

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

In re:	)	Chapter 11
	)	
LIGHTHOUSE RESOURCES INC., <i>et al.</i> , <sup>1</sup>	)	Case No. 20-13056 (JTD)
	)	
Debtors.	)	(Jointly Administered)
	)	

**JOINT PLAN OF DEBTORS**  
**UNDER CHAPTER 11 OF THE BANKRUPTCY CODE**

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Dated: December 11, 2020

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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 include: Lighthouse Resources Inc. (4713), LHR Coal, LLC (4799), KCP, Inc. (2558), Big Horn Coal Company (7087), Rosebud Coal Sales Company (9016), KCP Properties, Inc. (8372), Decker Holding Company, LLC (8881), Decker Coal Company, LLC (3731), Montana Royalty Holdings, LLC (1107), LHR Infrastructure, LLC (9619), Millennium Bulk Terminals-Longview, LLC (0354), Barlow Point Land Company, LLC (1398), Columbia Land Co., LLC (6826), and Gulf States Bulk Terminal, LLC (5870). The location of the Debtors’ service address in these chapter 11 cases is 10980 South Jordan Gateway, South Jordan, Utah 84095.

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## INTRODUCTION

Lighthouse Resources Inc. and each of its affiliated Debtors jointly propose the following chapter 11 plan under Bankruptcy Code section 1121(a). The Plan addresses the Coal Side Debtors.<sup>2</sup> The Debtors seek to consummate the transactions contemplated hereby on the Effective Date of the Plan. Each of the Debtors is a proponent of the Plan within the meaning of Bankruptcy Code section 1129.

Reference is made to the Disclosure Statement accompanying the Plan, including the exhibits thereto, for a discussion of the Debtors' history, business, results of operations, and projections for future operations and risk factors, together with a summary and analysis of the Plan.

The Plan provides for the creation of a trust whose primary purpose is to complete the shutdown, remediation, and reclamation of the Debtors' operations at the Decker Mine, Big Horn Coal Company, and the Black Butte Mine and in that process will also administer all remaining assets of the Debtors. The Plan also provides for distributions to certain holders of administrative claims and priority claims and the funding of the trust.

THE PLAN SHOULD BE CONSIDERED ONLY IN CONJUNCTION WITH THE DISCLOSURE STATEMENT AND RELATED MATERIALS TRANSMITTED HERewith. THE DISCLOSURE STATEMENT IS INTENDED TO PROVIDE YOU WITH INFORMATION YOU NEED TO MAKE AN INFORMED JUDGMENT WHETHER TO ACCEPT OR REJECT THE PLAN.

## ARTICLE I. DEFINITIONS AND CONSTRUCTION OF TERMS

### A. Definitions.

Unless otherwise defined herein, the following terms shall have the respective meanings set forth below:

1. *Accrued Professional Compensation*: means, at any given time, and regardless of whether such amounts are billed or unbilled, all accrued, contingent, and/or unpaid fees and expenses (including success fees) for legal, financial advisory, accounting, and other services, and reimbursement of expenses by any Professional that the Court has not, as of the Effective Date, denied by Final Order (i) all to the extent that any such fees and expenses have not been previously paid (regardless of whether a fee application has been filed for any such amount) and (ii) after applying the remaining balance of any retainer that has been provided by a Debtor to such Professional. To the extent the Court denies or reduces by a Final Order any amount of a Professional's fees or expenses, then those reduced or denied amounts shall no longer constitute Accrued Professional Compensation.

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<sup>2</sup> Depending on the results of the Debtors' efforts to sell the assets of the Other Debtor Subsidiaries, the Plan will be amended accordingly and as necessary.

2. Accrued Professional Compensation Account: means an interest-bearing account, which shall be funded by the Debtors on the Effective Date with Cash in an amount equal to all Accrued Professional Compensation as of the Effective Date and which shall be held and maintained by the Reclamation Trust Entity in trust for the Professionals.

3. Administrative Claim: means a Claim for any cost or expense of administration during the Chapter 11 Cases pursuant to Bankruptcy Code sections 328, 330, 363, 364(c)(1), 365, 503(b), 507(a)(2), or 1114(e)(2), including, but not limited to, (i) any actual and necessary costs and expenses incurred after the Petition Date and through the Effective Date of (a) preserving the Estates, and (b) operating and/or winding down the Debtors' businesses, (ii) any indebtedness or obligations assumed by the Debtors in connection with the conduct and/or the wind down of their businesses, (iii) all Fee Claims, (iv) any fees or charges assessed against the Estates under section 1930 of title 28 of the United States Code, and (v) any Claim for goods delivered to the Debtors within twenty (20) days of the Petition Date and entitled to administrative priority pursuant to Bankruptcy Code section 503(b)(9).

4. Allowed: means, (i) with respect to any Claim, (a) following the Claims Objection Deadline, any Claim (other than a General Unsecured Claim in Class 5 that a Debtor or the Reclamation Trust Entity disputes, and which dispute shall be determined, resolved or adjudicated in the manner as if the Chapter 11 Cases had not been commenced) as to which no objection or request for estimation has been filed prior to the Claims Objection Deadline, (b) a Claim that has been expressly allowed by Final Order, (c) a Claim as to which the Debtors with the consent of the Consenting Stakeholders (which consent shall not be unreasonably withheld) or the Reclamation Trust Entity agree to the amount and/or priority thereof in writing, (d) a Claim that is expressly allowed pursuant to the terms of the Plan, or (e) a Claim that is listed in the Schedules (to the extent the Debtors file Schedules in the Chapter 11 Cases) as liquidated, non-contingent, and undisputed and as to which no objection has been filed and (ii) with respect to any Equity Interest, such Equity Interest which is reflected as outstanding in the stock transfer ledger or similar register of any of the Debtors on the Record Date and is not subject to any objection or challenge. If a Claim or Equity Interest is Allowed only in part, any provisions in the Plan with respect to Allowed Claims or Allowed Equity Interests are applicable solely to the Allowed portion of such Claim or Equity Interest. For the avoidance of doubt, (a) there is no requirement to file a proof of Claim (or move the Court for allowance) to be an Allowed Claim under the Plan (provided that holders of (i) Fee Claims shall be required to file applications for allowance and payment of their Fee Claims in accordance with Article II.B hereof and (ii) holders of Rejection Damage Claims shall be required to file proofs of Claim in accordance with Article VIII.D hereof) and (b) Unimpaired Claims for which there is no requirement to file a proof of Claim shall be Allowed to the same extent such Claims would be Allowed under applicable nonbankruptcy law. Claims allowed solely for the purpose of voting to accept or reject the Plan pursuant to an order of the Bankruptcy Court shall not be considered "Allowed Claims" hereunder. Unless otherwise specified herein or by order of the Bankruptcy Court, "Allowed Administrative Expense Claim" or "Allowed Claim" shall not, for any purpose under the Plan, include interest on such Claim from and after the Commencement Date. The Senior Secured Claim, RCF Deficiency Claim, and the Surety Claims are Allowed.

5. Allowed Claims Reserve: means an interest-bearing account, held and maintained by the Reclamation Trust Entity solely for the purpose of paying Allowed

Administrative Claims, Allowed Priority Tax Claims, Allowed Non-Priority Tax Claims, and Allowed Other Secured Claims not otherwise paid on the Effective Date.

6. *Avoidance Actions*: means any and all claims and Causes of Action which any of the Debtors, the Debtors in Possession, the Estates or any other appropriate party has asserted or may assert under sections 502, 510, 542, 544, 545, or 547 through 553 of the Bankruptcy Code or under similar or related state or federal statutes and common law, including fraudulent transfer laws.

7. *Ballots*: means the form distributed to each holder of an impaired Claim that is entitled to vote to accept or reject the Plan on which is to be indicated the acceptance or rejection of the Plan.

8. *Bankruptcy Code*: means title 11 of the United States Code, 11 U.S.C. §§ 101-1532, as in effect with respect to the Chapter 11 Cases.

9. *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, and local rules of the Court, as the context may require, as in effect with respect to the Chapter 11 Cases.

10. *Bar Date*: means a bar date of on or before \_\_\_\_\_, requested by the Debtors pursuant to a separate motion and established by the Court pursuant to the Bar Date Order for filing proofs of Claim in the Chapter 11 Cases, which shall be in form and substance reasonably acceptable to the Debtors and the Consenting Stakeholders.

11. *Bar Date Order*: means an order of the Court entered in the Chapter 11 Cases, pursuant to Bankruptcy Rule 3003(c), (i) establishing a bar date for filing proofs of Claim in the Chapter 11 Cases; (ii) establishing ramifications for failure to comply therewith; (iii) approving a proof of Claim form and notice of the Bar Date; and (iv) approving notice procedures.

12. *Black Butte*: means Black Butte Coal Company, a joint venture owned 50% by Coal Side Debtor KCP, Inc. and 50% by unrelated non-Debtor third party Bitter Creek Coal Company, which is a subsidiary of Anadarko Petroleum Corporation (a subsidiary of Occidental Petroleum), pursuant to that certain Black Butte Coal Company Agreement dated January 1, 1974, as amended from time to time. Black Butte operates an open cut (surface) mine in the Green River Basin, located in Sweetwater County, Wyoming.

13. *Black Butte Interest*: means the 50% joint venture interest held in Black Butte Coal Company by Coal Side Debtor KCP, Inc.

14. *Black Butte Reclamation Plan*: means the Reclamation Plan for Black Butte, to be completed when Black Butte ceases active mining operations.

15. *Business Day*: means any day on which commercial banks are open for business, and not authorized to close, in New York, New York, except any day designated as a legal holiday by Bankruptcy Rule 9006(a).

16. Cash: means legal tender of the United States of America.

17. Cash Collateral Order: means the interim and final orders authorizing the Debtors to use cash collateral, and granting adequate protection to the Senior Secured Lenders or otherwise in form and substance reasonably acceptable to the Debtors and the Consenting Stakeholders, as such may be amended or modified from time to time in accordance with the terms thereof or by stipulation among the Debtors and the Consenting Stakeholders and approval thereof by the Bankruptcy Court, including the interim order entered in the Chapter 11 Cases at Docket No. 39.

18. Causes of Action: means any and all claims, causes of actions, cross-claims, counterclaims, third-party claims, indemnity claims, reimbursement claims, contribution claims, defenses, demands, rights, actions, debts, damages, judgments, remedies, liens, indemnities, guarantees, suits, obligations, liabilities, accounts, offsets, recoupments, powers, privileges, licenses, and franchises of any kind or character whatsoever, known or unknown, contingent or noncontingent, matured or unmatured, suspected or unsuspected, disputed or undisputed, foreseen or unforeseen, direct or indirect, choate or inchoate, whether arising before, on, or after the Petition Date, including through the Effective Date, in contract or in tort, in law or in equity, or pursuant to any other theory of law. For the avoidance of doubt, the term “Causes of Action” shall include: (i) all rights of setoff, counterclaim, or recoupment and claims on contracts or for breaches of duties imposed by law or in equity; (ii) the right to object to Claims; (iii) all claims pursuant to Bankruptcy Code sections 362, 510, 542, 543, 544 through 550, 552, or 553; (iv) all claims and defenses, including fraud, mistake, duress, and usury and any other defenses set forth in Bankruptcy Code section 558; and (v) any state law fraudulent transfer claims.

19. Chapter 11 Cases: means the cases commenced by the Debtors under chapter 11 of the Bankruptcy Code.

20. Claim: means a “claim” against any Debtor, as such term is defined in Bankruptcy Code section 101(5).

21. Claims and Noticing Agent: means Bankruptcy Management Solutions, Inc. d/b/a Stretto, employed by the Debtors as the official claims, noticing and balloting agent in the Chapter 11 Cases pursuant to an order of the Court.

22. Claims Objection Deadline: means the first Business Day that is the later of (i) one-hundred eighty (180) days after the Effective Date or (ii) such other later date the Court may establish upon a motion by the Debtors or the Reclamation Trust Entity.

23. Class: means a category of Claims or Equity Interests classified under Article III of the Plan pursuant to Bankruptcy Code section 1122.

24. Class A Reclamation Trust Entity Interests: means interests in the Reclamation Trust Entity distributed to the Senior Secured Lenders as beneficiaries, with RCF VI as agent, as part of the full and final satisfaction of their claims against the Coal Side Debtors. The Class A Reclamation Trust Entity Interests shall be fully transferrable.



25. Class B Reclamation Trust Entity Interests: means interests in the Reclamation Trust Entity distributed to the Class B Reclamation Trust Entity Interests Agent as the beneficiary on behalf of the holders of the General Unsecured Claims of the Coal Side Debtors in full and final satisfaction of such creditors' Claims.

26. Class B Reclamation Trust Entity Interests Agent: means a person or entity appointed by the General Unsecured Creditors and responsible for holding the Class B Reclamation Trust Entity Interests and for making pro rata distributions to the General Unsecured Creditors on behalf of their Allowed Claims.

27. Coal Act: means The Coal Industry Retiree Health Benefit Act of 1992 codified at 26 U.S.C. § 9701, et. seq., as it may be amended from time to time.

28. Coal Side Debtor Interests: means any equity interest in any of the Coal Side Debtors, including any issued and outstanding or authorized but unissued membership interests or other instrument evidencing an ownership interest in one of the Coal Side Debtors, whether or not transferable, and any option, warrant, or right, contractual or otherwise, to acquire any such interest in any of the Coal Side Debtors that existed immediately prior to the Effective Date.

29. Coal Side Debtors: means, collectively, each of the following: Lighthouse, LHR Coal, LLC, KCP, Inc., Big Horn Coal Company, Rosebud Coal Sales Company, KCP Properties, Inc., Decker Holding Company, LLC, Decker Coal Company, LLC, and Montana Royalty Holdings, LLC.

30. Committee: means the statutory committee of unsecured creditors appointed in the Chapter 11 Cases pursuant to section 1102 of the Bankruptcy Code, if any.

31. Confirmation: means the entry, within the meaning of Bankruptcy Rules 5003 and 9021, of the Confirmation Order on the docket of the Chapter 11 Cases by the Court.

32. Confirmation Date: means the date upon which Confirmation occurs.

33. Confirmation Hearing: means the hearing held by the Court pursuant to Bankruptcy Rule 3020(b)(2) and Bankruptcy Code section 1128, including any adjournments thereof, at which the Court will consider confirmation of the Plan, the adequacy of information in the Disclosure Statement and other related matters.

34. Confirmation Order: means the order entered by the Court confirming the Plan pursuant to Bankruptcy Code section 1129, which order shall be substantially consistent in all respects with the terms and conditions of the Restructuring Support Agreement and otherwise in form and substance reasonably acceptable to the Debtors and the Consenting Stakeholders.

35. Consenting Stakeholders: means the Prepetition Secured Lenders and the Sureties.

36. Consummation: means the later of the occurrence of the Effective Date or the date of the initial funding by the Sureties of the Reclamation Sinking Fund.

37. Court: means (i) the United States Bankruptcy Court for the District of Delaware, (ii) if there is no reference pursuant to section 157 of title 28 of the United States Code, the United States District Court for the District of Delaware, and (iii) any other court having jurisdiction over the Chapter 11 Cases or proceedings arising therein.

38. Debtors: means, collectively, each of the Coal Side Debtors and the Other Debtor Subsidiaries.

39. Decker Mine: means the approximately 12,000 acres of surface estate located in the northwestern section of the Powder River Basin in Big Horn County, Montana, adjacent to the border of Wyoming, permitted and operated as a surface coal mine that is owned and operated by Coal Side Debtors Decker Coal Company, LLC and Montana Royalty Holdings, LLC.

40. Decker Reclamation Plan: means the Reclamation Plan for the Decker Mine and includes any remaining reclamation related to the former operations of Coal Side Debtor Big Horn Coal Company.

41. Definitive Documents: means, pursuant to the Restructuring Support Agreement: (i) the Restructuring Support Agreement; (ii) the Disclosure Statement and its exhibits, including procedures for Solicitation, and the motion seeking approval of the same; (iii) the Disclosure Statement Order and its exhibits, including the other Solicitation Materials; (iv) the Plan; (v) the Confirmation Order and pleadings in support of its entry; (vi) the Plan Supplement; (vii) the first-day pleadings that the Debtors file contemporaneously with the commencement of the Chapter 11 Cases and all orders sought pursuant thereto; (viii) the Cash Collateral Orders; (ix) the Reclamation Trust Agreement; (x) the Reclamation Sinking Fund Agreement; (xi) the New Organizational Documents; and (xii) the Reclamation Trust Entity Bonding Agreement.

42. Disclosure Statement: means the Disclosure Statement for the Joint Plan of Debtors under Chapter 11 of the Bankruptcy Code, dated December 11, 2020, filed contemporaneously herewith.

43. Disputed: means, with respect to any Claim or Equity Interest, other than a Claim or Equity Interest that has been Allowed pursuant to the Plan or a Final Order, a Claim or Equity Interest (i) that is listed in the Schedules (to the extent the Debtors file Schedules in the Chapter 11 Cases) as unliquidated, contingent, or disputed, and as to which no request for payment or proof of Claim or Equity Interest has been filed, (ii) as to which a proper request for payment or proof of Claim or Equity Interest has been filed, but with respect to which an objection or request for estimation has been filed and has not been withdrawn or determined by a Final Order, (iii) that is disputed in accordance with the provisions of the Plan, or (iv) that is otherwise subject to a dispute that is being adjudicated, determined, or resolved in accordance with applicable law, pursuant to Article VI.A of the Plan.

44. Disputed Claims Reserve: means one or more interest-bearing accounts, held and maintained by the Reclamation Trust Entity, containing Cash in an amount or amounts reasonably acceptable to the Debtors and the Consenting Stakeholders and approved by the Court, solely for the purpose of paying Priority Tax Claims, Non-Priority Tax Claims, and Other Secured

Claims that are Disputed or not yet Allowed as of the Effective Date and not paid prior to the Effective Date or as part of the distributions provided for under the Plan, but that are or become Allowed after the Effective Date, and the administration thereof.

45. Effective Date: means the date which is the first Business Day selected by the Debtors, upon consultation with the Consenting Stakeholders, on which (a) all of the conditions to the occurrence of the Effective Date specified in Article IX.A of the Plan have been satisfied or waived in accordance with Article IX.B of the Plan and (b) no stay of the Confirmation Order is in effect.

46. Entity: means an “entity” as such term is defined in Bankruptcy Code section 101(15).

47. Equity Interest: means any “equity security” (as such term is defined in Bankruptcy Code section 101(16)) in any of the Debtors, including any issued and outstanding or authorized but unissued share of common stock, preferred stock, membership interest in a limited liability company, or other instrument evidencing an ownership interest in one of the Debtors, whether or not transferable, and any option, warrant, or right, contractual or otherwise, to acquire any such interest in any of the Debtors (including any stock-based performance award, incentive stock option, restricted stock, restricted stock unit, stock appreciation right, dividend equivalent, or other stock based award) that existed immediately prior to the Effective Date, and any Claim against any of the Debtors subordinated pursuant to Bankruptcy Code section 510(b).

48. Estate: means the estate of any Debtor created in the applicable Debtor’s Chapter 11 Case pursuant to Bankruptcy Code section 541.

49. Exchange Act: means the Securities Exchange Act of 1934, as amended.

50. Exculpated Parties: means (i) each Debtor and (ii) the current and former officers, directors, professionals, advisors, accountants, attorneys, investment bankers, consultants, employees, agents, and other representatives of the Debtors.

51. Executory Contract: means a contract to which one or more Debtors is a party that is subject to assumption or rejection under Bankruptcy Code section 365, including, but not limited to, each Existing Benefits Agreement.

52. Existing Benefits Agreement: means each and collectively all employment, retirement, severance, indemnification, and similar or related agreements, arrangements, plans and policies with the members of the Debtors’ management team or directors as of the Petition Date, other than the Debtors’ 401(k) plan.

53. Fee Claim: means a Claim for Accrued Professional Compensation.

54. Final Order: means an order or judgment of the Court or any other court or adjudicative body of competent jurisdiction that has not been modified, amended, reversed, vacated, or stayed, and as to which (a) the time to appeal, petition for certiorari, or move for a new trial, stay, reargument, or rehearing has expired and as to which no appeal, petition for certiorari, or motion for new trial, stay, reargument, or rehearing shall then be pending or (b) if an appeal,

writ of certiorari, new trial, stay, reargument, or rehearing thereof has been sought, such order or judgment of the Court shall have been affirmed by the highest court to which such order was appealed, or certiorari shall have been denied, or a new trial, stay, reargument, or rehearing shall have been denied or resulted in no modification of such order, and the time to take any further appeal, petition for certiorari, or move for a new trial, stay, reargument, or rehearing shall have expired, as a result of which such order shall have become final in accordance with Bankruptcy Rule 8002; provided that the possibility that a motion under Rule 60 of the Federal Rules of Civil Procedure, Bankruptcy Rule 9024 or Bankruptcy Code Section 502(j), or any analogous rule under the Bankruptcy Rules, may be filed relating to such order, shall not cause an order not to be a Final Order.

