

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

In re:

BOOMERANG TUBE, LLC, a Delaware limited liability  
company, *et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 15-11247 (MFW)

Jointly Administered

**DEBTORS' SECOND AMENDED JOINT CHAPTER 11 PLAN**

**DEBEVOISE & PLIMPTON LLP**

My Chi To (admitted *pro hac vice*)  
Nick S. Kaluk, III (admitted *pro hac vice*)  
919 Third Avenue  
New York, New York 10022  
Telephone: (212) 909-6000  
Facsimile: (212) 909-6836  
Email: [mcto@debevoise.com](mailto:mcto@debevoise.com)  
[nskaluk@debevoise.com](mailto:nskaluk@debevoise.com)

**YOUNG CONAWAY STARGATT & TAYLOR, LLP**

Robert S. Brady (No. 2847)  
Sean M. Beach (No. 4070)  
Ryan M. Bartley (No. 4985)  
Rodney Square  
1000 North King Street  
Wilmington, Delaware 19801  
Telephone: (302) 571-6600  
Facsimile: (302) 571-1253  
Email: [rbrady@ycst.com](mailto:rbrady@ycst.com)  
[sbeach@ycst.com](mailto:sbeach@ycst.com)  
[rbartley@ycst.com](mailto:rbartley@ycst.com)

Special Counsel for the Debtors and Debtors in Possession      Counsel for the Debtors and Debtors in Possession

Dated: December 29, 2015

<sup>1</sup> The Debtors in these cases, along with the last four digits of each Debtor's federal tax identification number, are: Boomerang Tube, LLC (9415); BTCSP, LLC (7632); and BT Financing, Inc. (6671). The location of the Debtors' corporate headquarters is 14567 North Outer Forty, Suite 500, Chesterfield, Missouri 63017.

