



ENTERED  
03/08/2018

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

In re:

COBALT INTERNATIONAL ENERGY, INC., *et al.*,<sup>1</sup>

Debtors.

)  
) Chapter 11  
)  
) Case No. 17-36709 (MI)  
)  
) (Jointly Administered)  
)  
) **Re: Docket No. 275**

**ORDER (I) APPROVING THE ADEQUACY OF  
THE DISCLOSURE STATEMENT, (II) APPROVING  
THE SOLICITATION AND NOTICE PROCEDURES WITH  
RESPECT TO CONFIRMATION OF THE DEBTORS' PROPOSED  
JOINT CHAPTER 11 PLAN, (III) APPROVING THE FORMS OF BALLOTS  
AND NOTICES IN CONNECTION THEREWITH, (IV) SCHEDULING CERTAIN  
DATES WITH RESPECT THERETO, AND (V) GRANTING RELATED RELIEF**

Upon the motion (the "Motion")<sup>2</sup> of the above-captioned debtors and debtors in possession (collectively, the "Debtors") for entry of an order (this "Order"), pursuant to sections 105, 363, 1125, 1126, and 1128 of the Bankruptcy Code, Bankruptcy Rules 2002, 3016, 3017, 3018, 3020, and Bankruptcy Local Rules 2002-1 and 3016-1, approving, (a) the adequacy of the *Disclosure Statement for the Fourth Amended Joint Chapter 11 Plan of Cobalt International Energy, Inc. and Its Debtor Affiliates* (the "Disclosure Statement"), (b) the Solicitation and Voting Procedures, (c) the Voting Record Date, (d) the form and manner of the Solicitation Packages and the materials contained therein, (e) the Plan Supplement Notice, (f) the Non-Voting Status Notices, (g) the form of Assumption Notices and Rejection Notices to counterparties to Executory Contracts and Unexpired Leases that will be assumed or rejected

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Cobalt International Energy, Inc. (1169); Cobalt International Energy GP, LLC (7374); Cobalt International Energy, L.P. (2411); Cobalt GOM LLC (7188); Cobalt GOM # 1 LLC (7262); and Cobalt GOM # 2 LLC (7316). The Debtors' service address is: 920 Memorial City Way, Suite 100, Houston, Texas 77024.

<sup>2</sup> Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion.



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pursuant to the Plan, (h) Confirmation Hearing Notice, and (i) certain dates and deadlines related thereto, all as more fully set forth in the Motion; and upon the First Day Declaration; and this Court having found that it has jurisdiction over this matter pursuant to 28 U.S.C. § 1334; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and this Court having found that it may enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and this Court having found that the Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing, if any, before this Court (the "Hearing"); and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The Motion is granted as provided herein.

**I. Approval of the Disclosure Statement.**

2. The Disclosure Statement, attached hereto as Schedule 1, is approved as providing holders of Claims entitled to vote on the Plan with adequate information to make an informed decision as to whether to vote to accept or reject the Plan in accordance with section 1125(a)(1) of the Bankruptcy Code.

3. The Disclosure Statement (including all applicable exhibits thereto) provides holders of Claims, holders of Interests, and other parties in interest with sufficient notice of the injunction, exculpation, and release provisions contained in Article VIII of the Plan, in satisfaction of the requirements of Bankruptcy Rule 3016(c).

## **II. Approval of the Solicitation and Voting Procedures.**

4. The Debtors are authorized to solicit, receive, and tabulate votes to accept the Plan in accordance with the Solicitation and Voting Procedures attached hereto as Schedule 2, which are hereby approved in their entirety.

## **III. Approval of the Materials and Timeline for Soliciting Votes and the Procedures for Confirming the Plan.**

### **A. Approval of Certain Dates and Deadlines with Respect to the Plan and Disclosure Statement.**

5. The following dates are hereby established (subject to modification as necessary) with respect to soliciting votes to accept, and voting, on the Plan and confirming the Plan (all times prevailing Central Time):<sup>3</sup>

<b>Event</b>	<b>Date</b>
Voting Record Date	March 5, 2018
Solicitation Deadline	March 12, 2018
Publication Deadline	March 12, 2018 (or as soon as reasonably practicable thereafter)
Deadline to File Voting Report	One (1) day prior to the Confirmation Hearing Date, at 12:00 p.m., prevailing Central Time

<sup>3</sup> The dates established in this Order are in addition to the dates set forth in the *Order Approving Bidding Procedures for the Sale of the Debtors' Assets*, (II) *Scheduling An Auction*, (III) *Approving the Form and Manner of Notice Thereof*, (V) *Scheduling Hearing and Objection Deadlines with Respect to the Debtors' Disclosure Statement, and Plan Confirmation*, and (V) *Granting Related Relief* [Docket No. 299] and the *Order (I) Continuing the Hearing to Approve the Disclosure Statement*, (II) *Shortening the Period to File Plan Objections*, and (III) *Shortening the Notice Requirements Related Thereto* [Docket No. 473].

Event	Date
Deadline to File Confirmation Brief and Plan Objection Reply	March 28, 2018, at 11:59 p.m., prevailing Central Time
Confirmation Hearing (Rescheduled from prior Order)	April 3, 2018 at 8:30 a.m.

**B. Approval of the Form of and Distribution of Solicitation Packages to Parties Entitled to Vote on the Plan.**

6. In addition to the Disclosure Statement and exhibits thereto, including the Plan and this Order (without exhibits, except the Solicitation and Voting Procedures), the Solicitation Packages to be transmitted on or before the Solicitation Deadline to those holders of Claims in the Voting Classes entitled to vote on the Plan as of the Voting Record Date shall include the following, the form of each of which is hereby approved:

- a. an appropriate form of Ballot attached hereto as Schedules 3A, 3B, 3C, 3D, 3E, and 3F, respectively;<sup>4</sup>
- b. the Cover Letter attached hereto as Schedule 7; and
- c. the Confirmation Hearing Notice attached hereto as Schedule 8.