55. General Unsecured Claim: means any Claim against any of the Debtors that is not Secured or entitled to priority under the Bankruptcy Code or an order of the Court, including any Rejection Damage Claim, other than (i) an Intercompany Claim or (ii) any Claim against any of the Debtors subordinated pursuant to Bankruptcy Code section 510(b).

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

57. Initial Wind Down Funding Amount: means Three Million Dollars (\$3,000,000) Cash transferred to the Reclamation Trust Entity by the Sureties from the Sureties' existing collateral held on behalf of the Debtors as provided in the Restructuring Support Agreement and the Reclamation Trust Entity Agreement.

58. Insured Claim: means any Claim or portion of a Claim that is, or may be, insured under any of the Debtors' insurance policies.

59. Intercompany Claim: means any Claim held by any Debtor against any other Debtor.

60. Intercompany Interests: means an Equity Interest in any Debtor, or a direct subsidiary of any Debtor, other than an Equity Interest in Lighthouse.

61. Impaired: means, when used with respect to Claims or Equity Interests, Claims or Equity Interests that are "impaired" within the meaning of Bankruptcy Code section 1124.

62. Lien or lien: means, with respect to any asset or property (or the rents, revenues, income, profits or proceeds therefrom), and in each case, whether the same is consensual or nonconsensual or arises by contract, operation of law, legal process or otherwise: (a) any and all mortgages or hypothecation to secure payment of a debt or performance of an obligation, liens, pledges, attachments, charges, leases evidencing a capitalizable lease obligation, conditional sale or other title retention agreement, or other security interest or encumbrance or other legally cognizable security devices of any kind in respect of any asset or property, or upon the rents, revenues, income, profits or proceeds therefrom; or (b) any arrangement, express or implied, under which any property is transferred, sequestered or otherwise identified for the purpose of subjecting or making available the same for the payment of debt or performance of any other obligation in

priority to the payment of holders of General Unsecured Claims; provided, however, that a lien that has or may be avoided pursuant to any Causes of Action shall not constitute a lien hereunder.

63. Lighthouse: means Coal Side Debtor Lighthouse Resources Inc.

64. Lighthouse Equity Interests: means the Equity Interests in Lighthouse.

65. New Organizational Documents: means each of the operating agreements or other constitutional documents contemplated by the Plan and the Reclamation Trust Entity Agreement for the Reorganized Coal Side Debtors.

66. Non-Debtor Subsidiaries: means Lighthouse Products, LLC.

67. Non-Debtor Subsidiary Interest: means any Equity Interest in any of the Non-Debtor Subsidiaries, including any issued and outstanding or authorized but unissued share of common stock, preferred stock, or other instrument evidencing an ownership interest in one of the Non-Debtor Subsidiaries, whether or not transferable, and any option, warrant, or right, contractual or otherwise, to acquire any such interest in any of the Non-Debtor Subsidiaries that existed immediately prior to the Effective Date.

68. Other Debtor Subsidiaries: LHR Infrastructure, LLC, Millennium Bulk Terminals-Longview, LLC (“MBTL”), Barlow Point Land Company, LLC (“Barlow Point”), Columbia Land Company, LLC (“Columbia Land”), Gulf States Bulk Terminal, LLC.

69. Other Secured Claim: means any Claim that is Secured, other than a Senior Secured Claim.

70. Person: means any individual, corporation, partnership, limited liability company, association, indenture trustee, organization, joint stock company, joint venture, estate, trust, Governmental Unit or any political subdivision thereof, or any other Entity.

71. Petition Date: means the date on which the Debtors commenced the Chapter 11 Cases.

72. Plan: means this chapter 11 plan, together with all addenda, exhibits, schedules, or other attachments, if any, including the Plan Supplement, each of which is incorporated herein by reference, and as the same may be amended, modified, or supplemented from time to time in accordance with the terms hereof.

73. Plan-Related Action: means any act taken or omitted to be taken in connection with, or arising from or relating in any way to, the Chapter 11 Cases or the wind down of the Debtors’ businesses and operations, including but not limited to, (a) negotiation, formulation and preparation of the Restructuring Support Agreement; (b) the management and operation of the Debtors’ businesses and the discharge of their duties under the Bankruptcy Code during the pendency of the Chapter 11 Cases; (c) implementation of any of the transactions provided for, or contemplated in, the Plan or the Plan Supplement; (d) any action taken in the negotiation, formulation, development, proposal, solicitation, disclosure, Confirmation, or implementation of the Plan or Plan Supplement; (e) formulating, negotiating, preparing, disseminating,

implementing, administering, confirming and/or effecting the Restructuring Support Agreement, the Disclosure Statement, the Plan, the Plan Supplement, the issuance of Reclamation Trust Entity Interests in connection with the Plan, and any related contract, instrument, release or other agreement or document created or entered into in connection therewith (including the solicitation of votes for the Plan and other actions taken in furtherance of Confirmation and Consummation of the Plan); (f) the administration of the Plan or the assets and property to be distributed pursuant to the Plan; (g) any other prepetition or postpetition act taken or omitted to be taken in connection with or in contemplation of the bankruptcy of the Debtors; and (h) the preparation and filing of the Chapter 11 Cases.

74. Plan Scheduling Motion: means the motion filed by the Debtors, substantially contemporaneously with the filing of the Chapter 11 Cases, seeking entry of an order (a) scheduling the Confirmation Hearing, (b) approving the form and notice of the Confirmation Hearing, (c) establishing procedures for objections to the Solicitation Procedures, the Disclosure Statement and the Plan, (d) approving Solicitation Procedures, and (e) granting related relief.

75. Plan Scheduling Order: means the order granting the Plan Scheduling Motion entered by the Court.

76. Plan Supplement: means the compilation of documents and forms of documents, schedules, and exhibits to the Plan to be filed with the Court on notice to parties in-interest, including, but not limited to, the following, each of which must be substantially consistent in all respects with the terms and conditions of the Restructuring Support Agreement and otherwise in form and substance reasonably acceptable to the Debtors and to the Consenting Stakeholders: (i) the Reclamation Trust Entity Agreement; (ii) the identity and affiliations of the members of the Reclamation Trust Entity Board; (iii) the identity of the Reclamation Trust Entity Representative and the terms of the Reclamation Trust Entity Representative's compensation; (iv) the Reclamation Sinking Fund Agreement; (v) the Schedule of Assumed Executory Contracts and Unexpired Leases; (vi) the New Organizational Documents; and (vii) the Reclamation Trust Entity Bonding Agreements. The Debtors shall file forms of the materials comprising the Plan Supplement no later than the Plan Supplement Filing Date.

77. Plan Supplement Filing Date: means the date that is five (5) days prior to the deadline to object to the confirmation of the Plan.

78. Priority Non-Tax Claims: means any Claim other than an Administrative Claim or a Priority Tax Claim that is entitled to priority in payment as specified in Bankruptcy Code section 507(a).

79. Priority Tax Claim: means any Secured or unsecured Claim of the kind entitled to priority in payment as specified in Bankruptcy Code sections 502(i) and 507(a)(8).

80. Professional: means any professional employed or retained in the Chapter 11 Cases pursuant to Bankruptcy Code sections 327, 328, 363, or 1103.

81. Pro Rata: means, means proportionally so that with respect to any Allowed Claim, the ratio of: (i) (A) the amount of property distributed on account of such Allowed Claim to (B) the amount of such Allowed Claim, is the same as the ratio of (ii) (A) the amount of property distributed on account of all Allowed Claims of the same priority or Class in which such Allowed Claim is included to (B) the amount of all Allowed Claims of that priority or in that class.

82. RCF \$55MM Loan Agreement: means that Third Amended and Restated Loan Agreement dated December 22, 2014 between Lighthouse (f/k/a Ambre Energy North America, Inc.) as borrower and RCF V (as amended, modified, supplemented or restated from time to time), pursuant to which RCF V made loans to Lighthouse in the principal amount of Fifty-Five Million Dollars (\$55,000,000) (“\$55MM Loan”).

83. RCF \$80MM Loan Agreement: means the Loan Agreement dated December 22, 2014 between Lighthouse (f/k/a Ambre Energy North America, Inc.) as borrower and RCF VI (as amended, modified, supplemented or restated from time to time), pursuant to which RCF VI agreed to make loans to Lighthouse up to the principal amount of Eighty Million Dollars (\$80,000,000) (“\$80MM Loan”).

84. RCF \$60MM Reimbursement Agreement: means the Amended and Restated Reimbursement Agreement dated December 22, 2014, between Lighthouse (f/k/a Ambre Energy North America, Inc.) as borrower and RCF VI (as amended, modified, supplemented or restated from time to time), pursuant to which RCF VI agreed to make available letters of credit up to the aggregate amount of Sixty Million Dollars (\$60,000,000) (“\$60MM Facility”). The debt under the \$60MM Facility is secured by the security documents related to the \$137.5MM Loan. The aggregate amount of letters of credit supported by RCF VI pursuant to the \$60MM Reimbursement Agreement is \$22,000,000. On or around September 24, 2020, Atlantic Specialty Insurance Company drew on its letter of credit in the amount of \$13,125,000, the amount of which became a “Reimbursement Loan” as that term is defined in the \$60MM Reimbursement Agreement.

85. RCF \$137.5MM Loan Agreement: means the Agreement dated May 24, 2016, which was amended and restated on June 28, 2019, between Lighthouse (as borrower) and RCF VI and RCF Annex (as amended, modified, supplemented, extended or restated from time to time) (the loans pursuant to the RCF \$137.5 Loan Agreement, the “\$137.5MM Loan”), whereby RCF VI and RCF Annex loaned to Lighthouse an aggregate of One Hundred Million Dollars (\$100,000,000) (the “\$100MM Loan”), and RCF VI, through the June 28, 2019 amendment and restatement of the Loan Agreement and several amendments thereto, agreed to lend Lighthouse up to the principal amount of Thirty Seven Million Five Hundred Thousand Dollars (\$37,500,000) (the “\$37.5MM Loan”).

86. Reclamation: means reclamation, remediation, revegetation, recontouring, abatement, control or prevention of adverse effects of mining activities, including all reclamation required pursuant to any applicable law, including SMCRA, licenses, leases or permits.

87. Reclamation Budget: means the budget, which shall not be in excess of the Reclamation Sinking Fund Cap, for the completion of the Decker Reclamation Plan.

88. Reclamation Claimants: means any government or governmental or regulatory body thereof, or political subdivision thereof, or any agency, authority, department, commission, board, bureau, official or instrumentality of such body, or any self-regulated organization or other non-governmental regulatory authority or quasi-governmental authority (to the extent that the rules, regulations or orders of such organization or authority have the force of law), whether foreign, federal, state, or local, or any agency, instrumentality or authority thereof, that regulate or are otherwise involved in the regulation, administration, or any other governance of Reclamation.

89. Reclamation Claims: means all Claims of Reclamation Claimants arising out of or related to any legal obligation or duty of any of the Coal Side Debtors to perform or complete Reclamation with respect to any property owned, leased, used or impacted by any of them in the course of their operations, other than Reclamation Taxes. Exhibit [\_\_\_\_] to the Disclosure Statement sets forth all bonds, letters of credit, guarantees or collateral that have been posted, pledged or deposited by or on behalf of the Debtors in connection with the Reclamation Claims. The failure to schedule any such bonds, letters of credit, guarantees or collateral shall not be deemed to be a release or waiver of any rights thereunder.

90. Reclamation Plans: means the plans for the satisfaction of the Debtors' obligations under SMCRA or similar state law for the Reclamation, and approved by the applicable Reclamation Claimants, with respect to any property owned, leased, used or impacted by (i) Coal Side Debtors Decker Holding Company, LLC, Decker Coal Company, LLC, and Montana Royalty Holdings, LLC in the course of their operations of the Decker Mine, or otherwise; (ii) Coal Side Debtor Big Horn Coal Company; and (iii) Black Butte.

91. Reclamation Sinking Fund Agreement: means the agreement required by the terms of the Restructuring Support Agreement governing the holding and management of the Reclamation Sinking Fund.

92. Reclamation Sinking Fund: means Cash in an amount not to exceed the Reclamation Sinking Fund Cap that may be used by the Reclamation Trust Representative to pay for the costs of performing and completing the Decker Reclamation Plan, reclamation expenditures associated with KCP, Inc.'s ownership interest in Black Butte, payment of obligations under applicable indemnity agreements, and payment of annual fees to the Sureties, which fund will be comprised of (i) up to an amount of \$59,265,000 (plus any interest earnings thereon) in collateral held by the Sureties, contributed after approval of the Reclamation Plans as provided in the Reclamation Trust Entity Agreement, and upon contribution of which, the applicable Surety shall be released by the Reclamation Claimant for the penal amount of same; (ii) contributions of a percentage of distributions to KCP, Inc. from Black Butte as provided in the Reclamation Trust Entity Agreement; and (iii) contributions of a percentage of Cash received from the sale of any of the Coal Side Debtors' Assets as provided in the Reclamation Trust Entity Agreement.

93. Reclamation Sinking Fund Cap: means an amount of Cash sufficient to (i) complete the asset retirement obligations under the Decker Reclamation Plan and (ii) complete the portion of the asset retirement obligations under the Black Butte Reclamation Plan attributable to KCP, Inc.'s 50% ownership interest in Black Butte, accounting for any existing collateral, cash held at Decker and Black Butte, and any contributions required and due from the other joint venture



interest owners of Black Butte, less the Cash on hand held by the Reclamation Trust Entity as provided in the Reclamation Trust Entity Agreement.

94. Reclamation Taxes: means any taxes imposed upon the Debtors or the Reclamation Trust Entity as a result of the application of section 468(a)(4) or (5) of the Internal Revenue Code or the regulations thereunder, or any successor provisions or similar provisions of any state or local tax laws.

95. Reclamation Trust Assets: means the Initial Wind Down Funding Amount, the Lighthouse Interests, and any other assets of Lighthouse existing as of the Effective Date exclusive of the Other Debtor Subsidiaries, all of which assets shall be transferred to the Reclamation Trust Entity on the Effective Date of the Plan.

96. Reclamation Trust Entity: means the trust or other legal Entity (as determined by the Debtors and the Consenting Stakeholders in their reasonable discretion in accordance with the terms of the Restructuring Support Agreement) established on the Effective Date to, among other things: (i) take transfer of the Reclamation Trust Assets and issue the Reclamation Trust Entity Interests in accordance with the Plan; (ii) own, monetize, and wind down the remainder of the Coal Side Debtors' businesses and operations in a controlled, efficient and value-maximizing manner; (iii) make distributions in accordance with the Plan; (iv) oversee and administer (a) the termination of the Debtors' qualified 401(k) retirement plans and any related trusts and the distribution of such plans' assets to participants and for fulfilling statutory and regulatory requirements related to such plans and (b) any statutory and regulatory requirements related to any terminated Debtor employee benefit plans; and (v) perform such other services as are contemplated by the Plan and the Reclamation Trust Entity Agreement.

97. Reclamation Trust Entity Agreement: means the organizational or governance documents setting forth the terms and conditions governing the Reclamation Trust Entity, including distributions to the Reclamation Trust Entity Interests, which shall be substantially consistent in all respects with the terms and conditions of the Restructuring Support Agreement and the Plan and otherwise reasonably acceptable to the Debtors and the Consenting Stakeholders.

98. Reclamation Trust Entity Board: means the governing body of the Reclamation Trust Entity, as initially comprised as set forth in the Plan Supplement and as comprised thereafter in accordance with the terms of the Reclamation Trust Entity Agreement. The initial members of the Reclamation Trust Entity Board shall be identified in the Plan Supplement and designated in accordance with the terms of the Restructuring Support Agreement and the Plan.

99. Reclamation Trust Entity Bonding Agreement: means (a) the assumption and assignment and reinstatement of the existing indemnity agreements between the Debtors, the Sureties and other third parties related to the various bonds for the benefit of the State of Montana and the State of Wyoming to secure reclamation of the Decker Mine and the Black Butte Mine, and (b) an indemnity agreement and other agreements pursuant to which the Reclamation Trust Entity, Reorganized Coal Side Debtors each agree, on a joint and several basis, to indemnify the Sureties under the said bonds, which, among other things, will provide that such agreements will

not impact, modify or otherwise alter the Sureties' rights under the existing indemnity agreements, which rights shall be preserved, unimpaired, and unmodified; provided, however, the Sureties agree that they will not pursue any such rights under the indemnity agreements against Black Butte unless and until there is a material anticipatory default or a default under the Plan or other Definitive Documents, and any statutes of limitations with respect to such rights shall be tolled.

100. Reclamation Trust Entity Budget: means the budget, which shall not be in excess of \$\_\_\_\_\_ million and includes the Reclamation Budget, for (i) the completion of the Decker Reclamation Plan, (ii) the wind down of the Coal Side Debtors' businesses and operations, and (iii) accomplishing all other objectives of the Reclamation Trust Entity.

101. Reclamation Trust Entity Interests: means collectively the Class A Reclamation Trust Entity Interests and the Class B Reclamation Trust Entity Interests.

102. Reclamation Trust Entity Representative: means the Person or firm, which may be a trustee, to be appointed by Consenting Stakeholders in their sole discretion to manage the day-to-day operations of Reclamation Trust Entity pursuant to the Plan and the Reclamation Trust Entity Agreement. The Reclamation Trust Entity Representative may be an employee of Lighthouse or any of the other Coal Side Debtors, a member of the Reclamation Trust Entity Board, or either of them.

103. Record Date: means, for purposes of making distributions under the Plan on the Effective Date, (i) the Confirmation Date, for holders of Claims or (ii) the Effective Date, for holders of Equity Interests.

104. Reinstated: means, with respect to a Claim, (a) in accordance with Bankruptcy Code section 1124(1), being treated such that the legal, equitable, and contractual rights to which such Claim entitles its holder are left unaltered, or (b) if applicable under Bankruptcy Code section 1124: (i) having all prepetition and postpetition defaults with respect thereto other than defaults relating to the insolvency or financial condition of the Debtors or their status as debtors under the Bankruptcy Code cured, (ii) having its maturity date reinstated, (iii) compensating the holder of such Claim for damages incurred as a result of its reasonable reliance on a provision allowing the Claim's acceleration, and (iv) not otherwise altering the legal, equitable and contractual rights to which the Claim entitles the holder thereof.

105. Rejection Damage Claims: means Claims for damages arising from the rejection of Executory Contracts or Unexpired Leases.

106. Released Parties: means each of: (a) the Debtors, (b) the Reclamation Trust Entity; (c) each of the Sureties; (d) each of the Senior Secured Lenders in their capacities as lender to and shareholder of Lighthouse; (e) with respect to each of the foregoing Entities in clauses (a) through (d), such Entity's predecessors, successors and assigns, current and former affiliates, subsidiaries, funds, portfolio companies, and management companies; and (f) with respect to each of the foregoing Persons in clauses (a) through (e), each of their respective current and former officers, directors, professionals, advisors, accountants, attorneys, investment bankers, consultants, employees, agents and other representatives (each solely in their capacity as such).

107. Releasing Parties: means each of: (a) the Debtors, (b) the Reclamation Trust Entity; (c) each of the Sureties; (d) each of the Senior Secured Lenders; (e) all holders of Claims and Interests; (f) with respect to each of the foregoing Entities in clauses (a) through (e), such Entity's predecessors, successors and assigns, current and former affiliates, subsidiaries, funds, portfolio companies, and management companies; and (g) with respect to each of the foregoing Persons in clauses (a) through (f), each of their respective current and former officers, directors, professionals, advisors, accountants, attorneys, investment bankers, consultants, employees, agents and other representatives (each solely in their capacity as such).

108. Reorganized Coal Side Debtors: means each of the Coal Side Debtors (except for Decker Holding Company, LLC) following cancellation of their existing Equity Interests in same pursuant to the Plan and after issuance of new Equity Interests in same pursuant to the Plan and execution of the New Organizational Documents. The use of the term "Reorganized" before the name of any of the individual Coal Side Debtors shall mean such entity is a Reorganized Coal Side Debtor, that is, Reorganized Lighthouse, Reorganized LHR Coal, LLC, Reorganized KCP, Inc., Reorganized Big Horn Coal Company, Reorganized Rosebud Coal Sales Company, Reorganized KCP Properties, Inc., Reorganized Decker Coal Company, LLC, and Reorganized Montana Royalty Holdings, LLC. The assets of each Coal Side Debtor shall remain in or otherwise automatically vest in the applicable Reorganized Coal Side Debtor.