**TABLE OF CONTENTS**

INTRODUCTION ..... 1

ARTICLE I DEFINED TERMS, RULES OF INTERPRETATION, COMPUTATION OF TIME, GOVERNING LAW, AND OTHER REFERENCES ..... 1

    1.1. Defined Terms ..... 1

    1.2. Rules of Interpretation ..... 16

    1.3. Computation of Time ..... 17

    1.4. Governing Law ..... 17

    1.5. Reference to Monetary Figures ..... 17

    1.6. Reference to the Debtors or the Reorganized Debtors ..... 17

    1.7. Controlling Document ..... 17

ARTICLE II ADMINISTRATIVE AND PRIORITY CLAIMS ..... 18

    2.1. Administrative Claims ..... 18

    2.2. DIP Facility Claims ..... 18

    2.3. Professional Claims ..... 19

    2.4. Priority Tax Claims ..... 19

ARTICLE III CLASSIFICATION, TREATMENT, AND VOTING OF CLAIMS AND INTERESTS ..... 20

    3.1. Classification of Claims and Interests ..... 20

    3.2. Treatment of Classes of Claims and Interests ..... 20

    3.3. Special Provision Governing Unimpaired Claims ..... 26

    3.4. Elimination of Vacant Classes ..... 26

    3.5. Voting Classes; Presumed Acceptance by Non-Voting Classes ..... 26

    3.6. Confirmation Pursuant to Sections 1129(a)(10) and 1129(b) of the Bankruptcy Code ..... 27

ARTICLE IV PROVISIONS FOR IMPLEMENTATION OF THE PLAN ..... 27

    4.1. General Settlement of Claims and Interests ..... 27

    4.2. New Holdco Common Stock and New Opco Common Units ..... 27

    4.3. Exit ABL Facility ..... 27

    4.4. Exit Term Facility ..... 28

    4.5. Subordinated Notes ..... 29

    4.6. Exemption from Registration Requirements ..... 29

    4.7. Subordination ..... 30

    4.8. Vesting of Assets in the Reorganized Debtors and GUC Trust ..... 30

    4.9. Cancellation of Notes, Instruments, Certificates, and Other Documents ..... 30

    4.10. Corporate Action ..... 31

    4.11. Charters and Organizational Documents ..... 31

    4.12. Effectuating Documents; Further Transactions ..... 31

    4.13. Section 1146(a) Exemption ..... 32

    4.14. Directors and Officers ..... 32

    4.15. Incentive Plans and Employee and Retiree Benefits ..... 33

    4.16. Preservation of Rights of Action and Covenant Not to Sue ..... 33

    4.17. Restructuring Transactions ..... 34

    4.18. Certain Released Party Actions and Plan Settlement Implementation Provisions ..... 34

ARTICLE V TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES ..... 35

    5.1. Assumption of Executory Contracts and Unexpired Leases ..... 35

    5.2. Claims Based on Rejection of Executory Contracts and Unexpired Leases ..... 35

    5.3. Indemnification ..... 36

    5.4. Cure of Defaults and Objections to Cure and Assumption ..... 36

5.5.	Contracts, Intercompany Contracts, and Leases Entered Into After the Petition Date.....	37
5.6.	Reservation of Rights .....	37
ARTICLE VI PROVISIONS GOVERNING DISTRIBUTIONS .....		37
6.1.	Distributions on Account of Claims and Interests Allowed as of the Effective Date .....	37
6.2.	Special Rules for Distributions to Holders of Disputed Claims and Interests.....	38
6.3.	Delivery of Distributions.....	38
6.4.	Claims Paid or Payable by Third Parties.....	41
6.5.	Setoffs.....	41
6.6.	Allocation Between Principal and Accrued Interest.....	42
ARTICLE VII PROCEDURES FOR RESOLVING DISPUTED CLAIMS AND INTERESTS .....		42
7.1.	Disputed Claims Process .....	42
7.2.	Prosecution and Resolution of Objections to Claims and Interests.....	42
7.3.	No Interest .....	42
7.4.	Disallowance of Claims and Interests .....	43
7.5.	Ombudsman .....	43
ARTICLE VIII EFFECT OF CONFIRMATION OF THE PLAN .....		43
8.1.	Discharge of Claims and Termination of Interests.....	43
8.2.	Releases by the Debtors .....	44
8.3.	Releases by Holders of Claims and Interests .....	44
8.4.	Exculpation.....	45
8.5.	Injunction .....	46
8.6.	Protection Against Discriminatory Treatment.....	46
8.8.	Release of Liens .....	46
8.9.	Reimbursement or Contribution .....	47
8.10.	Compromise and Settlement .....	47
ARTICLE IX CONDITIONS PRECEDENT TO THE EFFECTIVE DATE .....		47
9.1.	Conditions Precedent to the Effective Date.....	47
9.2.	Waiver of Conditions Precedent.....	48
9.3.	Effect of Non-Occurrence of Conditions to Consummation .....	48
ARTICLE X MODIFICATION, REVOCATION, OR WITHDRAWAL OF THE PLAN .....		49
10.1.	Modification of Plan.....	49
10.2.	Effect of Confirmation on Modifications .....	49
10.3.	Revocation or Withdrawal of Plan .....	49
ARTICLE XI RETENTION OF JURISDICTION .....		49
ARTICLE XII MISCELLANEOUS PROVISIONS .....		51
12.1.	Additional Documents.....	51
12.2.	Payment of Statutory Fees.....	51
12.3.	Reservation of Rights .....	51
12.4.	Successors and Assigns .....	51
12.5.	Service of Documents .....	51
12.6.	Term of Injunctions or Stays .....	52
12.7.	Entire Agreement .....	52
12.8.	Plan Supplement Exhibits .....	52
12.9.	Non-Severability .....	52
12.10.	Dissolution of Creditors Committee.....	53