7. The Solicitation Packages provide the holders of Claims entitled to vote on the Plan with adequate information to make informed decisions with respect to voting on the Plan in accordance with Bankruptcy Rules 2002(b) and 3017(d), the Bankruptcy Code, and the Bankruptcy Local Rules.

8. The Debtors shall distribute Solicitation Packages to all holders of Claims entitled to vote on the Plan on or before the Solicitation Deadline. Such service shall satisfy the requirements of the Bankruptcy Code, the Bankruptcy Rules, and the Bankruptcy Local Rules.

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<sup>4</sup> The Debtors will make every reasonable effort to ensure that any holder of a Claim who has filed duplicate Claims against the Debtors (whether against the same or multiple Debtors) that are classified under the Plan in the same Voting Class receives no more than one Solicitation Package (and, therefore, one Ballot) on account of such Claim and with respect to that Class.

9. The Debtors are authorized, but not directed or required, to distribute the Plan, the Disclosure Statement, and this Order to holders of Claims entitled to vote on the Plan in electronic format (i.e., on a CD-ROM or flash drive). The Ballots as well as the Cover Letter and the Confirmation Hearing Notice will *only* be provided in paper form. On or before the Solicitation Deadline, the Debtors shall provide (a) complete Solicitation Packages (excluding the Ballots) to the U.S. Trustee, and (b) the Order (in electronic format) and the Confirmation Hearing Notice to all parties on the 2002 List as of the Voting Record Date.

10. Any party that receives materials in electronic format, but would prefer to receive materials in paper format, may contact the Notice and Claims Agent and request paper copies of the corresponding materials previously received in electronic format (to be provided at the Debtors' expense).

11. The Notice and Claims Agent is authorized to assist the Debtors in (a) distributing the Solicitation Package, (b) receiving, tabulating, and reporting on Ballots cast to accept or reject the Plan by holders of Claims against the Debtors, (c) responding to inquiries from holders of Claims and Interests and other parties in interest relating to the Disclosure Statement, the Plan, the Ballots, the Solicitation Package, and all other related documents and matters related thereto, including the procedures and requirements for voting to accept or reject the Plan and for objecting to the Plan, (d) soliciting votes on the Plan, and (e) if necessary, contacting creditors regarding the Plan.

12. As set forth in the Solicitation and Voting Procedures, the Notice and Claims Agent shall be responsible for soliciting votes on the Plan for each voting Class, including Class 4 (Second Lien Notes Secured Claims), Class 5 (Subsidiary General Unsecured Claims), and Class 6 (Cobalt General Unsecured Claims, including 2.625% senior notes claims and 3.125%

senior notes claims). Wells Fargo Bank, N.A., as indenture trustee for the 2.625% senior notes and the 3.125% senior notes, shall have no duty to solicit votes on the Plan. U.S. Bank National Association, in its capacity as indenture trustee and collateral agent under the second lien indenture, shall have no duty to solicit votes on the Plan.

13. All votes to accept or reject the Plan must be cast by using the appropriate Ballot. All Ballots must be properly executed, completed, and delivered according to their applicable voting instructions by: (a) first class mail, in the return envelope provided with each Ballot, (b) overnight delivery, (c) personal delivery, or (d) electronic online submission at <http://www.kccellc.net/cobalt> so that the Ballots are *actually received* by the Notice and Claims Agent no later than the Voting Deadline in accordance with the procedures set forth in the applicable Ballot. Beneficial Holders must properly execute, complete, and deliver Beneficial Holder Ballots to their respective Nominee in sufficient time so that the Nominees may verify, tabulate, and include such Beneficial Holder Ballots in a Master Ballot and return the Master Ballots, so that they are *actually received* by the Notice and Claims Agent no later than the Voting Deadline.

**C. Approval of the Confirmation Hearing Notice.**

14. The Confirmation Hearing Notice, in the form attached hereto as Schedule 8 filed by the Debtors and served upon parties in interest in the chapter 11 cases on or before March 12, 2018, constitutes adequate and sufficient notice of the hearing to consider approval of the Plan, the manner in which a copy of the Plan could be obtained, and the time fixed for filing objections thereto, in satisfaction of the requirements of the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, and the Bankruptcy Local Rules. The Debtors shall publish the Confirmation Hearing Notice (in a format modified for publication) one time by the Publication

Deadline on March 12, 2018 (or as soon as reasonably practicable thereafter), in *The New York Times* (national edition) and the *Houston Chronicle*.

**D. Approval of Notice of Filing of the Plan Supplement.**

15. The Debtors are authorized to send notice of the filing of the Plan Supplement, which will be filed and served at least seven (7) days prior to the Voting Deadline, substantially in the form attached hereto as Schedule 9, on the date the Plan Supplement is filed pursuant to the terms of the Plan.

**E. Approval of the Form of Notices to Non-Voting Classes.**

16. Except to the extent the Debtors determine otherwise, the Debtors are not required to provide Solicitation Packages to holders of Claims or Interests in Non-Voting Classes, as such holders are not entitled to vote on the Plan. Instead, on or before the Solicitation Deadline, the Notice and Claims Agent shall mail (first-class postage prepaid) a Non-Voting Status Notice and the applicable opt out form in lieu of Solicitation Packages, the forms of which are hereby approved, to those parties, outlined below, who are not entitled to vote on the Plan:

Class(es)	Status	Treatment
1, 2, 3	Unimpaired—Conclusively Presumed to Accept	Will receive a notice and the applicable opt out form, substantially in the forms attached to the Order as <u>Schedule 4A</u> , <u>Schedule 4B</u> , <u>Schedule 4C</u> , and <u>Schedule 4D</u> , in lieu of a Solicitation Package.
7, 10	Impaired—Deemed to Reject	Will receive a notice and the applicable opt out form, substantially in the forms attached to the Order as <u>Schedule 5A</u> , <u>Schedule 5B</u> , <u>Schedule 5C</u> , and <u>Schedule 5D</u> , in lieu of a Solicitation Package.