109. Reserves: means, collectively, the Accrued Professional Compensation Account, the Allowed Claims Reserve, and the Disputed Claims Reserve.

110. Restructuring Support Agreement: means the agreement, including all exhibits and supplements annexed thereto (as it may be amended, supplemented or otherwise modified from time to time) among the Debtors, the Senior Secured Lenders, and the Sureties, a copy of which is attached as Exhibit [\_\_\_] to the Disclosure Statement.

111. Schedule of Assumed Executory Contracts and Unexpired Leases: means the schedule of Executory Contracts and/or Unexpired Leases to be assumed by the Debtors pursuant to the Plan in the form filed as part of the Plan Supplement (as the same may be amended, modified, or supplemented from time to time), which shall be in form and substance reasonably acceptable to the Debtors and the Consenting Stakeholders.

112. Schedules: means, to the extent the Court has not waived the requirement to file the Schedules, the schedules of assets and liabilities, statements of financial affairs, filed with the Court by the Debtors, including any amendments or supplements thereto.

113. Secured: means when referring to a Claim: (a) secured by a Lien on property in which any of the Estates has an interest, which Lien is valid, perfected, and enforceable pursuant to applicable law or by reason of a Court order, or that is subject to setoff pursuant to Bankruptcy Code section 553, to the extent of the value of the Claim holder's interest in such Estate's interest in such property or to the extent of the amount subject to setoff, as applicable, as determined pursuant to Bankruptcy Code section 506(a) or (b) otherwise Allowed pursuant to the Plan as a Claim that is Secured.

114. Securities Act: means the Securities Act of 1933, as amended.

115. Senior Secured Claims: means any and all Claims of the Senior Secured Lenders against any of the Debtors arising under or relating to the Senior Secured Loan Agreements that the Senior Secured Lenders allege are secured by or encumber assets of the Debtors or any of them, which Claim amount is Allowed in the amount of the lesser of (i) \$256,023,552.89 as of December 1, 2020 or (ii) the sum of (x) the reasonable value of the Class A Reclamation Trust Entity Interests, (y) proceeds from the sale of the Senior Secured Lenders' Collateral held by the Other Debtor Subsidiaries, and (z) value of any replacement lien granted under the Cash Collateral Order.

116. Senior Secured Lenders: means collectively Resource Capital Fund V, L.P. ("RCF V"), Resource Capital Fund VI, L.P. ("RCF VI"), and RCF V Annex Fund, L.P. ("RCF V Annex") in their capacity or capacities as lender, collateral agent, or administrative agent.

117. Senior Secured Lenders Unsecured Deficiency Claims: means any and all Claims of RCF against any of the Debtors arising under or relating to the RCF Loan Agreements in excess of the amount of the Senior Secured Claims.

118. Senior Secured Loan Agreements: collectively means the RCF \$137.5MM Loan Agreement, the RCF \$55MM Loan Agreement, the RCF \$80MM Loan Agreement, and the RCF \$60MM Reimbursement Agreement.

119. SMCRA: means the Surface Mining Control and Reclamation Act of 1977.

120. Solicitation: means the solicitation of votes to accept or reject the Plan pursuant to the Bankruptcy Code.

121. Solicitation Materials: means all solicitation materials in respect of the Plan, including the Disclosure Statement and related ballots.

122. Solicitation Procedures: means the procedures with respect to the solicitation and tabulation of votes to accept or reject the Plan as described in the Plan Scheduling Motion, which shall be substantially consistent in all respects with the terms and conditions of the Restructuring Support Agreement and otherwise in form and substance reasonably acceptable to the Debtors and the Consenting Stakeholders.

123. Sureties: collectively means the following entities who satisfied the Debtors' obligations under SMCRA or similar state law to provide collateral for the future performance of reclamation or performance of remediation with respect to any property owned, leased, used or impacted by any of them in the course of their operations: Zurich American Insurance Company ("Zurich"), Atlantic Specialty Insurance Company ("Atlantic"), and Westchester Fire Insurance Company ("Westchester"). Exhibit [\_\_\_] to the Disclosure Statement sets forth all Sureties and any bonds, letters of credit, guarantees or collateral that have been posted, pledged or deposited by any Surety in connection with the Reclamation Claims. The failure to schedule any such bonds, letters of credit, guarantees or collateral shall not be deemed to be a release or waiver of any rights thereunder.

124. Surety Claims: means any Claim against the Debtors or the Non-Debtor Entities held or assertible by the Sureties or any of them.

125. Tax Authority: means a federal, state, local or foreign government or agency, instrumentality or employee thereof, or a court or other body charged with the administration of any law relating to Taxes.

126. Tax Code: means the Internal Revenue Code of 1986, as amended.

127. Taxes: means all (i) federal, state, local or foreign taxes, including, without limitation, all net income, alternative minimum, net worth or gross receipts, capital, value-added, franchise, profits and estimated taxes and (ii) interest, penalties, fines, additions to tax or additional amounts imposed by any Tax Authority or paid in connection with any item described in clause (i) hereof.

128. Unexpired Lease: means a lease to which one or more of the Debtors is a party that is subject to assumption or rejection under Bankruptcy Code section 365.

129. Unimpaired: means any Class of Claims or Equity Interests that is not Impaired under the Plan within the meaning of Bankruptcy Code section 1124.

130. U.S. Trustee: means the United States Trustee for the District of Delaware.

131. Voting Deadline: means, \_\_\_\_\_ for \_\_\_\_\_ submitting Ballots to either accept or reject the Plan in accordance with Bankruptcy Code section 1126 under the Solicitation Procedures.

132. Voting Record Date: means \_\_\_\_\_, 2021.

**B. Interpretation, Application of Definitions, and Rules of Construction.**

Except as expressly provided herein, each capitalized term used in the Plan shall either have (i) the meaning ascribed to such term in Article I of the Plan or (b) if such term is not defined in Article I of the Plan, but such term is defined in the Bankruptcy Code or Bankruptcy Rules, the meaning ascribed to such term in the Bankruptcy Code or the Bankruptcy Rules, as the case may be. Meanings of capitalized terms shall be equally applicable to both the singular and plural forms of such terms. The words “herein,” “hereof,” and “hereunder” and other words of similar import refer to the Plan as a whole (and, for the avoidance of doubt, the Plan Supplement) and not to any particular section or subsection in the Plan unless expressly provided otherwise. The words “includes” and “including” are not limiting and mean that the things specifically identified are set forth for purposes of illustration, clarity or specificity and do not in any respect qualify, characterize or limit the generality of the class within which such things are included. Captions and headings to articles, sections and exhibits are inserted for convenience of reference only, are not a part of the Plan, and shall not be used to interpret the Plan. The rules of construction set forth in Bankruptcy Code section 102 shall apply to the Plan.

**C. Computation of Time.**

Except as otherwise specifically provided in the Plan, in computing any period of time prescribed or allowed by the Plan, the provisions of Bankruptcy Rule 9006(a) shall apply.

**ARTICLE II.**  
**ADMINISTRATIVE CLAIMS, FEE CLAIMS, AND PRIORITY CLAIMS**

In accordance with Bankruptcy Code section 1123(a)(1), Administrative Claims, Fee Claims, and Priority Tax Claims, each as described below, have not been classified and thus are excluded from the classes of Claims and Equity Interests set forth in Article III of the Plan.

**A. Administrative Claims (Other Than Fee Claims).**

1. Time for Filing Administrative Claims.

The holder of an Administrative Claim, other than (i) a Fee Claim, (ii) a liability incurred and payable in the ordinary course of business by a Debtor (and not past due), or (iii) an Administrative Claim that has been Allowed on or before the Effective Date, must file with the Court and serve on the Reclamation Trust Entity Representative and its counsel notice of such Administrative Claim within thirty (30) days after service of notice of the Effective Date. Such notice must include at a minimum (i) the name of the Debtor(s) purported to be liable for the Administrative Claim, (ii) the name of the holder of the Administrative Claim, (iii) the amount of the Administrative Claim, and (iv) the basis for the Administrative Claim. Failure to file and serve such notice timely and properly shall result in the Administrative Claim being forever barred.

2. Payment of Allowed Administrative Claims.

In full and final satisfaction, settlement, release, and discharge and in exchange for, its Allowed Administrative Claim, on or as soon as reasonably practicable after the later of the Effective Date, if such Administrative Claim is then an Allowed Claim, or if not Allowed on the Effective Date, a date that is as soon as reasonably practicable after the date such Administrative Claim becomes an Allowed Administrative Claim, each holder of an Allowed Administrative Claim (other than an Administrative Claim that is a Fee Claim) shall (i) receive Cash in an amount equal to the amount of such Allowed Administrative Claim, (ii) be paid in the ordinary course of business, or (iii) receive such other less favorable terms as may otherwise be agreed to by the holder of such Administrative Claim and the Debtors, in consultation with the Consenting Stakeholders, or the Reclamation Trust Entity Representative. To the extent that Administrative Claims are or become Allowed after the Effective Date, such Allowed Administrative Claims shall be paid (i) from the Allowed Claims Reserve, or (ii) if the Allowed Claims Reserve is insufficient to pay all Allowed Administrative Claims in full, by the Reclamation Trust Entity.

**B. Fee Claims.**

1. Final Fee Applications.

The Court shall determine the Allowed amounts of Fee Claims after notice and a hearing in accordance with the procedures established by the Bankruptcy Code. The Reclamation Trust Entity shall pay Fee Claims in Cash in the amount Allowed by the Court. All requests for compensation or reimbursement of Fee Claims shall be filed and served on the Debtors, counsel to the Debtors, the Reclamation Trust Entity, counsel to the Reclamation Trust Entity, the U.S. Trustee, and such other entities who are designated by the Bankruptcy Rules, the Confirmation

Order, or other order of the Court, no later than forty-five (45) days after the Effective Date. Holders of Fee Claims that are required to file and serve applications for final allowance of their Fee Claims that do not file and serve such applications by the required deadline shall be forever barred from asserting such Claims against the Debtors, the Reclamation Trust Entity, or their respective properties, and such Fee Claims shall be deemed discharged as of the Effective Date. Objections to any Fee Claims must be filed and served on the Debtors, counsel to the Debtors, the Reclamation Trust Entity, counsel to the Reclamation Trust Entity, counsel to the Ad Hoc Group, and the requesting party no later than thirty (30) days after the filing of the final applications for compensation or reimbursement (unless otherwise agreed by the party requesting compensation of a Fee Claim).

On the Effective Date, the Debtors and/or the Reclamation Trust Entity shall establish the Accrued Professional Compensation Account and shall deposit therein an amount equal to all Accrued Professional Compensation. The Accrued Professional Compensation Account shall be maintained in trust for the Professionals. Each Allowed Fee Claim shall be paid in full in Cash from funds held in the Accrued Professional Compensation Account as soon as practicable after the date on which an applicable Fee Claim becomes an Allowed Fee Claim. When all Allowed Fee Claims have been paid in full, amounts remaining in the Accrued Professional Compensation Account, if any, shall be returned to the Reclamation Trust Entity and shall be used to fund the activities of the Reclamation Trust Entity and to make distributions as provided in the Reclamation Trust Agreement and this Plan.

2. Post-Effective Date Fees and Expenses.

Subject to the terms of the Reclamation Trust Entity Agreement, the Reclamation Trust Entity shall pay in Cash the reasonable and documented legal, professional, or other fees and expenses incurred by the Debtors' and the Reclamation Trust Entity's professionals on and after the Effective Date, in the ordinary course of business, and without any further notice to or action, order, or approval of the Court. Upon the Effective Date, any requirement that professionals comply with Bankruptcy Code sections 327 through 331 in seeking retention or compensation for services rendered after such date shall terminate, and professionals may be employed and paid in the ordinary course of business by the Reclamation Trust Entity without any further notice to, or action, order, or approval of, the Court.

**C. Senior Secured Lenders' Superiority Claims.**

The Senior Secured Lenders' Superiority Claims granted pursuant to the terms of the Cash Collateral Orders shall, at the election of the Senior Secured Lender, be (i) waived and discharged in consideration for the releases and settlements embodied in the Plan or (ii) in full and final satisfaction, settlement, release, and discharge and in exchange for the Senior Secured Lenders' Superiority Claims, the Senior Secured Lenders shall receive the Class A Reclamation Trust Entity Interests and payments in an amount equal to and authorized and provided for in the Reclamation Trust Entity Agreement and the Reclamation Trust Entity Budget.

**D. Priority Tax Claims.**

Each holder of an Allowed Priority Tax Claim due and payable on or before the Effective Date shall receive, as determined by the applicable Debtor, in full and final satisfaction, settlement, release, and discharge and in exchange for, such Priority Tax Claim either (i) payment or other treatment as may be agreed upon by such holder and the Debtors, with the consent of the Consenting Stakeholders, which consent shall not be unreasonably withheld, or the Reclamation Trust Entity or as otherwise determined upon a Final Order of the Court or (ii) except to the extent that an Allowed Priority Tax Claim has been paid prior to the Effective Date and pursuant to section 1129(a)(9)(C), payment in full, in Cash, through quarterly installment payments made by the Reclamation Trust Entity Representative beginning on June 30, 2021 and ending on the earlier of payment in full of the Allowed Priority Tax Claim or five years after the date of the order for relief under section 301, 302, or 303 of the Bankruptcy Code.

**E. U.S. Trustee Fees.**

Notwithstanding anything to the contrary contained herein, on the Effective Date, the Debtors shall pay, in full, in Cash, any fees due and owing to the U.S. Trustee at the time of Confirmation. On and after the Effective Date, the Reclamation Trust Entity shall be responsible for filing required post-confirmation reports and paying quarterly fees due following the effective date of the Plan, regardless of what period those quarterly fees relate to, to the U.S. Trustee for the Reclamation Trust Entity until the entry of a final decree in the Chapter 11 Cases. U.S. Trustee fees shall be calculated and paid based solely upon distributions by the Debtors, not distributions by the Reclamation Trust Entity or the funds in the Reclamation Sinking Fund.

**ARTICLE III.****CLASSIFICATION AND TREATMENT OF CLAIMS AND EQUITY INTERESTS****A. Classification of Claims and Equity Interests.**

Except for those Claims addressed in Article II of the Plan, all Claims and Equity Interests are placed in the Classes set forth below. A Claim or Equity Interest is placed in a particular Class solely to the extent that the Claim or Equity Interest falls within the description of that Class, and the portion of a Claim or Equity Interest which does not fall within such description shall be classified in another Class or Classes to the extent that such portion falls within the description of such other Class or Classes. A Claim is also placed in a particular Class for the purpose of receiving distributions pursuant to the Plan solely to the extent that such Claim is an Allowed Claim in that Class and such Claim has not been paid, released, or otherwise settled before the Effective Date.

Pursuant to Article IV.F of the Plan, the Plan provides for the substantive consolidation of the Debtors' Estates into a single Estate for Plan purposes only and matters associated with Confirmation and Consummation of the Plan. As a result of the substantive consolidation of the Debtors' Estates for these limited purposes, each Class of Claims against and Equity Interests in the Debtors will be treated as against a single consolidated Estate for Plan purposes without regard to the corporate separateness of the Debtors.



**B. Record Date.**

As of the close of business on the Record Date, the claims register shall be closed, and there shall be no further changes in the record holders of any Claims. The Debtors and the Reclamation Trust Entity shall have no obligation to recognize any transfer of any Claims occurring after the Record Date. The Reclamation Trust Entity shall be entitled to recognize and deal for purposes under the Plan with only those record holders stated on the claims register as of the close of business on the Record Date.

**C. Summary of Classification and Class Identification.**

Below is a chart identifying Classes of Claims and Equity Interests, a description of whether each Class is Impaired, and each Class's voting rights with respect to the Plan.

<u>Class</u>	<u>Claim or Equity Interest</u>	<u>Status</u>	<u>Voting Rights</u>
1	Priority Non-Tax Claims	Unimpaired	Deemed to Accept
2	Other Secured Claims	Unimpaired	Deemed to Accept
3	Senior Secured Claims	Impaired	Entitled to Vote
4	Surety Claims	Impaired	Entitled to Vote
5	Reclamation Claims	Unimpaired	Deemed to Accept
6	General Unsecured Claims	Impaired	Entitled to Vote
7	Intercompany Interests	Impaired	Deemed to Reject
8	Lighthouse Equity Interests	Impaired	Deemed to Reject

The Debtors will request that the Court confirm the Plan pursuant to Bankruptcy Code section 1129(b) with respect to any rejecting Class of Equity Interests.

**D. Treatment of Classified Claims and Equity Interests.**1. Class 1 - Priority Non-Tax Claims.

(a) Classification: Class 1 consists of Priority Non-Tax Claims.

(b) Treatment: Each holder of an Allowed Priority Non-Tax Claim due and payable on or before the Effective Date shall receive, as determined by the applicable Debtor, in full and final satisfaction, settlement, release, and discharge, and in exchange for, such Priority Tax Claim payment or other treatment as may be agreed upon by such holder and the Debtors, with the consent of the Consenting Stakeholders, which consent shall not be unreasonably withheld, or the Reclamation Trust Entity or as otherwise determined upon a Final Order of the Court.

(c) Voting: Class 1 is Unimpaired by the Plan, and each holder of a Class 1 Priority Non-Tax Claim is conclusively presumed to have accepted the Plan pursuant to Bankruptcy Code section 1126(f). Therefore, holders of Class 1 Priority Non-Tax Claims are not entitled to vote to accept or reject the Plan.

2. Class 2 - Other Secured Claims.

(a) Classification: Class 2 consists of Other Secured Claims.

(b) Treatment: Except to the extent that a holder of an Allowed Other Secured Claim and the Debtors, with the consent of the Consenting Stakeholders, which shall not be unreasonably withheld, or the Reclamation Trust Entity agree in writing to less favorable treatment, in full and final satisfaction, settlement, release, and discharge and in exchange for such Other Secured Claim, on or as soon as practicable after the Effective Date, all Other Secured Claims Allowed as of the Effective Date, if not previously paid, shall, at the option of the Debtors and with the consent of the Consenting Stakeholders (which consent shall not be unreasonably withheld) be satisfied by either (i) payment in full in Cash, (ii) reinstatement pursuant to Bankruptcy Code section 1124, (iii) return of the applicable collateral in full satisfaction of the Allowed Other Secured Claim; provided, however, that the Allowed amount of an Other Secured Claim shall be limited to the value of the holder's interest in the collateral securing such claim after taking into consideration other prior liens on the same collateral, if any, or (iv) such other recovery as may be necessary to render such Allowed Other Secured Claim unimpaired in satisfaction of Bankruptcy Code section 1129.

(c) Voting: Class 2 is Unimpaired by the Plan, and each holder of a Class 2 Other Secured Claim is conclusively presumed to have accepted the Plan pursuant to Bankruptcy Code section 1126(f). Therefore, holders of Class 2 Other Secured Claims are not entitled to vote to accept or reject the Plan.

3. Class 3 – Senior Secured Claims.

(a) Classification: Class 3 consists of Senior Secured Claims.

(b) Allowance: Class 3 Senior Secured Claims shall be Allowed as set forth above.

(c) Treatment: Except to the extent that a holder of an Allowed Senior Secured Claim and the Debtors agree in writing to less favorable treatment, in full and final satisfaction, settlement, release, and discharge and in exchange for, each Senior Secured Claim, on or as soon as practicable after the Effective Date, each holder of an Allowed Senior Secured Claim shall receive the Class A Reclamation Trust Entity Interests.

(d) Voting: Class 3 is Impaired. Holders of Class 3 Senior Secured Claims are entitled to vote to accept or reject the Plan.

4. Class 4 – Surety Claims.

(a) Classification: Class 4 consists of the Surety Claims.

(b) Allowance: Class 4 Surety Claims shall be Allowed Surety Claims pursuant to the Plan in an amount equal to \$62,264,847 held as follows: Zurich, \$47,218,740; Atlantic, \$13,125,000, and Westchester, \$1,921,107.

