

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> , ¹	)	Case No. 17-36709 (MI)
)	
Debtors.	)	(Joint Administration Requested)
)	

**DEBTORS’ MOTION FOR ENTRY OF AN ORDER (I)
APPROVING BIDDING PROCEDURES FOR THE SALE OF
THE DEBTORS’ ASSETS, (II) SCHEDULING AN AUCTION, (III)
APPROVING THE FORM AND MANNER OF NOTICE THEREOF,
(IV) SCHEDULING HEARINGS AND OBJECTION DEADLINES
WITH RESPECT TO THE DEBTORS’ DISCLOSURE STATEMENT
AND PLAN CONFIRMATION, AND (V) GRANTING RELATED RELIEF**

A HEARING WILL BE CONDUCTED ON THIS MATTER AT A DATE AND TIME TO BE DETERMINED IN COURTROOM 404, 4th FLOOR, UNITED STATES BANKRUPTCY COURT FOR THE SOUTHERN DISTRICT OF TEXAS, 515 RUSK AVENUE, HOUSTON, TEXAS 77002.

IF YOU OBJECT TO THE RELIEF REQUESTED, YOU MUST RESPOND IN WRITING, SPECIFICALLY ANSWERING EACH PARAGRAPH OF THIS PLEADING. UNLESS OTHERWISE DIRECTED BY THE COURT, YOU MUST FILE YOUR RESPONSE WITH THE CLERK OF THE BANKRUPTCY COURT WITHIN TWENTY-ONE DAYS FROM THE DATE YOU WERE SERVED WITH THIS PLEADING. YOU MUST SERVE A COPY OF YOUR RESPONSE ON THE PERSON WHO SENT YOU THE NOTICE; OTHERWISE, THE COURT MAY TREAT THE PLEADING AS UNOPPOSED AND GRANT THE RELIEF REQUESTED.

REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.

The above-captioned debtors and debtors in possession (collectively, the “Debtors”) respectfully state as follows in support of this motion.

¹ 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.



Introduction

1. The Debtors have commenced these chapter 11 cases to develop and execute a consensual sale and restructuring transactions with the support of all key constituencies. With that goal in mind, the Debtor seek to expeditiously establish Court-approved bidding procedures for a sale and a schedule for their related chapter 11 plan process.

2. Access to capital for development is critical for offshore oil and gas companies. This is particularly true for E&P companies like Cobalt, where the majority of assets are not yet producing revenues and require significant investment to unlock valuable resources. Only one of Cobalt's assets—Heidelberg—is currently producing oil. The revenue generated by Heidelberg is not sufficient to fund the capital expenditure required to develop the Debtors' other assets and unlock their revenue-producing value.

3. Accordingly, beginning as early as 2015, Cobalt began a strategic review of its assets. In the third quarter of 2016, Cobalt retained investment banks to assist in a marketing and sale process to identify one or more potential buyers capable of developing Cobalt's valuable assets and interested in consummating a purchase and sale with respect to those assets. That marketing process ultimately led to the commencement of these chapter 11 cases, where the Debtors believe a court-approved process and related deadlines will facilitate a successful sale.

4. Time is of the essence. The Debtors face important milestones and drilling deadlines under the oil and gas leases that, absent extension, could lead either to the Debtors' being forced to incur significant drilling expenditures to maintain the leases or to the Debtors' losing the leases entirely. Notably, for instance, the Debtors face a June 2018 deadline under their North Platte asset by which they must either obtain a suspension-of-production extension to the underlying lease or successfully drill a deepwater offshore well at considerable expense (approximately \$131 million).

5. To potentially avoid these significant capital expenditures and mitigate the risk that they lose any of their leases, the Debtors seek to complete the final, in-court stage of their marketing efforts and obtain approval of a sale of their assets by no later than Friday, March 23, 2018.

6. At the same time, the Debtors seek to minimize the time and expense in chapter 11 by selling their assets pursuant to a plan. The Debtors' plan will resolve these chapter 11 cases, will cut off the expense of bankruptcy, and will permit the Debtors to distribute the value generated by the sale of assets to their stakeholders. In chapter 11, the Debtors hope and expect to continue discussions with creditors resolving their sale and restructuring efforts and obtain substantial consensus regarding a chapter 11 plan quickly, so that they may file a plan and disclosure statement in January of 2018, obtain the Court's approval of the disclosure statement and launch solicitation of votes on the plan in February 2018, and confirm a plan providing for approved asset sales in March 2018.

7. The Debtors believe that the bidding procedures and chapter 11 plan schedule proposed here is reasonable and appropriate in the circumstances. Nonetheless, the Debtors do not ask the Court to approve the bidding procedures or schedule immediately. The Debtors will discuss their proposed schedule with the other key parties to these cases in an effort to reach consensus before the "second day" hearing in January 2018. If the Debtors are not able to reach agreement on a consensual scheduling order, the Debtors will present their proposed schedule to the Court for consideration and ruling to move these cases forward to an efficient resolution.

Relief Requested

8. The Debtors hereby seek entry of an order, substantially in the form attached hereto as **Exhibit A** (the “Order”):

- a. approving the proposed bidding procedures attached as **Schedule 1** to the Order (the “Bidding Procedures”) in connection with a sale (the “Sale”) of any or all of the Debtors’ assets or equity interests in the Debtors or one or more of its direct and indirect subsidiaries (or successor entities thereof) (collectively, the “Assets”);
- b. approval of the Debtors’ selection of one or more stalking horse bidders (each, a “Stalking Horse Bidder”), if any, and the provision of Bid Protections (as defined herein);
- c. scheduling an auction (the “Auction”) and approving the form and manner of notice thereof, attached hereto as **Exhibit B** (the “Auction Notice”);
- d. scheduling dates and deadlines in connection with the approval of a disclosure statement (the “Disclosure Statement”) and confirmation of a chapter 11 plan of reorganization (the “Plan”); and
- e. granting any related relief.

Jurisdiction and Venue

9. The United States Bankruptcy Court for the Southern District of Texas has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the Southern District of Texas*, dated May 24, 2012 (the “Amended Standing Order”). The Debtors confirm their consent, pursuant to rule 7008 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), to the entry of a final order by the Court in connection with this motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

10. The statutory bases for the relief requested herein are sections 105(a) and 363 of the United States Bankruptcy Code, 11 U.S.C. §§ 101–1532 (the “Bankruptcy Code”) and Bankruptcy Rules 2002, 3016, 3017, 3020, and 6004.

Background

11. The Debtors are a publicly held offshore oil exploration and production company with headquarters in Houston, Texas and operations primarily located off the coast of the United States in the deepwater of the Gulf of Mexico and offshore Angola and Gabon in West Africa. The Debtors have four named discoveries in the Gulf of Mexico, which include North Platte, Shenandoah, Anchor, and Heidelberg. Heidelberg began initial production in January of 2016 while North Platte, Shenandoah, and Anchor have been fully appraised and are now in development. Additionally, the Debtors have made seven aggregate discoveries in offshore Angola and maintain a non-operated interest in offshore Gabon, where the Debtors have one discovery.

12. On the date hereof (the “Petition Date”), each Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. A detailed description surrounding the facts and circumstances of these chapter 11 cases is set forth in the *Declaration of David D. Powell, Chief Financial Officer of Cobalt International Energy, Inc., in Support of Chapter 11 Petitions and First Day Motions* (the “First Day Declaration”), filed contemporaneously with this motion.²

13. The Debtors continue to operate and manage their businesses as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. The Debtors have concurrently filed a motion requesting procedural consolidation and joint administration of these chapter 11 cases pursuant to Bankruptcy Rule 1015(b). No request for the appointment of a trustee

² Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the First Day Declaration.

or examiner has been made in these chapter 11 cases, and no committees have been appointed or designated.

Proposed Schedule

14. The Debtors are seeking approval of the Bidding Procedures and the Confirmation Schedule (as defined herein) in parallel to establish a clear and open process for the solicitation, receipt, and evaluation of third-party bids on a timeline that allows the Debtors to consummate a sale of the Assets through a Plan. A defined path toward confirmation will drive the sale process in an expeditious and efficient manner and is designed to encourage all prospective bidders to put their best bids forward at the outset of these chapter 11 cases in order to provide the highest or otherwise best available recoveries to the Debtors' stakeholders.

15. Beginning as early as 2015, the Debtors, together with their non-Debtor affiliates (collectively, the "Company"), began evaluating its asset base to identify assets that did not integrate well with the rest of the Company's asset profile. Following this strategic review, in August 2015, the Company entered into an agreement to sell its issued and outstanding share capital of non-Debtor subsidiaries CIE Angola Block 20 Ltd. and CIE Angola Block 21 Ltd., which respectively hold the Company's 40 percent working interest in each of Block 20 and Block 21 offshore Angola. The Debtors intended to use the proceeds of the sale—an expected \$1.75 billion—to fund the significant capital expenditures associated with their discoveries in the Gulf of Mexico. This sale, however, was ultimately unsuccessful and terminated in August 2016. Thereafter, the Company pursued a broad based marketing process of substantially all of its assets.

16. With deteriorating market conditions, significant debt obligations, and ongoing capital and operating expenditures that vastly exceeded revenue, the Company faced significant challenges. As a result, the Company undertook a number of initiatives to streamline costs and improve its overall balance sheet profile, including a reduction in workforce, performance

improvement initiatives, asset sales, and out-of-court transactions. Cobalt's marketing efforts and discussions with potential buyers for all or substantially all of Cobalt's assets remain ongoing and will continue to do so following the Petition Date. Cobalt believes that effecting these asset sales through a chapter 11 plan process will maximize the ultimate value realized by its stakeholders.

17. Together, the Bidding Procedures and proposed Confirmation Schedule (as defined herein) establish a clear process and path forward that dovetails with the timing of certain regulatory approvals and unit saving operations in connection with the Debtors' leasehold interests in the Gulf of Mexico, and is therefore intended to determine the highest and otherwise best offer under the circumstances. The proposed Bidding Procedures contemplate that a buyer for the Assets will be identified at a later date, either at an auction or, under appropriate circumstances, through the Debtors' identification of a Stalking Horse Bidder. In tandem, the Debtors continue to engage in discussions with their secured creditors regarding a potential restructuring transaction. Throughout these discussions, the secured creditors have exhibited patience and thoughtful consideration of the various alternatives and have indicated that if value is maximized through such a sale process they would be supportive of a sale to one or more third parties.

I. The Bidding Procedures.

18. To optimally and expeditiously solicit, receive, and evaluate bids in a fair and accessible manner under the circumstances, the Debtors developed the Bidding Procedures, attached as **Schedule 1** to the Order. The Bidding Procedures are designed to encourage all prospective bidders to put their best bids forward, bring finality to the Debtors' restructuring process, and create a path towards confirmation of a Plan. The salient terms of the Bidding Procedures are set forth below:

- a. **Potential Bidders.** To participate in the bidding process or otherwise be considered for any purpose under these Bidding Procedures, a person or entity interested in consummating a Sale (a "**Potential Bidder**") must deliver or have previously delivered, if determined to be

necessary by the Debtors in their sole discretion, the following documents:

- i. an executed confidentiality agreement on terms acceptable to the Debtors (a “Confidentiality Agreement”), to the extent not already executed;
- ii. identification of the Potential Bidder and any of the principals, corporate officers, or other representatives that are authorized to appear for and act on behalf of the Potential Bidder with respect to the contemplated transaction; and
- iii. unless publicly available in a filing under applicable securities laws or regulations, the most current audited and latest unaudited financial statements (the “Financials”) of the Potential Bidder (or, if the Potential Bidder is an entity formed for the purpose of acquiring the Assets (x) Financials of the equity holder(s) of the Potential Bidder or such other form of financial disclosure as is acceptable to the Debtors and their advisors, and (y) a written commitment acceptable to the Debtors and their advisors of the equity holder(s) of the Potential Bidder to be responsible for the Potential Bidder’s obligations in connection with the Sale).

b. Qualified Bidders.

- i. A “Qualified Bidder” is a Potential Bidder whose Financials, the Financials of its equity holder(s), or written commitments, as applicable, demonstrate the financial capability to consummate the Sale, whose Bid is a Qualified Bid, and that the Debtors determine should be considered a Qualified Bidder, in consultation with the Committee, the first lien indenture trustee, the first lien ad hoc group, and the second lien ad hoc group. Within two business days after the Bid Deadline, the Debtors’ advisors will notify each Potential Bidder in writing whether such Potential Bidder is a Qualified Bidder.
- ii. If any Potential Bidder is determined by the Debtors not to be a Qualified Bidder, the Debtors will refund such Qualified Bidder’s Deposit (as defined herein) and all accumulated interest thereon on or within three business days after the Bid Deadline.
- iii. Between the date that the Debtors notify a Potential Bidder that it is a Qualified Bidder and the Auction, the Debtors may discuss, negotiate, or seek clarification of any Qualified Bid from a Qualified Bidder. Without the written consent of the Debtors, a Qualified Bidder may not modify, amend, or withdraw its Qualified Bid, except for proposed amendments to increase their consideration contemplated by, or otherwise improve the terms of, the Qualified Bid, during the period that

such Qualified Bid remains binding as specified in these Bidding Procedures; *provided* that any Qualified Bid may be improved at the Auction as set forth herein. Any improved Qualified Bid must continue to comply with the requirements for Qualified Bids set forth in these Bidding Procedures.