Class(es)	Status	Treatment
N/A	Disputed Claims	Holders of Claims that are subject to a pending objection by the Debtors are not entitled to vote the disputed portion of their claim. As such, holders of such Claims will receive a notice, substantially in the form attached to the Order as <u>Schedule 6</u> (which notice shall be served together with such objection).

17. The Debtors will not provide the holders of Class 8 (Intercompany Claims), or Class 9 (Intercompany Interests) with a Solicitation Package or any other type of notice in connection with solicitation.

18. The Debtors are not required to mail Solicitation Packages or other solicitation materials to the following: (a) holders of Claims that have already been paid in full during the chapter 11 cases or that are authorized to be paid in full in the ordinary course of business pursuant to an order previously entered by this Court, or (b) any party to whom the Disclosure Statement Hearing Notice was sent but was subsequently returned as undeliverable.

**F. Approval of Notices to Contract and Lease Counterparties.**

19. The Debtors are authorized to mail an Assumption Notice or Rejection Notice of any Executory Contracts or Unexpired Leases (and any corresponding Cure Claims), in the forms attached hereto as Schedule 10 and Schedule 11, to the applicable counterparties to Executory Contracts and Unexpired Leases that will be assumed or rejected pursuant to the Plan (as the case may be), within the time periods specified in the Plan.

20. The Debtors are authorized to mail an opt out form, in the form attached hereto as Schedule 12, to parties to Executory Contracts or Unexpired Leases set forth on schedule G of the Schedules filed by the Debtors in the chapter 11 cases.



**G. Approval of the Procedures for Filing Objections to the Plan.**

21. Objections to the Plan will not be considered by the Court unless such objections are timely filed and properly served in accordance with this Order. Specifically, all objections to confirmation of the Plan or requests for modifications to the Plan, if any, ***must***: (a) be in writing, (b) conform to the Bankruptcy Rules and the Bankruptcy Local Rules, (c) state, with particularity, the legal and factual basis for the objection and, if practicable, a proposed modification to the Plan (or related materials) that would resolve such objection, and (d) be filed with the Court (contemporaneously with a proof of service) and served upon the notice parties identified in the Confirmation Hearing Notice.

**IV. Miscellaneous.**

22. Solely for purposes of electing to opt out of the third-party release in Article VIII.C of the Plan (the “Third-Party Release”) in these chapter 11 cases and without prejudice to or impact upon any party’s other rights, claims, and/or arguments in relation to the subject matter and pending litigation, including related appeals, styled as *In re Cobalt International Energy, Inc. Securities Litigation*, Civil Action No. H-14-3428 (S.D. Tex.) (the “Securities Litigation”), the plaintiffs in the Securities Litigation (the “Securities Plaintiffs”) and their counsel are authorized to opt out of the Third-Party Release on behalf of all members of the class certified in the Securities Litigation (the “Securities Class”) by order of the District Court dated June 15, 2017 (the “Class Certification Order”). For the avoidance of doubt, upon such opt-out election, no member of the Securities Class will be a Releasing Party or a Released Party under the Plan, and, as a result, no defendant in the Securities Litigation that otherwise satisfies the definition of “Released Party” will be released from claims asserted in the Securities Litigation that would otherwise be subject to Article VIII.C of the Plan by the members of the Securities Class

pursuant to the Third-Party Release. No reversal, amendment, vacatur, or other modification of the Class Certification Order shall impact any opt-out election under this paragraph. This Court reserves exclusive jurisdiction with respect to the interpretation and enforcement of this paragraph. All parties' rights, claims, defenses, and/or other arguments in relation to the Securities Litigation are otherwise hereby preserved. Solely for purposes of this paragraph and solely by agreement of the Debtors for such purposes, notice to the Securities Plaintiffs and their counsel shall be deemed adequate and sufficient notice with respect to each member of the Securities Class.

23. The Debtors or the Plan Administrator, as applicable, reserve the right to modify the Plan without further order of the Court in accordance with Article X of the Plan, including the right to withdraw the Plan as to an individual Debtor at any time before the Confirmation Date.

24. Nothing in this Order shall be construed as a waiver of the right of the Debtors or any other party in interest, as applicable, to object to a proof of claim after the Voting Record Date.

25. All time periods set forth in this Order shall be calculated in accordance with Bankruptcy Rule 9006(a).


26. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of Bankruptcy Rule 6004(a) and the Bankruptcy Local Rules are satisfied by such notice.

27. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Order are immediately effective and enforceable upon its entry.

28. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Order in accordance with the Motion.

29. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

Dated: 38, 2018  
Houston, Texas

  
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THE HONORABLE MARVIN ISGUR  
UNITED STATES BANKRUPTCY JUDGE

**SCHEDULE 2**

**Form of Solicitation and Voting Procedures**

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

In re:	)	
	)	Chapter 11
	)	
COBALT INTERNATIONAL ENERGY, INC., <i>et al.</i> , <sup>1</sup>	)	Case No. 17-36709 (MI)
	)	
Debtors.	)	(Jointly Administered)
	)	

**SOLICITATION AND VOTING PROCEDURES**

**PLEASE TAKE NOTICE THAT** on March 8, 2018, the United States Bankruptcy Court for the Southern District of Texas entered an order (the “Disclosure Statement Order”): (a) authorizing Cobalt International Energy, Inc. and its affiliated debtors and debtors in possession (collectively, the “Debtors”) to solicit votes on the *Fourth Amended Joint Chapter 11 Plan of Cobalt International Energy, Inc. and Its Debtor Affiliates* (as modified, amended, or supplemented from time to time, the “Plan”),<sup>2</sup> (b) approving the *Disclosure Statement for the Fourth Amended Joint Chapter 11 Plan of Cobalt International Energy, Inc. and Its Debtor Affiliates* (the “Disclosure Statement”) as containing “adequate information” pursuant to section 1125 of the Bankruptcy Code, (c) approving the solicitation materials and documents to be included in the solicitation packages (the “Solicitation Packages”), and (d) approving procedures for soliciting, receiving, and tabulating votes on the Plan and for filing objections to the Plan.