(c) Treatment: Except to the extent that a holder of an Allowed Surety Claim and the Debtors agree in writing to less favorable treatment, in full and final satisfaction,

settlement, release, and discharge and in exchange for, each Allowed Surety Claim, on or as soon as practicable after the Effective Date, each holder of an Allowed Surety Claim shall receive (i) the Reclamation Trust Entity Bonding Agreement which includes reinstatement of certain rights pursuant to Bankruptcy Code section 1124; (ii) the obligations of the Reclamation Trust Entity to complete the Reclamation Plans; and (iii) contributions to the Reclamation Sinking Fund by Coal Side Debtor Subsidiary KCP, Inc. for the use in completing the Reclamation Plans in conjunction with the collateral contributed by the Sureties to the Reclamation Sinking Fund, decreasing the Sureties' exposure for potential liability obligations related to for Reclamation Claims. The Sureties shall also have rights to the Initial Wind Down Funding Amount, or proceeds thereof, and the Reclamation Sinking Fund as set forth in the Reclamation Trust Entity Agreement as necessary to reclaim the right to such funds in the event of a bond forfeiture or other adverse action by the Reclamation Claimants.

(d) Voting: Class 4 is Impaired. Holders of Class 4 Surety Claims are entitled to vote to accept or reject the Plan.

5. Class 5 – Reclamation Claims.

(a) Classification: Class 5 consists of Reclamation Claims.

(b) Treatment: In full and final satisfaction, settlement, release, and discharge and in exchange for, each Allowed Reclamation Claim, on the Effective Date, each Allowed Reclamation Claim shall be reinstated against the applicable Reorganized Coal Side Debtors pursuant to Bankruptcy Code section 1124, including any bonding issued pursuant to existing Indemnity Agreements.

(c) Voting: Class 6 is Unimpaired. Holders of Class 6 Reclamation Claims are conclusively presumed to have accepted the Plan pursuant to Bankruptcy Code section 1126(f). Therefore, holders of Class 6 Reclamation Claims are not entitled to vote to accept or reject the Plan.

6. Class 6 – General Unsecured Claims.

(a) Classification: Class 6 consists of General Unsecured Claims.

(b) Allowance: Each General Unsecured Claim in Class 6 shall be Allowed unless such Claim is Disputed.

(c) Treatment: In full and final satisfaction, settlement, release, and discharge and in exchange for, each Allowed General Unsecured Claim, the Class B Reclamation Trust Entity Interests Agent, on behalf of each holder of an Allowed General Unsecured Claim shall, to the extent such holder's Claim has not been previously paid in the ordinary course of business pursuant to an order of the Court, or otherwise, receive a pro rata share of Class B Reclamation Trust Entity Interests.

For the avoidance of doubt, notwithstanding the foregoing, the terms of the Cash Collateral Order shall govern with respect to the releases, discharge, waivers, settlements, compromises, and agreements with respect to any claims against or of the Senior Secured Lenders

or their respective agents, affiliates, subsidiaries, directors, officers, representatives, attorneys or advisors provided for in the Cash Collateral Order in connection with any Debtors' Stipulation (as defined in paragraph [10(a)] of the Cash Collateral Order), and as a result of the failure of any holder of a General Unsecured Claim to assert any such claims prior to the expiration of the Challenge Period (as defined in paragraph [10(c)] of the Cash Collateral Order, no holder of a General Unsecured Claim shall be entitled to assert any such claims against the Senior Secured Lenders or their respective agents, affiliates, subsidiaries, directors, officers, representatives, attorneys, or advisors.

(d) Voting: Class 6 is Impaired. Holders of Class 6 General Unsecured Claims are entitled to vote to accept or reject the Plan.

7. Class 7 – Intercompany Interests.

(a) Classification: Class 7 consists of all Intercompany Interests.

(b) Treatment: On the Effective Date, all Class 7 Intercompany Interests

(i) of Lighthouse in LHR Coal, LLC and LHR Infrastructure, LLC, shall be cancelled, and Lighthouse shall not receive or retain any distribution on account of its Class 7 Intercompany Interests in LHR Infrastructure, LLC, and new Equity Interests in Reorganized LHR Coal, LLC and Reorganized LHR Infrastructure, LLC shall be issued to Reorganized Lighthouse in accordance with the Plan.

(ii) of KCP, Inc., Big Horn Coal Company, Rosebud Coal Sales Company, KCP Properties, Inc., Decker Coal Company, LLC, Montana Royalty Holdings and Decker Coal Holding Company, LLC shall be cancelled, and LHR Coal, LLC and Decker Coal Holding Company, LLC shall not receive or retain any distribution on account of their Class 7 Intercompany Interests, and new Equity Interests in Reorganized KCP, Inc., Reorganized Big Horn Coal Company, Reorganized Rosebud Coal Sales Company, Reorganized KCP Properties, Inc., Reorganized Decker Coal Company, LLC, and Reorganized Montana Royalty Holdings, LLC shall be issued to Reorganized LHR Coal, LLC in accordance with the Plan.

(c) Voting: Class 7 is Impaired. Holders of Class 7 Intercompany Interests are conclusively presumed to have rejected the Plan pursuant to Bankruptcy Code section 1126(f). Therefore, holders of Class 7 Intercompany Interests are not entitled to vote to accept or reject the Plan.

8. Class 8 – Lighthouse Equity Interests.

(a) Classification: Class 8 consists of Lighthouse Equity Interests.

(b) *Treatment*: On the Effective Date, Lighthouse Equity Interests shall be discharged, cancelled, released, and extinguished and of no further force and effect, whether surrendered for cancellation or otherwise and the holders thereof shall not receive or retain any distribution on account of their Other Equity Interests, and new Equity Interests in Reorganized Lighthouse shall be issued to the Reclamation Trust Entity in accordance with the Plan.

(c) *Voting*: Class 8 is Impaired. Holders of Class 8 Lighthouse Equity Interests are conclusively presumed to have rejected the Plan pursuant to Bankruptcy Code section 1126(f). Therefore, holders of Class 9 Other Equity Interests are not entitled to vote to accept or reject the Plan.

**E. Special Provision Regarding Unimpaired and Reinstated Claims.**

Except as otherwise specifically provided in the Plan, nothing herein shall be deemed to affect, diminish, or impair the Debtors' or the Reclamation Trust Entity's rights and defenses, both legal and equitable, with respect to any Reinstated Claim or Unimpaired Claim, including, but not limited to, legal and equitable defenses to setoffs or recoupment against Reinstated Claims or Unimpaired Claims. Except as otherwise specifically provided in the Plan, nothing herein shall be deemed to be a waiver or relinquishment of any Claim, Cause of Action, right of setoff, or other legal or equitable defense which the Debtors had immediately prior to the Petition Date against, or with respect to, any Claim left Unimpaired by the Plan.

**F. Voting of Claims.**

Each holder of a Class 3, 4, and 6 Claim as of the Voting Record Date shall be entitled to vote to accept or reject the Plan. The instructions for completion of the Ballots are set forth in the instructions accompanying each Ballot. The Debtors will seek approval of the Solicitation Procedures in the Plan Scheduling Motion. The Solicitation Procedures are described in the Disclosure Statement.

**G. Nonconsensual Confirmation.**

The Debtors intend to request confirmation of the Plan under Bankruptcy Code section 1129(b) with respect to any Impaired Class that has not accepted or is deemed to have rejected the Plan pursuant to Bankruptcy Code section 1126.

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

**A. Operations Between the Confirmation Date and Effective Date.**

During the period from the Confirmation Date through and until the Effective Date, the Debtors may continue to operate their businesses as debtors in possession, subject to all applicable orders of the Court, including the Cash Collateral Order, and any limitations set forth in the Restructuring Support Agreement.

**B. Reclamation Trust Entity.**

1. *Generally.* On the Effective Date, the Reclamation Trust Entity shall be established and become effective for the benefit of (i) Reclamation Trust Entity Interests, (ii) the Sureties, and (iii) the Reclamation Claimants. The powers, authority, responsibilities, and duties of the Reclamation Trust Entity, the Reclamation Trust Entity Representative, and Reclamation Trust Entity Board are set forth in and shall be governed by the Plan, the Plan Supplement, and the Reclamation Trust Entity Agreement. The responsibilities and duties of the Reclamation Trust Entity shall include (i) completing the Decker Reclamation Plan as funded by the Reclamation Sinking Fund, with the use of such funds subject to the supervision of the Sureties, and by other funds, all as provided for the Reclamation Trust Entity Agreement; (ii) operation of the remainder of the Reorganized Coal Side Debtors' businesses and operations in a controlled, efficient, and value-maximizing (adjusting for risk) manner, including and monetizing any assets of the Reorganized Coal Side Debtors that can be monetized consistent with the Reclamation Plans; (iii) issuing the Reclamation Trust Entity Interests in accordance with the Plan; (iv) making distributions in accordance with the Plan; (v) maintaining the Reclamation Sinking Fund, (vi) overseeing and administering (a) the termination of the Debtors' qualified 401(k) retirement plans and any related trusts and the distribution of such plans' assets to participants and for fulfilling statutory and regulatory requirements related to such plans and (b) any statutory and regulatory requirements related to any terminated Debtor employee benefit plans; and (vii) performing such other services as are contemplated by the Plan and the Reclamation Trust Entity Agreement or other services or activities as authorized by the Reclamation Trust Entity Board. The Reclamation Trust Entity Agreement shall contain provisions customary to trust agreements utilized in comparable circumstances, including, without limitation, any and all provisions necessary to ensure the most efficient or preferred treatment for federal income tax purposes. To the extent not already transferred pursuant to another provision of this Plan, Lighthouse shall transfer, without recourse, to the Reclamation Trust Entity all of Lighthouse's right, title and interest in the Reclamation Trust Assets. The Sureties, without recourse, shall transfer to the Reclamation Trust Entity the Initial Wind Down Funding Amount. Lighthouse will have no reversionary or further interest in or with respect to the Reclamation Trust Assets or the Reclamation Trust Entity.

2. *Purposes and Establishment of the Reclamation Trust Entity.* The Reclamation Trust Entity shall be established pursuant to the Reclamation Trust Entity Agreement for the purposes of completing the Decker Reclamation Plan, administering any remaining assets of the Reorganized Coal Side Debtors, and maintaining the Reclamation Sinking Fund. The Reclamation Trust Entity shall not be deemed a successor in interest of the Debtors for any purpose other than as specifically set forth herein or in the Reclamation Trust Entity Agreement. On the Effective Date, the Reclamation Trust Entity Representative, on behalf of the Debtors, shall execute the Reclamation Trust Entity Agreement and shall take all other steps necessary to establish the Reclamation Trust Entity pursuant to the Reclamation Trust Entity Agreement and consistent with the Plan.

3. *Post-Effective Date Vesting of Assets.* On the Effective Date, and in accordance with Bankruptcy Code sections 1123 and 1141 and pursuant to the terms of the Plan, all of the Reclamation Trust Assets, as well as the rights and powers of each Debtor in such Reclamation Trust Assets, shall automatically vest in the Reclamation Trust Entity, free and clear of all Claims and Equity Interests for the benefit of the Reclamation Trust Entity Interests, the

Sureties, and the Reclamation Claimants. Upon the transfer of the Reclamation Trust Assets, the Debtors shall have no interest in or with respect to the Reclamation Trust Assets or the Reclamation Trust Entity. Notwithstanding the foregoing, for purposes of Bankruptcy Code section 553, the transfer of the Reclamation Trust Assets to the Reclamation Trust Entity shall not affect the mutuality of obligations that otherwise may have existed prior to the effectuation of such transfer. Such transfer shall be exempt from any stamp, real estate transfer, mortgage reporting, sales, use or other similar tax, pursuant to Bankruptcy Code section 1146(a). In connection with the transfer of such assets, any attorney-client privilege, work-product privilege or other privilege or immunity attaching to any documents or communications (whether written or oral) transferred to the Reclamation Trust Entity shall vest in the Reclamation Trust Entity and its representatives, and the Debtors and the Reclamation Trust Entity Representative are directed to take all necessary actions, if any, to effectuate the transfer of such privileges. The Reclamation Trust Entity Representative shall agree, on behalf of the Reclamation Trust Entity, to accept and hold the Reclamation Trust Assets in the Reclamation Trust Entity for the benefit of the Reclamation Trust Entity Interests, the Sureties, and the Reclamation Claimants, subject to the terms of the Plan and the Reclamation Trust Entity Agreement. The Reclamation Trust Entity and any of the Reorganized Coal Side Debtors shall have and otherwise retain the right to operate under any permits, licenses, or other inchoate rights of the Coal Side Debtors, including without limitation those related to Reclamation.

The Debtors, the Reclamation Trust Entity Representative, and any party under the control of such parties will execute any documents or other instruments and shall take all other steps as necessary to cause title to the Reclamation Trust Assets to be transferred to the Reclamation Trust Entity, which documents and instruments shall be in form and substance reasonably acceptable to the Debtors and the Consenting Stakeholders.

4. Valuation of Trust Assets. As soon as possible after the establishment of the Reclamation Trust Entity, but in no event later than 90 days thereafter, the Reclamation Trust Entity Board shall inform, in writing, the Reclamation Trust Entity Representative of the value of the assets transferred to the Reclamation Trust Entity, based on the good-faith best estimate by the Reclamation Trust Entity Board of the fair market value of the assets transferred to the Reclamation Trust Entity (based on, among other things, third party appraisals and/or indications of value received by the Debtors or the Reclamation Trust Entity), and the Reclamation Trust Entity Representative shall apprise, in writing, the holders of the Reclamation Trust Entity Interests of such valuation. The valuation shall be used consistently by all parties (including the Reclamation Trust Entity Representative and the holders of the Reclamation Trust Entity Interests) for all federal income tax purposes.

In connection with the preparation of the valuation contemplated by the Plan and the Reclamation Trust Entity Agreement, the Reclamation Trust Entity Representative shall be entitled to retain such professionals and advisors as the Reclamation Trust Entity shall determine to be appropriate or necessary, and the Reclamation Trust Entity Board shall take such other actions in connection therewith as it determines to be appropriate or necessary. The Reclamation Trust Entity shall bear all of the reasonable costs and expenses incurred in connection with determining such value, including the fees and expenses of any professionals retained in connection therewith.

5. Reclamation Trust Entity Representative and Reclamation Trust Entity Board. On the Effective Date and in compliance with the provisions of the Plan, the Restructuring Support Agreement, and the Reclamation Trust Entity Agreement, the Consenting Stakeholders shall appoint a Person or firm as Reclamation Trust Entity Representative. The identity of the Reclamation Trust Entity Representative and the Reclamation Trust Entity Representative's compensation shall be included in the Plan Supplement. Additionally, the Plan Supplement shall set forth the identity of the initial members of the Reclamation Trust Entity Board.

In the event the Reclamation Trust Entity Representative dies, is terminated or resigns for any reason, the Reclamation Trust Entity Board shall designate a successor by majority vote. The Reclamation Trust Entity Representative shall serve at the direction of the Reclamation Trust Entity Board; provided, however, that the Reclamation Trust Entity Board may not direct the Reclamation Trust Entity Representative or the members of the Reclamation Trust Entity Board to act inconsistently with their duties under the Reclamation Trust Entity Agreement and/or the Plan.

The salient terms of the Reclamation Trust Entity Representative's employment, including the Reclamation Trust Entity Representative's duties and compensation, to the extent not set forth in the Plan, shall be set forth in the Reclamation Trust Entity Agreement or the Confirmation Order. Membership, duties, responsibilities and powers of the Reclamation Trust Entity Board shall be as set forth in the Reclamation Trust Entity Agreement.

6. Duties and Powers of Reclamation Trust Entity Representative.

a. Authority. The duties and powers of the Reclamation Trust Entity Representative shall include all powers necessary to implement the Plan with respect to all Debtors and to administer and monetize the Reclamation Trust Assets, including, without limitation, by administering and managing the business of the Reorganized Coal Side Debtors, completing the Decker Reclamation Plan, monetizing any assets owned by the Reorganized Coal Side Debtors as is consistent with the Reclamation Plans, and any other of the duties and powers listed herein and in the Reclamation Trust Entity Agreement. The Reclamation Trust Entity Representative will administer the Reclamation Trust Entity in accordance with the Reclamation Trust Entity Agreement. The Reclamation Trust Entity Representative, upon direction by the Reclamation Trust Entity Board and in the exercise of their collective reasonable business judgment, shall, in an expeditious but orderly manner, administer and convert to Cash the assets of the Reclamation Trust Entity, make timely distributions and not unduly prolong the duration of the Reclamation Trust Entity.

b. Claims and Causes of Action. The Reclamation Trust Entity Representative may object to, seek to estimate, seek to subordinate, compromise or settle any and all Claims against the Debtors that have not already been Allowed as of the Effective Date, and may pursue all Causes of Action transferred to the Reclamation Trust Entity. The Reclamation Trust Entity Representative, upon direction by the Reclamation Trust Entity Board, shall have the absolute right to pursue or not to pursue any and all Causes of Action as it determines in the best interests of the Reclamation Trust Entity Interests, and consistent with the purposes of the Reclamation Trust Entity, shall have no liability for the outcome of its decision except for any damages caused by willful misconduct or gross negligence. The Reclamation Trust Entity



Representative will prepare and make available to the Sureties and the holders of the Reclamation Trust Entity Interests, on a quarterly basis, a written report detailing, among other things, the status of reclamation obligations that are the subject of the Reclamation Plans and the Reclamation Trust Entity Agreement and any proceeds recovered to date from the assets of the Reorganized Coal Side Debtors and the distributions, if any, made by the Reclamation Trust Entity.

c. Retention of Professionals. The Reclamation Trust Entity Representative may enter into employment agreements and retain professionals to pursue the Causes of Action and otherwise advise the Reclamation Trust Entity Representative and provide services to the Reclamation Trust Entity in connection with the matters contemplated by the Plan, the Confirmation Order, and the Reclamation Trust Entity Agreement without further order of the Court. The terms of such employment agreements shall be acceptable to the Reclamation Trust Entity Board.

d. Agreements. The Reclamation Trust Entity Representative may enter into any agreement or execute any document required by or consistent with the Plan and perform all of the Debtors' and Reclamation Trust Entity's obligations thereunder.

e. Reasonable Fees and Expenses. The Reclamation Trust Entity Representative may incur any reasonable and necessary expenses in connection with the performance of its duties under the Plan, including in connection with retaining professionals and/or entering into agreements pursuant to subsections c and d above. If the Reclamation Trust Entity Representative is also an employee of any of the Reorganized Coal Side Debtors, a member of the Reclamation Trust Entity Board, or either of them, payment in that capacity shall include any payment for work as the Reclamation Trust Entity Representative. A Reclamation Trust Entity Representative that is not paid pursuant to the foregoing sentence shall be paid by the Reclamation Trust Entity as provided for in the Reclamation Trust Entity Budget.

f. Other Actions. The Reclamation Trust Entity may take all other actions not inconsistent with the provisions of the Plan and the Reclamation Trust Entity Agreement that the Reclamation Trust Entity Representative deems reasonably necessary or desirable with respect to administering the Plan.

7. Funding of the Reclamation Trust Entity. On the Effective Date, the Debtors shall fund, and the Senior Secured Lenders consent to the funding of, the Reclamation Trust Entity with any Cash remaining in the Debtors' accounts under the Cash Collateral Order, and the Sureties shall fund the Reclamation Trust Entity with the Initial Wind Down Funding Amount.

8. Reclamation Trust Entity Budget. Following the Effective Date, the Reclamation Trust Entity Board, in accordance with its fiduciary duties and based on the advice of its advisors, the terms of the Restructuring Support Agreement, and the Reclamation Trust Entity Agreement shall establish the Reclamation Trust Entity Budget.

Before making any distributions to the holders of the Reclamation Trust Entity Interests, the Reclamation Trust Entity Board shall make a good faith determination that it shall be retaining, after taking into account funds to be distributed, sufficient funding for (i) the Reclamation Plan, the Reclamation Sinking Fund up to the Reclamation Sinking Fund Cap, and

the monetization of the assets of the Reorganized Coal Side Debtors, (iii) the wind down of the Reorganized Coal Side Debtors' businesses and operations and (iv) accomplishing all other objectives of the Reclamation Trust Entity.

9. Reclamation Trust Entity Representative's Tax Power. Following the Effective Date, the Reclamation Trust Entity Representative shall prepare and file (or cause to be prepared and filed), on behalf of the Debtors, all tax returns required to be filed or that the Reclamation Trust Entity Representative otherwise deems appropriate. The Reclamation Trust Entity Representative shall take any and all necessary actions as it shall deem appropriate to have the Reclamation Trust Entity classified as a partnership for federal tax purposes under Treasury Regulation section 301.7701-3.

10. Distributions to the Senior Secured Lender. Specifically, with respect to the distributions to be made to the Senior Secured Lender pursuant to the terms of the Confirmation Order and the Reclamation Trust Entity Agreement, the Reclamation Trust Entity shall make distributions to the Senior Secured Lender without reference to a fixed maturity date or the granting of remedies for non-payment (other than the ability to assert a claim against the Reclamation Trust Entity for breach of the organizational and/or trust documents, as applicable, governing the Reclamation Trust Entity).