- iv. For purposes of these Bidding Procedures, the indenture trustee for the Debtors' first lien notes and the indenture trustee for the Debtors' second lien notes shall each be deemed Qualified Bidders.
- c. **Due Diligence.** Only Potential Bidders whose Financials, the Financials of its equity holder(s), or written commitments, as applicable, demonstrate the financial capability to consummate the Sale shall be eligible to receive due diligence information and access to the Debtors' electronic data room, physical data room, and to additional non-public information regarding the Debtors. **No Potential Bidder will be permitted to conduct any due diligence without entering into a Confidentiality Agreement.** The Debtors will provide to each Potential Bidder that satisfies the foregoing reasonable due diligence information, as requested by such Potential Bidder in writing, as soon as reasonably practicable after such request, and the Debtors shall post all written due diligence provided to any such Potential Bidder to the Debtors' electronic data room. For all Potential Bidders, the due diligence period will end on the Bid Deadline and, subsequent to the Bid Deadline the Debtors shall have no obligation to furnish any due diligence information.

The Debtors shall not furnish any confidential information relating to the Assets, liabilities of the Debtors, or the Sale to any person except to a Potential Bidder or to such Potential Bidder's duly authorized representatives to the extent provided in the applicable Confidentiality Agreement. The Debtors and their advisors shall coordinate all reasonable requests from Potential Bidders for additional information and due diligence access; *provided that* the Debtors may decline to provide such information to Potential Bidders who, at such time and in the Debtors' reasonable business judgment have not established, or who have raised doubt, that such Potential Bidder intends in good faith to, or has the capacity to, consummate the Sale.

The Debtors also reserve the right to withhold any diligence materials that the Debtors determine are sensitive or otherwise not appropriate for disclosure to a Potential Bidder who the Debtors determine is a competitor of the Debtors or is affiliated with any competitor of the Debtors. Neither the Debtors nor their representatives shall be obligated to furnish information of any kind whatsoever to any person that is not determined to be a Potential Bidder that intends in good faith to, or has the capacity to, consummate the Sale.

- i. **Communications with Potential Bidders.** Notwithstanding anything to the contrary in these Bidding Procedures, all substantive direct communications between and amongst Potential Bidders shall involve the Debtors and the Debtors' advisors, to the extent reasonably practicable.
- ii. **Due Diligence from Potential Bidders.** Each bidder shall comply with all reasonable requests for additional information and due diligence access requested by the Debtors or their advisors regarding the ability of the Potential Bidder to consummate the Sale or discussions with other Potential Bidders regarding any topic and with any party regarding the Debtors (and their non-Debtor affiliates) and/or any of the Assets. Failure by a Potential Bidder to comply with such reasonable requests for additional information and due diligence access may be a basis for the Debtors to determine that such bidder is not a Qualified Bidder or that a Bid made by such bidder is not a Bid.

The Debtors and each of their respective advisors and representatives shall be obligated to maintain in confidence any confidential information in accordance with any applicable confidentiality agreement, except as otherwise set forth in these Bidding Procedures. Each recipient of confidential information agrees to use, and to instruct their advisors and representatives to use, such confidential information only in connection with the evaluation of Bids during the bidding process or otherwise in connection with the chapter 11 cases or in accordance with the terms of any applicable confidentiality agreement.

Notwithstanding the foregoing and the provisions contained in any applicable confidentiality agreement, the Debtors and the Debtors' advisors may disclose confidential information: (i) with the prior written consent of such bidder and the Debtors; (ii) to the applicable bidder; and (iii) as otherwise required or allowed by any applicable confidentiality agreement with respect to a particular bidder or other agreement, law, court or other governmental order, or regulation, including, as appropriate, to regulatory agencies.

- d. **Bid Requirements.** A proposal, solicitation, or offer for a purchase and sale of one or more individual Assets or all or substantially all of the Assets or for an alternative acquisition transaction (including a chapter 11 plan) (each, a "Bid") by a bidder that is submitted in writing and satisfies each of the following requirements (the "Bid Requirements") as determined by the Debtors, in their reasonable business judgment, in consultation with the Committee, the first lien indenture trustee, the first lien ad hoc group, and the second lien ad hoc group, shall constitute a "Qualified Bid."

- i. **Assets.** Each Bid must clearly state which assets and liabilities of the Debtors that the Qualified Bidders are agreeing to purchase and assume.
- ii. **Purchase Price.** Each Bid must clearly set forth the purchase price in U.S. dollars to be paid for each individual Asset subject to the applicable asset package, including and identifying separately any cash and non-cash components (the “Purchase Price”).
- iii. **Deposit.** On or before the Bid Deadline, each Bid, other than a credit bid, must be accompanied by a cash deposit in the amount equal to 10 percent of the aggregate cash and non-cash Purchase Price of the Bid, to be held in an interest-bearing escrow account to be identified and established by the Debtors (the “Deposit”).
- iv. **Assumption of Obligations.** Each Bid must clearly state which liabilities of the Debtors the bidder is agreeing to assume.
- v. **Qualified Bid Documents.** Each Bid must include duly executed, non-contingent transaction documents necessary to effectuate the transactions contemplated in the Bid and shall include a schedule of assumed contracts to the extent applicable to the Bid, as well as all other material documents integral to such Bid (the “Qualified Bid Documents”). Such documents must be based on form documents provided by the Debtors (including a summary of each Bid as may be reasonably requested by the Debtors).
- vi. **Committed Financing.** To the extent that a Bid is not accompanied by evidence of the Qualified Bidder’s capacity to consummate the sale set forth in its Bid with cash on hand, each Bid must include unconditional committed financing from a reputable financing institution documented to the satisfaction of the Debtors that demonstrates that the Qualified Bidder has: (i) received sufficient debt and/or equity funding commitments to satisfy the Qualified Bidder’s Purchase Price and other obligations under its Bid; and (ii) adequate working capital financing or resources to finance going concern operations for the Assets and the proposed transactions. Such funding commitments or other financing must be unconditional and must not be subject to any internal approvals, syndication requirements, diligence, or credit committee approvals, and shall have covenants and conditions acceptable to the Debtors.
- vii. **Contingencies; No Financing or Diligence Outs.** A Bid shall not be conditioned on the obtaining or the sufficiency of financing or any internal approval, or on the outcome or review

of due diligence, but may be subject to the accuracy at the closing of specified representations and warranties or the satisfaction at the closing of specified conditions, which shall be acceptable to the Debtors in their business judgment.

- viii. **Identity.** Each Bid must fully disclose the identity of each entity that will be bidding or otherwise participating in connection with such Bid (including each equity holder or other financial backer of the Qualified Bidder if such Qualified Bidder is an entity formed for the purpose of consummating the proposed transaction contemplated by such Bid), and the complete terms of any such participation. Under no circumstances shall any undisclosed principals, equity holders, or financial backers be associated with any Bid. Each Bid must also include contact information for the specific persons, including financial advisors and counsel, if any, that Houlihan Lokey Capital, Inc. and Kirkland & Ellis LLP should contact regarding such Bid.
- ix. **Demonstrated Financial Capacity.** A Qualified Bidder must have, in the Debtors' business judgment, the necessary financial capacity to consummate the proposed transactions required by its Bid and provide adequate assurance of future performance under all contracts proposed to be assumed by such Bid.
- x. **Time Frame for Closing.** A Bid by a Qualified Bidder must be reasonably likely (based on availability of financing, antitrust, or other regulatory issues, experience, and other considerations) to be consummated, if selected as the Successful Bid, within a time frame acceptable to the Debtors, in consultation with the Committee, the first lien indenture trustee, the first lien ad hoc group, and the second lien ad hoc group.
- xi. **Binding and Irrevocable.** A Qualified Bidder's Bid shall be irrevocable unless and until the Debtors accept a higher Bid for such Asset and such Qualified Bidder is not selected as the Backup Bidder.
- xii. **Expenses; Disclaimer of Fees.** Each Bid must disclaim any right to receive a fee analogous to a break-up fee, expense reimbursement, termination fee, or any other similar form of compensation. For the avoidance of doubt, no Qualified Bidder will be permitted to request, nor be granted by the Debtors, at any time, whether as part of the Auction or otherwise, a break-up fee, expense reimbursement, termination fee, or any other similar form of compensation, and by submitting its Bid is agreeing to refrain from and waive any assertion or request for

reimbursement on any basis, including under section 503(b) of the Bankruptcy Code.

- xiii. **Authorization.** Each Bid must contain evidence that the Qualified Bidder has obtained authorization or approval from its board of directors (or a comparable governing body acceptable to the Debtors) with respect to the submission of its Bid and the consummation of the transactions contemplated in such Bid.
- xiv. **As-Is, Where-Is.** Each Bid must include a written acknowledgement and representation that the Qualified Bidder: (i) has had an opportunity to conduct any and all due diligence regarding the Assets prior to making its offer; (ii) has relied solely upon its own independent review, investigation, and/or inspection of any documents and/or the Assets in making its Bid; and (iii) did not rely upon any written or oral statements, representations, promises, warranties, or guaranties whatsoever, whether express, implied by operation of law, or otherwise, regarding the Assets or the completeness of any information provided in connection therewith or the Auction, except as expressly stated in the bidder's Bid.
- xv. **Adherence to Bid Procedures.** By submitting its Bid, each Qualified Bidder is agreeing to abide by and honor the terms of these Bidding Procedures and agrees not to submit a Bid or seek to reopen the Auction after conclusion of the Auction.
- xvi. **Regulatory Approvals and Covenants.** A Bid must set forth each regulatory and third-party approval required for the Qualified Bidder to consummate the Sale, if any, and the time period within which the Qualified Bidder expects to receive such regulatory and third-party approvals (and in the case that receipt of any such regulatory or third-party approval is expected to take more than thirty (30) days following execution and delivery of the asset purchase agreement, those actions the Qualified Bidder will take to ensure receipt of such approvals as promptly as possible).
- xvii. **Consent to Jurisdiction.** The Qualified Bidder must submit to the jurisdiction of the Bankruptcy Court and waive any right to a jury trial in connection with any disputes relating to Debtors' qualification of bids, the Auction, the construction and enforcement of these Bidding Procedures, the Sale documents, and the Closing, as applicable.
- xviii. **Bid Deadline.** Each Bid must be transmitted via email (in .pdf or similar format) so as to be **actually received** on or before

5:00 p.m. (prevailing Central Time) on February 19, 2018 (the “Bid Deadline”) by:

1. The Debtors, Cobalt International Energy, Inc., 920 Memorial City Way, Suite 100, Houston, Texas 77024, Attn: Jeffrey A. Starzec (jeff.starzec@cobaltintl.com);
 2. Counsel to the Debtors, Kirkland & Ellis LLP, 300 North LaSalle Street, Chicago, IL 60654, Attn: Chad J. Husnick, P.C. (chad.husnick@kirkland.com), Brad Weiland (brad.weiland@kirkland.com), and Laura Krucks (laura.krucks@kirkland.com);
 3. Co-counsel to the Debtors, Zack A. Clement PLLC, 3753 Drummond Street, Houston, Texas 77025, Attn: Zack A. Clement (zclement@icloud.com); and
 4. Financial Advisors to the Debtors, Houlihan Lokey Capital, Inc., 245 Park Avenue, New York, New York 10167, Attn: John-Paul Hanson (jhanson@hl.com), Joshua Eaves (jeaves@hl.com), and Michael Haney (mhaney@hl.com).
- e. **Right to Credit Bid.** Any Qualified Bidder who has a valid and perfected lien on any assets of the Debtors’ estates (a “Secured Creditor”) and the right and power to credit bid claims secured by such liens, shall have the right to credit bid all or a portion of the value of such Secured Creditor’s claims within the meaning of section 363(k) of the Bankruptcy Code; *provided* that a Secured Creditor shall have the right to credit bid its secured claim only with respect to the collateral by which such Secured Creditor is secured.
- f. **Auction.** If the Debtors receive more than one Qualified Bid for an Asset, whether through a Bid for one or more individual Assets or through a Bid for all or substantially all of the Assets, the Debtors will conduct the Auction to determine the Successful Bidders with respect to such Asset or Assets, as applicable. If the Debtors do not receive a Qualified Bid for a given Asset the Debtors will not conduct the Auction as to such Asset. To the extent Qualified Bidders are interested in separate individual Assets and/or all or substantially all of the Assets, the Debtors may, in their sole discretion, conduct separate auctions for the various Assets and Asset packages.

