empowered to (i) effect all actions and execute all agreements, instruments, and other documents necessary to perform its duties hereunder, (ii) make all applicable distributions or payments provided for under this Plan, (iii) employ professionals to represent it with respect to its responsibilities, and (iv) exercise such other powers as may be vested in the Disbursing Agent by order of the Bankruptcy Court (including any Final Order issued after the Effective Date) or pursuant to this Plan, or as deemed by the Disbursing Agent to be necessary and proper to implement the provisions hereof.

**6.17 Expenses of Disbursing Agent.**

To the extent the Disbursing Agent is a Person other than a Debtor or Reorganized Debtor or as otherwise ordered by the Bankruptcy Court, subject to the written agreement of the Reorganized Debtors, the amount of any reasonable fees and out-of-pocket expenses incurred by the Disbursing Agent on or after the Effective Date (including taxes) and any reasonable compensation and out-of-pocket expense reimbursement Claims (including for reasonable attorneys' fees and other professional fees and expenses) made by the Disbursing Agent shall be paid in Cash by the Reorganized Debtors in the ordinary course of business.

**6.18 Withholding and Reporting Requirements.**

(a) *Withholding Rights.* In connection with this Plan, any Person issuing any instrument or making any distribution or payment in connection therewith, shall comply with all applicable withholding and reporting requirements imposed by any federal, state, or local taxing authority. In the case of a non-Cash distribution that is subject to withholding, the distributing party may require the intended recipient of such distribution to provide the withholding agent with an amount of Cash sufficient to satisfy such withholding tax as a condition to receiving such distribution or withhold an appropriate portion of such distributed property and either (i) sell such withheld property to generate Cash necessary to pay over the withholding tax (or reimburse the distributing party for any advance payment of the withholding tax) or (ii) pay the withholding tax using its own funds and retain such withheld property. The distributing party shall have the right not to make a distribution under this Plan until its withholding or reporting obligation is satisfied pursuant to the preceding sentences. Any amounts withheld pursuant to this Plan shall be deemed to have been distributed to and received by the applicable recipient for all purposes of this Plan.

(b) *Forms.* Any party entitled to receive any property as an issuance or distribution under this Plan shall, upon request, deliver to the withholding agent or such other Person designated by the Reorganized Debtors a Form W-8, Form W-9 and/or any other forms or documents, as applicable, requested by any Reorganized Debtor to reduce or eliminate any required federal, state, or local withholding. If the party entitled to receive such property as an

issuance or distribution fails to comply with any such request for a one hundred eighty (180) day period beginning on the date after the date such request is made, the amount of such issuance or distribution shall irrevocably revert to the applicable Reorganized Debtor and any Claim in respect of such distribution under this Plan shall be discharged and forever barred from assertion against such Reorganized Debtor or its respective property.

(c) Notwithstanding the above, each holder of an Allowed Claim or Interest that is to receive a distribution under this Plan 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 Plan Distribution.

**6.19 Indefeasible Distribution.**

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

**ARTICLE VII. PROCEDURES FOR DISPUTED CLAIMS.**

**7.1 Objections to Claims.**

Except as provided in Section 7.3 of this Plan, the Debtors or Reorganized Debtors, as applicable, shall be entitled to object to Claims. After the Effective Date, each of the Debtors or the Reorganized Debtors, as applicable, shall have and retain any and all rights and defenses that the Debtors had with respect to any Claim immediately before the Effective Date. Except as expressly provided in this Plan or in any order entered in the Chapter 11 Cases before the Effective Date (including the Confirmation Order), no Claim shall become an Allowed Claim unless and until such Claim is deemed Allowed pursuant to the Plan or a Final Order, including the Confirmation Order, Allowing such Claim. Any objection to Claims shall be served and filed on or before the Claims Objection Deadline, as such deadline may be extended from time to time.

**7.2 Resolution of Disputed Claims.**

(a) Except as provided in Section 7.3 of this Plan, or as otherwise provided in an order of the Bankruptcy Court and notwithstanding any requirements that may be imposed pursuant to Bankruptcy Rule 9019, on and after the Effective Date, the Reorganized Debtors shall have the authority to (i) file, withdraw, or litigate to judgment objections to Claims, (ii) settle or compromise any Disputed Claims, without further notice to or action, order, or approval by the Bankruptcy Court, and (iii) administer and adjust the Claims Register to reflect any such settlements or compromises without any further notice to or action, order, or approval by the Bankruptcy Court.

(b) Prior to the Effective Date, the Creditors' Committee shall have consultation rights with respect to any proposed resolution of Disputed General Unsecured Claims.

(c) The M&M Claims Resolution Protocol shall remain in effect and binding on the Reorganized Debtors and all holders of Prepetition M&M Liens Claims on and after the Effective Date.

(d) Notwithstanding any other provisions hereof, if any portion of a Claim filed, scheduled, or otherwise asserted on account of the Prepetition M&M Liens or otherwise asserting Other Secured Claims is a Disputed Claim, no payment or distribution provided hereunder shall be made on account of such Claim unless and until such Disputed Claim becomes an Allowed Claim.

### **7.3 Resolution of Disputed General Unsecured Claims.**

(a) Following thirty (30) days after the Effective Date, if the amount of filed or scheduled (other than as contingent, unliquidated, or disputed) General Unsecured Claims exceeds \$30 million in the aggregate, then the Reorganized Debtors shall appoint the GUC Claims Administrator. Notwithstanding any requirements that may be imposed pursuant to Bankruptcy Rule 9019 and except with respect to General Unsecured Claims that are Allowed prior to the Effective Date, on and after the Effective Date the GUC Claims Administrator shall have the authority, in consultation with the Reorganized Debtors, to (i) file, withdraw, or litigate to judgment objections to General Unsecured Claims, (ii) settle or compromise any Disputed General Unsecured Claims, without further notice to or action, order, or approval by the Bankruptcy Court, and (iii) direct the Claims and Noticing Agent to administer and adjust the Claims Register to reflect any such settlements or compromises without any further notice to or action, order, or approval by the Bankruptcy Court.

(b) The Reorganized Debtors shall reimburse the GUC Claims Administrator up to \$75,000 for its reasonable fees and out-of-pocket expenses incurred in connection with the resolution of General Unsecured Claims pursuant to its authority set forth in Section 7.3(a) of this Plan.

### **7.4 Estimation of Claims.**

The Debtors, the Reorganized Debtors, or the GUC Claims Administrator (only with respect to General Unsecured Claims), as applicable, may at any time request that the Bankruptcy Court estimate any contingent, unliquidated, or Disputed Claim pursuant to section 502(c) of the Bankruptcy Code, regardless of whether the Debtors had previously objected to or otherwise disputed such Claim or whether the Bankruptcy Court has ruled on any such objection. The Bankruptcy Court shall retain jurisdiction to estimate any Claim at any time during litigation concerning any objection to any Claim, including during the pendency of any appeal relating to any such objection. In the event that the Bankruptcy Court estimates any contingent, unliquidated, or Disputed Claim, the amount so estimated shall constitute either the Allowed amount of such Claim or a maximum limitation on such Claim, as determined by the Bankruptcy Court. If the estimated amount constitutes a maximum limitation on the amount of such Claim, the Debtors, the Reorganized Debtors, or the GUC Claims Administrator (only with respect to General Unsecured Claims), as applicable, may pursue supplementary proceedings to object to the allowance of such Claim.