11. Reclamation Trust Entity Interests. Except as provided in the Reclamation Trust Entity Budget and Reclamation Trust Entity Agreement, no distributions shall be made by the Reclamation Trust Entity on account of the Reclamation Trust Entity Interests.

12. Distributions; Withholding. The Reclamation Trust Entity Representative shall make distributions to the holders of the Reclamation Trust Entity Interests in accordance with the terms of the Reclamation Trust Entity Agreement and the Plan.

The Reclamation Trust Entity may withhold from amounts otherwise distributable to any Entity any and all amounts, determined in the Reclamation Trust Entity Representative's reasonable discretion, required by the Reclamation Trust Entity Agreement, or any law, regulation, rule, ruling, directive, treaty or other governmental requirement. Any party issuing any instrument or making any distribution under the Plan shall comply with all applicable withholding and reporting requirements imposed by any U.S. federal, state or local tax law or tax authority, and all distributions under the Plan shall be subject to any such withholding or reporting requirements. Notwithstanding the above, each holder of an Allowed Claim that is to receive a distribution under the Plan shall have the sole and exclusive responsibility for the satisfaction and payment of any Taxes imposed on such holder by any governmental unit, including income, withholding and other tax obligations, on account of such distribution. Any party issuing any instrument or making any distribution under the Plan has the right, but not the obligation, to not make a distribution until such holder has made arrangements satisfactory to such issuing or disbursing party for payment of any such tax obligations, and, if any party issuing any instrument or making any distribution under the Plan fails to withhold with respect to any such holder's distribution and is later held liable for the amount of such withholding, the holder shall reimburse such party. The Reclamation Trust Entity Representative or other distribution agent, as applicable, may require, as a condition to the receipt of a distribution, that the holder complete the appropriate Form W-8 or Form W-9, as applicable to each holder. If the holder fails to comply with such a request within 180 days, such

distribution shall be deemed an unclaimed distribution and treated in accordance with Articles VI.B.4 and/or VI.B.6 of the Plan.

13. Insurance. The Reclamation Trust Entity Representative will maintain customary insurance coverage for the protection of the Reclamation Trust Entity Board and the Reclamation Trust Entity Representative on and after the Effective Date.

14. Exculpation; Indemnification. The Reclamation Trust Entity Representative, the Reclamation Trust Entity, the Reclamation Trust Entity Board, the professionals of the Reclamation Trust Entity and their representatives will be exculpated and indemnified pursuant to the terms of the Reclamation Trust Entity Agreement. The indemnification described in the Reclamation Trust Entity Agreement will exclude willful misconduct, gross negligence, and professional malpractice. Any indemnification claim of the Reclamation Trust Entity Representative or the other individuals entitled to indemnification under this subsection shall be satisfied solely from insurance proceeds and/or the assets and funds managed by the Reclamation Trust Entity and shall be entitled to a priority distribution therefrom, ahead of any other claim to or interest in such assets. The Reclamation Trust Entity Representative, the members of the Reclamation Trust Entity Board and their representatives (as applicable) shall be entitled to rely, in good faith, on the advice of their retained professionals.

15. Transferability of the Reclamation Trust Entity Interests. The Class A Reclamation Trust Entity Interests shall be freely transferable. The Class B Reclamation Trust Entity Interests shall not be transferable. The Reclamation Trust Entity Interests shall not be certificated and otherwise shall be structured in accordance with applicable nonbankruptcy law such that such Reclamation Trust Entity Interests shall not be deemed to be “securities” under U.S. securities law; provided, however, that, following the Effective Date, the Reclamation Trust Entity Board shall have the discretion to take such steps as necessary to render some or all of the Reclamation Trust Entity Interests transferrable in accordance with all applicable law, including U.S. securities law.

16. Registry of the Reclamation Trust Entity Interests. The Reclamation Trust Entity Representative shall maintain a registry of the holders of the Reclamation Trust Entity Interests, with the Class B Reclamation Trust Entity Interests Agent as the registrant on behalf of the Class B Reclamation Trust Entity Interests. The Class B Reclamation Trust Entity Interests Agent shall maintain a registry of the holders of the Class B Reclamation Trust Entity Interests.

17. Federal Income Tax Treatment of Reclamation Trust Entity.

a. Post-Effective Date Assets Treated as Owned by Holders of the Reclamation Trust Entity Interests. For all U.S. federal income tax purposes, all parties (including, without limitation, the Debtors, the Reclamation Trust Entity Representative and the holders of the Reclamation Trust Entity Interests) shall treat the transfer of the Reclamation Trust Assets to the Reclamation Trust Entity as distributed to the holders of the Reclamation Trust Entity Interests pro rata, with such holders then transferring their share of the Reclamation Trust Assets to the Reclamation Trust Entity in exchange for beneficial interests in the Reclamation Trust Entity. Accordingly, the holders of the Reclamation Trust Entity Interests shall be treated for U.S. federal income tax purposes as the partners and owners of their respective share of the Reclamation Trust

Assets (other than such Reclamation Trust Assets as are allocable to the Disputed Claims Reserve and the Allowed Claims Reserve, if any). The foregoing treatment shall also apply, to the extent permitted by applicable law, for state and local income tax purposes.

b. *Tax Reporting.* The Reclamation Trust Entity Representative shall file tax returns for the Reclamation Trust Entity treating the Reclamation Trust Entity as a partnership for U.S. federal income tax purposes. The Reclamation Trust Entity Representative shall also file (or cause to be filed) any other statement, return or disclosure relating to the Reclamation Trust Entity that is required by any governmental unit.

The valuation of the Reclamation Trust Assets prepared pursuant to Article IV.B.4 of the Plan shall be used consistently by all parties (including the Reclamation Trust Entity Representative and the holders of the Reclamation Trust Entity Interests) for all U.S. federal income tax purposes, and to the extent permitted by applicable law, for state and local income tax purposes.

Allocations of Reclamation Trust Entity taxable income among the holders of the Reclamation Trust Entity Interests (other than taxable income allocable to the Disputed Claims Reserve and the Allowed Claims Reserve) shall be determined by reference to the manner in which an amount of Cash equal to such taxable income would be distributed (were such cash permitted to be distributed at such time, and without regard to any restrictions on distributions described herein) if, immediately prior to such deemed distribution, the Reclamation Trust Entity had distributed all its assets (valued at their tax book value, and other than assets allocable to the Disputed Claims Reserve and the Allowed Claims Reserve) to the holders of the Reclamation Trust Entity Interests, adjusted for prior taxable income and loss and taking into account all prior and concurrent distributions from the Reclamation Trust Entity. Similarly, taxable loss of the Reclamation Trust Entity shall be allocated by reference to the manner in which an economic loss would be borne immediately after a hypothetical liquidating distribution of the remaining Post-Effective Date Assets. The tax book value of the Post-Effective Date Assets for the purpose of this paragraph shall equal their fair market value on the Effective Date, adjusted in accordance with tax accounting principles prescribed by the Tax Code, the applicable Treasury Regulations and other applicable administrative and judicial authorities and pronouncements.

The Reclamation Trust Entity Representative shall be responsible for payment, out of the proceeds from or generated by the Post-Effective Date Assets, of any Taxes imposed on the Reclamation Trust Entity or the Reclamation Trust Assets, including the Disputed Claims Reserve and the Allowed Claims Reserve. In the event, and to the extent, any Cash retained on account of Disputed Claims in the Disputed Claims Reserve or on account of Allowed Claims in the Allowed Claims Reserve is insufficient to pay the portion of any such Taxes attributable to the taxable income arising from the assets allocable to, or retained on account of, Disputed Claims or Allowed Claims, as applicable, such Taxes shall be (i) reimbursed from any subsequent Cash amounts retained on account of Disputed Claims or Allowed Claims or (ii) to the extent that such Disputed Claims or Allowed Claims have subsequently been resolved, deducted from any amounts otherwise distributable by the Reclamation Trust Entity Representative as a result of the resolution of such Disputed Claims or Allowed Claims, as applicable.

The Reclamation Trust Entity Representative may request an expedited determination of Taxes of the Reclamation Trust Entity, including the Disputed Claims Reserve, or the Debtors under section 505(b) of the Bankruptcy Code, for all tax returns filed for, or on behalf of, the Reclamation Trust Entity or the Debtors for all taxable periods through the dissolution of the Reclamation Trust Entity.

c. *Tax Withholding.* The Reclamation Trust Entity Representative may withhold and pay to the appropriate tax authority all amounts required to be withheld pursuant to the Tax Code or any provision of any foreign, state or local tax law with respect to any payment or distribution to the holders of the Reclamation Trust Entity Interests. All such amounts withheld and paid to the appropriate tax authority shall be treated as amounts distributed to such holders of the Reclamation Trust Entity Interests for all purposes of the Reclamation Trust Entity Agreement. The Reclamation Trust Entity Representative shall be authorized to collect such tax information from the holders of the Reclamation Trust Entity Interests (including, without limitation, social security numbers or other tax identification numbers) as it, in its sole discretion, deems necessary to effectuate the Plan, the Confirmation Order and the Reclamation Trust Entity Agreement. In order to receive distributions from the Reclamation Trust Entity, all holders of the Reclamation Trust Entity Interests will need to identify themselves to the Reclamation Trust Entity Representative and provide tax information and the specifics of their holdings, to the extent that the Reclamation Trust Entity Representative deems appropriate. This identification requirement may, in certain cases, extend to holders who hold their securities in street name. The Reclamation Trust Entity Representative may refuse to make a distribution to any holder of the Reclamation Trust Entity Interests that fails to furnish such information in a timely fashion, until such information is delivered; provided, however, that, upon the delivery of such information by a holder of the Reclamation Trust Entity Interests, the Reclamation Trust Entity Representative shall make such distribution to which the holder of Reclamation Trust Entity Interests is entitled, without interest; and, provided, further, that, if the Reclamation Trust Entity Representative fails to withhold in respect of amounts received or distributable with respect to any such holder and the Reclamation Trust Entity Representative is later held liable for the amount of such withholding, such holder shall reimburse the Reclamation Trust Entity Representative for such liability.

d. *Foreign Tax Matters.* The Reclamation Trust Entity Representative shall duly comply on a timely basis with all obligations, and satisfy all liabilities, imposed on the Reclamation Trust Entity Representative or the Reclamation Trust Entity under non-United States law relating to Taxes. The Reclamation Trust Entity Representative, or any other legal representative of the Reclamation Trust Entity, shall not distribute the Post-Effective Date Assets or proceeds thereof without having first obtained all certificates required to have been obtained under applicable non-United States law relating to Taxes.

e. *Dissolution.* The Reclamation Trust Entity Board and the Reclamation Trust Entity shall be dissolved at such time as (i) the Decker Reclamation Plan is completed, (ii) the remaining assets of the Reorganized Coal Side Debtors, including amounts in the Reclamation Sinking Fund set aside to fund costs of the Black Butte Reclamation Plan attributable to KCP, Inc.'s 50% interest in Black Butte, have been distributed pursuant to the Plan and the Reclamation Trust Entity Agreement, except to the extent that the Reclamation Trust Entity Representative determines, in consultation with the Reclamation Trust Entity Board, that the administration of any remaining assets of the Reorganized Coal Side Debtors is not likely to yield

sufficient additional Reclamation Trust Entity proceeds to justify further pursuit, (iii) to the extent possible, the Reorganized Coal Side Debtors have been dissolved, and (iv) all distributions required to be made by the Reclamation Trust Entity Representative under the Plan and the Reclamation Trust Entity Agreement have been made.

Upon dissolution of the Reclamation Trust Entity, the Reclamation Trust Entity Representative shall distribute any remaining proceeds to the holders of the Reclamation Trust Entity Interests and distribute any remaining Cash in the Reclamation Sinking Fund in accordance with the Reclamation Trust Entity Agreement.

Notwithstanding the foregoing paragraph, if, at any time, the Reclamation Trust Entity Representative determines, in reliance upon such professionals as the Reclamation Trust Entity Representative may retain and in consultation with the Reclamation Trust Entity Board, that the expense of administering the Reclamation Trust Entity so as to make a final distribution is likely to exceed the value of the assets remaining in the Reclamation Trust Entity, the Reclamation Trust Entity Representative may apply to the Court for authority to (i) reserve any amount necessary to dissolve the Reclamation Trust Entity, (ii) donate any balance to a charitable organization (A) described in section 501(c)(3) of the Tax Code, (B) exempt from U.S. federal income tax under section 501(a) of the Tax Code, (C) not a "private foundation," as defined in section 509(a) of the Tax Code and (D) that is unrelated to the Debtors, the Reclamation Trust Entity and any insider of the Reclamation Trust Entity Representative and (iii) dissolve the Reclamation Trust Entity.

18. Disputed Claims Reserve. On the Effective Date, the Reclamation Trust Entity shall establish and fund the Disputed Claims Reserve with Cash in an amount approved by the Court. The Disputed Claims Reserve shall be maintained in trust for holders of Priority Tax Claims, Non-Priority Tax Claims, and Other Secured Claims not yet Allowed as of the Effective Date and not paid prior to the Effective Date or as part of the distributions provided for under the Plan. Each such Claim shall be paid in full in Cash from funds held in the Disputed Claims Reserve as soon as practicable after the date on which such Claim becomes an Allowed Claim. Such Claims shall be paid first from amounts in the Disputed Claims Reserve and then from the assets of the Reclamation Trust Entity only if no funds remain in the Disputed Claims Reserve. When all such Claims have been paid in full, amounts remaining in the Disputed Claims Reserve, if any, shall be returned to the Reclamation Trust Entity for use in accordance with the Reclamation Entity Trust Budget.

19. Allowed Claims Reserve. On the Effective Date, the Reclamation Trust Entity shall establish and fund the Allowed Claims Reserve with Cash in an amount equal to the amount of all Allowed Administrative Claims, Allowed Priority Tax Claims, Allowed NonPriority Tax Claims, and Allowed Other Secured Claims that are not otherwise paid on or prior to the Effective Date. The Allowed Claims Reserve shall be maintained in trust for holders of Allowed Administrative Claims, Allowed Priority Tax Claims, Allowed Non-Priority Tax Claims, and Allowed Other Secured Claims not otherwise paid on or prior to the Effective Date. Each such Claim shall be paid in full in Cash from funds held in the Allowed Claims Reserve as soon as practicable after the Effective Date. Such Claims shall be paid first from amounts in the Allowed Claims Reserve and then from the assets of the Reclamation Trust Entity only if no funds remain in the Allowed Claims Reserve. When all such Claims have been paid in full, amounts remaining

in the Allowed Claims Reserve, if any, shall be returned to the Reclamation Trust Entity for use in accordance with the Reclamation Entity Trust Budget.

**C. Preservation of Causes of Action.**

Unless any Cause of Action against an Entity is expressly waived, relinquished, exculpated, released, compromised, or settled in the Plan or a Final Order, in accordance with Bankruptcy Code section 1123(b), the Debtors shall convey to the Reclamation Trust Entity all rights to commence, prosecute or settle, as appropriate, any and all Causes of Action, whether arising before or after the Petition Date, which shall vest in the Reclamation Trust Entity pursuant to the terms of the Plan and the Reclamation Trust Entity Agreement. The Reclamation Trust Entity may enforce all rights to commence, prosecute, or settle, as appropriate, any and all Causes of Action, whether arising before or after the Petition Date, and the Reclamation Trust Entity's rights to commence, prosecute, or settle such Causes of Action shall be preserved notwithstanding the occurrence of the Effective Date. The Reclamation Trust Entity may pursue such Causes of Action and may retain and compensate professionals in the analysis or pursuit of such Causes of Action to the extent the Reclamation Trust Entity deems appropriate, including on a contingency fee basis. No Entity may rely on the absence of a specific reference in the Plan or the Disclosure Statement to any Cause of Action against them as any indication that the Debtors or the Reclamation Trust Entity will not pursue any and all available Causes of Action against them. The Debtors and the Reclamation Trust Entity expressly reserve all rights to prosecute any and all Causes of Action against any Entity, except as otherwise expressly provided in the Plan. Unless any Cause of Action against an Entity is expressly waived, relinquished, exculpated, released, compromised, or settled in the Plan or a Final Order, the Reclamation Trust Entity expressly reserves all Causes of Action for later adjudication, and, therefore, no preclusion doctrine, including the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion, estoppel (judicial, equitable or otherwise), or laches, shall apply to such Causes of Action upon, after, or as a consequence of the Confirmation or Consummation. The Reclamation Trust Entity reserves and shall retain the foregoing Causes of Action notwithstanding the rejection of any Executory Contract or Unexpired Lease during the Chapter 11 Cases or pursuant to the Plan. The Reclamation Trust Entity shall have the exclusive right, authority, and discretion to determine and to initiate, file, prosecute, enforce, abandon, settle, compromise, release, withdraw, or litigate to judgment any such Causes of Action, or to decline to do any of the foregoing, without the consent or approval of any third party or any further notice to or action, order, or approval of the Court.

**D. Corporate Action.**

Upon the Effective Date, the terms of all directors and officers of all Debtors shall be deemed to have expired, all such directors and officers shall be released of their duties, and all actions in furtherance of the Plan shall be deemed authorized, approved, and, to the extent taken prior to the Effective Date, ratified without any requirement for further action by the Debtors, holders of Claims or Equity Interests, directors, managers, or officers of the Debtors, or any other Entity or Person, including the transfer of assets of the Debtors to the Reclamation Trust Entity and the dissolution or winding up of the Debtors. The directors and officers of the Debtors and the Reclamation Trust Entity, as applicable, shall be authorized to execute, deliver, file, or record such contracts, instruments, release, and other agreements or documents and take such other actions as they may deem in their sole discretion necessary or appropriate to effectuate and implement the

provisions of the Plan. The authorizations and approvals contemplated by Article IV.D of the Plan shall be effective notwithstanding any requirements under nonbankruptcy law.

**E. Cancellation of Certain Indebtedness, Agreements, and Existing Securities.**

The Senior Secured Lender shall have released any and all liens and Claims on the assets of Lighthouse and the Coal Side Debtors other than those rights provided pursuant to this Plan, the Restructuring Support Agreement, and the Reclamation Trust Entity Agreement. On the Effective Date, except as otherwise specifically provided for in the Plan, the obligations of the Debtors under the Restructuring Support Agreement, the Senior Secured Loan Agreements, and any other certificate, share, note, bond, indenture, purchase right, option, warrant, or other instrument or document directly or indirectly evidencing or creating any indebtedness or obligation of or ownership interest in any of the Debtors giving rise to any Claim or Equity Interest or any option, warrant, or right, contractual or otherwise, to acquire an Equity Interest (except such certificates, notes, or other instruments or documents evidencing indebtedness or obligations of any Debtors that are specifically reinstated pursuant to the Plan), shall be cancelled as to any such Debtors, and the Reclamation Trust Entity and the Reorganized Coal Side Debtors shall not have any continuing obligations thereunder; and the obligations of any of the Debtors pursuant, relating, or pertaining to any agreements, indentures, certificates of designation, by-laws, or certificate or articles of incorporation or similar documents governing the Restructuring Support Agreement, the Senior Secured Loan Agreements, and any other shares, certificates, notes, bonds, purchase rights, options, warrants, or other instruments or documents evidencing or creating any indebtedness or obligation of any of the Debtors (except such agreements, certificates, notes, or other instruments evidencing indebtedness or obligations of any Debtors that are specifically reinstated pursuant to the Plan or assumed by any such Debtors) shall be released and discharged; provided, however, that, notwithstanding the occurrence of the Confirmation Date or the Effective Date, any such agreement that governs the rights of the holder of a Claim shall continue in effect solely for purposes of (a) allowing holders of such Claims to receive distributions under the Plan as provided herein, (b) resolving disputes with respect to the allowance of any Claim, (c) allowing the Reclamation Trust Entity Representative to make distributions under the Plan as provided herein, and deduct therefrom such reasonable compensation, fees, and expenses due thereunder or incurred in making such distributions, to the extent not paid by the Debtors and authorized under such agreement, and (d) allowing the Reclamation Trust Entity Representative to seek compensation and/or reimbursement of fees and expenses in accordance with the terms of the Plan. For the avoidance of doubt, nothing in this section shall affect the discharge of or result in any obligation, liability, or expense of the Debtors or the Reclamation Trust Entity, or affect the discharge of Claims or Equity Interests pursuant to the Bankruptcy Code, the Confirmation Order, or the Plan, or result in any additional obligation, expense, or liability of the Debtors or the Reclamation Trust Entity.