**A. The Voting Record Date.**

The Court has established **March 5, 2018**, as the record date for purposes of determining which holders of Claims in Class 4 (Second Lien Notes Secured Claims), Class 5 (Subsidiary General Unsecured Claims), and Class 6 (Cobalt General Unsecured Claims) are entitled to vote on the Plan (the “Voting Record Date”).

**B. The Voting Deadline.**

The Court has established **March 28, 2018, at 4:00 p.m.**, prevailing Central Time as the voting deadline (the “Voting Deadline”) for the Plan. The Debtors may extend the Voting Deadline, in their discretion, without further order of the Court. To be counted as votes to accept or reject the Plan, all ballots (the “Ballots”) must be properly executed, completed, and delivered

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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, are: Cobalt International Energy, Inc. (1169); Cobalt International Energy GP, LLC (7374); Cobalt International Energy, L.P. (2411); Cobalt GOM LLC (7188); Cobalt GOM # 1 LLC (7262); and Cobalt GOM # 2 LLC (7316). The Debtors’ service address is: 920 Memorial City Way, Suite 100, Houston, Texas 77024.

<sup>2</sup> Capitalized terms not otherwise defined herein shall have the same meaning as set forth in the Plan, the Disclosure Statement, or the Disclosure Statement Order.

by: (1) first class mail (using the reply envelope provided in the Solicitation Package or otherwise), (2) overnight courier, (3) personal delivery, or (4) electronic online submission at <http://www.kccllc.net/cobalt> so that they are ***actually received***, in any case, no later than the Voting Deadline by the Notice and Claims Agent. The Ballots will clearly indicate the appropriate return address, or, in the case of Beneficial Holder Ballots (as defined herein), such Beneficial Holders (as defined herein) will be instructed to comply with the return instructions provided by the Nominee (as defined herein).

## **C. Form, Content, and Manner of Notices.**

### **1. The Solicitation Package.**

The following materials shall constitute the solicitation package (the “Solicitation Package”):

- a. a copy of these Solicitation and Voting Procedures;
- b. the *Notice of Hearing to Consider Confirmation of the Chapter 11 Plan Filed By the Debtors and Related Voting and Objection Procedures*, in substantially the form annexed as Schedule 8 to the Disclosure Statement Order (the “Confirmation Hearing Notice”);
- c. a cover letter, in substantially the form annexed as Schedule 7 to the Disclosure Statement Order describing the contents of the Solicitation Package and urging the holders of Claims in each of the Voting Classes to vote to accept the Plan;
- d. the applicable form of Ballot, in substantially the form of the Ballots annexed as Schedule 3 to the Disclosure Statement Order, as applicable;
- e. the approved Disclosure Statement annexed as Schedule 1 to the Disclosure Statement Order (and exhibits thereto, including the Plan);
- f. a pre-addressed, postage pre-paid reply envelope; and
- g. any additional documents that the Court has ordered to be made available.

### **2. Distribution of the Solicitation Package.**

The Solicitation Package shall provide the Plan, the Disclosure Statement, and the Disclosure Statement Order (without exhibits except the Solicitation and Voting Procedures) in electronic format (i.e., CD-ROM or flash drive format), and all other contents of the Solicitation Package, including Ballots, shall be provided in paper format. Any party that receives the materials in electronic format, but would prefer paper format may contact Kurtzman Carson Consultants LLC (the “Notice and Claims Agent”) by: (a) calling the Notice and Claims Agent at (866) 967-1782 (toll free) or (310) 751-2682 (international); (b) visiting the Debtors’ restructuring website at: <https://www.kccllc.net/cobalt>; (c) writing to the Notice and Claims Agent at Cobalt Ballot Processing, c/o Kurtzman Carson Consultants LLC, 2335 Alaska Avenue,

El Segundo, California 90245; and/or (d) emailing CobaltInfo@kccellc.com and request paper copies of the corresponding materials previously received in electronic format (to be provided at the Debtors' expense).

The Debtors shall serve or cause to be served all of the materials in the Solicitation Package (excluding the Ballots) on the U.S. Trustee and all parties who have requested service of papers in this case pursuant to Bankruptcy Rule 2002 as of the Voting Record Date. In addition, the Debtors shall mail or cause to be mailed the Solicitation Package to all holders of Claims in the Voting Classes on or before March 12, 2018, who are entitled to vote, as described in section D below.<sup>3</sup>

To avoid duplication and reduce expenses, the Debtors will make every reasonable effort to ensure that any holder of a Claim who has filed or purchased duplicative Claims against a Debtor (whether against the same or multiple Debtors) that are classified under the Plan in the same Voting Class receives no more than one Solicitation Package (and, therefore, one Ballot) on account of such Claim and with respect to that Class as against that Debtor.

**3. Resolution of Disputed Claims for Voting Purposes; Resolution Event.**

- a. Absent a further order of the Court, the holder of a Claim in a Voting Class that is the subject of a pending objection on a "reduce and allow" basis shall be entitled to vote such Claim in the reduced amount contained in such objection.
- b. If a Claim in a Voting Class is subject to an objection other than a "reduce and allow" objection that is filed with the Court on or prior to six (6) days before the Voting Deadline: (i) the Debtors shall cause the applicable holder to be served with a Disputed Claim Notice substantially in the form annexed as Schedule 6 to the Disclosure Statement Order (which notice shall be served together with such objection); and (ii) the applicable holder shall not be entitled to vote to accept or reject the Plan on account of such claim unless a Resolution Event (as defined herein) occurs as provided herein.
- c. If a Claim in a Voting Class is subject to an objection other than a "reduce and allow" objection that is filed with the Court less than six (6) days prior to the Voting Deadline, the applicable Claim shall be deemed temporarily allowed for voting purposes only, without further action by the holder of such Claim and without further order of the Court, unless the Court orders otherwise.
- d. A "Resolution Event" means the occurrence of one or more of the following events no later than the date of the Confirmation Hearing:

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<sup>3</sup> Master Ballots will be distributed to Nominees approximately seven (7) days after the initial solicitation mailing in accordance with customary solicitation procedures.