### **7.5 Adjustment to Claims Register Without Objection.**

Any duplicate Claim or Interest or any Claim or Interest that has been paid or satisfied, or any Claim that has been amended or superseded, may be adjusted or expunged on the



Claims Register by the Debtors, Reorganized Debtors, or the GUC Claims Administrator (only with respect to General Unsecured Claims), as applicable, upon stipulation between the parties in interest without a Claims objection having to be filed and without any further notice or action, order, or approval of the Bankruptcy Court.

**7.6 Claim Resolution Procedures Cumulative.**

All of the objection, estimation, and resolution procedures in this Plan are intended to be cumulative and not exclusive of one another. Claims may be estimated and subsequently settled, compromised, withdrawn, or resolved in accordance with this Plan without further notice or Bankruptcy Court approval.

**7.7 No Distributions Pending Allowance.**

Except with respect to Fee Claims, which are governed by the Interim Compensation Procedures Order, if an objection, motion to estimate, or other challenge to a Claim is filed, no payment or distribution provided under this Plan shall be made on account of such Claim unless and until (and only to the extent that) such Claim becomes an Allowed Claim.

**7.8 Distributions after Allowance.**

To the extent that a Disputed Claim ultimately becomes an Allowed Claim, distributions (if any) shall be made to the holder of such Allowed Claim in accordance with the provisions of this Plan. As soon as practicable after the date on which the order or judgment of the Bankruptcy Court allowing any Disputed Claim becomes a Final Order (but in no event later than the first Quarterly Distribution Date after such date), the Disbursing Agent shall provide to the holder of such Claim the distribution (if any) to which such holder is entitled under this Plan as of the Effective Date, without any interest to be paid on account of such Claim unless required by the Bankruptcy Code.

**7.9 Disputed Claims Reserve.**

(a) Cash in the amount that would be distributable from the GUC Cash Pool to any Disputed General Unsecured Claim had such Disputed General Unsecured Claim been Allowed on the Effective Date, together with all earnings thereon (net of any taxes imposed thereon or otherwise payable by the Disputed Claims Reserve), shall be deposited in the Disputed Claims Reserve (which may be held in the same segregated account as the GUC Cash Pool). The amount of the Disputed Claims Reserve shall be determined prior to the Confirmation Hearing, based on the Debtors' good faith estimates (in consultation with the Creditors' Committee) or an order of the Bankruptcy Court estimating such Disputed Claims, and shall be established on or about the Effective Date.

(b) Subject to definitive guidance from the IRS or a court of competent jurisdiction to the contrary, or the receipt of a determination by the IRS, the Disbursing Agent shall treat the Disputed Claims Reserve as a "disputed ownership fund" governed by Treasury Regulation section 1.468B-9 and to the extent permitted by applicable law, report consistently with the foregoing for state and local income tax purposes. All parties (including the Debtors, the

Reorganized Debtors, the Disbursing Agent, and the holders of Disputed General Unsecured Claims) shall be required to report for tax purposes consistently with the foregoing.

(c) The Disbursing Agent shall hold in the Disputed Claims Reserve all payments to be made on account of Disputed General Unsecured Claims for the benefit of holders of Disputed General Unsecured Claims whose Claims are subsequently Allowed. All taxes imposed on assets or income of the Disputed Claims Reserve shall be payable by the Disbursing Agent from the assets of the Disputed Claims Reserve, and all taxes imposed on assets or income of the GUC Cash Pool will be payable by the Disbursing Agent from the assets of the GUC Cash Pool.

(d) To the extent that a Disputed Claim becomes an Allowed Claim after the Effective Date, the Disbursing Agent shall distribute to the holder thereof the distribution, if any, of Cash out of the Disputed Claims Reserve to which such holder is entitled hereunder. No interest shall be paid with respect to any Disputed Claim that becomes an Allowed Claim after the Effective Date.

(e) In the event the remaining reserved Cash in the Disputed Claims Reserve is insufficient to satisfy all the Disputed General Unsecured Claims that have become Allowed, such Allowed General Unsecured Claims shall be satisfied Pro Rata from such remaining Cash. After all Cash has been distributed from the Disputed Claims Reserve, no further distributions shall be made in respect of Disputed General Unsecured Claims. At such time as all Disputed General Unsecured Claims have been resolved, any remaining Cash in the Disputed Claims Reserve shall be distributed Pro Rata to all holders of Allowed General Unsecured Claims.

## **ARTICLE VIII. EXECUTORY CONTRACTS AND UNEXPIRED LEASES.**

### **8.1 General Treatment.**

(a) As of and subject to the occurrence of the Effective Date and the payment of any applicable Cure Amount, all executory contracts and unexpired leases to which any of the Debtors are parties shall be deemed assumed, unless such contract or lease (i) was previously assumed or rejected by the Debtors, pursuant to a Final Order of the Bankruptcy Court, (ii) previously expired or terminated pursuant to its own terms or by agreement of the parties thereto, (iii) is the subject of a motion to reject filed by the Debtors on or before the Confirmation Date, (iv) is specifically designated, with the consent of the RBL Agent, as a contract or lease to be rejected on the Schedule of Rejected Contracts, or (v) is specifically designated as a contract or lease to be rejected as reasonably requested by the RBL Agent by the deadline to file the Plan Supplement.

(b) Subject to (i) satisfaction of the conditions set forth in Section 8.1(a) of this Plan, (ii) resolution of any disputes in accordance with Section 8.2 of this Plan with respect to the contracts or leases subject to such dispute, and (iii) the occurrence of the Effective Date, entry of the Confirmation Order by the Bankruptcy Court shall constitute approval of the assumptions or rejections provided for in this Plan pursuant to sections 365(a) and 1123 of the Bankruptcy Code. Each executory contract and unexpired lease assumed pursuant to this Plan shall vest in and be fully enforceable by the applicable Reorganized Debtor in accordance with its terms, except as

modified by the provisions of this Plan, any Final Order of the Bankruptcy Court authorizing and providing for its assumption, or applicable law.

(c) The Debtors shall file, as part of the Plan Supplement, the Schedule of Rejected Contracts.

**8.2 Determination of Cure Disputes and Deemed Consent.**

(a) Any Cure Amount shall be satisfied, pursuant to section 365(b)(1) of the Bankruptcy Code, by payment of the Cure Amount, as reflected on the applicable Cure Notice, in Cash on the Effective Date, subject to the limitations described below, or on such other terms as the counterparties to such executory contracts or unexpired leases and the Debtors may otherwise agree.

(b) The Debtors shall serve a Cure Notice on counterparties to executory contracts and unexpired leases no later than twenty-one (21) days before the commencement of the Confirmation Hearing in accordance with the order approving the Disclosure Statement and Solicitation procedures. If a counterparty to any executory contract or unexpired lease is not listed on the applicable Cure Notice, the proposed Cure Amount for such executory contract or unexpired lease shall be deemed to be zero dollars (\$0).