**F. Substantive Consolidation for Plan Purposes Only.**

The Plan shall serve as a motion by the Debtors seeking entry of a Court order substantively consolidating the Debtors' Estates into a single consolidated Estate, solely for all purposes associated with Confirmation and Consummation of the Plan. Upon Confirmation, for Plan purposes only, on the Effective Date, the Debtors shall be deemed merged into Lighthouse, and (a) all assets and liabilities of the Debtors shall be deemed merged into Lighthouse, (b) all



guaranties of any Debtor of the payment, performance, or collection of the obligations of another Debtor shall be eliminated and cancelled, (c) any obligation of any Debtor and all guaranties thereof executed by one or more of the other Debtors shall be treated as a single obligation, and such guaranties shall be deemed a single Claim against the consolidated Debtors, (d) all joint obligations of two or more Debtors, and all multiple Claims against such Entities on account of such joint obligations shall be treated and allowed only as a single Claim against the consolidated Debtors, and (e) each Claim filed in the Chapter 11 Cases of any Debtor shall be deemed filed against the consolidated Debtors and a single obligation of the Debtors on and after the Effective Date. Entry of the Confirmation Order will constitute the approval, pursuant to Bankruptcy Code section 105(a), effective as of the Effective Date, of the deemed substantive consolidation of the Chapter 11 Cases of the Debtors for purposes of voting on, confirmation of, and distributions under the Plan.

Notwithstanding the foregoing, the deemed consolidation and substantive consolidation (each for Plan purposes only) shall not (other than for purposes related to funding distributions under the Plan) affect (a) the legal and organizational structure of the Debtors or the Reclamation Trust Entity, (b) the allowance or disallowance of any Claim, the treatment therefor or improve or impair the rights of the holder of any Claim or Equity Interest or the rights of the Debtors or the Reclamation Trust Entity to dispute the allowance of or object to any Claim or Equity Interest, (c) pre- and post-Petition Date guaranties, liens and security interests that were required to be maintained (i) in connection with any executory contracts or unexpired leases that were entered into during the Chapter 11 Cases or that have been or will be assumed by the Debtors or (ii) pursuant to the Plan, (d) distributions out of any insurance policies or proceeds of such policies, and (e) the tax treatment of the Debtors. Furthermore, notwithstanding the foregoing, the deemed consolidation and substantive consolidation (each for Plan purposes only), shall not affect the statutory obligation of each and every Debtor to pay quarterly fees to the U.S. Trustee pursuant to 28 U.S.C. § 1903(a)(6) and Article II.D of the Plan.

Substantive consolidation, as described herein, will have little to no effect on the holders of Allowed General Unsecured Claims. First, all of the funds available for distribution to holders of Allowed General Unsecured Claims originate from KCP, Inc., who is not obligated for any General Unsecured Claims. Thus, these creditors benefit from substantive consolidation. Second, all of the funds available for distribution are subject to the Senior Secured Lenders' Senior Secured Claims and Superpriority Claims. Third, it would require a great deal of time, effort, and expense to divide the proceeds available to pay holders of Allowed General Unsecured Claims among the Debtor entities and determine how to calculate the distributions owed by each Debtor to each holder of an Allowed General Unsecured Claim. Fourth, Intercompany Claims owed to Lighthouse alone total approximately \$321,000,000, and substantive consolidation eliminates those claims allowing for the possibility of distributions to the holders of the Allowed General Unsecured Claims. Given these factors, the time, effort, and expense required to divide the proceeds available to pay holders of Allowed General Unsecured Claims among the Debtor entities and calculate distributions from each estate to General Unsecured Creditors is not justified.

In the event that the Court does not order such deemed substantive consolidation of the Debtors, then except as specifically set forth in the Plan (a) nothing in the Plan or the Disclosure Statement shall constitute or be deemed to constitute an admission that one of the Debtors is subject to or liable for any Claim against any other Debtor, (b) Claims against multiple Debtors shall be

treated as separate Claims against each applicable Debtor for all purposes (including, without limitation, distributions and voting) and such Claims shall be administered as provided in the Plan, (c) the Debtors shall not, nor shall they be required to, resolicit votes with respect to the Plan and (d) the Debtors may seek confirmation of the Plan as if the Plan is a separate Plan for each Debtor.

**G. Section 1145 Exemption.**

The offering, issuance, and distribution of the Reclamation Trust Entity Interests, to the extent such interests constitute or may be deemed to constitute securities under applicable U.S. securities law, shall be exempt from the registration and prospectus delivery requirements of the Securities Act and any other applicable state and federal law requiring registration and/or delivery of a prospectus prior to the offering, issuance, distribution, or sale of securities pursuant to Bankruptcy Code section 1145.

**H. Effectuating Documents; Further Transactions.**

On and after the Effective Date, the Reclamation Trust Entity and the Reclamation Trust Entity Board, are authorized to and may issue, execute, deliver, file or record such contracts, securities, instruments, releases and other agreements or documents and take such actions as may be necessary or appropriate to effectuate, implement and further evidence the terms and conditions of the Plan and the Reclamation Trust Entity Interests issued pursuant to the Plan, without the need for any approvals, authorization, or consents except for those expressly required pursuant to the Plan.

**I. No Further Approvals.**

The transactions contemplated by the Plan shall be approved and effective as of the Effective Date without the need for any further state or local regulatory approvals or approvals by any non-Debtor parties, and without any requirement for further action by the Debtors, the Reclamation Trust Entity, or any entity created to effectuate the provisions of the Plan.

**J. Pre-Effective Date Injunctions or Stays.**

All injunctions or stays, whether by operation of law or by order of the Court, provided for in the Chapter 11 Cases pursuant to Bankruptcy Code sections 105 or 362 or otherwise that are in effect on the Confirmation Date shall remain in full force and effect until the Effective Date.

**K. Intercompany Claims.**

All Intercompany Claims are cancelled either as a result of the granting of the Debtors' request for substantive consolidation for purposes of the Plan or by agreement of the Debtors in the event substantive consolidation is not granted.

**L. Claims By/Against Non-Debtor Subsidiaries.**

Any Claim, Cause of Action, or remedy asserted by any Debtor against any Non-Debtor Subsidiary or any Non-Debtor Subsidiary against any Debtor shall be, as of the Effective

Date, reinstated, adjusted (including by contribution, distribution in exchange for new debt or equity, or otherwise), paid, continued, cancelled, or discharged to the extent determined appropriate by the applicable Debtor or the Reclamation Trust Entity and applicable Non-Debtor Subsidiary, as applicable, subject to the consent of the Consenting Stakeholders, which consent shall not be unreasonably withheld. Any such transaction may be effectuated prior to, on or subsequent to the Effective Date without any further action by the Court or by the holders of Reclamation Trust Entity Interests.

**M. Existing Benefits Agreements and Retiree Benefits.**

Except as such benefits may be otherwise treated by the Debtors in a manner permissible under applicable law or ordered by the Court during the pendency of the Chapter 11 Cases or in connection with Confirmation, all Existing Benefits Agreements and other retiree benefit programs (if any) shall be deemed rejected immediately prior to the Consummation of the Plan on the Effective Date or as otherwise may be agreed by the Debtors and the other parties thereto.

**N. Severance and Incentive Plan; Employment Agreements.**

Any employment agreement or similar benefits agreement between any executive, contractor or other employee shall, unless otherwise agreed among the Debtors and the Consenting Stakeholders, be rejected immediately prior to the Effective Date of the Plan unless otherwise agreed among such executive, contractor or other employee and the Consenting Stakeholders.

**O. Indemnification of Directors, Officers, and Employees.**

Notwithstanding any other provisions of the Plan, from and after the Effective Date, indemnification obligations owed by the Debtors or the Reclamation Trust Entity to directors, officers, or employees of the Debtors who served or were employed by the Debtors before, on or after the Petition Date, to the extent provided in the articles or certificates of incorporation, bylaws or similar constituent documents, by statute or by written agreement, policies or procedures of the Debtors, will be deemed to be, and treated as though they are, Executory Contracts that are assumed pursuant to the Plan and Bankruptcy Code section 365. To the extent such obligations are covered by insurance, all such indemnification obligations shall survive confirmation of the Plan, remain unaffected thereby, and not be discharged, irrespective of whether indemnification, defense, reimbursement or limitation is owed in connection with an event occurring before, on, or after the Petition Date. Except as expressly provided herein, all other indemnities and guaranties by the Debtors are extinguished as of the Effective Date.

Director and officer insurance will continue in place for the directors and officers of all of the Debtors during the Chapter 11 Cases on existing terms. After the Effective Date, the Reclamation Trust Entity shall not terminate or otherwise reduce the coverage under any director and officer insurance policies (including any “tail policy”) then in effect. Directors and officers shall be indemnified by the Reclamation Trust Entity to the extent of such insurance. Any modifications, amendments, or the procuring of director and officer insurance shall require the reasonable consent by the Consenting Stakeholders.

**P. Coal Act.**

Neither the Debtors, their respective Estates, the Reclamation Trust Entity, nor the Reclamation Trust Entity Representative shall be deemed to be in business on or after the Confirmation Date for purposes of the Coal Act. On and after the Confirmation Date, neither the Debtors, their respective Estates, the Reclamation Trust Entity, nor the Reclamation Trust Entity Representative shall be deemed to be conducting any business activity or deriving revenue from any business activity, whether or not in the coal industry. In addition, neither the Debtors, their respective Estates, the Reclamation Trust Entity, nor the Reclamation Trust Entity Representative, as applicable, shall be considered to be either (i) a signatory operator, (ii) a last signatory operator, (iii) a 1988 agreement operator, (iv) a 1988 last signatory operator, (v) a related person or successor in interest, or (vi) a successor, as defined in or for the purposes of the Coal Act. After the Confirmation Date, neither the Debtors, their respective Estates, the Reclamation Trust Entity, nor the Reclamation Trust Entity Representative, as applicable, shall accrue obligations or liabilities pursuant to the Coal Act in relation to (1) the continuation of individual employer plans or providing retiree health benefits, (2) the UMWA Combined Benefit Fund or (3) the 1992 UMWA Benefit Plan. Neither Debtors, their respective Estates, the Reclamation Trust Entity, nor the Reclamation Trust Entity Representative, shall be subject to orders granting injunctive relief requiring them to comply with provisions of the Coal Act after the Confirmation Date.

**Q. Cessation of the Conduct of Business of the Debtors & Professionals.**

Upon the Effective Date and the appointment of the Reclamation Trust Entity Representative, the Reclamation Trust Entity Representative will have full and complete power to act on behalf of the Debtors, the Debtors in Possession, and the Estates in a manner consistent with the provisions of the Plan. The Confirmation Order will constitute an Order of the Bankruptcy Court pursuant to section 1107(a) of the Bankruptcy Code limiting the rights, powers and duties of the officers, directors, employees, agents or other representatives of the Debtors as provided herein and the Reclamation Trust Entity Agreement. Professionals retained by the Debtors will be deemed to have withdrawn and will be relieved of all the duties and responsibilities as “case attorneys” in the Chapter 11 Cases pursuant to the Local Bankruptcy Rules of the Bankruptcy Court. The Confirmation Order will constitute an Order authorizing the withdrawal of all Professionals employed by the Debtors as of the Effective Date. Other than timely filing their applications for final compensation as provided herein, and except to the extent such Professionals may be employed by the Reclamation Trust Entity, Professionals employed by the Debtors will have no further obligations or responsibilities to the Estates or the Debtors from and after the Effective Date and all fees and expenses awarded on a final basis by the Bankruptcy Court with respect to such Professionals shall not be subject to disgorgement.

**R. Articles of Incorporation and By-laws.**

The articles of incorporation and by-law of each of the Debtors shall be amended to contain provisions necessary (i) to comply with the requirements of section 1123(a)(6) of the Bankruptcy Code, subject to further amendment of such articles of incorporation and by-laws as permitted by applicable law and (ii) to effectuate the provisions of the Plan.

**S. Compensation and Benefit Programs.**

Except as otherwise provided in the Plan, all savings plans, retirement and pension plans, deferred compensation or non-qualified plans, health care (including vision, dental and prescription drug benefits) plans, performance-based incentive or bonus plans, severance benefits, retention plans, workers' compensation programs, benefits in the event of sickness, accident, disability or death, disability, and other plans, policies, benefits or programs, whether or not insured, are, on the Effective Date, (i) terminated to the extent that the Debtors have expressly reserved the right to amend or terminate these compensation and benefit programs, including, but not limited to, retiree medical benefits or (ii) treated as executory contracts under the Plan and deemed rejected by the Debtors in accordance with sections 365(a) and 1123(b)(2) of the Bankruptcy Code. To the extent any of the foregoing constitute "retiree benefits" under section 1114 of the Bankruptcy Code, the Debtors shall file a motion with the Bankruptcy Court requesting relief under section 1114 of the Bankruptcy Code, and, if granted, there shall be no continuation of "retiree benefits" after the Confirmation Date as provided in section 1129(a)(13) of the Bankruptcy Code. To the extent any of the foregoing arise in connection with a collective bargaining agreement, the Debtors shall file a motion with the Bankruptcy Court requesting relief under section 1113 of the Bankruptcy Code and, if granted, there shall be no continuation of any such plans, funds, programs, policies or benefits under any such collective bargaining agreement. Notwithstanding any otherwise applicable nonbankruptcy law to the contrary, the Debtors may refuse the payment of vacation and other non-cash benefits otherwise due upon termination of an employee that is to be re-hired by the Reclamation Trust Entity or the Coal Side Debtors, to the extent such benefits are expressly assumed by the Reclamation Trust Entity or the Coal Side Debtors.

**ARTICLE V.**

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

**A. General Settlement of Claims and Interests.**

Pursuant to Bankruptcy Code section 363 and Bankruptcy Rule 9019 and in consideration for the distributions and other benefits provided pursuant to the Plan, the provisions of the Plan shall constitute a good faith compromise of all Claims, Equity Interests, and controversies relating to the contractual, legal, and subordination rights that a holder of a Claim may have with respect to any Allowed Claim, or any distribution to be made on account of such Allowed Claim.

Without limiting the foregoing, the provisions of the Plan shall, upon Consummation, constitute a good faith compromise and settlement, pursuant to Bankruptcy Rule 9019 and Bankruptcy Code section 1123, among the Debtors, the Senior Secured Lenders, and the Sureties of any and all disputes among the parties or any Causes of Action of the Debtors, the Estates or the Non-Debtor Subsidiaries against the Senior Secured Lenders and the Sureties in any capacity and the consideration therefor shall consist of the receipt by the Senior Secured Lender and the Sureties of the releases contemplated by Article V of the Plan in exchange for their agreement to compromise their Claims as set forth herein, and as a result of the inclusion of the holders of the Class B Reclamation Trust Entity Interests and benefits provided thereto, the Senior Secured Lenders will not be paid in full on the Senior Secured Lenders' Superpriority Claims,

Senior Secured Claims or the Senior Secured Lenders Unsecured Deficiency Claim as a result of its agreements and are consenting to a distribution to Class B Reclamation Trust Entity Interests out of their Collateral. In the event that, for any reason, the Confirmation Order is not entered or the Effective Date does not occur, the Debtors, the Non-Debtor Subsidiaries, the Senior Secured Lenders, and the Sureties reserve all of their respective rights with respect to any and all disputes that would have been resolved and settled under the Plan had the Effective Date occurred.

The entry of the Confirmation Order shall constitute the Court's approval of each of the compromises and settlements embodied in the Plan, and the Court's findings shall constitute its determination that such compromises and settlements are in the best interests of the Debtors, their Estates, creditors, and other parties-in-interest, and are fair, equitable, and within the range of reasonableness. The Plan and the Confirmation Order shall have res judicata, collateral estoppel, and estoppel (judicial, equitable, or otherwise) effect with respect to all matters provided for, or resolved pursuant to, the Plan and/or the Confirmation Order, including, without limitation, the release, injunction, exculpation, and compromise provisions contained in the Plan and/or the Confirmation Order. The provisions of the Plan, including, without limitation, its release, injunction, exculpation and compromise provisions, are mutually dependent and non-severable.

#### **B. Discharge of Claims.**

Pursuant to section 1141(d) of the Bankruptcy Code, and except as otherwise specifically provided in the Plan (in each case which are not discharged hereunder), or in any contract, instrument, or other agreement or document created pursuant to the Plan, the distributions, rights, and treatment that are provided in the Plan shall be in complete satisfaction, discharge, and release, effective as of the Effective Date, of Claims, Interests, and Causes of Action of any nature whatsoever, including any interest accrued on Claims or Interests from and after the Petition Date, whether known or unknown, against, liabilities of, Liens on, obligations of, rights against, and Interests in, the Debtors or any of their assets or properties, regardless of whether any property shall have been distributed or retained pursuant to the Plan on account of such Claims and Interests, including demands, liabilities, and Causes of Action that arose before the Effective Date, any liability (including withdrawal liability) to the extent such Claims or Interests relate to services performed by employees of the Debtors prior to the Effective Date and that arise from a termination of employment, any contingent or non-contingent liability on account of representations or warranties issued on or before the Effective Date, and all debts of the kind specified in sections 502(g), 502(h), or 502(i) of the Bankruptcy Code, in each case whether or not: (i) a Proof of Claim based upon such debt or right is filed or deemed filed pursuant to section 501 of the Bankruptcy Code; (ii) a Claim or Interest based upon such debt, right, or Interest is Allowed pursuant to section 502 of the Bankruptcy Code; or (iii) the holder of such a Claim or Interest has accepted the Plan or voted to reject the Plan. The Confirmation Order shall be a judicial determination of the discharge of all Claims and Interests subject to the occurrence of the Effective Date, except as otherwise specifically provided in the Plan (in each case which are not discharged hereunder).

#### **C. Subordination of Claims**

The allowance, classification and treatment of all Allowed Claims and Equity Interests and the respective distributions and treatments under the Plan take into account and

conform to the relative priority and rights of the Claims and Equity Interests in each Class in connection with any contractual, legal, and equitable subordination rights relating thereto. However, the Debtors reserve the right to reclassify any Allowed Claim or Equity Interest in accordance with any contractual, legal or equitable subordination relating thereto, unless otherwise provided in a settlement agreement concerning such Allowed Claim or Equity Interest.

**D. Release of Liens.**

Except as otherwise expressly provided in the Plan, or in any contract, instrument, release, or other agreement or document created pursuant to the Plan, on the Effective Date and concurrently with the applicable distributions made pursuant to the Plan, all mortgages, deeds of trust, liens, pledges, and other security interests against any property of the Coal Side Debtors' Estates shall be fully released and discharged, and all of the right, title, and interest of any holder of such mortgages, deeds of trust, liens, pledges, and other security interests shall revert to the Reclamation Trust Entity and each of their successors and assigns.

**E. Releases by the Debtors.**

Except as otherwise specifically provided in the Plan, for good and valuable consideration, including the service of the Released Parties to facilitate the Reclamation Plans and wind down of the Debtors, the implementation of the transactions contemplated by the Restructuring Support Agreement and the Plan and the compromises contained herein, on and after the Effective Date, the Released Parties are hereby released and discharged by the Debtors, the Reclamation Trust Entity, and the Estates, including any successor to the Debtors or any Estate representative from all claims, obligations, rights, suits, damages, Causes of Action, remedies and liabilities whatsoever, including any derivative claims asserted or assertable on behalf of a Debtor, whether known or unknown, foreseen or unforeseen, liquidated or unliquidated, contingent or fixed, existing or hereafter arising, in law, at equity or otherwise, whether for indemnification, tort, contract, violations of federal or state securities laws or otherwise, including, those that any of the Debtors, the Reclamation Trust Entity or the Estates 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 Equity Interest or any other Person, based on or relating to, or in any manner arising from, in whole or in part, the Debtors, the Estates, the conduct of the businesses of the Debtors, the Chapter 11 Cases, the purchase, sale or rescission of the purchase or sale of any security of the Debtors, the subject matter of, or the transactions or events giving rise to, any Claim or Equity Interest that is treated in the Plan, the resolution or payment of Claims and Equity Interests prior to or during the Chapter 11 Cases, the negotiation, formulation or preparation of the Restructuring Support Agreement, the Plan, the Plan Supplement, the Disclosure Statement, the Reclamation Trust Entity Agreement, or, in each case, related agreements, instruments or other documents, any action or omission with respect to Intercompany Claims, any action or omission as an officer, director, agent, representative, fiduciary, controlling person, affiliate or responsible party, or any transaction entered into or affecting, a Non-Debtor Subsidiary, or upon any other act or omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date of the Plan, other than claims or liabilities arising out of or relating to any act or omission of a Released Party to the extent such act or omission is determined by a Final Order to have constituted gross negligence or willful misconduct.