No later than five calendar days after the Bid Deadline, at 5:00 p.m. (prevailing Central Time), the Debtors will notify each Qualified Bidder of the highest or otherwise best Qualified Bid or combination of Qualified Bids for each Asset or Assets, for which such Qualified Bidder submitted a Bid or combination of Bids, as determined in the Debtors’ reasonable business judgment, in consultation with the

Committee, the first lien indenture trustee, the first lien ad hoc group, and the second lien ad hoc group (the “Baseline Bid”), and provide copies of the applicable Qualified Bid Documents supporting the applicable Baseline Bid to each Qualified Bidder. The determination of which Qualified Bid constitutes the Baseline Bid and which Qualified Bid constitutes the Successful Bid shall take into account any factors the Debtors reasonably deem, in consultation with the Committee, the first lien indenture trustee, the first lien ad hoc group, and the second lien ad hoc group, relevant to the value of the Qualified Bid to the Debtors’ estates, including, among other things: (a) the amount and nature of the total consideration (including the amount of cash paid to or remaining in the estate pursuant to the Bid); (b) the likelihood of the Qualified Bidder’s ability to close the Sale and the timing thereof; (c) the net economic effect of any changes to the value to be received by the Debtors’ estates from the transaction contemplated by the Qualified Bid Documents; and (d) the tax consequences of such Qualified Bid (collectively, the “Bid Assessment Criteria”).

The Auction shall take place at 10:00 a.m. (prevailing Central Time) on February 27, 2018, at the offices of Kirkland & Ellis LLP, 609 Main Street, Houston, Texas 77002, or such later date and time as selected by the Debtors. The Auction shall be conducted in a timely fashion according to the following procedures:

- i. **The Debtors Shall Conduct the Auction.** The Debtors and their professionals shall direct and preside over the Auction. At the start of the Auction, the Debtors shall describe the terms of each Baseline Bid. All incremental Bids made thereafter for a given Asset shall be Overbids and shall be made and received on an open basis, and all material terms of each Overbid shall be fully disclosed to all other Qualified Bidders who submitted Bids on such Asset. The Debtors shall maintain a written transcript of all Bids made and announced at the Auction, including the Baseline Bid, all applicable Overbids, and the Successful Bid.

Only Qualified Bidders and their legal and financial advisors, and the members of and advisors to the Committee, the first lien indenture trustee, and the second lien ad hoc group, and each such parties’ respective legal and financial advisors shall be entitled to attend the Auction, and the Qualified Bidders shall appear at the Auction in person and may speak or Bid themselves or through duly authorized representatives. Only Qualified Bidders shall be entitled to Bid at the Auction.

- ii. **Terms of Overbid.** “Overbid” means any Bid made at the Auction by a Qualified Bidder subsequent to the Debtors’

announcement of the Baseline Bid. Each applicable Overbid must comply with the following conditions:

1. **Minimum Overbid Increment.** Any Overbid following the Baseline Bid or following any subsequent Prevailing Highest Bid (as defined below) for all or substantially all of the Assets shall be in increments of value equal to (or exceeding) \$5,000,000. The Debtors may establish different overbid increments at the Auction for any individual Asset or other combination of Assets, as determined by the Debtors in an exercise of their business judgment, in consultation with the Committee, the first lien indenture trustee, the first lien ad hoc group, and the second lien ad hoc group.
2. **Conclusion of Each Overbid Round.** Upon the solicitation of each round of applicable Overbids, the Debtors may announce a deadline (as the Debtors may, in their business judgment, extend from time to time, the "Overbid Round Deadline") by which time any Overbids must be submitted to the Debtors.

Subsequent to each Overbid Round Deadline, the Debtors shall announce whether the Debtors have identified, after consultation with the Committee, the first lien indenture trustee, the first lien ad hoc group, the second lien ad hoc group, an Overbid as being higher or otherwise better than the Baseline Bid, in the initial Overbid round, or, in subsequent rounds, the Overbid previously designated by the Debtors as the prevailing highest or otherwise best Bid (the "Prevailing Highest Bid"). The Debtors shall describe to all Qualified Bidders the material terms of any new Overbid designated by the Debtors as the Prevailing Highest Bid as well as the value attributable by the Debtors to such Prevailing Highest Bid based on, among other things, the Bid Assessment Criteria.

3. **Overbid Alterations.** An applicable Overbid may contain alterations, modifications, additions, or deletions of any terms of the Bid no less favorable to the Debtors' estates than any prior Bid or Overbid, as determined in the Debtors' reasonable business judgment, in consultation with the first lien indenture trustee, the first lien ad hoc group, and the second lien ad hoc group, but shall otherwise comply with the terms of these Bidding Procedures.
- iii. **Consideration of Overbids.** The Debtors reserve the right, in their reasonable business judgment, and in consultation with

the Committee, the first lien indenture trustee, the first lien ad hoc group, and the second lien ad hoc group, to adjourn the Auction one or more times to, among other things: (i) facilitate discussions between the Debtors and Qualified Bidders; (ii) allow Qualified Bidders to consider how they wish to proceed; and (iii) provide Qualified Bidders the opportunity to provide the Debtors with such additional evidence as the Debtors, in their reasonable business judgment, may require, that the Qualified Bidder has sufficient internal resources or has received sufficient non-contingent debt and/or equity funding commitments to consummate the proposed transaction at the prevailing Overbid amount.

iv. **Closing the Auction.**

1. The Auction shall continue until there is only one Bid that the Debtors determine, in their reasonable business judgment, to be the highest or otherwise best Bid for such Asset. Such Bid shall be declared the “Successful Bid,” and such Qualified Bidder, the “Successful Bidder” and at which point the Auction will be closed as to that Asset. The Auction shall not close unless and until all Qualified Bidders have been given a reasonable opportunity to submit an Overbid at the Auction to the then Prevailing Highest Bid. Such acceptance by the Debtors of the Successful Bid is conditioned upon approval by the Court of the Successful Bid.
2. For the avoidance of doubt, nothing in these Bidding Procedures shall prevent the Debtors from exercising their respective fiduciary duties under applicable law.
3. The Debtors shall not consider any Bids or Overbids submitted after the conclusion of the Auction, and any such Bids or Overbids shall be deemed untimely and shall under no circumstances constitute a Qualified Bid.
4. As soon as reasonably practicable after closing the Auction, the Debtors shall cause the Qualified Bid Documents for each Successful Bid and Backup Bid to be filed with the Court.

- v. **No Collusion; Good-Faith *Bona Fide* Offer.** Each Qualified Bidder participating at the Auction will be required to confirm on the record at the Auction that: (i) it has not engaged in any collusion with respect to the bidding; and (ii) its Bid is a good-faith *bona fide* offer and it intends to consummate the proposed transaction if selected as the Successful Bidder.

- g. **Backup Bidder.** The Qualified Bidder with the second-best Bid (the “Backup Bid”) at the Auction (if the Auction is conducted) shall be required to serve as a backup bidder (the “Backup Bidder”). The Backup Bidder’s Deposit shall be held in escrow until the closing of the transaction with the applicable Successful Bidder. If a Successful Bidder fails to consummate its Successful Bid, the Debtors may select the applicable Backup Bidder as the Successful Bidder, and such Backup Bidder shall be deemed a Successful Bidder for all purposes. The Debtors will be authorized, but not required, to consummate all transactions contemplated by the Bid of such Backup Bidder without further order of the Court or notice to any party.

In such case, the defaulting Successful Bidder’s Deposit shall be forfeited to the Debtors, and the Debtors specifically reserve the right to seek all available remedies against the defaulting Successful Bidder, including with respect to specific performance.

- h. **Highest or Otherwise Best Bid.** When determining the highest or otherwise best Bid, as compared to other Bids, the Debtors may consider the following factors in addition to any other factors that the Debtors deem appropriate, in consultation with the Committee, the first lien indenture trustee, the first lien ad hoc group, and the second lien ad hoc group: (a) the amount and nature of the total consideration (including the amount of cash paid to or remaining in the estate pursuant to the Bid); (b) the likelihood of the Qualified Bidder’s ability to close a transaction and the timing thereof; (c) the net economic effect of any changes to the value to be received by the Debtors’ estates from the transaction contemplated by the Qualified Bid Documents; and (d) the tax consequences of such Bid.
- i. **Reservation of Rights.** The Debtors reserve their rights to modify these Bidding Procedures in their reasonable business judgment, in consultation with the Committee, the first lien indenture trustee, the first lien ad hoc group, and the second lien ad hoc group, in any manner that will best promote the goals of the bidding process, or impose, at or prior to the Auction, additional customary terms and conditions on the sale of the Assets, including, without limitation: (a) extending the deadlines set forth in these Bidding Procedures; (b) adjourning the Auction at the Auction and/or adjourning the Sale Hearing in open court without further notice; (c) adding procedural rules that are reasonably necessary or advisable under the circumstances for conducting the Auction; (d) canceling the Auction; and (e) rejecting any or all bids or Bids.
- j. **Consent to Jurisdiction.** All Qualified Bidders at the Auction shall be deemed to have consented to the jurisdiction of the Court and waived any right to a jury trial in connection with any disputes relating

to the Auction, the construction and enforcement of these Bidding Procedures, and/or the Qualified Bid Documents, as applicable.

- k. **Confirmation and Sale Hearing.** The Debtors respectfully request that a hearing to consider confirmation of the Plan and approval of the Sale of certain of the Assets to the Successful Bidders and the confirmation of the related chapter 11 plan (the “Sale Hearing”) will take place on or before at 10:00 a.m. (prevailing Central Time) on March 20, 2018, before the Honorable [____], at the Court, 515 Rusk Street, Courtroom No. [____], Houston, Texas 77002.

The Sale Hearing may be continued to a later date by the Debtors by sending notice prior to, or making an announcement at, the Sale Hearing. No further notice of any such continuance will be required to be provided to any party.

At the Sale Hearing, the Debtors shall present the Successful Bids to the Court for approval.

- l. **No Modification of Bidding Procedures.** Except as provided by Section 10 hereof, these Bidding Procedures may not be modified except with the Debtors’ express written consent, and after consultation with the Committee, the first lien indenture trustee, the first lien ad hoc group, and the second lien ad hoc group.
- m. **Return of Deposit.** The Deposit of the Successful Bidder shall be applied to the respective Purchase Price of such transaction at closing. The Deposits for each Qualified Bidder shall be held in one or more interest-bearing escrow accounts on terms acceptable to the Debtors in their sole discretion and shall be returned (other than with respect to the Successful Bidder, and the Backup Bidder) on or within three business days after the Auction. Upon the return of the Deposits, their respective owners shall receive any and all interest that will have accrued thereon.

If a Successful Bidder fails to consummate a proposed transaction because of a breach by such Successful Bidder, the Debtors will not have any obligation to return the Deposit deposited by such Successful Bidder, which may be retained by the Debtors as liquidated damages, in addition to any and all rights, remedies, or causes of action that may be available to the Debtors, and the Debtors shall be free to consummate the proposed transaction with the applicable Backup Bidder without the need for an additional hearing or order of the Court.

- n. **Fiduciary Out.** Nothing in these Bidding Procedures shall require the board of directors, board of managers, or such similar governing body of a Debtors to take any action, or to refrain from taking any action, with respect to these Bidding Procedures, to the extent such board of directors, board of managers, or such similar governing body

determines, or based on the advice of counsel, that taking such action, or refraining from taking such action, as applicable, is required to comply with applicable law or its fiduciary obligations under applicable law.

19. Importantly, the Bidding Procedures recognize the Debtors' fiduciary obligations to maximize sale value, and, as such, do not impair the Debtors' ability to consider all qualified bid proposals, and, as noted, preserve the Debtors right to modify the Bidding Procedures as necessary or appropriate to maximize value for the Debtors' estates.

20. Upon entry of the Order and in accordance with the Bidding Procedures, the Debtors shall be authorized, but not obligated, in an exercise of their business judgment to select one bidder to act as a stalking horse bidder (a "Stalking Horse Bidder") in connection with the Auction prior to the Bid Deadline. To facilitate a competitive, value-maximizing sale transaction, by this motion, the Debtors request authority, in the exercise of their business judgment, to offer bid protections to any Stalking Horse Bidder in accordance with the terms of any stalking horse agreement.

II. Notice of Auction.

21. The Auction, if any, shall take place at 10:00 a.m. (prevailing Central Time) on February 27, 2018, at the offices of Kirkland & Ellis LLP, 609 Main Street, Houston, Texas 77002, or such later date and time as selected by the Debtors.

22. On or within three business days after entry of the Order, the Debtors will cause the Auction Notice, substantially in the form attached as **Exhibit B** to the Order, to be served on the following parties or their respective counsel, if known: (a) the United States Trustee for the Southern District of Texas; (b) the holders of the 30 largest unsecured claims against the Debtors (on a consolidated basis); (c) the indenture trustee for the Debtors' first lien notes; (d) the indenture trustee for the Debtors' second lien notes; (e) the indenture trustee for the Debtors' 2.625-percent senior convertible notes; (f) the indenture trustee for the Debtors' 3.125-percent senior convertible

notes; (g) counsel to the parties referenced in clauses (c) to (f); (h) the United States Attorney's Office for the Southern District of Texas; (i) the Internal Revenue Service; (j) all applicable state and local taxing authorities; (k) each governmental agency that is an interested party with respect to the Sale; (l) all parties who have expressed a written interest in some or all of the Assets; (m) all parties who are known or reasonably believed, after reasonable inquiry, to have asserted any lien, encumbrance, claim, or interest in the Assets; (n) the United States Bureau of Ocean Energy Management; (o) counterparties to the Contracts ("Contract Counterparties"); (p) all known creditors of the Debtors; (q) all registered holders of equity securities in the Debtors; and (r) all parties that have requested or that are required to receive notice pursuant to Bankruptcy Rule 2002.