(c) Any counterparty to an executory contract or unexpired lease shall have the time prescribed by the order approving the Disclosure Statement and Solicitation procedures to object to the proposed assumption or related Cure Amount listed on the Cure Notice.

(d) Any counterparty to an executory contract or unexpired lease that fails to object timely to the proposed assumption or Cure Amount (i) shall be deemed to have assented to such assumption or Cure Amount, notwithstanding any provision thereof that purports to (1) prohibit, restrict, or condition the transfer or assignment of such contract or lease or (2) terminate or permit the termination of a contract or lease as a result of any direct or indirect transfer or assignment of the rights of the Debtors under such contract or lease or a change, if any, in the ownership or control to the extent contemplated by the Plan, and shall forever be barred and enjoined from asserting such objection against the Debtors or terminating or modifying such contract or lease on account of transactions contemplated by the Plan, and (ii) shall be forever barred, estopped, and enjoined from challenging the validity of such assumption thereafter.

(e) If there is a dispute regarding (i) any Cure Amount, (ii) the ability of the Debtors to provide adequate assurance of future performance (within the meaning of section 365 of the Bankruptcy Code) under such contract or lease to be assumed, or (iii) any other matter pertaining to assumption, such dispute shall be heard by the Bankruptcy Court prior to such assumption being effective. Notwithstanding the foregoing, to the extent the dispute relates solely to any Cure Amounts, the applicable Debtor may assume the executory contract or unexpired lease prior to the resolution of any such dispute, as long as that the Debtor reserves Cash in an amount sufficient to pay the full amount reasonably asserted as the required Cure Amount by the contract counterparty. Following entry of a Final Order resolving any such dispute, the Debtors shall have right to reject any executory contract or unexpired lease within thirty (30) days of such resolution.

(f) Subject to resolution of any dispute regarding any Cure Amount (which resolution shall require prior consultation with the RBL Agent), all Cure Amounts shall be satisfied by the Debtors or Reorganized Debtors, as the case may be, upon assumption of the underlying contracts and unexpired leases. Assumption of any executory contract or unexpired lease pursuant to this Plan, or otherwise, shall result in the full release and satisfaction of any Claims or defaults, subject to satisfaction of the Cure Amount, whether monetary or nonmonetary, including defaults of provisions restricting the change in control or ownership interest composition or other bankruptcy-related defaults, arising under any assumed executory contract or unexpired lease at any time before the effective date of the assumption. Any Proofs of Claim filed with respect to an executory contract or unexpired lease that has been assumed shall be deemed disallowed and expunged, without further notice to or action, order or approval of the Bankruptcy Court or any other Person, upon the deemed assumption of such contract or unexpired lease.

### **8.3 Rejection Damages Claims.**

Any counterparty to an executory contract or unexpired lease that is identified on the Schedule of Rejected Contracts or is otherwise rejected by the Debtors must file and serve a Proof of Claim on the applicable Debtor that is party to the contract or lease to be rejected no later than thirty (30) days after the later of (i) the Confirmation Date or (ii) the effective date of rejection of such executory contract or unexpired lease.

### **8.4 Survival of the Debtors' Indemnification Obligations.**

Any obligations of the Debtors pursuant to their corporate charters, bylaws, limited liability company agreements, or other organizational documents to indemnify current and former officers, directors, members, managers, agents, or employees with respect to all present and future actions, suits, and proceedings against the Debtors or such officers, directors, members, managers, agents, or employees based upon any act or omission for or on behalf of the Debtors shall not be discharged, impaired, or otherwise affected by this Plan. All such obligations shall be deemed and treated as executory contracts to be assumed by the Debtors under this Plan and shall continue as obligations of the Reorganized Debtors. Any claim based on the Debtors' obligations herein shall not be a Disputed Claim or subject to any objection in either case by reason of section 502(e)(1)(B) of the Bankruptcy Code.

### **8.5 Compensation and Benefit Plans.**

Unless otherwise modified prior to the Effective Date, all employment policies, and all compensation and benefits plans, policies, and programs of the Debtors applicable to their respective employees, retirees, and nonemployee directors, including all savings plans, retirement plans, healthcare plans, disability plans, severance benefit plans, incentive plans, and life and accidental death and dismemberment insurance plans, are deemed to be, and shall be treated as, executory contracts under this Plan and, on the Effective Date, shall be assumed pursuant to sections 365 and 1123 of the Bankruptcy Code.

### **8.6 Insurance Policies.**

(a) All insurance policies to which any Debtor is a party as of the Effective Date, including any directors' and officers' insurance policies, shall be deemed to be and treated

as executory contracts and shall be assumed by the applicable Debtor or Reorganized Debtor and shall continue in full force and effect thereafter in accordance with their respective terms. All other insurance policies shall vest in the Reorganized Debtors.

(b) In addition, after the Effective Date, the Reorganized Debtors shall not terminate or otherwise reduce the coverage under any directors' and officers' insurance policies (including any "tail policy") in effect or purchased as of the Petition Date. Any individual covered by such insurance policies, including all current or former members, managers, directors, and officers of the Debtors who served in such capacity at any time prior to the Effective Date shall be entitled to the full benefits of any such policy for the full term of the policy regardless of whether such members, managers, directors, officers, or other individuals remain in such positions after the Effective Date.

### **8.7 Reservation of Rights.**

(a) Neither the exclusion nor the inclusion by the Debtors of any contract or lease on any exhibit, schedule, or other annex to this Plan or in the Plan Supplement, nor anything contained in this Plan, shall constitute an admission by the Debtors that any such contract or lease is or is not an executory contract or unexpired lease or that the Debtors or the Reorganized Debtors or their respective affiliates has any liability thereunder.

(b) Except as explicitly provided in this Plan, nothing in this Plan shall waive, excuse, limit, diminish, or otherwise alter any of the defenses, claims, Causes of Action, or other rights of the Debtors or the Reorganized Debtors under any executory or non-executory contract or unexpired or expired lease.

(c) Nothing in this Plan shall increase, augment, or add to any of the duties, obligations, responsibilities, or liabilities of the Debtors or the Reorganized Debtors, as applicable, under any executory or non-executory contract or unexpired or expired lease.

(d) If there is a dispute regarding whether a contract or lease is or was executory or unexpired at the time of its assumption under this Plan, the Debtors or Reorganized Debtors, as applicable, shall have thirty (30) days following entry of a Final Order resolving such dispute to alter their treatment of such contract or lease.