- i. an order of the Court is entered allowing such Claim pursuant to section 502(b) of the Bankruptcy Code, after notice and a hearing;
  - ii. an order of the Court is entered temporarily allowing such Claim for voting purposes only pursuant to Bankruptcy Rule 3018(a), after notice and a hearing;
  - iii. a stipulation or other agreement is executed between the holder of such Claim and the Debtors resolving the objection and allowing such Claim in an agreed upon amount; or
  - iv. the pending objection is voluntarily withdrawn by the objecting party.
- e. If a Resolution Event occurs no later than two (2) business days prior to the Voting Deadline, then no later than one (1) business day after the Resolution Event, the Debtors shall cause the Notice and Claims Agent to distribute via email, hand delivery, or overnight courier service a Solicitation Package and a pre-addressed, postage pre-paid envelope to the relevant holder to the extent such holder has not already received a Solicitation Package containing a Ballot.

**4. Non-Voting Status Notices for Unimpaired Classes and Classes Deemed to Reject the Plan.**

Certain holders of Claims and Interests that are not classified in accordance with section 1123(a)(1) of the Bankruptcy Code or who are not entitled to vote because they are Unimpaired or otherwise presumed to accept the Plan under section 1126(f) of the Bankruptcy Code will receive only the *Non-Voting Status Notice for Unimpaired Claims Conclusively Presumed to Accept the Plan* and the applicable opt out form, substantially in the forms annexed as Schedule 4A, Schedule 4B, Schedule 4C, and Schedule 4D to the Disclosure Statement Order. Such notice will instruct these holders as to how they may obtain copies of the documents contained in the Solicitation Package (excluding Ballots). Certain holders of Claims and Interests who are not entitled to vote because they are deemed to reject the Plan under section 1126(g) of the Bankruptcy Code will receive only the *Non-Voting Status Notice to Holders of Impaired Claims and Equity Interests Deemed to Reject the Plan* and the applicable opt out form, substantially in the forms annexed as Schedule 5A, Schedule 5B, Schedule 5C, and Schedule 5D to the Disclosure Statement Order. Such notice will instruct these holders as to how they may obtain copies of the documents contained in the Solicitation Package (excluding Ballots). In addition, holders of Claims and Interests in the classes deemed to reject the Plan will also receive the Disclosure Statement (together with the Plan attached as Exhibit A thereto).

**5. Notices in Respect of Executory Contracts and Unexpired Leases.**

Counterparties to Executory Contracts and Unexpired Leases that receive a notice of assumption or notice of rejection, substantially in the forms attached as Schedule 10 and Schedule 11 to the Disclosure Statement Order, respectively, may file an objection to the

Debtors' proposed assumption, rejection, and/or cure amount, as applicable. Such objections must be ***actually received*** as set forth in the notice of assumption or notice of rejection.

Counterparties to Executory Contracts and Unexpired Leases set forth in schedule G of the Debtors' Schedules will receive an opt out form, substantially in the form annexed as Schedule 12 to the Disclosure Statement Order.

**D. Voting and Tabulation Procedures.**

**1. Holders of Claims Entitled to Vote.**

Only the following holders of Claims in the Voting Classes shall be entitled to vote with regard to such Claims:

- a. Holders of Claims who, on or before the Voting Record Date, have timely filed a Proof of Claim that (i) has not been expunged, disallowed, disqualified, withdrawn, or superseded prior to the Voting Record Date, and (ii) is not the subject of a pending objection, other than a "reduce and allow" objection, filed with the Court at least six (6) days prior to the Voting Deadline, pending a Resolution Event as provided herein; *provided* that a holder of a Claim that is the subject of a pending objection on a "reduce and allow" basis shall receive a Solicitation Package and be entitled to vote such Claim in the reduced amount contained in such objection absent a further order of the Court;
- b. Holders of Claims who, after the Voting Record Date, but prior to March 19, 2018, have filed a Proof of Claim (i) regarding a Claim that is not listed in the Schedules or is scheduled as contingent, unliquidated, or disputed, and (ii) that has not been expunged, disallowed, disqualified, withdrawn, or superseded prior to March 19, 2018;
- c. Holders of Claims that are listed in the Schedules; *provided* that Claims that are scheduled as contingent, unliquidated, or disputed (excluding such scheduled disputed, contingent, or unliquidated Claims that have been paid or superseded by a timely filed Proof of Claim) shall be allowed to vote only in the amounts forth in section D.2(d) of these Solicitation and Voting Procedures;
- d. Holders whose Claims arise (i) pursuant to an agreement or settlement with the Debtors, as reflected in a document filed with the Court, (ii) in an order entered by the Court, or (iii) in a document executed by the Debtors pursuant to authority granted by the Court, in each case regardless of whether a Proof of Claim has been filed;
- e. Holders of any Disputed Claim that has been temporarily allowed to vote on the Plan pursuant to Bankruptcy Rule 3018;

- f. the assignee of any Claim that was transferred on or before the Voting Record Date by any Entity described in subparagraphs (a) through (d) above; *provided* that such transfer or assignment has been fully effectuated pursuant to the procedures set forth in Bankruptcy Rule 3001(e) and such transfer is reflected on the Claims Register on the Voting Record Date;
- g. any holders of Claims who have filed or purchased duplicate Claims within the same Voting Class shall be provided with only one Solicitation Package and one ballot for voting a single Claim in such Class, regardless of whether the Debtors have objected to such duplicate Claims; and
- h. holders of Claims filed in an amount of \$0.00 are not entitled to vote.

**2. Establishing Claim Amounts for Voting Purposes.**

- **Class 4 Claims.**

- The Claims amount of Class 4 Claims based on Second Lien Notes Secured Claims of directly registered and Beneficial Holders<sup>4</sup> for voting purposes only will be established through the indenture trustee or applicable Nominees, as the case may be, in the amount of the applicable positions held as of the Voting Record Date, by such holder as evidenced by records of the indenture trustee or by the applicable Nominees in Class 4 as evidenced by the securities position report(s) from The Depository Trust Company.