**F. Releases by Holders of Claims and Equity Interests.**

Except as otherwise specifically provided in the Plan, for good and valuable consideration, including the service of the Released Parties to facilitate the Reclamation Plans and wind down of the Debtors, the implementation of the transactions contemplated by the Restructuring Support Agreement or the Plan, and the compromises contained herein, on and after the Effective Date, to the fullest extent permitted by applicable law, the Releasing Parties shall be deemed to conclusively, absolutely, unconditionally, irrevocably and forever release, waive and discharge the Released Parties of any and all claims, obligations, rights, suits, damages, Causes of Action, remedies and liabilities whatsoever, including: any derivative claims asserted or assertable on behalf of a Debtor, whether known or unknown, foreseen or unforeseen, liquidated or unliquidated, contingent or fixed, existing or hereafter arising, in law, at equity or otherwise, whether for indemnification, tort, contract, violations of federal or state securities laws or otherwise, including, those that any of the Debtors, the Reclamation Trust Entity or the Estates 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 Equity Interest or any other Person, based on or relating to, or in any manner arising from, in whole or in part, the Debtors, the Estates, the conduct of the businesses of the Debtors, the Chapter 11 Cases, the purchase, sale or rescission of the purchase or sale of any security of the Debtors or the Reclamation Trust Entity, the subject matter of, or the transactions or events giving rise to, any Claim or Equity Interest that is treated in the Plan, the resolution or payment of Claims and Equity Interests prior to or during the Chapter 11 Cases, the negotiation, formulation or preparation of the Restructuring Support Agreement, the Plan, the Plan Supplement, the Disclosure Statement, the Reclamation Trust Entity Agreement, or, in each case, related agreements, instruments or other documents, any action or omission with respect to Intercompany Claims, any action or omission as an officer, director, agent, representative, fiduciary, controlling person, affiliate or responsible party, or any transaction entered into or affecting, a Non-Debtor Subsidiary, or upon any other act or omission, transaction, agreement, event or other occurrence taking place on or before the Effective Date of the Plan, other than claims or liabilities arising out of or relating to any act or omission of a Released Party to the extent such act or omission is determined by a Final Order to have constituted gross negligence or willful misconduct.

Each Person providing releases under the Plan, including the Debtors, the Reclamation Trust Entity, the Estates and the Releasing Parties, shall be deemed to have granted the releases set forth in those sections notwithstanding that such Person may hereafter discover facts in addition to, or different from, those which it now knows or believes to be true, and without regard to the subsequent discovery or existence of such different or additional facts, and such Person expressly waives any and all rights that it may have under any statute or common law principle which would limit the effect of such releases to those claims or Causes of Action actually known or suspected to exist at the time of execution of such release.

**G. Exculpation.**

Notwithstanding anything herein to the contrary and to the extent permitted by applicable law, the Exculpated Parties shall neither have nor incur any liability to any Entity for any Plan-Related Action; provided that nothing in the foregoing “Exculpation” shall exculpate any Entity from any liability resulting from any act or omission that is determined by Final Order to



have constituted fraud, willful misconduct, gross negligence, or criminal conduct; provided, further, that each Exculpated Party shall be entitled to rely upon the advice of counsel concerning his, her or its duties pursuant to, or in connection with, the Plan or any other related document, instrument, or agreement.

Notwithstanding anything herein to the contrary, as of the Effective Date, pursuant to Bankruptcy Code section 1125(e), each of the proponents of the Plan, upon appropriate findings of the Court, will be deemed to have solicited acceptance of the Plan in good faith and in compliance with the applicable provisions of the Bankruptcy Code, and to have participated in good faith and in compliance with the applicable provisions of the Bankruptcy Code, in the offer, issuance, sale, or purchase of a security, offered or sold under the Plan of a Reclamation Trust Entity, and shall not be liable to any Entity on account of such solicitation or participation.

In addition to the protections afforded in Article V.F of the Plan to the Exculpated Parties, and not in any way reducing or limiting the application of such protections, the Court retains exclusive jurisdiction over any and all Causes of Action for any Plan-Related Action that are not otherwise exculpated or enjoined by the Plan.

#### **H. Injunction.**

EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THE PLAN, THE PLAN SUPPLEMENT OR RELATED DOCUMENTS, OR FOR OBLIGATIONS ISSUED PURSUANT TO THE PLAN, ALL PERSONS WHO HAVE HELD, HOLD, OR MAY HOLD CLAIMS OR EQUITY INTERESTS THAT HAVE BEEN RELEASED OR DISCHARGED PURSUANT TO THE PLAN OR ARE SUBJECT TO EXCULPATION PURSUANT TO ARTICLE V OF THE PLAN ARE PERMANENTLY ENJOINED, FROM AND AFTER THE EFFECTIVE DATE, FROM TAKING ANY OF THE FOLLOWING ACTIONS AGAINST, AS APPLICABLE, THE DEBTORS, THE RECLAMATION TRUST ENTITY, THE REORGANIZED COAL SIDE DEBTORS OR THE RELEASED PARTIES (COLLECTIVELY THE "RELEASED PARTIES" FOR PURPOSES OF THIS PARAGRAPH): (1) COMMENCING OR CONTINUING IN ANY MANNER ANY ACTION OR OTHER PROCEEDING OF ANY KIND ON ACCOUNT OF OR IN CONNECTION WITH OR WITH RESPECT TO ANY SUCH CLAIMS, CAUSES OF ACTION, OR EQUITY INTERESTS; (2) ENFORCING, ATTACHING, COLLECTING, OR RECOVERING BY ANY MANNER OR MEANS ANY JUDGMENT, AWARD, DECREE, OR ORDER AGAINST SUCH RELEASED PARTIES ON ACCOUNT OF OR IN CONNECTION WITH OR WITH RESPECT TO ANY SUCH CLAIMS, CAUSES OF ACTION, OR EQUITY INTERESTS; (3) CREATING, PERFECTING, OR ENFORCING ANY ENCUMBRANCE OF ANY KIND AGAINST SUCH RELEASED PARTIES OR AGAINST THE PROPERTY OR ESTATES OF SUCH RELEASED PARTIES ON ACCOUNT OF OR IN CONNECTION WITH OR WITH RESPECT TO ANY SUCH CLAIMS, CAUSES OF ACTION, OR EQUITY INTERESTS; (4) ASSERTING ANY RIGHT OF SETOFF OR SUBROGATION OF ANY KIND AGAINST ANY OBLIGATION DUE FROM ANY OF THE DEBTORS, RECLAMATION TRUST ENTITY, THE REORGANIZED COAL SIDE DEBTORS, OR AGAINST THE PROPERTY OR INTERESTS IN PROPERTY OF ANY OF THE DEBTORS, OR THE RECLAMATION TRUST ENTITY, OR THE REORGANIZED COAL SIDE DEBTORS ON ACCOUNT OF OR IN CONNECTION WITH OR WITH RESPECT TO ANY SUCH CLAIMS, CAUSES OF ACTION, OR EQUITY INTERESTS; AND (5) COMMENCING

OR CONTINUING IN ANY MANNER ANY ACTION OR OTHER PROCEEDING OF ANY KIND ON ACCOUNT OF OR IN CONNECTION WITH OR WITH RESPECT TO ANY SUCH CLAIMS, CAUSES OF ACTION, OR EQUITY INTERESTS RELEASED OR SETTLED PURSUANT TO THE PLAN OR CONFIRMATION ORDER.

**I. Limitations on Exculpations and Releases.**

Notwithstanding anything contained herein to the contrary, the releases, and exculpation contained herein do not release any obligations of any party arising under the Plan or any document, instrument or agreement (including those set forth in the Reclamation Trust Entity Agreement and the Plan Supplement) executed to implement the Plan.

**J. Preservation of Insurance.**

Nothing in the Plan shall diminish or impair the enforceability of any insurance policy that may provide coverage for claims against the Debtors, the Reclamation Trust Entity, their current and former directors and officers, or any other Person. All of the Debtors' insurance policies and any agreements, documents, or instruments relating thereto, are treated as executory contracts under the Plan. Notwithstanding the foregoing, Distributions under the Plan to any holder of an Insured Claim shall be in accordance with the treatment provided under Article VIII.G of the Plan. Nothing contained herein shall constitute or be deemed a waiver of any Cause of Action that the Debtors may hold against any entity, including, without limitation, the insurer under any of the Debtors' policies of insurance.

**K. Preservation of Sureties' Rights.**

Nothing in this Plan shall diminish or impair any applicable Sureties' indemnification rights against the Debtors or the Reorganized Debtors, except with respect to Black Butte as provided in the Reclamation Trust Entity Bonding Agreement.

**ARTICLE VI.  
DISTRIBUTIONS UNDER THE PLAN**

**A. Procedures for Treating Disputed Claims.**

1. Filing Proofs of Claim. In the event that a holder of a Claim files a proof of Claim with the Court, it will be deemed to have consented to the exclusive jurisdiction of the Court for all purposes with respect to the determination, liquidation, allowance, or disallowance of such Claim, except as otherwise ordered by the Court or provided herein.

2. Disputed Claims. If the Debtors or Reclamation Trust Entity dispute any Claim as to which no proof of Claim has been filed, such dispute shall be determined, resolved, or adjudicated, as the case may be, in a manner as if the Chapter 11 Cases had not been commenced, provided, however, that the Debtors or the Reclamation Trust Entity may elect to object under Bankruptcy Code section 502 to any proof of Claim filed by or on behalf of a holder of a Claim.

3. Objections to Claims. Except insofar as a Claim is Allowed under the Plan or has already been paid by the Debtors in the ordinary course of business pursuant to an order of the Court, after the Confirmation Date to the Effective Date, the Debtors and, after the Effective Date, the Reclamation Trust Entity, shall have exclusive authority to object to Claims. The Debtors and the Reclamation Trust Entity shall retain all defenses, counterclaims, rights to setoff, and rights to recoupment as to claims in Classes 2 and 6. Notwithstanding the foregoing, the Debtors and the Reclamation Trust Entity shall be entitled to dispute and/or otherwise object to any Claim in accordance with applicable law, including Bankruptcy Code section 502. From and after the Effective Date, the Reclamation Trust Entity may settle or compromise any Disputed Claims without any further notice to or action, order or approval of the Court or any other party, and the Reclamation Trust Entity Representative shall have the sole authority to administer and adjust the Claims Register to reflect any such settlements or compromises without any further notice or action, order or approval of the Court. In any action or proceeding to determine the existence, validity, or amount of any Claim, any and all claims or defenses that could have been asserted by the applicable Debtor(s) or the Entity holding such Claim are preserved as if the Chapter 11 Cases had not been filed.

**B. Allowed Claims and Equity Interests.**

1. Delivery of Distributions in General. Except as otherwise provided herein, distributions under the Plan shall be made by the Debtors or the Reclamation Trust Entity (or their agents or designees) to the holders of Allowed Claims and holders of the Reclamation Trust Entity Interests for which a distribution is provided in the Plan at the addresses set forth on the Schedules (if filed) or in the Debtors' books and records, as applicable, unless such addresses are superseded by proofs of Claim or Equity Interests or transfers of Claim filed pursuant to Bankruptcy Rule 3001 by the Record Date (or at the last known addresses of such holders if the Debtors or the Reclamation Trust Entity have been notified in writing of a change of address). Neither the Debtors nor the Reclamation Trust Entity shall be required to, but may in its sole and absolute discretion, make any payment on account of any Claim or Equity Interest in the event that the costs of making such payment exceeds the amount of such payment.

2. Delivery of Distributions to Reclamation Trust Entity Interest Holders. Distributions to holders of Reclamation Trust Entity Interests shall be made in accordance with the Reclamation Trust Entity Agreement.

3. Distribution of Cash. Any payment of Cash by the Debtors or the Reclamation Trust Entity pursuant to the Plan shall be made at the option and in the sole discretion of the Debtors or the Reclamation Trust Entity by (i) a check drawn on, or (ii) wire transfer from, a domestic bank selected by the Debtors or the Reclamation Trust Entity.

4. Unclaimed Distributions of Cash. Any distribution of Cash under the Plan that is unclaimed after six (6) months after it has been delivered (or attempted to be delivered) shall, pursuant to Bankruptcy Code section 347(b), become the property of the Reclamation Trust Entity notwithstanding any state or other escheat or similar laws to the contrary, and the entitlement by the holder of such unclaimed Allowed Claim or Allowed Equity Interest to such distribution or any subsequent distribution on account of such Allowed Claim or Allowed Equity Interest shall be extinguished and forever barred.

5. Unclaimed Distributions of Reclamation Trust Entity Interests. Any notice of Reclamation Trust Entity Interests under the Plan that is returned to either the Reclamation Trust Entity or the Class B Reclamation Trust Entity Interests Agent and thereafter unclaimed after six (6) months after it has been delivered (or attempted to be delivered) shall be retained by either the Reclamation Trust Entity or the Class B Reclamation Trust Entity Interests Liquidation Agent, as applicable, and then cancelled, notwithstanding any state or other escheat or similar laws to the contrary, and the entitlement by the holder of such holder shall be extinguished and forever barred.

6. Saturdays, Sundays, or Legal Holidays. If any payment, distribution or act under the Plan is required to be made or performed on a date that is not a Business Day, then the making of such payment or the performance of such act may be completed on the next succeeding Business Day, and shall be deemed to have been completed as of the required date.

7. [Intentionally Omitted]

8. Distributions to Holders of Claims:

(a) Initial Distribution to Claims Allowed as of the Effective Date. On or as soon as reasonably practicable after the Effective Date, or as otherwise expressly set forth in the Plan, the Debtors or the Reclamation Trust Entity (or their agents or designees) shall distribute Cash to the holders of Allowed Claims as contemplated herein.

(b) Claims Allowed after the Effective Date. Each holder of a Claim that becomes an Allowed Claim subsequent to the Effective Date shall receive the distribution to which such holder of an Allowed Claim is entitled as set forth in Article III of the Plan, and distributions to such holder shall be made in accordance with the provisions of the Plan. As soon as practicable after the date that the Claim becomes an Allowed Claim, the Reclamation Trust Entity shall provide to the holder of such Claim the distribution (if any) to which such holder is entitled under the Plan as of the Effective Date, without any interest to be paid on account of such Claim.

9. Special Rules for Distributions to Holders of Disputed Claims. Notwithstanding any provision otherwise in the Plan and except as otherwise agreed to by the relevant parties, no partial payments and no partial distributions shall be made with respect to a Disputed Claim until all such disputes in connection with such Disputed Claim have been resolved by settlement or Final Order. Distributions made on account of any Disputed Claim that becomes an Allowed Claim shall be made from the Disputed Claims Reserve until it is exhausted.

10. Interest on Claims and Equity Interests. Except as specifically provided for in the Plan, no Claims or Equity Interests, Allowed or otherwise (including Administrative Claims), shall be entitled, under any circumstances, to receive any interest on a Claim or Equity Interests.

### **C. Allocation of Consideration.**

The aggregate consideration to be distributed to the holders of Allowed Claims in each Class under the Plan shall be treated as first satisfying an amount equal to the principal amount of the Allowed Claim for such holders, and any remaining consideration as satisfying accrued, but unpaid interest, as applicable.

**D. Estimation.**

Prior to or after the Effective Date, the Debtors or the Reclamation Trust Entity, as applicable, may (but are not required to), at any time, request that the Court estimate (i) any Disputed Claim pursuant to Bankruptcy Code section 502(c) or (ii) any contingent or unliquidated Claim pursuant to Bankruptcy Code section 502(c), for any reason, regardless of whether the Debtors have or the Reclamation Trust Entity has previously objected to such Claim or whether the Court has ruled on any such objection. The Court will retain jurisdiction to estimate any Claim at any time, including during proceedings concerning any objection to such Claim. In the event that the Court estimates any Claim, such estimated amount shall constitute either (i) the Allowed amount of such Claim, (ii) the amount on which a reserve is to be calculated for purposes of any reserve requirement under the Plan or (iii) a maximum limitation on such Claim, as determined by the Court. If the estimated amount constitutes the maximum limitation on such Claim, the Debtors or the Reclamation Trust Entity, as the case may be, may elect to object to any ultimate allowance of such Claim. All of the aforementioned objection, estimation, and resolution procedures are cumulative and not necessarily exclusive of one another.

**E. Insured Claims.**

If any portion of an Allowed Claim is an Insured Claim, no distributions under the Plan shall be made on account of such Allowed Claim until the holder of such Allowed Claim has exhausted all remedies with respect to any applicable insurance policies. To the extent that the Debtors' insurers agree to satisfy a Claim in whole or in part, then immediately upon such agreement, the portion of such Claim so satisfied may be expunged without an objection to such Claim having to be filed and without any further notice to or action, order or approval of the Court.

**ARTICLE VII.  
RETENTION OF JURISDICTION**

Notwithstanding the entry of the Confirmation Order and the occurrence of the Effective Date, on and after the Effective Date, except as otherwise set forth in the Plan, the Court shall retain exclusive jurisdiction over all matters arising out of, or related to, the Chapter 11 Cases and the Plan pursuant to Bankruptcy Code sections 105(a) and 1142, including jurisdiction:

(i) to resolve any matters related to (a) the assumption, assumption and assignment, or rejection of any Executory Contract or Unexpired Lease to which one or more of the Debtors or the Reclamation Trust Entity is party or with respect to which the Debtors or the Reclamation Trust Entity may be liable and to hear, determine, and, if necessary, liquidate, any Claims arising therefrom, including Cure Claims pursuant to Bankruptcy Code section 365; and (b) any dispute regarding whether a contract or lease is or was executory or expired;

(ii) to determine, adjudicate, or decide any other applications, adversary proceedings, contested matters, and any other matters pending on the Effective Date;

(iii) to ensure that distributions to holders of Allowed Claims are accomplished as provided herein;

- (iv) to resolve disputes as to the ownership of any Claim;
- (v) to allow, disallow, determine, liquidate, classify, estimate, or establish the priority, secured or unsecured status, or amount of any Claim or Equity Interest, including the resolution of any request for payment of any Administrative Claim and the resolution of any and all objections to the secured or unsecured status, priority, amount, or allowance of Claims;
- (vi) to enter and implement such orders as may be appropriate in the event the Confirmation Order is for any reason stayed, revoked, reversed, modified, or vacated;
- (vii) to issue such orders in aid of execution of the Plan, to the extent authorized by Bankruptcy Code section 1142;
- (viii) to consider any modifications of the Plan, to cure any defect or omission, or to reconcile any inconsistency in any order of the Court, including the Confirmation Order;
- (ix) to hear and determine all applications for compensation and reimbursement of expenses of Professionals under Bankruptcy Code sections 330, 331, and 503(b) and any disputes arising in connection with adequate protection payments in respect of professional fees for prepetition secured parties;
- (x) to hear and determine disputes arising in connection with the interpretation, implementation, Consummation, or enforcement of the Plan and the Plan Documents;
- (xi) to hear and determine any issue for which the Plan requires a Final Order of the Court;
- (xii) to hear and determine matters concerning state, local, and federal Taxes in accordance with Bankruptcy Code sections 346, 505, and 1146;
- (xiii) to hear and determine any Causes of Action preserved under the Plan;
- (xiv) to hear and determine any matter, case, controversy, suit, dispute, or Cause of Action (if any) (i) regarding the existence, nature, and scope of the discharge, releases, injunctions, and exculpation provided under the Plan, and (ii) enter such orders as may be necessary or appropriate to implement such discharge, releases, injunctions, exculpations, and other provisions;
- (xv) to enter a final decree closing the Chapter 11 Cases;
- (xvi) to issue injunctions, enter and implement other orders, or take such other actions as may be necessary or appropriate to restrain interference by any entity with Consummation or enforcement of the Plan;
- (xvii) to enforce all orders previously entered by the Court; and
- (xviii) to hear any other matter not inconsistent with the Bankruptcy Code.

For the avoidance of doubt, the Court shall not retain exclusive jurisdiction with respect to the Reclamation Trust Entity Agreement.

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

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

Except for Executory Contracts and Unexpired Leases specifically designated as assumed on the Schedule of Assumed Executory Contracts and Unexpired Leases, each Executory Contract and Unexpired Lease shall be deemed rejected as of the Effective Date under Bankruptcy Code section 365. The Confirmation Order, if not by a separate order entered by the Bankruptcy Court, will constitute an order of the Court approving the assumption or rejection of Executory Contracts and Unexpired Leases pursuant to Bankruptcy Code sections 365 and 1123 as of the Effective Date.