## INTRODUCTION

Boomerang Tube, LLC and its affiliated debtors and debtors in possession in the above-captioned chapter 11 cases jointly propose the Plan. Although proposed jointly for administrative purposes, the Plan constitutes a separate Plan for each Debtor for the resolution of outstanding Claims against and Interests in each Debtor pursuant to the Bankruptcy Code. The Debtors seek to consummate the Transaction on the Effective Date of the Plan. Each Debtor is a proponent of the Plan within the meaning of section 1129 of the Bankruptcy Code. The classifications of Claims and Interests set forth in ARTICLE III shall be deemed to apply separately with respect to each Plan proposed by each Debtor, as applicable. The Plan does not contemplate substantive consolidation of any of the Debtors. Reference is made to the Disclosure Statement for a discussion of the Debtors' history, business, properties and operations, projections, risk factors, a summary and analysis of the Plan, the Transaction, and certain related matters.

## ARTICLE I

### DEFINED TERMS, RULES OF INTERPRETATION, COMPUTATION OF TIME, GOVERNING LAW, AND OTHER REFERENCES

#### 1.1. Defined Terms

1. “*ABL Facility*” means the revolving credit facility under the ABL Loan Agreement.
2. “*ABL Facility Agent*” means Wells Fargo Capital Finance, LLC, in its capacity as administrative and collateral agent (for the benefit of the ABL Facility Lenders) pursuant to the terms of the ABL Facility Documents, and any successor or replacement agent appointed pursuant to the terms of the ABL Loan Agreement.
3. “*ABL Facility Claim*” means any Claim arising under, derived from, or based upon the ABL Facility Documents that has not been repaid on a final and indefeasible basis as of the Effective Date.
4. “*ABL Facility Documents*” means, collectively, the ABL Loan Agreement, the ABL Facility Sponsor Guaranty, each other Loan Document (as defined in the ABL Loan Agreement), and all other agreements, documents, and instruments delivered or entered into in connection therewith (including any guarantee agreements, pledge and collateral agreements, intercreditor agreements, and other security documents).
5. “*ABL Facility Guarantor*” means Access Tubulars, LLC, in its capacity as guarantor under the ABL Facility Sponsor Guaranty.
6. “*ABL Facility Lenders*” means each Lender (as defined in the ABL Loan Agreement) that is a party to the ABL Loan Agreement.
7. “*ABL Facility Sponsor Guaranty*” means the Limited Sponsor Guaranty, dated as of March 25, 2015 (as amended, restated, modified, or supplemented from time to time prior to the Petition Date), by the ABL Facility Guarantor in favor of the ABL Facility Agent (for the benefit of the ABL Facility Lenders).
8. “*ABL Loan Agreement*” means the Amended and Restated Credit Agreement, dated as of October 11, 2012 (as amended, restated, modified, or supplemented from time to time prior to the Petition Date), by and among Boomerang, as borrower, the ABL Facility Lenders from time to time party thereto and the ABL Facility Agent.

9. “*Administrative Claim*” means a Claim for costs and expenses of administration of the Chapter 11 Cases pursuant to sections 503(b), 507(a)(2), 507(b), or 1114(e)(2) of the Bankruptcy Code, including: (a) the actual and necessary costs and expenses incurred on or after the Petition Date until and including the Effective Date of preserving the Estates and operating the Debtors’ businesses; (b) Allowed Professional Claims; and (c) all fees and charges assessed against the Estates pursuant to section 1930 of chapter 123 of title 28 of the United States Code.

10. “*Affiliate*” has the meaning set forth in section 101(2) of the Bankruptcy Code.

11. “*Allowed*” means, as to a Claim or an Interest, a Claim or an Interest allowed under the Plan, under the Bankruptcy Code, or by a Final Order, as applicable, in each case subject to the limitations set forth in section 502 of the Bankruptcy Code.

12. “*Avoidance Actions*” mean any and all Claims that may be brought pursuant to chapter 5 of the Bankruptcy Code, including, for the avoidance of doubt, objections to disallow any claim pursuant to section 502(d) of the Bankruptcy Code.

13. “*Bankruptcy Code*” means title 11 of the United States Code, 11 U.S.C. §§ 101–1532, as may be amended from time to time.