23. In addition, within three business days of entry of the Order, the Debtors will publish the Auction Notice, with any modifications necessary for ease of publication, once in the *Houston Chronicle* and the *The New York Times (National Edition)* to provide notice to any other potential interested parties.

24. The Debtors submit that the Auction Notice is reasonably calculated to provide all interested parties with timely and proper notice of the proposed sale, including the date, time, and place of the Auction (if one is held) and the Bidding Procedures and the dates and deadlines related thereto. Accordingly, the Debtors request that the form and manner of the Auction Notice be approved and that the Court determine that no other or further notice of the Auction is required.

III. Confirmation Schedule.

25. The Debtors believe that this timeline set forth below will maximize the prospect of receiving an offer or offers that would benefit, without unduly prejudicing, these chapter 11 estates. To further ensure that the Debtors' proposed Auction and sales process maximizes value for the benefit of the Debtors' estates, the Debtors will use the time following entry of the Bidding Procedures to continue the process, initiated prepetition, to actively market their Assets. The

Debtors believe that the relief requested by this motion is in the best interests of the Debtors, their estates, and all stakeholders and should be approved. The key dates and deadlines the Debtors seek to establish pursuant to this Order are as follows (the dates set forth below, collectively, the “Confirmation Schedule”), provided that the Debtors may amend the Confirmation Schedule, from time to time, as necessary:

- A. **January 15, 2018** (Petition Date + 32 days), the deadline for the Debtors to file the Plan and Disclosure Statement.
- B. **February 12, 2018** (Petition Date + 60 days) at 4:00 p.m., prevailing Central Time, shall be the deadline by which objections to the Disclosure Statement must be filed with the court and served so as to be **actually received** by the appropriate notice parties (the “Disclosure Statement Objection Deadline”).
- C. **February 14, 2018** (Petition Date + 62 days), or as soon thereafter as the Debtors may be heard, shall be the date for the hearing for the Court’s approval of the Disclosure Statement pursuant to section 1125 of the Bankruptcy Code (the “Disclosure Statement Hearing”).
- D. **February 16, 2018** (Petition Date + 64 days), shall be the deadline for distributing solicitation packages, including ballots, to holders of claims entitled to vote to accept or reject the Plan.
- E. **February 19, 2018** (Petition Date + 67 days) at 5:00 p.m., prevailing Central Time, shall be the deadline by which bids for the Assets (as well as the deposit and all other documentation required under the Bidding Procedures for Qualified Bidders (as defined in the Bidding Procedures)) must be actually received (the “Bid Deadline”).
- F. **February 27, 2018** (Petition Date + 74 days) at 10:00 a.m., prevailing Central Time, shall be the date and time of the Auction, if needed, to be held at the offices of Kirkland & Ellis LLP, located at 609 Main Street, Houston, Texas 77002 (or such later date and time as selected by the Debtors).
- G. **March 16, 2018** (Petition Date + 92 days days) at 4:00 p.m., prevailing Central Time, shall be the deadline by which (a) objections to the Plan must be filed with the Court and served so as to be actually received by the appropriate notice parties (the “Plan Objection Deadline”), and (b) **all** ballots must be properly executed, completed, and delivered so that they are **actually received** (the “Voting Deadline”) by Kurtzman Carson Consultants LLC, the notice, claims, and solicitation agent retained by the Debtors in the Chapter 11 Cases.
- H. **March 20, 2018** (Petition Date + 96 days), at 9:00 a.m., or as soon thereafter as the Debtors may be heard, shall be the date and time for the hearing at

which the Court will consider confirmation of the Plan, including approval of the Sale (the “Confirmation Hearing”).

26. Upon entry of the Order, the Debtors will notify parties of these dates in connection with their forthcoming motion for approval of the Disclosure Statement.

Basis for Relief

I. The Bidding Procedures Are Fair, Designed to Maximize the Value Received for the Assets, and Are Consistent with the Debtors’ Reasonable Business Judgment.

27. Courts have made clear that a debtor’s business judgment is entitled to substantial deference with respect to the procedures to be used in selling an estate’s assets. *See, e.g., In re Schipper*, 933 F.2d 513, 515 (7th Cir. 1991) (“Under Section 363, the debtor in possession can sell property of the estate . . . if he has an ‘articulated business justification.’”) (internal citations omitted); *see also In re Martin*, 91 F.3d 389, 395 (3d Cir. 1996) (explaining that courts usually defer to the trustee’s “legitimate business justification” with respect to the “disposition of assets of the estate”); *In re Integrated Res., Inc.*, 147 B.R. 650, 656–57 (S.D.N.Y. 1992) (noting that bidding procedures that have been negotiated by a trustee are to be reviewed according to the deferential “business judgment” standard, under which such procedures and arrangements are “presumptively valid”).

28. The paramount goal in any proposed sale of property of the estate is to maximize the proceeds received by the estate. *See In re Edwards*, 228 B.R. 552, 561 (Bankr. E.D. Pa. 1998) (“The purpose of procedural bidding orders is to facilitate an open and fair public sale designed to maximize value for the estate.”); *In re Food Barn Stores, Inc.*, 107 F.3d 558, 564–65 (8th Cir. 1997) (in bankruptcy sales, “a primary objective of the Code [is] to enhance the value of the estate at hand”); *In re Integrated Res., Inc.*, 147 B.R. at 659 (“[I]t is a well-established principle of bankruptcy law that the objective of the bankruptcy rules and the trustee’s duty with respect to

such sales is to obtain the highest price or greatest overall benefit possible for the estate.”) (internal citations omitted).

29. To that end, courts uniformly recognize that procedures intended to enhance competitive bidding are consistent with the goal of maximizing the value received by the estate and therefore are appropriate in the context of bankruptcy transactions. *See, e.g., In re Integrated Res., Inc.*, 147 B.R. at 659 (bidding procedures “are important tools to encourage bidding and to maximize the value of the debtor’s assets”); *In re Fin. News Network, Inc.*, 126 B.R. 152, 156 (Bankr. S.D.N.Y. 1991) (“court-imposed rules for the disposition of assets . . . [should] provide an adequate basis for comparison of offers, and [should] provide for a fair and efficient resolution of bankrupt estates”).

30. The Debtors believe that the proposed Bidding Procedures will continue the prepetition sale process and ultimately promote active bidding from seriously interested parties and will elicit the highest or otherwise best offers available for the Assets. The Bidding Procedures will allow the Debtors to conduct the sale and marketing process in a controlled, fair, and open fashion and are designed to encourage participation by financially capable bidders who can demonstrate the ability to close a transaction. Specifically, the Bidding Procedures contemplate an open market process with minimum barriers to entry and provide potentially interested parties with sufficient time to perform due diligence and acquire the information necessary to submit a timely and well-informed bid.

31. In addition, the Bidding Procedures provide Potential Bidders that may have otherwise applicable rights of first refusal (and similar rights) a fair opportunity to effectively exercise those rights by participating in the marketing and sale process. Accordingly, the Debtors should be deemed to have complied with or satisfied any such provisions by conducting a sale pursuant to the Bidding Procedures. *See In re Farmland Indus., Inc.*, 284 B.R. 111, 119-20 (Bankr.

W.D. Mo. 2002) (relying on the fact that the first refusal right holder did not receive notice of the auction to reopen the auction to the highest bidder and the right holder); *but see In re Mr. Grocer*, 77 B.R. 349, 352 (Bankr. D.N.H. 1987) (holding that rights of first refusal are *per se* unenforceable under section 365(f) of the Bankruptcy Code).

32. At the same time, the Bidding Procedures provide the Debtors with an opportunity to consider competing bids and select the highest or otherwise best offers for the completion of the sale. As such, creditors of the Debtors' estates can be assured that the consideration obtained will be fair and reasonable at or above market.

33. The Debtors submit that the Bidding Procedures will encourage competitive bidding, are appropriate under the relevant standards governing auction proceedings and bidding incentives in bankruptcy proceedings, and are consistent with other procedures previously approved by this district. *See, e.g., In re EMAS CHiyODA Subsea Limited.*, No. 17-31146 (MI) (Bankr. S.D. Tex. Apr. 24, 2017) (providing for similar bidding procedures); *In re Vanguard Nat. Res., LLC*, No. 17-30560 (MI) (Bankr. S.D. Tex. Apr. 13, 2017) (same); *In re Sherwin Alumina Co.*, No. 16-20012 (DRJ) (Bankr. S.D. Tex. Mar. 16, 2016) (same); *In re University Gen. Health Sys., Inc.*, No. 15-31086 (LP) (Bankr. S.D. Tex. Oct. 15, 2015) (same); *In re BPZ Res., Inc.*, No. 15-60016 (DRJ) (Bankr. S.D. Tex. June 12, 2015) (same).³

34. Accordingly, for all of the foregoing reasons, the Debtors believe that the Bidding Procedures: (a) will encourage robust bidding for the Assets; (b) are consistent with other procedures previously approved by courts in this District; and (c) are appropriate under the relevant standards governing auction proceedings and bidding incentives in bankruptcy proceedings and should be approved.

³ Because of the voluminous nature of the orders cited herein, such orders have not been attached to this motion. Copies of these orders are available upon request of the Debtors' proposed counsel.

II. The Potential Bid Protections Have a Sound Business Purpose and Should be Approved.

35. The Debtors also seek authority, but not direction, to offer customary bid protections, including a breakup fee and the reimbursement of reasonable and documented out-of-pocket expenses, to a Stalking Horse Bidder in the event that the Debtors elect to enter into a stalking horse arrangement with a third-party bidder (the “Bid Protections”). In conjunction with the Bidding Procedures, the Bid Protections are reasonably calculated to encourage a buyer to submit a final bid within the range of reasonably anticipated values. The Stalking Horse Bidder, if any, will be the stalking horse for competitive bids, perhaps leading to further competition, and would establish a baseline against which higher or otherwise better offers can be measured.

36. As indicated above, the Debtors hereby request that the court grant the Debtor discretion to agree to Bid Protections in favor of a Stalking Horse Bidder in the event that one is selected by the Debtors. The Debtors submit that cause exists to approve such payments and procedures that are fair and reasonable under the circumstances and will encourage competitive bidding and the higher or best price for the Assets.

37. The use of a stalking horse in a public auction process is a customary practice in chapter 11 cases, as the use of a stalking horse bid is, in many circumstances, the best way to maximize value in an auction process by “establish[ing] a framework for competitive bidding and facilitat[ing] a realization of that value.” *Official Committee of Unsecured Creditors v. Interforum Holding LLC*, 2011 WL 2671254, No. 11-219, *1 (E.D. Wis. July 7, 2011). As a result, stalking horse bidders virtually always require break-up fees and, in many cases, other forms of bid protections as an inducement for “setting the floor at auction, exposing its bid to competing bidders, and providing other bidders with access to the due diligence necessary to enter into an asset purchase agreement.” *Id.* (internal citations omitted). Therefore, the use of bid protections has become an established practice in chapter 11 cases.

38. Indeed, break-up fees and other forms of bid protections are a normal and, in many cases, necessary component of significant sales conducted under section 363 of the Bankruptcy Code. “Break-up fees are important tools to encourage bidding and to maximize the value of the debtor’s assets . . . In fact, because the . . . corporation has a duty to encourage bidding, break-up fees can be necessary to discharge [such] duties to maximize value.” *In re Integrated Res., Inc.*, 147 B.R. at 659–60 (emphasis added). Specifically, bid protections may be necessary to convince a white knight bidder to enter the bidding by providing some form of compensation for the risks that it is undertaking. *In re Integrated Res., Inc.*, 147 B.R. at 660–61 (bid protections can prompt bidders to commence negotiations and “ensure that a bidder does not retract its bid”); *In re Hupp Int’l Indus., Inc.*, 140 B.R. 191, 194 (Bankr. N.D. Ohio 1992) (“[W]ithout such fees, bidders would be reluctant to make an initial bid for fear that their first bid will be shopped around for a higher bid from another bidder who would capitalize on the initial bidder’s . . . due diligence.”).

39. Courts in the Fifth Circuit analyze the appropriateness of bidding incentives under the “business judgment rule” standard, and the law is well established in this district that courts consider whether (a) the incentive hampers, rather than encourages, bidding, and (b) the amount of the incentive is unreasonable relative to the proposed purchase price. *See In re ASARCO, L.L.C.*, 650 F.3d 593 (5th Cir. 2011) (affirming bankruptcy court’s decision to apply the business judgment rule to evaluate whether an expense reimbursement bid protection was permissible); *see also In re ASARCO LLC*, 441 B.R. 813, 826 (S.D. Tex. 2010) (explaining three-part test used to determine whether expense reimbursement was permissible under business judgment rule); *Official Comm. of Subordinated Bondholders v. Integrated Res., Inc. (In re Integrated Res., Inc.)*, 147 B.R. 650, 657-58 (S.D.N.Y. 1992) (to evaluate bid protections, courts should employ the business judgment rule, which proscribes judicial second-guessing of the corporate debtor’s actions taken in good faith, absent self-dealing and in the exercise of honest judgment).