## **ARTICLE IX. CONDITIONS PRECEDENT TO CONFIRMATION OF PLAN AND OCCURRENCE OF EFFECTIVE DATE.**

### **9.1 Conditions Precedent to Confirmation.**

The Confirmation Date shall not occur unless the following conditions precedent have been satisfied:

(a) as of the Confirmation Hearing, (i) the amount of the Prepetition M&M Liens, plus, without duplication, (ii) the amount of any Allowed Other Secured Claims on account of such Prepetition M&M Liens, shall not exceed the Lien Cap. For the avoidance of doubt, the Lien Cap shall include all Prepetition M&M Liens paid during the Chapter 11 Cases pursuant to the interim and final orders granting the *Motion of the Debtors Pursuant to 11 U.S.C. §§ 105(a)*

*and 363(b) and Fed. R. Bankr. P. 6003 and 6004 for Entry of Interim and Final Orders (I) Authorizing Debtors to Pay or Honor (A) Amounts Owed to Interests Owners, (B) Joint Interest Billings, and (C) Other Operating Expenses and (II) Granting Related Relief [Docket No. 9] or other order of the Court;*

- (b) the M&M Claims Resolution Protocol shall remain in effect;
- (c) the Cash Collateral Order is in full force and effect; and
- (d) the Plan Supplement has been filed.

**9.2 Conditions Precedent to Effective Date.**

The Effective Date shall not occur unless all of the following conditions precedent have been satisfied:

(a) the Definitive Documents contain terms and conditions consistent in all material respects with the Restructuring Support Agreement;

(b) the Bankruptcy Court shall have entered the Confirmation Order, and such Confirmation Order shall not have been stayed or materially modified and shall:

- (i) authorize the Debtors to take all actions necessary to enter into, implement, and consummate the contracts, instruments, releases, leases, and other agreements or documents created in connection with the Plan in a manner consistent in all respect with the Restructuring Support Agreement and subject to the consent rights set forth therein;
- (ii) decree that the provisions in the Confirmation Order and the Plan are non-severable and mutually dependent;
- (iii) authorize the Debtors to (1) implement the Restructuring, (2) make all distributions and issuances as required under the Plan, including Cash, New Equity Interests, and Warrants, (3) enter into the Exit Credit Facilities, and (4) enter into any agreements and transactions, including the Management Incentive Plan, in each case, in a manner consistent with the terms of the Restructuring Support Agreement and subject to the consent rights set forth therein; and
- (iv) authorize the implementation of the Plan in accordance with its terms;

(c) the documents related to the Exit Credit Facilities shall have been duly executed and delivered by all of the relevant parties thereto and the closing of each Exit Credit Facility shall have occurred;

(d) all conditions precedent to the effectiveness of the Exit Credit Facilities shall have been satisfied or waived in writing in accordance with the terms of each of the Exit Credit Facilities;

(e) the final version of the Plan, the Definitive Documents, and all documents contained in any supplement to the Plan, including any exhibits, schedules, amendments, modifications, or supplements thereto or other documents contained therein, shall have been executed or filed, as applicable, in form and substance consistent in all material respects with the Restructuring Support Agreement and the Plan;

(f) the Debtors shall have implemented the Restructuring and all transactions contemplated in the Restructuring Support Agreement in a manner consistent with the Restructuring Support Agreement (and subject to, and in accordance with, the consent rights set forth therein) and the Plan;

(g) all governmental approvals, including Bankruptcy Court approval, necessary to effectuate the Restructuring shall have been obtained and all applicable waiting periods have expired;

(h) to the extent invoiced in accordance with the terms of this Plan, the Restructuring Support Agreement, and the Cash Collateral Order, all Restructuring Expenses shall have been paid in full in Cash;

(i) the Restructuring Support Agreement shall be in full force and effect and binding on the Debtors and the Consenting Creditors;

(j) each of the Definitive Documents shall (i) have been executed and delivered, and any condition precedent contained to effectiveness therein have been satisfied or waived in accordance therewith, and (ii) be in full force and effect and binding upon the relevant parties; and

(k) all actions, documents and agreements necessary to implement and consummate the Plan, including entry into the Definitive Documents and the Amended Organizational Documents, and the transactions and other matters contemplated thereby, shall have been effected and executed.

### **9.3 Waiver of Conditions Precedent.**

(a) Each of the conditions precedent to the occurrence of the Effective Date may be waived in writing by the Debtors and the RBL Agent without leave of or order of the Bankruptcy Court. Any such waiver that would, directly or indirectly, abrogate the consent rights of the Consenting Sponsors set forth in Section 2(b) of the Restructuring Support Agreement shall also require consent of the Consenting Sponsors. If any such condition precedent is waived pursuant to this Section 9.3 and the Effective Date occurs, each party agreeing to waive such condition precedent shall be estopped from withdrawing such waiver after the Effective Date or otherwise challenging the occurrence of the Effective Date on the basis that such condition was not satisfied, the waiver of such condition precedent shall benefit from the “equitable mootness” doctrine, and the occurrence of the Effective Date shall foreclose any ability to challenge this Plan

in any court. If this Plan is confirmed for fewer than all of the Debtors, only the conditions applicable to the Debtor or Debtors for which this Plan is confirmed must be satisfied or waived for the Effective Date to occur.

(b) Except as otherwise provided herein, all actions required to be taken on the Effective Date shall take place and shall be deemed to have occurred simultaneously and no such action shall be deemed to have occurred prior to the taking of any other such action.

(c) The stay of the Confirmation Order pursuant to Bankruptcy Rule 3020(e) shall be deemed waived by and upon the entry of the Confirmation Order, and the Confirmation Order shall take effect immediately upon its entry.

#### **9.4 Effect of Failure of a Condition.**

If the conditions listed in Section 9.2 of this Plan are not satisfied or waived in accordance with Section 9.3 of this Plan on or before the first Business Day that is more than ten (10) days after the date on which the Confirmation Order is entered or by such later date set forth by the Debtors in a notice filed with the Bankruptcy Court prior to the expiration of such period, this Plan shall be null and void in all respects and nothing contained in this Plan or the Disclosure Statement shall (i) constitute a waiver or release of any Claims by or against or any Interests in the Debtors, (ii) prejudice in any manner the rights of any Person, or (iii) constitute an admission, acknowledgement, offer, or undertaking by the Debtors, any of the Consenting Creditors, or any other Person.

### **ARTICLE X. EFFECT OF CONFIRMATION.**

#### **10.1 Binding Effect.**

Except as otherwise provided in section 1141(d)(3) of the Bankruptcy Code, and subject to the occurrence of the Effective Date, on and after the entry of the Confirmation Order, the provisions of this Plan and the Plan Documents shall bind the Debtors, the Estates, the Reorganized Debtors, and every holder of a Claim against or Interest in any Debtor, and inure to the benefit of and be binding on such holder's respective successors and assigns, regardless of whether the Claim or Interest of such holder is Impaired under this Plan and whether such holder has accepted this Plan. Except as expressly provided in this Plan, all agreements, instruments and other documents filed in connection with this Plan shall be given full force and effect, and shall bind all parties referred to therein as of the Effective Date, whether or not such agreements are actually issued, delivered, or recorded on the Effective Date or thereafter and whether or not a party has actually executed such agreement.