The assumption of any Executory Contracts and Unexpired Leases in the Chapter 11 Cases or otherwise through the Confirmation Order (or other order by the Bankruptcy Court) may include the assignment of certain of such contracts to the Reclamation Trust Entity, which shall be deemed to have provided adequate assurance of future performance pursuant to section 365(b) of the Bankruptcy Code in accordance with the terms of this Plan. Except as otherwise provided herein or agreed to by the Debtors (with the consent of the Consenting Stakeholders, which consent shall not be unreasonably withheld) and the applicable counterparty, each assumed Executory Contract or Unexpired Lease shall include all modifications, amendments, supplements, restatements, or other agreements related thereto, and all rights related thereto, if any, including all easements, licenses, permits, rights, privileges, immunities, options, rights of first refusal, and any other interests. Modifications, amendments, supplements, and restatements to prepetition Executory Contracts and Unexpired Leases that have been executed by the Debtors during the Chapter 11 Cases shall not be deemed to alter the prepetition nature of the Executory Contract or Unexpired Lease or the validity, priority, or amount of any Claims that may arise in connection therewith.

**B. Cure Claims.**

At the election of the Debtors (with the reasonable consent of the Consenting Stakeholders) or the Reclamation Trust Entity, as applicable, any monetary defaults under each Executory Contract and Unexpired Lease to be assumed and assigned under the Plan shall be satisfied pursuant to Bankruptcy Code section 365(b)(1) in one of the following ways: (i) payment of the Cure Claim in Cash on or as soon as reasonably practicable following the occurrence of (A) thirty (30) days after the determination of the Cure Claim, and (B) the Effective Date or such other date as may be set by the Court; or (ii) on such other terms as agreed to by the Debtors (with the reasonable consent of the Consenting Stakeholders) or the Reclamation Trust Entity and the non-Debtor counterparty to such Executory Contract or Unexpired Lease.

In the event of a dispute pertaining to assumption or assignment, the Cure Claim payments required by Bankruptcy Code section 365(b)(1) shall be made following the entry of a Final Order or orders resolving the dispute and approving the assumption. No later than the Plan

Supplement Filing Date, to the extent not previously filed with the Court and served on affected counterparties, the Debtors shall provide for notices (in form and substance reasonably acceptable to the Consenting Stakeholders) of proposed assumption and proposed cure amounts to be sent to applicable contract and lease counterparties, together with procedures for objecting thereto and resolution of disputes by the Court (in form and substance reasonably acceptable to the Consenting Stakeholders). Any objection by a contract or lease counterparty to a proposed assumption or related cure amount must be filed, served, and actually received by the Debtors and counsel to the Ad Hoc Group by the date on which objections to Confirmation are due (or such other date as may be provided in the applicable assumption notice). Any counterparty to an Executory Contract or Unexpired Lease that fails to object timely to the proposed assumption or cure amount will be deemed to have assented to such assumption or cure amount.

The only adequate assurance of future performance of any executory contract or unexpired lease that is assumed in connection with the Plan shall be the promise of the Reclamation Trust Entity or applicable Non-Debtor Subsidiary to perform all obligations under any executory contract or unexpired lease under the Plan.

ASSUMPTION OF ANY EXECUTORY CONTRACT OR UNEXPIRED LEASE PURSUANT TO THE PLAN OR OTHERWISE SHALL RESULT IN THE FULL RELEASE AND SATISFACTION OF ANY CLAIMS OR DEFAULTS, WHETHER MONETARY OR NONMONETARY, INCLUDING DEFAULTS OF PROVISIONS RESTRICTING THE CHANGE IN CONTROL OR OWNERSHIP INTEREST COMPOSITION OR OTHER BANKRUPTCY-RELATED DEFAULTS, ARISING UNDER ANY ASSUMED EXECUTORY CONTRACT OR UNEXPIRED LEASE AT ANY TIME BEFORE THE DATE ANY OF THE DEBTORS OR THE RECLAMATION TRUST ENTITY ASSUMES SUCH EXECUTORY CONTRACT OR UNEXPIRED LEASE. 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 COURT.

Obligations arising under insurance policies assumed by any of the Debtors before the Effective Date shall be adequately protected in accordance with any order authorizing such assumption.

**C. Rejection and Repudiation of Executory Contracts and Unexpired Leases.**

On the Effective Date, each Executory Contract and Unexpired Lease, including any Existing Benefits Agreement, that is not listed on the Schedule of Assumed Executory Contracts and Unexpired Leases shall be deemed rejected or repudiated pursuant to Bankruptcy Code section 365. Each contract or lease not listed on the Schedule of Assumed Executory Contracts and Unexpired Leases shall be rejected only to the extent that such contract or lease constitutes an Executory Contract or Unexpired Lease. Until the Effective Date, the Debtors expressly reserve their right to amend the Schedule of Assumed Executory Contracts and Unexpired Leases to delete any Executory Contract or Unexpired Lease therefrom or to add any Executory Contract or Unexpired Lease thereto. Listing a contract or lease on the Schedule of Assumed Executory Contracts and Unexpired Leases shall not constitute an admission by the Debtors or the Reclamation Trust Entity that such contract or lease is an Executory Contract or



Unexpired Lease or that such Debtor or the Reclamation Trust Entity, as applicable, has any liability thereunder. The Debtors or the Reclamation Trust Entity, as applicable, may abandon any personal property that may be located at any premises that are subject to any rejected Unexpired Lease.

**D. Rejection Damage Claims.**

If the rejection or repudiation of an Executory Contract or Unexpired Lease prior to the Confirmation Date results in a Rejection Damage Claim, then such Rejection Damage Claim shall be forever barred and shall not be enforceable against the Debtors or the Reclamation Trust Entity or their properties, or any of their interests in properties as agent, successor or assign, unless a proof of Claim is filed with the Claims and Noticing Agent and served upon counsel to the Debtors or the Reclamation Trust Entity, as applicable, in accordance with the order of the Court approving the rejection or repudiation of such Executory Contract or Unexpired Lease.

If the rejection or repudiation of an Executory Contract or Unexpired Lease pursuant to the Plan results in a Rejection Damage Claim, then such Rejection Damage Claim shall be forever barred and shall not be enforceable against the Debtors or the Reclamation Trust Entity or their properties, or any of their interests in properties as agent, successor or assign, unless a proof of Claim is filed with the Claims and Noticing Agent and an injunction is served upon counsel to the Debtors or the Reclamation Trust Entity, as applicable, within thirty (30) days after the later of (i) service of the Confirmation Order and (ii) service of notice of the effective date of rejection or repudiation of the Executory Contract or Unexpired Lease, and any such Rejection Damages Claim shall be deemed fully satisfied, released, and discharged, and be subject to the permanent injunction set forth in Article V.G of the Plan, notwithstanding anything in a Proof of Claim to the contrary. The Debtors shall give notice of the bar date established by Article VIII.D of the Plan to the non-Debtor counterparties to the Executory Contracts, including any Existing Benefits Agreements, and Unexpired Leases that are not identified in the Schedule of Assumed Executory Contracts and Unexpired Leases by service of the Plan, the Confirmation Order, or otherwise. Unless otherwise provided herein, the Reclamation Trust Entity shall object to such Rejection Damage Claims by the Claims Objection Deadline.

**E. Reservation of Rights.**

Nothing contained in the Plan shall constitute an admission by the Debtors that any such contract or lease is in fact an Executory Contract or Unexpired Lease or that the Reclamation Trust Entity has any liability thereunder. If there is a dispute regarding whether a contract or lease is or was executory or unexpired at the time of assumption, the Debtors (with the reasonable consent of the Consenting Stakeholders) or the Reclamation Trust Entity, as applicable, shall have 45 days following entry of a Final Order resolving such dispute to alter their treatment of such contract or lease, in which case the deemed assumptions and rejections provided for in the Plan shall not apply to such contract or lease.

**F. Assignment.**

Any Executory Contract or Unexpired Lease to be held by any of the Debtors and assumed hereunder or otherwise in the Chapter 11 Cases, if not expressly assigned to a third party

previously in the Chapter 11 Cases, will be deemed assigned to the Reclamation Trust Entity pursuant to Bankruptcy Code section 365. If an objection to a proposed assumption, assumption and assignment, or Cure Claim is not resolved in favor of the Debtors before the Effective Date, the applicable Executory Contract or Unexpired Lease may be designated by the Debtors (with the reasonable consent of the Consenting Stakeholders) or the Reclamation Trust Entity for rejection within five (5) Business Days of the entry of the order of the Court resolving the matter against the Debtors. Such rejection shall be deemed effective as of the Effective Date.

**G. Insurance Policies.**

Notwithstanding anything in the Plan to the contrary, all of the Debtors' insurance policies and any agreements, documents or instruments relating thereto, are treated as and deemed to be Executory Contracts under the Plan. On the Effective Date, the Debtors shall be deemed to have assumed all insurance policies and any agreements, documents, and instruments related thereto.

**H. Postpetition Contracts and Leases.**

All contracts, agreements, and leases that were entered into by one or more of the Debtors or assumed by any of the Debtors after the Petition Date shall be deemed assigned by the applicable Debtor(s) to the Reclamation Trust Entity on the Effective Date.

**ARTICLE IX.  
EFFECTIVENESS OF THE PLAN**

**A. Conditions Precedent to Effectiveness.**

The Plan shall not become effective unless and until the Confirmation Date has occurred and the following conditions have been satisfied in full or waived in accordance with Article IX.B of the Plan:

1. Each of the Plan, the Disclosure Statement, and the Plan Supplement (including any amendments, modifications, supplements, exhibits or schedules related to any of the foregoing) and any other Definitive Documents shall be substantially consistent in all respects with the terms and conditions of the Restructuring Support Agreement and otherwise in form and substance reasonably acceptable to the Debtors and the Consenting Stakeholders.

2. The Confirmation Order shall be a Final Order that is not stayed and shall have been entered in a form that is substantially consistent in all respects with the terms and conditions of the Restructuring Support Agreement and otherwise reasonably acceptable to the Debtors and the Consenting Stakeholders.

3. All actions, documents and agreements necessary to consummate the Plan shall have been effected or executed and delivered to the required parties and, to the extent required, filed with the applicable government units in accordance with applicable law.

4. The Restructuring Support Agreement shall not have been terminated in accordance with its terms.

**B. Waiver of Conditions Precedent to Effectiveness.**

The Debtors, with the written consent of all of the Consenting Stakeholders, may waive conditions set forth in Article IX.A of the Plan, other than the Confirmation Order having been entered, at any time without leave of or order of the Court and without any formal action.

**C. Effect of Failure of Conditions.**

In the event that the Effective Date does not occur on or before March 7, 2020, as may be extended by the Consenting Stakeholders pursuant to the terms of the Restructuring Support Agreement, upon notification submitted by the Consenting Stakeholders to the Debtors and the Court: (i) the Confirmation Order may be vacated; (ii) no distributions under the Plan shall be made; (iii) the Debtors and all holders of Claims and Equity Interests shall be restored to the status quo ante as of the day immediately preceding the Confirmation Date as though the Confirmation Date had never occurred; and (iv) the Debtors' obligations with respect to the Claims and Equity Interests shall remain unchanged and nothing contained in the Plan shall constitute or be deemed a waiver, release, or discharge of any Claims or Equity Interests by or against the Debtors or any other person or to prejudice in any manner the rights of the Debtors or any person in any further proceedings involving the Debtors unless extended by Court order.

**D. Vacatur of Confirmation Order.**

If a Final Order denying confirmation of the Plan is entered, or if the Confirmation Order is vacated, then the Plan shall be null and void in all respects, and nothing contained in the Plan shall: (i) constitute a waiver, release, or discharge of any Claims or Equity Interests; (ii) prejudice in any manner the rights of the holder of any Claim or Equity Interest; (iii) prejudice in any manner any right, remedy, or claim of the Debtors or the Non-Debtor Subsidiaries; or (iv) be deemed an admission against interest by the Debtors or the Non-Debtor Subsidiaries.

**E. Modification of the Plan.**

Subject to the limitations contained in the Plan, and subject to the terms of the Restructuring Support Agreement, (i) the Debtors reserve the right, in accordance with the Bankruptcy Code and the Bankruptcy Rules, to amend or modify the Plan prior to the entry of the Confirmation Order, including amendments or modifications to satisfy Bankruptcy Code section 1129(b), and (ii) after entry of the Confirmation Order, the Debtors or the Reclamation Trust Entity, as the case may be, may, upon order of the Court, amend or modify the Plan, in accordance with Bankruptcy Code section 1127(b). Notwithstanding the foregoing, the Confirmation Order shall authorize the Debtors (with the reasonable consent of the Consenting Stakeholders) or the Reclamation Trust Entity, as the case may be, to make appropriate technical adjustments, remedy any defect or omission, or reconcile any inconsistencies in the Plan, the documents included in the Plan Supplement, any and all exhibits to the Plan, and/or the Confirmation Order, as may be necessary to carry out the purposes and effects of the Plan, provided, however, that such action

does not materially and adversely affect the treatment of holders of Allowed Claims or Equity Interests pursuant to the Plan.

**F. Revocation, Withdrawal, or Non-Consummation.**

1. *Right to Revoke or Withdraw.* The Debtors reserve the right to revoke or withdraw the Plan at any time before the Effective Date, subject to the terms of the Restructuring Support Agreement.

2. *Effect of Withdrawal, Revocation, or Non-Consummation.* If the Debtors revoke or withdraw the Plan prior to the Effective Date, or if the Confirmation Date or the Effective Date does not occur, the Plan, any settlement or compromise embodied in the Plan (including the fixing or limiting to an amount certain any Claim or Equity Interest or Class of Claims or Equity Interests), the assumption or rejection of Executory Contracts, Unexpired Leases or benefit plans effected by the Plan, any release, exculpation, or indemnification provided for in the Plan, and any document or agreement executed pursuant to the Plan shall be null and void. In such event, nothing contained herein, and no acts taken in preparation for Consummation of the Plan shall be deemed to constitute a waiver or release of any Claims by or against or Equity Interests in the Debtors or any other Person, to prejudice in any manner the rights of the Debtors or any Person in any further proceedings involving the Debtors, or to constitute an admission of any sort by the Debtors or any other Person.

**ARTICLE X.  
MISCELLANEOUS PROVISIONS**

**A. Immediate Binding Effect.**

Notwithstanding Bankruptcy Rules 3020(e), 6004(h), 7062, or otherwise, upon the occurrence of the Effective Date, the terms of the Plan shall be immediately effective and enforceable and deemed binding upon the Debtors, the Reclamation Trust Entity, and any and all holders of Claims or Equity Interests (irrespective of whether such Claims or Equity Interests are deemed to have accepted the Plan), all Entities that are parties to or are subject to the settlements, compromises, releases, discharges, and injunctions described in the Plan, each Entity acquiring property under the Plan, and any and all non-Debtor parties to Executory Contracts and Unexpired Leases with any of the Debtors. The rights, benefits and obligations of any Entity named or referred to in the Plan shall be binding on, and shall inure to the benefit of, any heir, executor, administrator, successor or assign of such Entity.

**B. Governing Law.**

Unless a rule of law or procedure is supplied by federal law (including the Bankruptcy Code and Bankruptcy Rules), the laws of the State of Delaware (without reference to the conflicts of laws provisions thereof that would require or permit the application of the law of another jurisdiction) shall govern the construction and implementation of the Plan and any agreements, documents, and instruments executed in connection with the Plan, unless otherwise specified.

**C. Dissolution of the Committee.**

The Committee shall be dissolved on the Effective Date, except that the Committee may appear at the hearing to consider applications for final allowances of compensation and reimbursement of expenses and prosecute any objections to such applications, if appropriate.

**D. Filing or Execution of Additional Documents.**

On or before the Effective Date or as soon thereafter as is practicable, the Debtors or the Reclamation Trust Entity shall (on terms materially consistent with the Plan) file with the Court or execute, as appropriate, such agreements and other documents as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan, which agreements and documents shall be substantially consistent in all respects with the terms and conditions of the Restructuring Support Agreement and otherwise in form and substance reasonably acceptable to the Debtors and the Consenting Stakeholders.

**E. Term of Injunctions or Stays.**

Except as otherwise set forth in the Plan, all injunctions or stays provided for in the Chapter 11 Cases under Bankruptcy Code sections 105 or 362, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect until the Effective Date.

**F. Withholding and Reporting Requirements.**

In connection with the Plan and all instruments issued in connection therewith and distributions thereon, the Debtors and the Reclamation Trust Entity shall comply with all withholding and reporting requirements imposed by any U.S. federal, state, local, or non-U.S. taxing authority and all distributions hereunder shall be subject to any such withholding and reporting requirements. Notwithstanding any provision in the Plan to the contrary, the Reclamation Trust Entity shall be authorized to take all actions necessary or appropriate to comply with such withholding and reporting requirements, including liquidating a portion of the distribution to be made under the Plan to generate sufficient funds to pay applicable withholding Taxes, withholding distribution pending receipt of information necessary or appropriate to facilitate such distributions, or establishing any other mechanisms they believe are reasonable and appropriate.

**G. Exemption from Transfer Taxes.**

Pursuant to, and to the fullest extent permitted by, Bankruptcy Code section 1146(a), all transfers of property pursuant hereto, including (i) the transfer of the Reclamation Trust Assets to the Reclamation Trust Entity, (ii) the issuance, transfer, or exchange under the Plan of Reclamation Trust Entity Interests and the security interests in favor of the Reclamation Trust Entity, (iii) the making or assignment of any lease or sublease, or (iv) the making or delivery of any other instrument whatsoever, in furtherance of or in connection with the Plan, shall not be subject to any stamp, conveyance, mortgage, sales or use, real estate transfer, recording, or other similar tax or governmental assessment, and upon entry of the Confirmation Order, the appropriate state or local governmental officials or agents shall forgo the collection of any such tax or governmental assessment and accept for filing and recordation any of the foregoing instruments

or other documents without the payment of any such tax, recordation fee, or governmental assessment.

**H. Plan Supplement.**

All exhibits and documents included in the Plan Supplement are incorporated into and are a part of the Plan as if set forth in full in the Plan. The documents contained in the Plan Supplement shall be available online at [www.pacer.gov](http://www.pacer.gov) and <https://cases.stretto.com/lighthouseresources>. Holders of Claims or Equity Interests may obtain a copy of the Plan Supplement upon written request to counsel to the Debtors. The Debtors reserve the right, in accordance with the terms hereof, and subject to the terms of the Restructuring Support Agreement, to modify, amend, supplement, restate, or withdraw any part of the Plan Supplement after they are filed and shall promptly make such changes available online at [www.pacer.gov](http://www.pacer.gov) and <https://cases.stretto.com/lighthouseresources>.

**I. Notices.**

All notices, requests, and demands hereunder to be effective shall be made in writing or by e-mail, and unless otherwise expressly provided herein, shall be deemed to have been duly given when actually delivered or, in the case of notice by facsimile transmission, when received and telephonically confirmed. Each of such notices shall be addressed as follows:

1. To the Debtors:

Jackson Kelly PLLC  
100 West Main Street, Suite 700  
Lexington, Kentucky 40507  
Telephone: 859.255.9500  
Attn: Mary Elisabeth Naumann ([mnaumann@jacksonkelly.com](mailto:mnaumann@jacksonkelly.com))  
Beth Baker ([elizabeth.baker@jacksonkelly.com](mailto:elizabeth.baker@jacksonkelly.com))  
Chacey Malhouitre ([chacey.malhouitre@jacksonkelly.com](mailto:chacey.malhouitre@jacksonkelly.com))

Potter Anderson & Corroon LLP  
1313 N. Market Street, 6th Floor  
Wilmington, DE 19801-6108  
Telephone: 302.984.6049  
Facsimile: 302.658.1192  
Attn: L. Katherine Good ([kgood@potteranderson.com](mailto:kgood@potteranderson.com))  
Aaron H. Stulman ([astulman@potteranderson.com](mailto:astulman@potteranderson.com))

2. To the U.S. Trustee:

Office of The United States Trustee  
844 King Street, Suite 2207,  
Lockbox 35,  
Wilmington, DE 19801  
Tel.: (302) 573-6491

Fax: (302) 573-6497.

**J. Conflicts.**

The terms of the Plan shall govern in the event of any inconsistency between the Plan and the Disclosure Statement. In the event of any inconsistency with the Plan and the Confirmation Order, the Confirmation Order shall govern with respect to such inconsistency.

Dated: December 11, 2020

**LIGHTHOUSE RESOURCES INC.**  
**on behalf of itself and all other Debtors**

By: /s/ Robert Novak

Name: Robert Novak

Title: Chief Restructuring Officer