14. “*Bankruptcy Court*” means the United States Bankruptcy Court for the District of Delaware or such other court having jurisdiction over the Chapter 11 Cases.

15. “*Bankruptcy Rules*” means the Federal Rules of Bankruptcy Procedure as promulgated by the United States Supreme Court under section 2075 of title 28 of the United States Code, 28 U.S.C. § 2075, as applicable to the Chapter 11 Cases and the general, local, and chambers rules of the Bankruptcy Court.

16. “*Bar Date*” means August 26, 2015 for all parties other than Governmental Units and December 7, 2015 for Governmental Units, unless a later date has been set for the holder of a Claim to file a Proof of Claim in the Chapter 11 Cases pursuant to an order of the Bankruptcy Court, including that certain *Order, Pursuant to Sections 501 and 502 of the Bankruptcy Code, Bankruptcy Rules 2002 and 3003(c)(3), and Local Rule 2002-1, (I) Establishing Bar Dates for Filing Proofs of Claim and (II) Approving the Form and Manner of Notice Thereof* [Docket No. 269].

17. “*Boomerang*” means Boomerang Tube, LLC, a Delaware limited liability company and the predecessor to New Opco.

18. “*Boomerang Class A Preferred Units*” means, collectively, all 2008 Class A Preferred Units and 2010 Class A Preferred Units issued by Boomerang.

19. “*Boomerang Class B Preferred Units*” means, collectively, all Class B Preferred Units issued by Boomerang.

20. “*Boomerang Class C Preferred Units*” means, collectively, all Class C Preferred Units issued by Boomerang.

21. “*Boomerang Common Units*” means, collectively, all common units issued by Boomerang.

22. “*Boomerang Other Equity Securities*” means, collectively, all vested and unvested options, unexercised warrants or other rights to acquire Common Units or other equity interests issued or granted by Boomerang, whether or not in-the-money, as well as any other outstanding equity interests issued by Boomerang.

23. “*Boomerang Preferred Units*” means all Boomerang Class A Preferred Units, Boomerang Class B Preferred Units and Boomerang Class C Preferred Units.

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

25. “*Cash*” means the legal tender of the United States of America or the equivalent thereof, including bank deposits and checks.

26. “*Causes of Action*” means any and all claims, actions, causes of action, choses in action, suits, debts, damages, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, judgments, remedies, rights of set-off, third-party claims, subrogation claims, contribution claims, reimbursement claims, indemnity claims, counterclaims, and crossclaims (including all claims and any avoidance, recovery, subordination, or other actions against Insiders and/or any other Entities under the Bankruptcy Code) of any of the Debtors and/or the Debtors’ estates, whether known or unknown, liquidated or unliquidated, fixed or contingent, matured or unmatured, disputed or undisputed, that are or may be pending on the Effective Date or commenced by the Reorganized Debtors after the Effective Date against any Entity, based in law or equity, including under the Bankruptcy Code, whether direct, indirect, derivative, or otherwise and whether asserted or unasserted as of the date of entry of the Confirmation Order. For purposes of this Plan, Causes of Action shall (i) expressly exclude all Avoidance Actions other than Avoidance Actions against the Eisenberg Parties and SBI Parties, and (ii) expressly include all Avoidance Actions against the Eisenberg Parties and SBI Parties.

27. “*Certificate*” means any instrument evidencing a Claim or an Interest.

28. “*Chapter 11 Cases*” means the procedurally consolidated Chapter 11 Cases pending for the Debtors in the Bankruptcy Court.

29. “*Claim*” has the meaning set forth in section 101(5) of the Bankruptcy Code.

30. “*Claims Register*” means the official register of Claims against and Interests in the Debtors maintained by the Solicitation Agent.

31. “*Class*” means a category of holders of Claims or Interests under section 1122(a) of the Bankruptcy Code.