#### **10.2 Vesting of Assets.**

Except as otherwise provided in this Plan, or any Plan Document, on and after the Effective Date, pursuant to sections 1141(b) and (c) of the Bankruptcy Code, all assets of the Estates, including all claims, rights, and Causes of Action and any property acquired by the Debtors under or in connection with this Plan or the Plan Supplement, shall vest in each respective Reorganized Debtor free and clear of all Claims, Liens, encumbrances, charges, and other interests. Subject to the terms of this Plan, on and after the Effective Date, the Reorganized Debtors may



operate their businesses and may use, acquire, and dispose of property and prosecute, compromise, or settle any Claims (including any Administrative Expense Claims) and Causes of Action without supervision of or approval by the Bankruptcy Court and free and clear of any restrictions of the Bankruptcy Code or the Bankruptcy Rules other than restrictions expressly imposed by this Plan or the Confirmation Order. Without limiting the foregoing, the Reorganized Debtors may pay the charges that they incur on or after the Confirmation Date for Professional Persons' fees, disbursements, expenses, or related support services without application to the Bankruptcy Court.

### **10.3 Discharge of Claims against and Interests in Debtors.**

Upon the Effective Date and in consideration of the distributions to be made under this Plan, except as otherwise expressly provided in this Plan or in the Confirmation Order, each holder (as well as any trustee or agents on behalf of each holder) of a Claim or Interest and any affiliate of such holder shall be deemed to have forever waived, released, and discharged the Debtors, to the fullest extent permitted by section 1141 of the Bankruptcy Code, of and from any and all Claims, Interest, rights, and liabilities that arose prior to the Effective Date. Except as otherwise provided in this Plan, upon the Effective Date, all such holders of Claims and Interests and their affiliates shall be forever precluded and enjoined, pursuant to sections 105, 524, and 1141 of the Bankruptcy Code, from prosecuting or asserting any such discharged Claim against or terminated Interest in any Debtor or Reorganized Debtor.

### **10.4 Pre-Confirmation Injunctions and Stays.**

Unless otherwise provided in this Plan or a Final Order of the Bankruptcy Court, all injunctions and stays arising under or entered during the Chapter 11 Cases, whether under sections 105 or 362 of the Bankruptcy Code or otherwise, and in existence on the date of entry of the Confirmation Order, shall remain in full force and effect until the later of the Effective Date and the date indicated in the order providing for such injunction or stay.

### **10.5 Injunction against Interference with Plan.**

Upon the entry of the Confirmation Order, all holders of Claims and Interests and all other parties in interest, along with their respective present and former affiliates, employees, agents, officers, directors, and principals, shall be enjoined from taking any action to interfere with the implementation or the occurrence of the Effective Date.

### **10.6 Plan Injunction.**

(a) Except as otherwise provided in this Plan, in the Plan Documents, or in the Confirmation Order, as of the entry of the Confirmation Order but subject to the occurrence of the Effective Date, all Persons who have held, hold, or may hold Claims against or Interests in any or all of the Debtors and their respective Related Persons, are permanently enjoined after the entry of the Confirmation Order from (i) commencing, conducting, or continuing in any manner, directly or indirectly, any suit, action, or other proceeding of any kind (including any proceeding in a judicial, arbitral, administrative, or other forum) against or affecting, directly or indirectly, a Debtor, a Reorganized Debtor, or an Estate or the property of any of the foregoing, or any direct or indirect transferee of any property of, or direct or indirect successor in interest to, any of the foregoing Persons mentioned in this subsection (i) or any property of any such transferee or

successor, (ii) enforcing, levying, attaching (including any prejudgment attachment), collecting, or otherwise recovering in any manner or by any means, whether directly or indirectly, any judgment, award, decree, or order against a Debtor, a Reorganized Debtor, or an Estate or its property, or any direct or indirect transferee of any property of, or direct or indirect successor in interest to, any of the foregoing Persons mentioned in this subsection (ii) or any property of any such transferee or successor, (iii) creating, perfecting, or otherwise enforcing in any manner, directly or indirectly, any encumbrance of any kind against a Debtor, a Reorganized Debtor, or an Estate or any of its property, or any direct or indirect transferee of any property of, or successor in interest to, any of the foregoing Persons mentioned in this subsection (iii) or any property of any such transferee or successor, (iv) acting or proceeding in any manner, in any place whatsoever, that does not conform to or comply with the provisions of this Plan, and the Plan Documents, to the full extent permitted by applicable law, and (v) commencing or continuing, in any manner or in any place, any action that does not comply with or is inconsistent with the provisions of this Plan and the Plan Documents.

(b) By accepting distributions pursuant to this Plan, each holder of an Allowed Claim or Interest shall be deemed to have affirmatively and specifically consented to be bound by this Plan, including the injunctions set forth in Section 10.6 of this Plan.

#### **10.7 Releases.**

(a) **Releases by Debtors.** As of the Effective Date, except for the rights and remedies that remain in effect from and after the Effective Date to enforce the Plan, the Definitive Documents, and the obligations contemplated by the Restructuring, on and after the Effective Date, the Released Parties will be conclusively, absolutely, unconditionally, irrevocably, and forever released and discharged, to the maximum extent permitted by law, by the Debtors, the Reorganized Debtors, and the Estates, in each case on behalf of themselves and their respective successors, assigns, and Representatives and any and all other Persons that may purport to assert any Cause of Action derivatively, by or through the foregoing Persons, from any and all Causes of Action (including any derivative claims, asserted or assertable on behalf of the Debtors, the Reorganized Debtors, or the Estates) that the Debtors, the Reorganized Debtors, the Estates, or their affiliates would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the holder of any Claim or Interest or other Person, based on, relating to, or in any manner arising from, in whole or in part: the Debtors (including the management, direct or indirect ownership, or operation thereof) or their Estates; the Reorganized Debtors; the Chapter 11 Cases; the Plan; the Restructuring; the RBL Facility; any debt or security of the Debtors and the ownership thereof; the purchase, sale, or rescission of the purchase or sale of any debt or security of the Debtors or the Reorganized Debtors; the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan; the business or contractual arrangements or other interactions between any Debtor and any Released Party; the restructuring of any Claim or Interest before or during the Chapter 11 Cases; any other in-or-out-of-court restructuring efforts of the Debtors; any intercompany transaction; the negotiation, formulation, preparation, dissemination, or consummation of the Exit Credit Facilities, the Plan, any of the other Definitive Documents (including the Restructuring Support Agreement), or any other contract, instrument, release, or document created or entered into in connection with the Plan or any of the other Definitive Documents;

the Solicitation; or any other act or omission, transaction, agreement, event, or other occurrence related to any of the forgoing and taking place on or before the Effective Date. Notwithstanding anything herein to the contrary, the releases contained in this Section 10.7(a) shall not release any Person from Causes of Action based on willful misconduct, gross negligence or intentional fraud as determined by a Final Order.