40. Under this standard, the Debtors' requested authority to approve, in their reasonable business judgment, customary Bid Protections in these chapter 11 cases passes muster. The Debtors recognize the significant expenditure of time, energy, and resources that would go into preparing a stalking horse bid, and that bidding incentives may encourage a potential purchaser to invest the requisite time, money, and effort to negotiate with the Debtors and perform the necessary due diligence attendant to the acquisition of the Assets, despite the inherent risks and uncertainties of the chapter 11 process. Moreover, a stalking horse would provide a floor with respect to the Assets that it offers to purchase, and may encourage potential bidders to put their best offer forward and engage with the Debtors well before the Bid Deadline in an effort to be chosen as a Stalking Horse Bidder. Any such increased competition would inure to the benefit of the Debtors' estates.

41. Authority to offer customary Bid Protections to a Stalking Horse Bidder, if any, in accordance with the terms of the stalking horse agreement reflect sound business purposes and is in the best interests of the Debtors, their estates, and all stakeholders, as the stalking horse bids will establish a floor for further bidding that may increase the consideration given in exchange for the Assets. For the reasons set forth above, the Debtors respectfully request approval of customary Bid Protections to be authorized in favor of a Stalking Horse Bidder that may be chosen by the Debtors in their discretion.

III. The Form and Manner of the Auction Notice Should Be Approved.

42. Pursuant to Bankruptcy Rule 2002(a), the Debtors are required to provide creditors with 21-days' notice of a hearing where the Debtors will seek to use, lease, or sell property of the estate outside the ordinary course of business. Bankruptcy Rule 2002(c) requires any such notice to include the time and place of the auction and the hearing and the deadline for filing any objections to the relief requested therein. While the Debtors will provide at least 28-days' notice of the Confirmation Hearing after a hearing at which the court enters an order approving the

Disclosure Statement, as required under Bankruptcy Rule 2002(b), the Debtors seek approval of the Auction Notice as proper notice of the Auction. The Debtors submit that notice of this motion and the related hearing to consider entry of the Order, coupled with service of the Auction Notice, as provided for herein, constitutes good and adequate notice of the Auction and the proceedings with respect thereto in compliance with, and satisfaction of, the applicable requirements of Bankruptcy Rule 2002. Accordingly, the Debtors request that this Court approve the form and manner of the Auction Notice.

IV. Credit Bidding Should Be Authorized Under Section 363(k) of the Bankruptcy Code.

43. A secured creditor is allowed to “credit bid” the amount of its claim in a sale. Section 363(k) of the Bankruptcy Code provides, in relevant part, that unless the court for cause orders otherwise, the holder of a claim secured by property that is the subject of the sale “may bid at such sale, and, if the holder of such claim purchases such property, such holder may offset such claim against the purchase price of such property.” 11 U.S.C. § 363(k). Even if a secured creditor is undersecured as determined in accordance with section 506(a) of the Bankruptcy Code, section 363(k) allows such secured creditor to bid the total face value of its claim and does not limit the credit bid to the claim’s economic value. *See In re Submicron Sys. Corp.*, 432 F.3d 448, 459-60 (3d Cir. 2006) (explaining that “[i]t is well settled among district court and bankruptcy courts that creditors can bid the full face value of their secured claims under section 363(k)”).

44. In this district, absent cause for restricting credit bidding, courts have consistently ruled in favor of reserving a secured creditor’s right to credit bid its claim. *See In re Offshore Fabricators, LLC*, No. 17-35623 (MI) (Bankr. S.D. Tex. Nov. 9, 2017) (order approving bid procedures which authorized parties with secured claims to credit bid); *In re Bennu Titan LLC (f/k/a ATP Titan LLC)*, No. 17-30497 (DRJ) (Bankr. S.D. Tex. Aug. 17, 2017) (same); *In re Northstar Offshore Grp., LLC*, No. 16-34028 (MI) (Bankr. S.D. Tex. May 11, 2017) (same); *In re*

Azure Midstream Partners, LP, No. 17-30461 (DRJ) (Bankr. S.D. Tex. Feb. 23, 2017) (same); *In re Shoreline Energy LLC*, No. 16-35571 (DRJ) (Bankr. S.D. Tex. Dec. 15, 2016) (order approving bid procedures allowing stalking horse to credit bid).

45. Accordingly, secured creditors should be entitled to credit bid some or all of the claims secured by their collateral in accordance with the Bidding Procedures, pursuant to section 363(k) of the Bankruptcy Code.

V. The Court Should Approve the Disclosure Statement Objection Deadline and the Disclosure Statement Hearing.

46. Bankruptcy Rules 2002(b), 3016, and 3020 provide that parties in interest must receive 28-days' notice of the deadline to file objections and the hearing date to approve the Disclosure Statement and the Plan.

47. The Debtors intend to file the Plan and Disclosure Statement on or before January 15, 2018. Therefore, the proposed Disclosure Statement Objection Deadline and Disclosure Statement Hearing date will provide parties in interest with sufficient notice of the Disclosure Statement Hearing and time to object to the Disclosure Statement.

VI. The Court Should Approve the Voting Deadline, Plan Objection Deadline, and the Confirmation Hearing Date.

48. As stated previously, Bankruptcy Rules 2002(b), 3016, and 3020 provide that parties in interest must receive 28-days' notice of the deadline to file objections and the hearing date to approve the Plan. Following the Disclosure Statement Hearing the Debtors will work to ensure that notice of the Confirmation Hearing is provided by February 16, 2018, at the latest, ensuring 28-days' notice of the Plan Objection Deadline to parties in interest. Therefore, the Debtors' proposed Voting Deadline, Plan Objection Deadline and Confirmation Hearing all provide the appropriate amount of notice under the Bankruptcy Rules.

Notice

49. The Debtors will provide notice of this motion to: (a) the Office of the U.S. Trustee for the Southern District of Texas; (b) the holders of the 30 largest unsecured claims against the Debtors (on a consolidated basis); (c) the indenture trustee for the Debtors' first lien notes; (d) the indenture trustee for the Debtors' second lien notes; (e) the indenture trustee for the Debtors' 2.625-percent senior convertible notes; (f) the indenture trustee for the Debtors' 3.125-percent senior convertible notes; (g) counsel to the parties referenced in clauses (c) to (f); (h) the United States Attorney's Office for the Southern District of Texas; (i) the Internal Revenue Service; (j) the United States Securities and Exchange Commission; (k) the state attorneys general for states in which the Debtors conduct business; (l) counsel to the Stalking Horse Bidder, if any; (m) all parties who have expressed a written interest in some or all of the Assets; (n) all known holders of liens, encumbrances, and other claims secured by the Assets; (o) each governmental agency that is an interested party with respect to the Sale and transactions proposed thereunder; and (p) any party that has requested notice pursuant to Bankruptcy Rule 2002. The Debtors submit that, in light of the nature of the relief requested, no other or further notice is required.

[Remainder of page intentionally left blank.]

WHEREFORE, the Debtors respectfully request entry of an order, substantially in the form attached hereto as **Exhibit A**, granting the relief requested herein and granting such other relief as is just and proper.

Houston, Texas

Dated: December 14, 2017

/s/ Zack A. Clement

Zack A. Clement (Texas Bar No. 04361550)

ZACK A. CLEMENT PLLC

3753 Drummond Street

Houston, Texas 77025

Telephone: (832) 274-7629

-and-

James H.M. Sprayregen, P.C. (*pro hac vice* admission pending)

Marc Kieselstein, P.C. (*pro hac vice* admission pending)

Chad J. Husnick, P.C. (*pro hac vice* admission pending)

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Facsimile: (312) 862-2200

Proposed Co-Counsel to the Debtors and Debtors in Possession

Certificate of Service

I certify that on December 14, 2017, I caused a copy of the foregoing document to be served by the Electronic Case Filing System for the United States Bankruptcy Court for the Southern District of Texas.

/s/ Zack A. Clement

Zack A. Clement

EXHIBIT A

Proposed Order

**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> , ¹	)	Case No. 17-36709 (MI)
)	
Debtors.	)	(Joint Administration Requested)
	)	Re: Docket No.

**ORDER (I) APPROVING BIDDING PROCEDURES FOR
THE SALE OF THE DEBTORS’ ASSETS, (II) SCHEDULING
AN AUCTION, (III) APPROVING THE FORM AND MANNER
OF NOTICE THEREOF, (IV) SCHEDULING HEARINGS AND OBJECTION
DEADLINES WITH RESPECT TO THE DEBTORS’ DISCLOSURE STATEMENT
AND PLAN CONFIRMATION AND (V) GRANTING RELATED RELIEF**

Upon consideration of the motion (the “Motion”)² of the above captioned debtors and debtors in possession (the “Debtors”) for the entry of an order (this “Order”): (a) approving the proposed bidding procedures attached as **Schedule 1** to this Order (the “Bidding Procedures”); (b) approving the Debtors’ selection of one or more Stalking Horse Bidders, if any, and the provision of Bid Protections; (c) scheduling an auction; (d) approving the form and manner of notice thereof, (d) scheduling dates and deadlines in connection with the approval of the Disclosure Statement and confirmation of a Plan; and (f) granting related relief; all as more fully set forth in the Motion; and upon the First Day Declaration; and this court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the Amended Standing Order; and this court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and this

¹ 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.

² Capitalized terms used herein and not otherwise defined shall have the meaning ascribed to them in the Motion or the Bidding Procedures, as applicable.

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, THE COURT FINDS THAT:

A. The findings of fact and conclusions of law herein constitute the court's findings of fact and conclusions of law for the purposes of Bankruptcy Rule 7052, made applicable pursuant to Bankruptcy Rule 9014. To the extent any findings of facts are conclusions of law, they are adopted as such. To the extent any conclusions of law are findings of fact, they are adopted as such.

B. This court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. Venue in this court is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

C. The statutory bases for the relief requested in the Motion are sections 105 and 363 of the Bankruptcy Code, Bankruptcy Rules 2002, 3016, 3017, 3020, and 6004, and Bankruptcy Local Rule 1075-1.

D. Notice of the Motion, the Hearing, and the proposed entry of this Order was adequate and sufficient under the circumstances of these chapter 11 cases, and such notice complied with all applicable requirements of the Bankruptcy Code, the Bankruptcy Rules, and the Bankruptcy Local Rules. Notice of the Motion has been given to: (i) the United States Trustee for the Southern District of Texas; (ii) the holders of the 30 largest unsecured claims against the Debtors (on a consolidated basis); (iii) the indenture trustee for the Debtors' first lien notes; (iv) the indenture trustee for the Debtors' second lien notes; (v) the indenture trustee for the Debtors' 2.625% senior convertible notes; (vi) the indenture trustee for the Debtors' 3.125% senior convertible notes; (vii) counsel to the parties referenced in clauses (iii) to (vi); (viii) counsel to the ad hoc group of First Lien Notes, Weil, Gotshal & Manges LLP, 767 5th Avenue, New York, NY 10153, Attn: Matt Barr (matt.barr@weil.com) and Weil, Gotshal & Manges LLP, 700 Louisiana Street, Suite 1700, Houston, TX 77002, Attn: Chris Lopez (chris.lopez@weil.com); (ix) the United States Attorney's Office for the Southern District of Texas; (x) the Internal Revenue Service; (xi) all applicable state and local taxing authorities; (xii) each governmental agency that is an interested party with respect to the Sale Transaction; (xiii) all parties who have expressed a written interest in some or all of the Assets; (xiv) all parties who are known or reasonably believed, after reasonable inquiry, to have asserted any lien, encumbrance, claim, or interest in the Assets; (xv) the United States Bureau of Ocean Energy Management; (xvi) counterparties to the Contracts ("Contract Counterparties"); (xvii) all known creditors of the Debtors; (xviii) all registered holders of equity securities in the Debtors; and (xix) all parties that have requested or that are required to receive notice pursuant to Bankruptcy Rule 2002. Accordingly, no further notice of the Motion, the Hearing, or this Order is necessary or required.

E. The Debtors have articulated good and sufficient reasons for this court to: (a) approve the Bidding Procedures; (b) approve the selection of one or more Stalking Horse Bidders and related Bid Protections; (c) schedule the Bid Deadline and the Auction; and (d) approve the form and manner of notice of the Auction Notice.

F. The Bidding Procedures are reasonable and appropriate and represent the best available method for maximizing value for the benefit of the Debtors' estates.

G. The Bid Protections are reasonable and appropriate under the circumstances, including in light of the commitments that will be made by any Stalking Horse Bidder, and that it may be necessary to induce one or more third-party bidders to serve as a Stalking Horse Bidder, as determined by the Debtors in their business judgment

H. The Bidding Procedures were negotiated at arm's length, in good faith, and without collusion. The Bidding Procedures balance the Debtors' interests in emerging expeditiously from the chapter 11 cases while preserving the opportunity to attract value-maximizing proposals beneficial to the Debtors' estate, their creditors, and other parties in interest.