- **Class 5 Claims.**

- The Claims amount, for voting purposes only, of Class 5 Claims based on Subsidiary General Unsecured Claims, other than Second Lien Notes Deficiency Claims, will be established based on the amount of the applicable positions held by such Class 5 Claim holder as of the Voting Record Date, as evidenced by (a) the Debtors' applicable books and records, or (b) the claims register maintained in the chapter 11 cases.
- The Claims amount, for voting purposes only, of Class 5 Claims based on Subsidiary General Unsecured Claims that are Second Lien Notes Deficiency Claims will be established based on the standard set forth in sections 506(a)(1) or 502(c) of the Bankruptcy Code or otherwise in accordance with these procedures.

- **Class 6 Claims.**

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<sup>4</sup> A "Beneficial Holder" means a beneficial owner of publicly-traded securities whose claims have not been satisfied prior to the Voting Record Date (as defined herein) pursuant to Court order or otherwise, as reflected in the records maintained by the Nominees holding through an indenture trustee or as evidenced by the securities position report from The Depository Trust Company.

- The Claims amount, for voting purposes only, of Class 6 Claims based on Unsecured Notes Claims of directly registered and Beneficial Holders will be established through the indenture trustee or applicable Nominees, as the case may be, in the amount of the applicable positions held as of the Voting Record Date, by such holder as evidenced by records of the indenture trustee or by the applicable Nominees in Class 6 as evidenced by the securities position report(s) from The Depository Trust Company.
- The Claims amount, for voting purposes only, of Class 6 Claims not based on Unsecured Notes Claims or Second Lien Notes Deficiency Claims will be established based on the amount of the applicable positions held by such Class 6 Claim holder as of the Voting Record Date, as evidenced by (a) the Debtors' applicable books and records, or (b) the claims register maintained in the chapter 11 cases.
- The Claims amount, for voting purposes only, of Class 6 Claims based on Cobalt General Unsecured Claims that are Second Lien Notes Deficiency Claims will be established based on the standard set forth in sections 506(a)(1) or 502(c) of the Bankruptcy Code or otherwise in accordance with these procedures.

**Filed and Scheduled Claims.** The Claim amount established herein shall control for voting purposes only and shall not constitute the Allowed amount of any Claim. Moreover, any amounts filled in on Ballots by the Debtors through the Notice and Claims Agent, as applicable, are not binding for purposes of allowance and distribution. In tabulating votes, the following hierarchy shall be used to determine the amount of the Claim associated with each claimant's vote:

- a. the Claim amount (i) settled and/or agreed upon by the Debtors, as reflected in a document filed with the Court, (ii) set forth in an order of the Court, or (iii) set forth in a document executed by the Debtors pursuant to authority granted by the Court;
- b. the Claim amount Allowed (temporarily or otherwise) pursuant to a Resolution Event pursuant to these Solicitation and Voting Procedures;
- c. the Claim amount contained in a Proof of Claim that has been timely filed by the applicable Claims Bar Date (or deemed timely filed by the Court under applicable law), except for any amounts asserted on account of any interest accrued after the Petition Date; *provided* that any Ballot cast by a holder of a Claim who timely files a Proof of Claim in respect of (i) a contingent Claim or a Claim in a wholly-unliquidated or unknown amount (based on a reasonable review by the Debtors and/or the Notice and Claims Agent) that is not the subject of an objection will count toward satisfying the numerosity requirement of section 1126(c) of the Bankruptcy Code and will count as a Ballot for a Claim in the amount of \$1.00 solely for the purposes of satisfying the dollar amount provisions of

section 1126(c) of the Bankruptcy Code, and (ii) a partially liquidated and partially unliquidated Claim, which Claim will be Allowed for voting purposes only in the liquidated amount; *provided further* that to the extent the Claim amount contained in the Proof of Claim is different from the Claim amount set forth in a document filed with the Court as referenced in subparagraph (a) above, the Claim amount in the document filed with the Court shall supersede the Claim amount set forth on the respective Proof of Claim for voting purposes;

- d. the Claim amount listed in the Schedules (to the extent such Claim is not superseded by a timely filed Proof of Claim); *provided* that such Claim is not scheduled as contingent, disputed, or unliquidated and/or has not been paid; *provided* that if the applicable Claims Bar Date has not expired prior to the Voting Record Date, a Claim listed in the Schedules as contingent, disputed, or unliquidated shall vote at \$1.00; and
- e. in the absence of any of the foregoing, such Claim shall be disallowed for voting purposes.

### **3. Voting and Ballot Tabulation Procedures.**

The following voting procedures and standard assumptions shall be used in tabulating Ballots, subject to the Debtors' right to waive any of the below specified requirements for completion and submission of Ballots so long as such requirement is not otherwise required by the Bankruptcy Code, Bankruptcy Rules, or Bankruptcy Local Rules:

- a. except as otherwise provided in the Solicitation and Voting Procedures, unless the Ballot being furnished is timely submitted on or prior to the Voting Deadline (as the same may be extended by the Debtors), the Debtors shall reject such Ballot as invalid and, therefore, shall not count it in connection with confirmation of the Plan;
- b. the Debtors will file with the Court by no later than one (1) day before the Confirmation Hearing, a voting report (the "Voting Report"). The Voting Report shall, among other things, delineate every Ballot that does not conform to the voting instructions or that contains any form of irregularity including, but not limited to, those Ballots that are late or (in whole or in material part) illegible, unidentifiable, lacking signatures or lacking necessary information, received via facsimile or damaged (collectively, in each case, the "Irregular Ballots"). The Voting Report shall indicate the Debtors' intentions with regard to each Irregular Ballot;
- c. the method of delivery of Ballots to be sent to the Notice and Claims Agent is at the election and risk of each holder, and except as otherwise provided, a Ballot will be deemed delivered only when the Notice and Claims Agent actually receives the executed Ballot;