(b) **Releases by Holders of Claims or Interests.** As of the Effective Date, except for the rights and remedies that remain in effect from and after the Effective Date to enforce the Plan, the Definitive Documents, and the obligations contemplated by the Restructuring, on and after the Effective Date, the Released Parties will be conclusively, absolutely, unconditionally, irrevocably, and forever released and discharged, to the maximum extent permitted by law, by the Releasing Parties, in each case from any and all Causes of Action (including any derivative claims, asserted or assertable on behalf of the Debtors, the Reorganized Debtors, or their Estates) that such Releasing Parties or their estates, affiliates, heirs, executors, administrators, successors, assigns, managers, accountants, attorneys, representatives, consultants, agents, and any other Persons claiming under or through them would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the holder of any Claim or Interest or other Person, based on, relating to, or in any manner arising from, in whole or in part: the Debtors (including the management, direct or indirect ownership, or operation thereof) or their Estates; the Reorganized Debtors; the Chapter 11 Cases; the Plan; the Restructuring; the RBL Facility; any debt or security of the Debtors and the ownership thereof; the purchase, sale, or rescission of the purchase or sale of any debt or security of the Debtors or the Reorganized Debtors; the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan; the business or contractual arrangements or other interactions between any Debtor and any Released Party; the restructuring of any Claim or Interest before or during the Chapter 11 Cases; any other in-or-out-of-court restructuring efforts of the Debtors; any intercompany transaction; the negotiation, formulation, preparation, dissemination, or consummation of the Exit Credit Facilities, the Plan, any of the other Definitive Documents (including the Restructuring Support Agreement), or any other contract, instrument, release, or document created or entered into in connection with the Plan or any of the other Definitive Documents; the Solicitation; or any other act or omission, transaction, agreement, event, or other occurrence related to any of the forgoing and taking place on or before the Effective Date. Notwithstanding anything herein to the contrary, the releases contained in this Section 10.7(b) shall not release any Person from Causes of Action based on willful misconduct, gross negligence or intentional fraud as determined by a Final Order.

#### **10.8 Exculpation.**

To the fullest extent permitted by applicable law, from and after the Effective Date, no Exculpated Fiduciary and, solely to the extent provided by section 1125(e) of the Bankruptcy Code, no Section 1125(e) Party, will have or incur, and each such Person will be released and exculpated from, any Cause of Action based on, relating to, or in any manner arising from, in whole or in part: the administration or filing of the Chapter 11 Cases; the negotiation, formulation, preparation, dissemination, or consummation of the Restructuring, the Exit Credit Facilities, the issuances of New Equity Interests and Warrants

(and the Warrant Equity issued upon exercise thereof), the Amended Organizational Documents, the Management Incentive Plan, the Disclosure Statement, the Restructuring Support Agreement, the Restructuring, the Plan, or any of the other Definitive Documents; the Solicitation; the funding of the Plan; the occurrence of the Effective Date; the administration of the Plan or the property to be distributed under the Plan; the issuance of securities under or in connection with the Plan; the purchase, sale, or rescission of the purchase or sale of any security of the Debtors or the Reorganized Debtors; or any other act or omission, transaction, agreement, event, or other occurrence related to any of the forgoing and taking place on or after the Petition Date through the Effective Date. Notwithstanding anything herein to the contrary, the exculpation provided in this Section 10.8 shall not release any Person from Causes of Action based on willful misconduct, gross negligence or intentional fraud as determined by a Final Order, but in all respects such Persons will be entitled to reasonably rely upon the advice of counsel with respect to their duties and responsibilities pursuant to the Plan. The exculpation provided in this Section 10.8 shall be in addition to, and not in limitation of, all other releases, indemnities, exculpations, and any other applicable law or rules protecting the Exculpated Parties from liability.

#### **10.9 Injunction Related to Releases and Exculpation.**

The Confirmation Order shall permanently enjoin the commencement or prosecution by any Person, whether directly, derivatively, or otherwise, of any Claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, losses, or liabilities released pursuant to this Plan, including, without limitation, the claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, and liabilities released or exculpated in this Plan or the Confirmation Order.

#### **10.10 Subordinated Claims.**

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

#### **10.11 Retention of Causes of Action and Reservation of Rights.**

Except as otherwise provided in this Plan, including Sections 10.6, 10.7, 10.8, and 10.9, nothing contained in this Plan or the Confirmation Order shall be deemed to be a waiver or relinquishment of any rights, claims, Causes of Action, rights of setoff or recoupment, or other legal or equitable defenses that the Debtors had immediately prior to the Effective Date on behalf of the Estates or of themselves in accordance with any provision of the Bankruptcy Code or any applicable nonbankruptcy law. The Reorganized Debtors shall have, retain, reserve, and be entitled to assert all such claims, Causes of Action, rights of setoff or recoupment, and other legal or equitable defenses as fully as if the Chapter 11 Cases had not been commenced, and all of the

Debtors' legal and equitable rights in respect of any Unimpaired Claim may be asserted after the Confirmation Date and Effective Date to the same extent as if the Chapter 11 Cases had not been commenced.

**10.12 Ipsa Facto and Similar Provisions Ineffective.**

Any term of any prepetition policy, prepetition contract, or other prepetition obligation applicable to a Debtor shall be void and of no further force or effect with respect to any Debtor to the extent that such policy, contract, or other obligation is conditioned on, creates an obligation of the Debtor as a result of, or gives rise to a right of any Entity based on (i) the insolvency or financial condition of a Debtor, (ii) the commencement of the Chapter 11 Cases, (iii) the confirmation or consummation of this Plan, including any change of control that shall occur as a result of such consummation, or (iv) the Restructuring Transactions.

**ARTICLE XI. RETENTION OF JURISDICTION.**

**11.1 Retention of Jurisdiction.**

On and after the Effective Date, the Bankruptcy Court shall retain exclusive jurisdiction, pursuant to 28 U.S.C. §§ 1334 and 157, over all matters arising in or related to the Chapter 11 Cases for, among other things, the following purposes:

(a) to hear and determine motions and/or applications for the assumption or rejection of executory contracts or unexpired leases and any disputes over Cure Amounts resulting therefrom;

(b) to determine any motion, adversary proceeding, application, contested matter, and other litigated matter pending on or commenced after the entry of the Confirmation Order;

(c) to hear and resolve any disputes arising from or related to (i) any orders of the Bankruptcy Court granting relief under Bankruptcy Code 2004 or (ii) any protective orders entered by the Bankruptcy Court in connection with the foregoing;

(d) to ensure that distributions to holders of Allowed Claims and Interests are accomplished as provided in this Plan and the Confirmation Order and to adjudicate any and all disputes arising from or relating to distributions under this Plan;

(e) to consider Claims or the allowance, classification, priority, compromise, estimation, or payment of any Claim;

(f) to enter, implement, or enforce such orders as may be appropriate in the event that the Confirmation Order is for any reason stayed, reversed, revoked, modified, or vacated;

(g) to issue and enforce injunctions, enter and implement other orders, and take such other actions as may be necessary or appropriate to restrain interference by any Person with

the consummation, implementation, or enforcement of this Plan, the Confirmation Order, or any other order of the Bankruptcy Court;

(h) to hear and determine any application to modify this Plan in accordance with section 1127 of the Bankruptcy Code or approve any modification of the Confirmation Order or any contract, instrument, release, or other agreements or document created in connection with this Plan, the Disclosure Statement, or the Confirmation Order (in each case, to the extent Bankruptcy Court approval is necessary), or to remedy any defect or omission or reconcile any inconsistency in this Plan, the Disclosure Statement, the Confirmation Order, or any order of the Bankruptcy Court, in such a manner as may be necessary to carry out the purposes and effects thereof;