I. The Auction Notice, substantially in the form attached to the Motion as **Exhibit B**, and incorporated herein by reference as if fully set forth in this Order, is appropriate and reasonably calculated to provide all interested parties with timely and proper notice of the Auction.

IT IS HEREBY ORDERED THAT:

1. The Motion is granted as provided herein.
2. All objections to the relief requested in the Motion that have not been withdrawn, waived, or settled as announced to the court at the hearing on the Motion or by stipulation filed with the court, are overruled.

I. Important Dates and Deadlines.

3. The Confirmation Schedule is approved.
4. The deadline for the Debtors to file the Plan and Disclosure Statement is **January 15, 2018**.
5. The hearing to consider approval of the Disclosure Statement shall occur on **February 14, 2018, at __:00 a./p.m., prevailing Central Time**.
6. The deadline to object to the Disclosure Statement is set for **February 12, 2018, at 4:00 p.m., prevailing Central Time**.
7. The deadline for distributing Solicitation Packages, including Ballots, to Holders of Claims entitled to vote to accept or reject the Plan is set for **February 16, 2018**.
8. The deadline by which all bids for the Assets must be *actually received* by the parties specified in the Bidding Procedures is **February 19, 2018, at 5:00 p.m., prevailing Central Time**.
9. The date and time of the Auction, if needed, is **February 27, 2018, at 10:00 a.m., prevailing Central Time**, to be held at the offices of Kirkland & Ellis LLP, located at 609 Main Street, Houston, Texas 77002.
10. The deadline to object to confirmation of the Plan is set for **March 16, 2018, at 4:00 p.m., prevailing Central Time**.
11. The deadline to vote to accept or reject the Plan is set for **March 16, 2018 at 4:00 p.m., prevailing Central Time**.
12. The hearing to consider confirmation of the Plan shall occur on **March 20, 2018, at __:00 a./p.m., prevailing Central Time**.
13. The Debtors may amend the Confirmation Schedule, from time to time, as necessary by filing an appropriate notice on the court's docket.

II. The Bidding Procedures.

14. The Bidding Procedures, substantially in the form attached hereto as Schedule 1, are hereby approved in their entirety, and the Bidding Procedures shall govern the submission, receipt, and analysis of all bids relating to the proposed sale of the Assets. Any party desiring to bid on one or more individual Assets or all or substantially all of the Assets shall comply with the Bidding Procedures and this Order. The Debtors are authorized to take any and all actions necessary to implement the Bidding Procedures.

15. Each bidder participating at the Auction shall be required to confirm that it has not engaged in any collusion with respect to the bidding or the sale, as set forth in the Bidding Procedures; and the Auction shall be transcribed.

16. Any Qualified Bidder who has a valid and perfected lien on any Assets of the Debtors' estates (a "Secured Creditor") and the right and power to credit bid claims secured by such liens, shall have the right to credit bid all or a portion of the value of such Secured Creditor's secured claims within the meaning of section 363(k) of the Bankruptcy Code; *provided* that a Secured Creditor shall have the right to credit bid its secured claim only with respect to the collateral by which such Secured Creditor is secured.

17. The Debtors may (a) determine which Qualified Bid or combination of Qualified Bids is the highest or otherwise best offer for each Asset or Assets; (b) reject at any time before entry of an Order of the court approving the Successful Bid, any bid that, in the discretion of the Debtors, is (i) inadequate or insufficient, (ii) not in conformity with the requirements of the Bankruptcy Code or the Bidding Procedures, or (iii) contrary to the best interests of the Debtors' estates and their creditors; and (c) at or before the conclusion of the Auction, may impose such other terms and conditions upon Qualified Bidders as the Debtors determine to be in the best interests of the Debtors' estates in these cases.

18. Following entry of this Order, the Debtors shall be authorized, but not obligated, in an exercise of their business judgement, to select one or more bidders to act as a stalking horse bidder (each, a “Stalking Horse Bidder”).

19. The Debtors are deemed to have complied with all contractual right of first refusals, or similar contractual purchasing rights, regarding the Assets. The Bidding Procedures and the notice thereof provide all parties in interest with notice of, and the opportunity to participate in, any potential Sale and/or Auction.

20. The Bid Protections are approved and the Debtors are authorized, but not directed, to incur and pay the Bid Protections if the Debtors determine that paying the Bid Protections is in the best interest of the Debtors’ estates and stakeholders. To the extent such determination is made to provide for and pay the Bid Protections, such Bid Protections may be paid without further action or order by the court.

III. Notice Procedures.

21. The form of Auction Notice substantially in the form attached to the Motion as Exhibit B is approved.

IV. Miscellaneous.

22. Notwithstanding anything contained in the Motion or this Order, the relief set out herein shall be subject to the terms and conditions contained in any orders entered by this Court authorizing the use of cash collateral (the “Cash Collateral Orders”). To the extent there is any conflict between this Order and the Cash Collateral Orders, the terms of the Cash Collateral Orders shall control.

23. The failure to include or reference a particular provision of the Bidding Procedures specifically in this Order shall not diminish or impair the effectiveness or enforceability of such provision.

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

25. 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.

26. The terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

27. This court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Dated: _____, 2017
Houston, Texas

THE HONORABLE MARVIN ISGUR
UNITED STATES BANKRUPTCY JUDGE

Schedule 1

Bidding 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> , ¹	)	Case No. 17-36709 (MI)
)	
Debtors.	)	(Joint Administration Requested)
)	

BIDDING PROCEDURES FOR THE SALE OF THE DEBTORS’ ASSETS

On [●], 2017, the United States Bankruptcy Court for the Southern District of Texas (the “Court”) entered the *Order Establishing Bidding Procedures Relating to the Sale of All or a Portion of the Debtors’ Assets* [Docket No. [●]] (the “Bidding Procedures Order”),² by which the Court approved the following procedures. These Bidding Procedures set forth the process by which the Debtors are authorized to conduct an auction (the “Auction”) for the sale of or other transaction (including a chapter 11 plan) regarding (the “Sale”) any or all of the Debtors’ assets, or equity interests in the Debtors or one or more of its direct and indirect subsidiaries (or any successor entities thereof) (collectively, the “Assets”). The Sale shall be conducted pursuant to a chapter 11 plan.³

1. Submissions to the Debtors.

All submissions to the Debtors required to be made under these Bidding Procedures must be directed to each of the following persons unless otherwise provided (collectively, the “Notice Parties”):

- A. **Debtors.** Cobalt International Energy, Inc., 920 Memorial City Way, Suite 100, Houston, Texas 77024, Attn: Jeffrey A. Starzec (jeff.starzec@cobaltintl.com).
- B. **Debtors’ Counsel.** Counsel to the Debtors, Kirkland & Ellis LLP, 300 North LaSalle Street, Chicago, IL 60654, Attn: Marc Kieselstein, P.C. (marc.kieselstein@kirkland.com), Chad J. Husnick, P.C. (chad.husnick@kirkland.com), Brad Weiland (brad.weiland@kirkland.com), and Laura Krucks (laura.krucks@kirkland.com).

¹ 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, LP (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.

² All capitalized terms used but not otherwise defined herein shall have the meaning ascribed to them in the Bidding Procedures Order.

³ For the avoidance of doubt, these bidding procedures are subject to the terms and conditions contained in any orders entered by this Court authorizing the use of cash collateral.

- C. **Debtors' Co-Counsel.** Co-Counsel to the Debtors, Zack A. Clement PLLC, 3753 Drummond Street, Houston, Texas 77025, Attn: Zack A. Clement (zclement@icloud.com).
- D. **Debtors' Financial Advisors.** Financial advisors to the Debtors, Houlihan Lokey Capital, Inc., 245 Park Avenue, New York, New York 10167, Attn: John-Paul Hanson (jhanson@hl.com), Joshua Eaves (jeaves@hl.com), and Michael Haney (mhaney@hl.com).
- E. **Counsel to the Ad Hoc Group of First Lien Notes.** Counsel to the Ad Hoc Group of First Lien Notes, Weil, Gotshal & Manges LLP, 767 5th Avenue, New York, NY 10153, Attn: Matt Barr (matt.barr@weil.com), and Weil, Gotshal & Manges LLP, 700 Louisiana Street, Suite 1700, Houston, TX 77002, Attn Chris Lopez (chris.lopez@weil.com).
- F. **Ad Hoc Group of First Lien Notes' Financial Advisors.** Financial advisors to the Ad Hoc Group of First Lien Notes, PJT Partners LP, 280 Park Avenue, 16th Floor, New York, NY 10017 Attn: Mike Genereux (Genereux@pjtpartners.com).
- G. **Counsel to the Ad Hoc Group of Second Lien Notes.** Counsel to the Ad Hoc Group of Second Lien Notes, Akin Gump Strauss Hauer & Feld LLP, 1333 New Hampshire Avenue, N.W., Washington, DC 20036, Attn: James Savin (jsavin@akingump.com).
- H. **Ad Hoc Group of Second Lien Notes' Financial Advisors.** Financial advisors to the Ad Hoc Group of Second Lien Notes, Moelis & Company, LLC, Three Allen Center, 333 Clay Street, Suite 3750, Houston, TX 10022, Attn: Bassam Latif (bassam.latif@moelis.com).
- I. **Committee's Counsel.** Counsel to the official creditors' committee (the "Committee"), [____], Attn: [____].
- J. **Committee's Financial Advisors.** Financial advisors to the Committee, [____], Attn: [____].

2. Potential Bidders.

To participate in the bidding process or otherwise be considered for any purpose under these Bidding Procedures, a person or entity interested in consummating a Sale (a "Potential Bidder") must deliver or have previously delivered, if determined to be necessary by the Debtors in their sole discretion, the following documents:

- (i) an executed confidentiality agreement on terms acceptable to the Debtors (a "Confidentiality Agreement"), to the extent not already executed;
- (ii) identification of the Potential Bidder and any of the principals, corporate officers, or other representatives that are authorized to appear for and act on behalf of the Potential Bidder with respect to the contemplated transaction; and

- (iii) unless publicly available in a filing under applicable securities laws or regulations, the most current audited and latest unaudited financial statements (the “Financials”) of the Potential Bidder (or, if the Potential Bidder is an entity formed for the purpose of acquiring the Assets (x) Financials of the equity holder(s) of the Potential Bidder or such other form of financial disclosure as is acceptable to the Debtors and their advisors, and (y) a written commitment acceptable to the Debtors and their advisors of the equity holder(s) of the Potential Bidder to be responsible for the Potential Bidder’s obligations in connection with the Sale).

3. Qualified Bidders.

- (a) A “Qualified Bidder” is a Potential Bidder whose Financials, the Financials of its equity holder(s), or written commitments, as applicable, demonstrate the financial capability to consummate the Sale, whose Bid is a Qualified Bid, and that the Debtors determine should be considered a Qualified Bidder, in consultation with the Committee, the first lien indenture trustee, the first lien ad hoc group, and the second lien ad hoc group. Within two business days after the Bid Deadline, the Debtors’ advisors will notify each Potential Bidder in writing whether such Potential Bidder is a Qualified Bidder.
- (b) If any Potential Bidder is determined by the Debtors not to be a Qualified Bidder, the Debtors will refund such Qualified Bidder’s Deposit (as defined herein) and all accumulated interest thereon on or within three business days after the Bid Deadline.
- (c) Between the date that the Debtors notify a Potential Bidder that it is a Qualified Bidder and the Auction, the Debtors may discuss, negotiate, or seek clarification of any Qualified Bid from a Qualified Bidder. Without the written consent of the Debtors, a Qualified Bidder may not modify, amend, or withdraw its Qualified Bid, except for proposed amendments to increase their consideration contemplated by, or otherwise improve the terms of, the Qualified Bid, during the period that such Qualified Bid remains binding as specified in these Bidding Procedures; *provided* that any Qualified Bid may be improved at the Auction as set forth herein. Any improved Qualified Bid must continue to comply with the requirements for Qualified Bids set forth in these Bidding Procedures.
- (d) For purposes of these Bidding Procedures, the indenture trustee for the Debtors’ first lien notes and the indenture trustee for the Debtors’ second lien notes shall each be deemed Qualified Bidders.

4. Due Diligence.

Only Potential Bidders whose Financials, the Financials of its equity holder(s), or written commitments, as applicable, demonstrate the financial capability to consummate the Sale shall be eligible to receive due diligence information and access to the Debtors’ electronic data room, physical data room, and to additional non-public information regarding the Debtors. **No Potential Bidder will be permitted to conduct any due diligence without entering into a Confidentiality Agreement.** The Debtors will provide to each Potential Bidder that satisfies the

foregoing reasonable due diligence information, as requested by such Potential Bidder in writing, as soon as reasonably practicable after such request, and the Debtors shall post all written due diligence provided to any such Potential Bidder to the Debtors' electronic data room. For all Potential Bidders, the due diligence period will end on the Bid Deadline and, subsequent to the Bid Deadline the Debtors shall have no obligation to furnish any due diligence information.