- d. an executed Ballot is required to be submitted by the Entity submitting such Ballot (except with respect to Master Ballots (as defined herein) submitted by Nominees) by either mail, overnight courier, hand delivery, or electronic, online transmission at the website created for the Debtors' chapter 11 cases by the Notice and Claims Agent, <http://www.kccllc.net/cobalt>, so that it is actually received no later than March 28, 2018, at 4:00 p.m., prevailing Central Time. Parties entitled to vote shall be authorized in their sole discretion to complete an electronic Ballot and electronically sign and submit the Ballot to the Notice and Claims Agent. Other than Master Ballots submitted by Nominees, Ballots transmitted by facsimile or electronic mail will not be counted<sup>5</sup>;
- e. no Ballot should be sent to the Debtors, the Debtors' agents (other than the Notice and Claims Agent), or the Debtors' financial or legal advisors, and, if so sent, will not be counted;
- f. if multiple Ballots are received from the same holder with respect to the same Claim prior to the Voting Deadline, the last properly executed Ballot timely received will be deemed to reflect that voter's intent and will supersede and revoke any prior received Ballot;
- g. Holders must vote all of their Claims within a particular Class either to accept or reject the Plan and may not split any votes. Accordingly, a Ballot that partially rejects and partially accepts the Plan will not be counted. Further, to the extent there are multiple Claims within the same Class, the applicable Debtor may, in its discretion, aggregate the Claims of any particular holder within a Class for the purpose of counting votes;
- h. a person signing a Ballot in its capacity as a trustee, executor, administrator, guardian, attorney in fact, officer of a corporation, or otherwise acting in a fiduciary or representative capacity of a holder of Claims must indicate such capacity when signing;
- i. the Debtors, subject to a contrary order of the Court, may waive any defects or irregularities as to any particular Irregular Ballot at any time, either before or after the close of voting, and any such waivers will be documented in the Voting Report;
- j. neither the Debtors nor any other Entity will be under any duty to provide notification of defects or irregularities with respect to delivered Ballots other than as provided in the Voting Report nor will any of them incur any liability for failure to provide such notification;

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<sup>5</sup> For the avoidance of doubt, a Ballot may be submitted, solely by a Nominee, via electronic mail to the Notice and Claims Agent at [cobaltballots@kccllc.com](mailto:cobaltballots@kccllc.com).

- k. unless waived or as ordered by the Court, any defects or irregularities in connection with deliveries of Ballots must be cured prior to the Voting Deadline or such Ballots will not be counted;
- l. in the event a designation of lack of good faith is requested by a party in interest under section 1126(e) of the Bankruptcy Code, the Court will determine whether any vote to accept and/or reject the Plan cast with respect to that Claim will be counted for purposes of determining whether the Plan has been accepted and/or rejected;
- m. subject to any order of the Court, the Debtors reserve the right to reject any and all Ballots not in proper form, the acceptance of which, in the opinion of the Debtors, would not be in accordance with the provisions of the Bankruptcy Code or the Bankruptcy Rules; *provided* that any such rejections will be documented in the Voting Report;
- n. if a Claim has been estimated or otherwise Allowed only for voting purposes by order of the Court, such Claim shall be temporarily Allowed in the amount so estimated or Allowed by the Court for voting purposes only, and not for purposes of allowance or distribution;
- o. if an objection to a Claim is filed, such Claim shall be treated in accordance with the procedures set forth herein;
- p. the following Ballots shall not be counted in determining the acceptance or rejection of the Plan: (i) any Ballot that is illegible or contains insufficient information to permit the identification of the holder of such Claim; (ii) any Ballot cast by any Entity that does not hold a Claim in a Voting Class; (iii) any Ballot cast for a Claim scheduled as unliquidated, contingent, or disputed for which no Proof of Claim was timely filed pursuant to the procedures set forth herein (unless the applicable bar date has not yet passed, in which case such Claim shall be entitled to vote in the amount of \$1.00); (iv) any unsigned Ballot or Ballot lacking an original signature; (v) any Ballot not marked to accept or reject the Plan or marked both to accept and reject the Plan; and (vi) any Ballot submitted by any Entity not entitled to vote pursuant to the procedures described herein;
- q. after the Voting Deadline, no Ballot may be withdrawn or modified without the prior written consent of the Debtors;
- r. the Debtors are authorized to enter into stipulations with the holder of any Claim agreeing to the amount of a Claim for voting purposes; and
- s. where any portion of a single Claim has been transferred to a transferee, all holders of any portion of such single Claim will be (a) treated as a single creditor for purposes of the numerosity requirements in section 1126(c) of the Bankruptcy Code (and for the other solicitation and voting



procedures set forth herein), and (b) required to vote every portion of such Claim collectively to accept or reject the Plan. In the event that (a) a Ballot, (b) a group of Ballots within a Voting Class received from a single creditor, or (c) a group of Ballots received from the various holders of multiple portions of a single Claim partially reject and partially accept the Plan, such Ballots shall not be counted.

#### **4. Master Ballot Voting and Tabulation Procedures.**

In addition to the foregoing generally applicable voting and ballot tabulation procedures, the following procedures shall apply to holders of Second Lien Notes Secured Claims, Subsidiary General Unsecured Claims, and Cobalt General Unsecured Claims who hold their position through a broker, bank, or other nominee or an agent of a broker, bank, or other nominee (each of the foregoing, a “Nominee”):

- a. the Notice and Claims Agent shall distribute or cause to be distributed the appropriate number of copies of beneficial holder ballots (a “Beneficial Holder Ballot”) to each Beneficial Holder of a Class 4 Second Lien Notes Secured Claim, Class 5 Subsidiary General Unsecured Claim, and Class 6 Cobalt General Unsecured Claim as of the Voting Record Date;
- b. Nominees identified by the Notice and Claims Agent as Entities through which Beneficial Holders hold their Claims will be provided with (i) Solicitation Packages for each Beneficial Holder represented by the Nominee as of the Voting Record Date, which will contain a Beneficial Holder Ballot for each Beneficial Holder, and (ii) a master ballot (the “Master Ballot”);
- c. any Nominee that is a holder of record with respect to Class 4 Second Lien Notes Secured Claims, Class 5 Subsidiary General Unsecured Claims, or Class 6 Cobalt General Unsecured Claims shall vote on behalf of Beneficial Holders of such Claims by: (i) immediately, and in any event within five (5) Business Days after its receipt of the Solicitation Packages, distributing the Solicitation Packages, including Beneficial Holder Ballots, it receives from the Notice and Claims Agent to all such Beneficial Holders;<sup>6</sup> (ii) providing such Beneficial Holders with a return address to send the completed Beneficial Holder Ballots; (iii) compiling and validating the votes and other relevant information of all such Beneficial