(i) to hear and determine all Fee Claims;

(j) to resolve disputes concerning any reserves with respect to Disputed Claims or the administration thereof;

(k) to hear and determine disputes arising in connection with the interpretation, implementation, or enforcement of this Plan, the Confirmation Order, any transactions or payments in furtherance of either, or any agreement, instrument, or other document governing or related to any of the foregoing;

(l) to take any action and issue such orders, including any such action or orders as may be necessary after entry of the Confirmation Order or the occurrence of the Effective Date, as may be necessary to construe, enforce, implement, execute, and consummate this Plan and the Plan Documents;

(m) to determine such other matters and for such other purposes as may be provided in the Confirmation Order;

(n) to hear and determine matters concerning state, local, and federal taxes in accordance with sections 346, 505, and 1146 of the Bankruptcy Code (including any requests for expedited determinations under section 505(b) of the Bankruptcy Code);

(o) to hear and determine any other matters related to the Chapter 11 Cases and not inconsistent with the Bankruptcy Code or title 28 of the United States Code;

(p) to resolve any disputes concerning whether a Person had sufficient notice of the Chapter 11 Cases, the Disclosure Statement, any solicitation conducted in connection with the Chapter 11 Cases, any bar date established in the Chapter 11 Cases, or any deadline for responding or objecting to a Cure Amount, in each case, for the purpose for determining whether a Claim or Interest is discharged hereunder or for any other purposes;

(q) to hear, adjudicate, decide, or resolve any and all matters related to ARTICLE X of this Plan, including, without limitation, the releases, discharge, exculpations, and injunctions issued thereunder;

(r) to hear and determine any rights, Claims, or Causes of Action held by or accruing to the Debtors pursuant to the Bankruptcy Code or pursuant to any federal statute or legal theory;

(s) to recover all assets of the Debtors and property of the Estates, wherever located; and

(t) to enter a final decree closing each of the Chapter 11 Cases.

**11.2 Courts of Competent Jurisdiction.**

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

**ARTICLE XII. MISCELLANEOUS PROVISIONS.**

**12.1 Statutory Fees.**

All Statutory Fees due and payable prior to the Effective Date shall be paid by the Debtors or the Reorganized Debtors. On and after the Effective Date, the Reorganized Debtors shall pay any and all Statutory Fees when due and payable, and shall file with the Bankruptcy Court quarterly reports in a form reasonably acceptable to the U.S. Trustee. Each Debtor or Reorganized Debtor, as applicable, shall remain obligated to pay quarterly fees to the U.S. Trustee until the earliest of that particular Debtor's, or Reorganized Debtor's, as applicable, case being closed, dismissed, or converted to a case under Chapter 7 of the Bankruptcy Code.

**12.2 Exemption from Certain Transfer Taxes.**

Pursuant to section 1146 of the Bankruptcy Code, (i) the issuance, transfer or exchange of any Securities, instruments or documents, (ii) the creation of any Lien, mortgage, deed of trust or other security interest, (iii) all sale transactions consummated by the Debtors and approved by the Bankruptcy Court on and after the Confirmation Date through and including the Effective Date, including any transfers effectuated under this Plan, (iv) any assumption, assignment, or sale by the Debtors of their interests in unexpired leases of nonresidential real property or executory contracts pursuant to section 365(a) of the Bankruptcy Code, (v) the grant of collateral under the Exit Credit Facilities, and (vi) the issuance, renewal, modification, or securing of indebtedness by such means, and the making, delivery or recording of any deed or other instrument of transfer under, in furtherance of, or in connection with, this Plan, including the Confirmation Order, shall not be subject to any document recording tax, stamp tax, conveyance fee or other similar tax, mortgage tax, real estate transfer tax, mortgage recording tax, Uniform Commercial Code filing or recording fee, regulatory filing or recording fee, sales tax, use tax or other similar tax or governmental assessment. Consistent with the foregoing, each recorder of deeds or similar official for any county, city or Governmental Unit in which any instrument hereunder is to be recorded shall, pursuant to the Confirmation Order, be ordered and directed to

accept such instrument without requiring the payment of any filing fees, documentary stamp tax, deed stamps, stamp tax, transfer tax, intangible tax or similar tax.

### **12.3 Request for Expedited Determination of Taxes.**

The Debtors 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 Petition Date through the Effective Date.

### **12.4 Dates of Actions to Implement Plan.**

In the event that any payment or act under this Plan is required to be made or performed on a date that is not a Business Day, then the making of such payment or the performance of such act may be completed on or as soon as reasonably practicable after the next succeeding Business Day but shall be deemed to have been completed as of the required date.

### **12.5 Amendments.**

(a) **Plan Modifications.** Subject to the prior written consent of (i) the RBL Agent, (ii) the Term Loan Lenders, solely with respect to the treatment of Class 4 Claims, and (iii) the Creditors' Committee, solely with respect to the treatment of Class 5 Claims and Section 7.3 of this Plan, this Plan may be amended, modified, or supplemented by the Debtors in the manner provided for by section 1127 of the Bankruptcy Code or as otherwise permitted by law, without additional disclosure pursuant to section 1125 of the Bankruptcy Code, except as otherwise ordered by the Bankruptcy Court and in accordance with the Restructuring Support Agreement. In addition, after the Confirmation Date, so long as such action does not materially and adversely affect the treatment of holders of Allowed Claims pursuant to this Plan, the Debtors, with the prior consent of the RBL Agent (which consent shall not be unreasonably withheld), may remedy any defect or omission or reconcile any inconsistencies in this Plan or the Confirmation Order with respect to such matters as may be necessary to carry out the purposes of effects of this Plan, and any holder of a Claim or Interest that has accepted this Plan shall be deemed to have accepted this Plan as amended, modified, or supplemented.

(b) **Certain Technical Amendments.** Subject to the Restructuring Support Agreement, prior to the Effective Date, the Debtors, with the prior consent of the RBL Agent (which consent shall not be unreasonably withheld) may make appropriate technical adjustments and modifications to this Plan without further order or approval of the Bankruptcy Court, as long as such technical adjustments and modifications do not adversely affect in a material way the treatment of holders of Claims or Interests under this Plan and are consistent with the terms of the Restructuring Support Agreement.

### **12.6 Revocation or Withdrawal of Plan.**

To the extent permitted under the Restructuring Support Agreement and any consent rights thereunder, the Debtors reserve the right to revoke or withdraw this Plan prior to the Effective Date as to any or all of the Debtors. If, with respect to a Debtor, this Plan has been revoked or withdrawn prior to the Effective Date, or if confirmation or the occurrence of the Effective Date as to such Debtor does not occur on the Effective Date, then, with respect to such



Debtor (i) this Plan shall be null and void in all respects, (ii) any settlement or compromise embodied in this Plan (including the fixing or limiting to an amount any Claim or Interest or Class of Claims or Interests), assumption or rejection of executory contracts or unexpired leases affected by this Plan, and any document or agreement executed pursuant to this Plan shall be deemed null and void, and (iii) nothing contained in this Plan shall (a) constitute a waiver or release of any Claim by or against, or any Interest in, such Debtor or any other Person, (b) prejudice in any manner the rights of such Debtor or any other Person, or (c) constitute an admission of any sort by any Debtor or any other Person.