The Debtors shall not furnish any confidential information relating to the Assets, liabilities of the Debtors, or the Sale to any person except to a Potential Bidder or to such Potential Bidder's duly authorized representatives to the extent provided in the applicable Confidentiality Agreement. The Debtors and their advisors shall coordinate all reasonable requests from Potential Bidders for additional information and due diligence access; *provided that* the Debtors may decline to provide such information to Potential Bidders who, at such time and in the Debtors' reasonable business judgment have not established, or who have raised doubt, that such Potential Bidder intends in good faith to, or has the capacity to, consummate the Sale.

The Debtors also reserve the right to withhold any diligence materials that the Debtors determine are sensitive or otherwise not appropriate for disclosure to a Potential Bidder who the Debtors determine is a competitor of the Debtors or is affiliated with any competitor of the Debtors. Neither the Debtors nor their representatives shall be obligated to furnish information of any kind whatsoever to any person that is not determined to be a Potential Bidder that intends in good faith to, or has the capacity to, consummate the Sale.

All due diligence requests must be directed to Houlihan Lokey Capital, Inc., 245 Park Avenue, New York, New York 10167, Attn: Joshua Eaves and Michael Haney.

(a) Communications with Potential Bidders.

Notwithstanding anything to the contrary in these Bidding Procedures, all substantive direct communications between and amongst Potential Bidders shall involve the Debtors and the Debtors' advisors, to the extent reasonably practicable.

(b) Due Diligence from Potential Bidders.

Each bidder shall comply with all reasonable requests for additional information and due diligence access requested by the Debtors or their advisors regarding the ability of the Potential Bidder to consummate the Sale or discussions with other Potential Bidders regarding any topic and with any party regarding the Debtors (and their non-Debtor affiliates) and/or any of the Assets. Failure by a Potential Bidder to comply with such reasonable requests for additional information and due diligence access may be a basis for the Debtors to determine that such bidder is not a Qualified Bidder or that a Bid made by such bidder is not a Bid.

The Debtors and each of their respective advisors and representatives shall be obligated to maintain in confidence any confidential information in accordance with any applicable confidentiality agreement, except as otherwise set forth in these Bidding Procedures. Each recipient of confidential information agrees to use, and to instruct their advisors and representatives to use, such confidential information only in connection with the evaluation of Bids during the bidding process or otherwise in connection with the chapter 11 cases or in accordance with the terms of any applicable confidentiality agreement.

Notwithstanding the foregoing and the provisions contained in any applicable confidentiality agreement, the Debtors and the Debtors' advisors may disclose confidential information: (i) with the prior written consent of such bidder and the Debtors; (ii) to the applicable bidder; and (iii) as otherwise required or allowed by any applicable confidentiality agreement with respect to a particular bidder or other agreement, law, court or other governmental order, or regulation, including, as appropriate, to regulatory agencies.

5. Bid Requirements.

A proposal, solicitation, or offer for a purchase and sale of one or more individual Assets or all or substantially all of the Assets or for an alternative acquisition transaction (including a chapter 11 plan) (each, a "Bid") by a bidder that is submitted in writing and satisfies each of the following requirements (the "Bid Requirements") as determined by the Debtors, in their reasonable business judgment, in consultation with the Committee, the first lien indenture trustee, the first lien ad hoc group, and the second lien ad hoc group, shall constitute a "Qualified Bid."

- (a) **Assets.** Each Bid must clearly state which assets and liabilities of the Debtors that the Qualified Bidders are agreeing to purchase and assume.
- (b) **Purchase Price.** Each Bid must clearly set forth the purchase price in U.S. dollars to be paid for each individual Asset subject to the applicable asset package, including and identifying separately any cash and non-cash components (the "Purchase Price").
- (c) **Deposit.** On or before the Bid Deadline, each Bid, other than a credit bid, must be accompanied by a cash deposit in the amount equal to 10 percent of the aggregate cash and non-cash Purchase Price of the Bid, to be held in an interest-bearing escrow account to be identified and established by the Debtors (the "Deposit").
- (d) **Assumption of Obligations.** Each Bid must clearly state which liabilities of the Debtors the bidder is agreeing to assume.
- (e) **Qualified Bid Documents.** Each Bid must include duly executed, non-contingent transaction documents necessary to effectuate the transactions contemplated in the Bid and shall include a schedule of assumed contracts to the extent applicable to the Bid, as well as all other material documents integral to such Bid (the "Qualified Bid Documents"). Such documents must be based on form documents provided by the Debtors (including a summary of each Bid as may be reasonably requested by the Debtors).
- (f) **Committed Financing.** To the extent that a Bid is not accompanied by evidence of the Qualified Bidder's capacity to consummate the sale set forth in its Bid with cash on hand, each Bid must include unconditional committed financing from a reputable financing institution documented to the satisfaction of the Debtors that demonstrates that the Qualified Bidder has: (i) received sufficient debt and/or equity funding commitments to satisfy the Qualified Bidder's Purchase Price and other obligations under its Bid; and (ii) adequate working capital financing or resources to finance going concern operations for the Assets and the proposed

transactions. Such funding commitments or other financing must be unconditional and must not be subject to any internal approvals, syndication requirements, diligence, or credit committee approvals, and shall have covenants and conditions acceptable to the Debtors.

- (g) **Contingencies; No Financing or Diligence Outs.** A Bid shall not be conditioned on the obtaining or the sufficiency of financing or any internal approval, or on the outcome or review of due diligence, but may be subject to the accuracy at the closing of specified representations and warranties or the satisfaction at the closing of specified conditions, which shall be acceptable to the Debtors in their business judgment.
- (h) **Identity.** Each Bid must fully disclose the identity of each entity that will be bidding or otherwise participating in connection with such Bid (including each equity holder or other financial backer of the Qualified Bidder if such Qualified Bidder is an entity formed for the purpose of consummating the proposed transaction contemplated by such Bid), and the complete terms of any such participation. Under no circumstances shall any undisclosed principals, equity holders, or financial backers be associated with any Bid. Each Bid must also include contact information for the specific persons, including financial advisors and counsel, if any, that Houlihan Lokey Capital, Inc. and Kirkland & Ellis LLP should contact regarding such Bid.
- (i) **Demonstrated Financial Capacity.** A Qualified Bidder must have, in the Debtors' business judgment, the necessary financial capacity to consummate the proposed transactions required by its Bid and provide adequate assurance of future performance under all contracts proposed to be assumed by such Bid.
- (j) **Time Frame for Closing.** A Bid by a Qualified Bidder must be reasonably likely (based on availability of financing, antitrust, or other regulatory issues, experience, and other considerations) to be consummated, if selected as the Successful Bid, within a time frame acceptable to the Debtors, in consultation with the Committee, the first lien indenture trustee, the first lien ad hoc group, and the second lien ad hoc group.
- (k) **Binding and Irrevocable.** A Qualified Bidder's Bid shall be irrevocable unless and until the Debtors accept a higher Bid for such Asset and such Qualified Bidder is not selected as the Backup Bidder.
- (l) **Expenses; Disclaimer of Fees.** Each Bid must disclaim any right to receive a fee analogous to a break-up fee, expense reimbursement, termination fee, or any other similar form of compensation. For the avoidance of doubt, no Qualified Bidder will be permitted to request, nor be granted by the Debtors, at any time, whether as part of the Auction or otherwise, a break-up fee, expense reimbursement, termination fee, or any other similar form of compensation, and by submitting its Bid is agreeing to refrain from and waive any assertion or request for reimbursement on any basis, including under section 503(b) of the Bankruptcy Code.

- (m) **Authorization.** Each Bid must contain evidence that the Qualified Bidder has obtained authorization or approval from its board of directors (or a comparable governing body acceptable to the Debtors) with respect to the submission of its Bid and the consummation of the transactions contemplated in such Bid.
- (n) **As-Is, Where-Is.** Each Bid must include a written acknowledgement and representation that the Qualified Bidder: (i) has had an opportunity to conduct any and all due diligence regarding the Assets prior to making its offer; (ii) has relied solely upon its own independent review, investigation, and/or inspection of any documents and/or the Assets in making its Bid; and (iii) did not rely upon any written or oral statements, representations, promises, warranties, or guaranties whatsoever, whether express, implied by operation of law, or otherwise, regarding the Assets or the completeness of any information provided in connection therewith or the Auction, except as expressly stated in the bidder's Bid.
- (o) **Adherence to Bid Procedures.** By submitting its Bid, each Qualified Bidder is agreeing to abide by and honor the terms of these Bidding Procedures and agrees not to submit a Bid or seek to reopen the Auction after conclusion of the Auction.
- (p) **Regulatory Approvals and Covenants.** A Bid must set forth each regulatory and third-party approval required for the Qualified Bidder to consummate the Sale, if any, and the time period within which the Qualified Bidder expects to receive such regulatory and third-party approvals (and in the case that receipt of any such regulatory or third-party approval is expected to take more than thirty (30) days following execution and delivery of the asset purchase agreement, those actions the Qualified Bidder will take to ensure receipt of such approvals as promptly as possible).
- (q) **Consent to Jurisdiction.** The Qualified Bidder must submit to the jurisdiction of the Bankruptcy Court and waive any right to a jury trial in connection with any disputes relating to Debtors' qualification of bids, the Auction, the construction and enforcement of these Bidding Procedures, the Sale documents, and the Closing, as applicable.
- (r) **Bid Deadline.** Each Bid must be transmitted via email (in .pdf or similar format) so as to be **actually received** on or before 5:00 p.m. (prevailing Central Time) on February 19, 2018 (the "Bid Deadline") by:
 - (i) The Debtors, Cobalt International Energy, Inc., 920 Memorial City Way, Suite 100, Houston, Texas 77024, Attn: Jeffrey A. Starzec (jeff.starzec@cobaltintl.com);
 - (ii) Counsel to the Debtors, Kirkland & Ellis LLP, 300 North LaSalle Street, Chicago, IL 60654, Attn: Chad J. Husnick, P.C. (chad.husnick@kirkland.com), Brad Weiland (brad.weiland@kirkland.com), and Laura Krucks (laura.krucks@kirkland.com);
 - (iii) Co-counsel to the Debtors, Zack A. Clement PLLC, 3753 Drummond Street, Houston, Texas 77025, Attn: Zack A. Clement

(zclement@icloud.com); and

- (iv) Financial Advisors to the Debtors, Houlihan Lokey Capital, Inc., 245 Park Avenue, New York, New York 10167, Attn: John-Paul Hanson (jhanson@hl.com), Joshua Eaves (jeaves@hl.com), and Michael Haney (mhaney@hl.com).

6. Right to Credit Bid.

Any Qualified Bidder who has a valid and perfected lien on any assets of the Debtors' estates (a "Secured Creditor") and the right and power to credit bid claims secured by such liens, shall have the right to credit bid all or a portion of the value of such Secured Creditor's claims within the meaning of section 363(k) of the Bankruptcy Code; *provided* that a Secured Creditor shall have the right to credit bid its secured claim only with respect to the collateral by which such Secured Creditor is secured.

7. Auction.

If the Debtors receive more than one Qualified Bid for an Asset, whether through a Bid for one or more individual Assets or through a Bid for all or substantially all of the Assets, the Debtors will conduct the Auction to determine the Successful Bidders with respect to such Asset or Assets, as applicable. If the Debtors do not receive a Qualified Bid for a given Asset the Debtors will not conduct the Auction as to such Asset. To the extent Qualified Bidders are interested in separate individual Assets and/or all or substantially all of the Assets, the Debtors may, in their sole discretion, conduct separate auctions for the various Assets and Asset packages.

No later than five calendar days after the Bid Deadline, at 5:00 p.m. (prevailing Central Time), the Debtors will notify each Qualified Bidder of the highest or otherwise best Qualified Bid or combination of Qualified Bids for each Asset or Assets, for which such Qualified Bidder submitted a Bid or combination of Bids, as determined in the Debtors' reasonable business judgment, in consultation with the Committee, the first lien indenture trustee, the first lien ad hoc group, and the second lien ad hoc group (the "Baseline Bid"), and provide copies of the applicable Qualified Bid Documents supporting the applicable Baseline Bid to each Qualified Bidder. The determination of which Qualified Bid constitutes the Baseline Bid and which Qualified Bid constitutes the Successful Bid shall take into account any factors the Debtors reasonably deem, in consultation with the Committee, the first lien indenture trustee, the first lien ad hoc group, and the second lien ad hoc group, relevant to the value of the Qualified Bid to the Debtors' estates, including, among other things: (a) the amount and nature of the total consideration (including the amount of cash paid to or remaining in the estate pursuant to the Bid); (b) the likelihood of the Qualified Bidder's ability to close the Sale and the timing thereof; (c) the net economic effect of any changes to the value to be received by the Debtors' estates from the transaction contemplated by the Qualified Bid Documents; and (d) the tax consequences of such Qualified Bid (collectively, the "Bid Assessment Criteria").

The Auction shall take place at 10:00 a.m. (prevailing Central Time) on February 27, 2018, at the offices of Kirkland & Ellis LLP, 609 Main Street, Houston, Texas 77002, or such later date and time as selected by the Debtors. The Auction shall be conducted in a timely fashion according to the following procedures:

(a) The Debtors Shall Conduct the Auction.