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<sup>6</sup> Solicitation Packages may be sent in paper format or via electronic transmission in accordance with the customary requirements of each Nominee. Each Nominee will then distribute the Solicitation Packages, as appropriate, in accordance with their customary practices and obtain votes to accept or to reject the Plan also in accordance with their customary practices. If it is the Nominee’s customary and accepted practice to submit a “voting instruction form” to the Beneficial Holders for the purpose of recording the Beneficial Holder’s vote, the Nominee will be authorized to send the voting instruction form in lieu of, or in addition to, a Beneficial Holder Ballot.

Holders on the Master Ballot; and (iv) transmitting the Master Ballot to the Notice and Claims Agent on or before the Voting Deadline;

- d. any Beneficial Holder holding Class 4 Second Lien Notes Secured Claims, Class 5 Subsidiary General Unsecured Claims, or Class 6 Cobalt General Unsecured Claims as a record holder in its own name shall vote on the Plan by completing and signing a Ballot and returning it directly to the Notice and Claims Agent on or before the Voting Deadline;
- e. any Beneficial Holder Ballot returned to a Nominee by a Beneficial Holder shall not be counted for purposes of accepting or rejecting the Plan until such Nominee properly completes and delivers to the Notice and Claims Agent a Master Ballot that reflects the vote of such Beneficial Holders on or before the Voting Deadline or otherwise validates the Beneficial Holder Ballot in a manner acceptable to the Notice and Claims Agent. Nominees shall retain all Beneficial Holder Ballots returned by Beneficial Holders for a period of one (1) year after the Effective Date of the Plan;
- f. if a Beneficial Holder holds Class 4 Second Lien Notes Secured Claims, Class 5 Subsidiary General Unsecured Claims, or Class 6 Cobalt General Unsecured Claims through more than one Nominee or through multiple accounts, such Beneficial Holder may receive more than one Beneficial Holder Ballot and each such Beneficial Holder should execute a separate Beneficial Holder Ballot for each block of Class 4 Second Lien Notes Secured Claims, Class 5 Subsidiary General Unsecured Claims, or Class 6 Cobalt General Unsecured Claims that it holds through any Nominee and must return each such Beneficial Holder Ballot to the appropriate Nominee;
- g. if a Beneficial Holder holds a portion of its Class 4 Second Lien Notes Secured Claims, Class 5 Subsidiary General Unsecured Claims, or Class 6 Cobalt General Unsecured Claims through a Nominee or Nominees and another portion in its own name as the record holder, such Beneficial Holder should follow the procedures described in section B herein to vote the portion held in its own name and the procedures described in section D.4. herein to vote the portion held by the Nominee(s);
- h. votes cast by Beneficial Holders through Nominees will be applied to the applicable positions held by such Nominees in Class 4, Class 5, or Class 6, as applicable, as of the Voting Record Date, as evidenced by the applicable securities position report(s) obtained from The Depository Trust Company. Votes submitted by a Nominee pursuant to a Master Ballot will not be counted in excess of the amount of such Claims held by such Nominee as of the Voting Record Date;

- i. if conflicting votes or “over-votes” are submitted by a Nominee pursuant to a Master Ballot, the Debtors will use reasonable efforts to reconcile discrepancies with the Nominees. If over-votes on a Master Ballot are not reconciled prior to the preparation of the Voting Report, the Debtors shall apply the votes to accept and to reject the Plan in the same proportion, by voting Class, as the votes to accept and to reject the Plan submitted on the Master Ballot that contained the over-vote, but only to the extent of the Nominee’s position in Class 4, Class 5, or Class 6, as applicable;
- j. for purposes of tabulating votes, each Nominee or Beneficial Holder will be deemed to have voted the principal amount of its Claims in Class 4, Class 5, and Class 6, although any principal amounts may be adjusted by the Notice and Claims Agent to reflect the amount of the Claim actually voted, including prepetition interest;
- k. a single Nominee may complete and deliver to the Notice and Claims Agent multiple Master Ballots. Votes reflected on multiple Master Ballots will be counted, except to the extent that they are duplicative of other Master Ballots. If two or more Master Ballots are inconsistent, the latest received valid Master Ballot received prior to the Voting Deadline will, to the extent of such inconsistency, supersede and revoke any prior received Master Ballot. Likewise, if a Beneficial Holder submits more than one Beneficial Holder Ballot to its Nominee, (i) the latest received Beneficial Holder Ballot received before the submission deadline imposed by the Nominee shall be deemed to supersede any prior Beneficial Holder Ballot submitted by the Beneficial Holder, and (ii) the Nominee shall complete the Master Ballot accordingly; and
- l. the Debtors will, upon written request, reimburse Nominees for customary mailing and handling expenses incurred by them in forwarding the Beneficial Holder Ballot and other enclosed materials to the Beneficial Holders for which they are the Nominee. No fees or commissions or other remuneration will be payable to any broker, dealer, or other person for soliciting Beneficial Holder Ballot with respect to the Plan.

**E. Amendments to the Plan and Solicitation and Voting Procedures.**

The Debtors reserve the right to make non-substantive or immaterial changes to the Disclosure Statement, Plan, Ballots, Confirmation Hearing Notice, and related documents without further order of the Court, including, without limitation, changes to correct typographical and grammatical errors, if any, and to make conforming changes among the Disclosure Statement, the Plan, and any other materials in the Solicitation Package before their distribution.

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