#### **12.7 Severability.**

If, prior to the entry of the Confirmation Order, any term or provision of this Plan is held by the Bankruptcy Court to be invalid, void, or unenforceable, the Bankruptcy Court, at the request of the Debtors, shall have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void, or unenforceable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration, or interpretation by the Bankruptcy Court, the remainder of the terms and provisions of this Plan shall remain in full force and effect and shall in no way be affected, impaired, or invalidated by such holding, alteration, or interpretation. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of this Plan, as it may have been altered or interpreted in accordance with this Section 12.7, is (i) valid and enforceable pursuant to its terms, (ii) integral to this Plan and may not be deleted or modified without the consent of the Debtors or the Reorganized Debtors (as the case may be), and (iii) nonseverable and mutually dependent.

#### **12.8 Governing Law.**

Except to the extent that the Bankruptcy Code or other federal law is applicable or to the extent that a Plan Document provides otherwise, the rights, duties, and obligations arising under this Plan and the Plan Documents shall be governed by, and construed and enforced in accordance with, the internal laws of the State of New York, without giving effect to the principles of conflicts of laws thereof (other than section 5-1401 and section 5-1402 of the New York General Obligations Law).

#### **12.9 Immediate Binding Effect.**

Notwithstanding Bankruptcy Rules 3020(e), 6004(h), 7062, or otherwise, upon the occurrence of the Effective Date, the terms of this Plan and the Plan Documents shall be immediately effective and enforceable and deemed binding upon and inure to the benefit of the Debtors, the Reorganized Debtors, the holders of Claims and Interests, the Released Parties, and each of their respective successors and assigns.

#### **12.10 Successors and Assigns.**

The rights, benefits, and obligations of any Person named or referred to in this Plan shall be binding on and shall inure to the benefit of any heir, executor, administrator, successor, or permitted assign, if any, of each such Person.

**12.11 Entire Agreement.**

On the Effective Date, this Plan, the Plan Supplement, and the Confirmation Order shall supersede all previous and contemporaneous negotiations, promises, covenants, agreements, understandings, and representations on such subjects, all of which have become merged and integrated into this Plan.

**12.12 Computing Time.**

In computing any period of time prescribed or allowed by this Plan, unless otherwise set forth in this Plan or determined by the Bankruptcy Court, the provisions of Bankruptcy Rule 9006 shall apply.

**12.13 Exhibits to Plan.**

All exhibits, schedules, supplements, and appendices to this Plan (including the Plan Supplement) are incorporated into and are a part of this Plan as if set forth in full in this Plan.

**12.14 Notices.**

All notices, requests, and demands hereunder shall be in writing (including by email transmission) and, unless otherwise provided herein, shall be deemed to have been duly given or made only when actually delivered or, in the case of notice by email transmission, when received and confirmed by email, addressed as follows:

- (a) if to the Debtors or Reorganized Debtors:

Chisholm Oil and Gas Operating, LLC  
1 West Third Street, Suite 1700  
Tulsa, Oklahoma 74103  
Attn: Michael Rigg (michael.rigg@chisholmog.com)

– and –

WEIL, GOTSHAL & MANGES LLP  
767 Fifth Avenue  
New York, New York 10153  
Telephone: (212) 310-8000  
Facsimile: (212) 310-8007  
Attn:

Matt Barr, Esq. (matt.barr@weil.com)  
Kelly DiBlasi, Esq. (kelly.diblasi@weil.com)  
Lauren Tauro, Esq. (lauren.tauro@weil.com)

– and –

YOUNG CONAWAY STARGATT & TAYLOR, LLP  
1000 North King Street  
Wilmington, Delaware 19801  
Telephone: (302) 571-6600  
Facsimile: (302) 571-1253  
Attn:

M. Blake Cleary, Esq. (mbcleary@ycst.com)  
J. Luton Chapman, Esq. (jchapman@ycst.com)  
S. Alexander Faris, Esq. (afaris@ycst.com)

*Attorneys for Debtors*

(b) if to the RBL Agent:

LINKLATERS LLP  
1345 Avenue of the Americas  
New York, New York 10105  
Telephone: (212) 903-9000  
Facsimile: (212) 903-9100  
Attn:

Margot Schonholtz, Esq. (margot.schonholtz@linklaters.com)  
Penelope Jensen, Esq. (penelope.jensen@linklaters.com)

*Attorneys for RBL Agent*

(c) if to the Consenting Sponsors:

PAUL, WEISS, RIFKIND, WHARTON & GARRISON, LLP  
1285 Avenue of the Americas  
New York, New York 10019  
Telephone: (212) 373-3000  
Facsimile: (212) 757-3990  
Attn:

Jeffrey D. Saferstein, Esq. (jsaferstein@paulweiss.com)  
Elizabeth McColm, Esq. (emccolm@paulweiss.com)

*Attorneys for Consenting Sponsors*

(d) if to the Creditors' Committee:

PAUL HASTINGS LLP  
600 Travis Street, Fifty-Eight Floor  
Houston, Texas 77002  
Telephone: (713) 860-7300

Facsimile: (713) 353-3100

Attn:

James T. Grogan, Esq. (jamesgrogan@paulhastings.com)  
Kevin P. Broughel, Esq. (kevinbroughel@paulhastings.com)

– and –

BLANK ROME LLP  
1201 Market Street, Suite 800  
Wilmington, Delaware 19801  
Telephone: (302) 425-6423  
Facsimile: (302) 252-0921  
Attn:

Regina Stango Kelbon, Esq. (kelbon@blankrome.com)  
Stanley B. Tarr, Esq. (tarr@blankrome.com)

*Attorneys for Creditors' Committee*

After the occurrence of the Effective Date, the Reorganized Debtors have authority to send a notice to Entities that, to continue to receive documents pursuant to Bankruptcy Rule 2002, such entities must file a renewed request to receive documents pursuant to Bankruptcy Rule 2002. Notwithstanding the foregoing, the U.S. Trustee need not file such a renewed request and shall continue to receive documents without any further action being necessary. After the occurrence of the Effective Date, the Reorganized Debtors are authorized to limit the list of entities receiving documents pursuant to Bankruptcy Rule 2002 to those Entities that have filed such renewed requests.

**12.15 Reservation of Rights.**

Except as otherwise provided herein, this Plan shall be of no force or effect unless the Bankruptcy Court enters the Confirmation Order. None of the filing of this Plan, any statement or provision of this Plan, or the taking of any action by the Debtors with respect to this Plan shall be or shall be deemed to be an admission or waiver of any rights of the Debtors with respect to any Claims or Interests prior to the Effective Date.

Dated: August 3, 2020

Respectfully submitted,

By: /s/ Michael Rigg

Name: Michael Rigg

Title: Chief Financial Officer

on behalf of

Chisholm Oil and Gas Operating II, LLC

Chisholm Oil and Gas Operating, LLC

Chisholm Oil and Gas Management II, LLC

Chisholm Oil and Gas Nominee, Inc.

Cottonmouth SWD, LLC