The Debtors and their professionals shall direct and preside over the Auction. At the start of the Auction, the Debtors shall describe the terms of each Baseline Bid. All incremental Bids made thereafter for a given Asset shall be Overbids and shall be made and received on an open basis, and all material terms of each Overbid shall be fully disclosed to all other Qualified Bidders who submitted Bids on such Asset. The Debtors shall maintain a written transcript of all Bids made and announced at the Auction, including the Baseline Bid, all applicable Overbids, and the Successful Bid.

Only Qualified Bidders and their legal and financial advisors, and the members of and advisors to Committee, the first lien indenture trustee, and the second lien ad hoc group, and each such parties' respective legal and financial advisors shall be entitled to attend the Auction, and the Qualified Bidders shall appear at the Auction in person and may speak or Bid themselves or through duly authorized representatives. Only Qualified Bidders shall be entitled to Bid at the Auction.

(b) Terms of Overbid.

“Overbid” means any Bid made at the Auction by a Qualified Bidder subsequent to the Debtors' announcement of the Baseline Bid. Each applicable Overbid must comply with the following conditions:

- (i) **Minimum Overbid Increment.** Any Overbid following the Baseline Bid or following any subsequent Prevailing Highest Bid (as defined below) for all or substantially all of the Assets shall be in increments of value equal to (or exceeding) \$5,000,000. The Debtors may establish different overbid increments at the Auction for any individual Asset or other combination of Assets, as determined by the Debtors in an exercise of their business judgment, in consultation with the Committee, the first lien indenture trustee, the first lien ad hoc group, and the second lien ad hoc group.
- (ii) **Conclusion of Each Overbid Round.** Upon the solicitation of each round of applicable Overbids, the Debtors may announce a deadline (as the Debtors may, in their business judgment, extend from time to time, the “Overbid Round Deadline”) by which time any Overbids must be submitted to the Debtors.

Subsequent to each Overbid Round Deadline, the Debtors shall announce whether the Debtors have identified, after consultation with the Committee, the first lien indenture trustee, the first lien ad hoc group, and the second lien ad hoc group, an Overbid as being higher or otherwise better than the Baseline Bid, in the initial Overbid round, or, in subsequent rounds, the Overbid previously designated by the Debtors as the prevailing highest or otherwise best Bid (the “Prevailing Highest Bid”). The Debtors shall describe to all Qualified Bidders the material terms of any new Overbid designated by the Debtors as the Prevailing Highest Bid as well as the value attributable by the Debtors to such Prevailing Highest Bid based on, among other things, the Bid Assessment Criteria.

- (iii) **Overbid Alterations.** An applicable Overbid may contain alterations, modifications, additions, or deletions of any terms of the Bid no less favorable to the Debtors' estates than any prior Bid or Overbid, as determined in the Debtors' reasonable business judgment, in consultation with the first lien indenture trustee, the first lien ad hoc group, and the second lien ad hoc group, but shall otherwise comply with the terms of these Bidding Procedures.

(c) Consideration of Overbids.

The Debtors reserve the right, in their reasonable business judgment, to adjourn the Auction one or more times to, among other things: (i) facilitate discussions between the Debtors and Qualified Bidders; (ii) allow Qualified Bidders to consider how they wish to proceed; and (iii) provide Qualified Bidders the opportunity to provide the Debtors with such additional evidence as the Debtors, in their reasonable business judgment, may require, that the Qualified Bidder has sufficient internal resources or has received sufficient non-contingent debt and/or equity funding commitments to consummate the proposed transaction at the prevailing Overbid amount.

(d) Closing the Auction.

- (i) The Auction shall continue until there is only one Bid that the Debtors determine, in their reasonable business judgment, and in consultation with the Committee, first lien indenture trustee, the first lien ad hoc group, and the second lien ad hoc group, to be the highest or otherwise best Bid for such Asset. Such Bid shall be declared the "Successful Bid," and such Qualified Bidder, the "Successful Bidder" and at which point the Auction will be closed as to that Asset. The Auction shall not close unless and until all Qualified Bidders have been given a reasonable opportunity to submit an Overbid at the Auction to the then Prevailing Highest Bid. Such acceptance by the Debtors of the Successful Bid is conditioned upon approval by the Court of the Successful Bid.
- (ii) For the avoidance of doubt, nothing in these Bidding Procedures shall prevent the Debtors from exercising their respective fiduciary duties under applicable law.
- (iii) The Debtors shall not consider any Bids or Overbids submitted after the conclusion of the Auction, and any such Bids or Overbids shall be deemed untimely and shall under no circumstances constitute a Qualified Bid.
- (iv) As soon as reasonably practicable after closing the Auction, the Debtors shall cause the Qualified Bid Documents for each Successful Bid and Backup Bid to be filed with the Court.

(e) No Collusion; Good-Faith *Bona Fide* Offer.

Each Qualified Bidder participating at the Auction will be required to confirm on the record at the Auction that: (i) it has not engaged in any collusion with respect to the bidding; and (ii) its Bid is a good-faith *bona fide* offer and it intends to consummate the proposed transaction

if selected as the Successful Bidder.

8. Backup Bidder.

The Qualified Bidder with the second-best Bid (the “Backup Bid”) at the Auction (if the Auction is conducted) shall be required to serve as a backup bidder (the “Backup Bidder”). The Backup Bidder’s Deposit shall be held in escrow until the closing of the transaction with the applicable Successful Bidder. If a Successful Bidder fails to consummate its Successful Bid, the Debtors may select the applicable Backup Bidder as the Successful Bidder, and such Backup Bidder shall be deemed a Successful Bidder for all purposes. The Debtors will be authorized, but not required, to consummate all transactions contemplated by the Bid of such Backup Bidder without further order of the Court or notice to any party.

In such case, the defaulting Successful Bidder’s Deposit shall be forfeited to the Debtors, and the Debtors specifically reserve the right to seek all available remedies against the defaulting Successful Bidder, including with respect to specific performance.

9. Highest or Otherwise Best Bid.

When determining the highest or otherwise best Bid, as compared to other Bids, the Debtors may consider the following factors in addition to any other factors that the Debtors deem appropriate, in consultation with the Committee, the first lien indenture trustee, the first lien ad hoc group, and the second lien ad hoc group: (a) the amount and nature of the total consideration (including the amount of cash paid to or remaining in the estate pursuant to the Bid); (b) the likelihood of the Qualified Bidder’s ability to close a transaction and the timing thereof; (c) the net economic effect of any changes to the value to be received by the Debtors’ estates from the transaction contemplated by the Qualified Bid Documents; and (d) the tax consequences of such Bid.

10. Reservation of Rights.

The Debtors reserve their rights to modify these Bidding Procedures in their reasonable business judgment, in consultation the Committee, the first lien indenture trustee, the first lien ad hoc group, and the second lien ad hoc group, in any manner that will best promote the goals of the bidding process, or impose, at or prior to the Auction, additional customary terms and conditions on the sale of the Assets, including, without limitation: (a) extending the deadlines set forth in these Bidding Procedures; (b) adjourning the Auction at the Auction and/or adjourning the Sale Hearing in open court without further notice; (c) adding procedural rules that are reasonably necessary or advisable under the circumstances for conducting the Auction; (d) canceling the Auction; and (e) rejecting any or all bids or Bids.

11. Consent to Jurisdiction.

All Qualified Bidders at the Auction shall be deemed to have consented to the jurisdiction of the Court and waived any right to a jury trial in connection with any disputes relating to the Auction, the construction and enforcement of these Bidding Procedures, and/or the Qualified Bid Documents, as applicable.

12. Confirmation and Sale Hearing.

The Debtors respectfully request that a hearing to consider confirmation of the Plan and approval of the Sale of certain of the Assets to the Successful Bidders and the confirmation of the related chapter 11 plan (the “Sale Hearing”) will take place on or before at 10:00 a.m. (prevailing Central Time) on March 20, 2018, before the Honorable [____], at the Court, 515 Rusk Street, Courtroom No. [____], Houston, Texas 77002.

The Sale Hearing may be continued to a later date by the Debtors by sending notice prior to, or making an announcement at, the Sale Hearing. No further notice of any such continuance will be required to be provided to any party.

At the Sale Hearing, the Debtors shall present the Successful Bids to the Court for approval.

13. No Modification of Bidding Procedures.

Except as provided by Section 10 hereof, these Bidding Procedures may not be modified except with the Debtors’ express written consent, and after consultation with the Committee, the first lien indenture trustee, the first lien ad hoc group, and the second lien ad hoc group.

14. Return of Deposit.

The Deposit of the Successful Bidder shall be applied to the respective Purchase Price of such transaction at closing. The Deposits for each Qualified Bidder shall be held in one or more interest-bearing escrow accounts on terms acceptable to the Debtors in their sole discretion and shall be returned (other than with respect to the Successful Bidder, and the Backup Bidder) on or within three business days after the Auction. Upon the return of the Deposits, their respective owners shall receive any and all interest that will have accrued thereon.

If a Successful Bidder fails to consummate a proposed transaction because of a breach by such Successful Bidder, the Debtors will not have any obligation to return the Deposit deposited by such Successful Bidder, which may be retained by the Debtors as liquidated damages, in addition to any and all rights, remedies, or causes of action that may be available to the Debtors, and the Debtors shall be free to consummate the proposed transaction with the applicable Backup Bidder without the need for an additional hearing or order of the Court.

15. Fiduciary Out.

Nothing in these Bidding Procedures shall require the board of directors, board of managers, or such similar governing body of a Debtors to take any action, or to refrain from taking any action, with respect to these Bidding Procedures, to the extent such board of directors, board of managers, or such similar governing body determines, or based on the advice of counsel, that taking such action, or refraining from taking such action, as applicable, is required to comply with applicable law or its fiduciary obligations under applicable law.

Houston, Texas

Dated: December 14, 2017

/s/ Zack A. Clement

Zack A. Clement (Texas Bar No. 04361550)

ZACK A. CLEMENT PLLC

3753 Drummond Street

Houston, Texas 77025

Telephone: (832) 274-7629

-and-

James H.M. Sprayregen, P.C. (*pro hac vice* admission pending)

Marc Kieselstein, P.C. (*pro hac vice* admission pending)

Chad J. Husnick, P.C. (*pro hac vice* admission pending)

Brad Weiland (*pro hac vice* admission pending)

Laura Krucks (*pro hac vice* admission pending)

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Chicago, Illinois 60654

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Facsimile: (312) 862-2200

Proposed Co-Counsel to the Debtors and Debtors in Possession

EXHIBIT B

Auction Notice

**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> , ¹	)	Case No. 17-36709 (MI)
)	
Debtors.	)	(Joint Administration Requested)
)	

NOTICE OF AUCTION FOR THE SALE OF THE DEBTORS’ ASSETS

PLEASE TAKE NOTICE that on [●], 2017, the United States Bankruptcy Court for the Southern District of Texas (the “Court”) entered the *Order (I) Approving Bidding Procedures for the Sale of the Debtors’ Assets, (II) Scheduling an Auction, (III) Approving the Form and Manner of Notice Thereof, (IV) Scheduling Hearings and Objection Deadlines with Respect to the Debtors’ Disclosure Statement and Plan Confirmation, and (V) Granting Related Relief* [Docket No. [●]] (the “Bidding Procedures Order”) ² authorizing the above-captioned debtors and debtors in possession (collectively, the “Debtors”) to conduct an auction (the “Auction”) to select the party to purchase the Debtors’ assets. The Auction will be governed by the bidding procedures approved pursuant to the Bidding Procedures Order (attached to the Bidding Procedures Order as Exhibit 2, the “Bidding Procedures”).

Copies of the Bidding Procedures Order, the Bidding Procedures, or other documents related thereto are available upon request to Kurtzman Carson Consultants LLC by calling 866-967-1782 (United States and Canada) and 310-751-2682 (International) or visiting the Debtors’ restructuring website at <http://www.kccllc.net/cobalt>.

PLEASE TAKE FURTHER NOTICE that the Bid Deadline is **Monday, February 19, 2018**, at 4:00 p.m. (prevailing Central Time), and that any person or entity who wishes to participate in the Auction must comply with the participation requirements, bid requirements, and other requirements set forth in the Bidding Procedures.

¹ 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, LP (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.

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Bidding Procedures Order or the Bidding Procedures, as applicable.

PLEASE TAKE FURTHER NOTICE that the Debtors intend to conduct the Auction, at which they will consider proposals submitted to the Debtors and their professionals, by and pursuant to the Bidding Procedures as set forth in the Bidding Procedures Order, on **Tuesday, February 27, 2017, at 10:00 a.m. (prevailing Central Time)** at the offices of Kirkland & Ellis LLP, 609 Main Street, Texas 77002.

PLEASE TAKE FURTHER NOTICE that the Debtors reserve the right to modify the Bidding Procedures, in their reasonable business judgment, in consultation with the Committee, the first lien indenture trustee, the first lien ad hoc group, and the second lien ad hoc group in accordance with the Bidding Procedures.

Houston, Texas

Dated: _____, 2017

Zack A. Clement (Texas Bar No. 04361550)

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Houston, Texas 77025

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-and-

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