32. “*Class 5 Note*” means a promissory note(s) issued by New Opco in favor of the holder of an Allowed Class 5 Claim, issued as of the Effective Date, which shall (a) be secured by a Lien on the SBI Heat Treat Line Collateral, *provided that*, any Lien securing a Class 5 Note issued on account of an Allowed SBI Secured Claim shall be junior to any Lien(s) securing any SBI Lender Secured Claim; (b) be pre-payable at any time without penalty; (c) be substantially in the form contained in the Plan Supplement; and (d) be determined by the Class 5 Note Base Calculation, but allocated among the holders of Allowed SBI Secured Claims and Allowed SBI Lender Secured Claims as set forth in Section 3.2(e)(2)(A) to reflect Allowed Claim amounts, Lien priorities and other factors.

33. “*Class 5 Note Base Calculation*” means that the terms of the promissory note(s) issued by New Opco in favor of all holders of Allowed Class 5 Claims as of the Effective Date shall be calculated based on (a) an original principal amount of \$9,750,000, (b) an interest rate of four and three-quarters percent (4.75%) per annum, payable in arrears on a monthly basis; (c) a term of seven (7) years; and (d) full amortization over the seven (7) year term pursuant to a schedule of eighty-four (84) monthly payments of combined principal and interest.

34. “*Class 5 1111(b) Election Note*” means a promissory note(s) issued by New Opco in favor of the holder of an Allowed Class 5 Claim, issued as of the Effective Date, which shall (a) be secured by a Lien on the SBI Heat Treat Line Collateral, *provided that*, any Lien securing a Class 5 Note issued on account of an Allowed SBI Secured Claim shall be junior to any Lien(s) securing any SBI Lender Secured Claim; (b) be pre-payable at any time without penalty; (c) be substantially in the form contained in the Plan Supplement; and (d) be determined by the Class 5 1111(b) Election Note Base Calculation, but allocated among the holders of Allowed SBI Secured Claims and Allowed SBI Lender Secured Claims as set forth in Section 3.2(e)(2)(A) to reflect Allowed Claim amounts, Lien priorities and other factors. For the avoidance of doubt, the Class 5 1111(b)(2) Election Note(s) shall only be provided if the required holders of Allowed SBI Secured Claims timely make an election pursuant to section 1111(b)(2) of the Bankruptcy Code to treat such claims as fully secured by the SBI Heat Treat Line Collateral.

35. “*Class 5 1111(b) Election Note Base Calculation*” means that, in the event the holders of Allowed SBI Secured Claims timely make an election pursuant to section 1111(b)(2) of the Bankruptcy Code, the terms of the promissory note(s) issued by New Opco in favor of all holders of Allowed Class 5 Claims as of the Effective Date shall be as follows (a) an original principal amount of \$12,600,000.00, (b) non-interest bearing, (c) a term of 140 months; and (d) full amortization over the term pursuant to a schedule of one-hundred forty (140) monthly payments of \$90,000 (which schedule of payments has a present value of approximately \$9.75 million based on a 4.75% interest rate).

36. “*Confirmation*” means the entry of the Confirmation Order on the docket of the Chapter 11 Cases.

37. “*Confirmation Date*” means the date on which the Bankruptcy Court enters the Confirmation Order on the docket of the Chapter 11 Cases within the meaning of Bankruptcy Rules 5003 and 9021.

38. “*Confirmation Hearing*” means the hearing(s) before the Bankruptcy Court under section 1128 of the Bankruptcy Code at which the Debtors seek entry of the Confirmation Order.

39. “*Confirmation Order*” means the order of the Bankruptcy Court confirming the Plan under section 1129 of the Bankruptcy Code and approving the Disclosure Statement, which order shall be in form and substance satisfactory to the Required Lenders and the Debtors.

40. “*Consummation*” means the occurrence of the Effective Date.

41. “*Creditor*” has the meaning set forth in section 101(10) of the Bankruptcy Code.

42. “*Creditors Committee*” means the Official Committee of Unsecured Creditors appointed in the Chapter 11 Cases.

43. “*Creditors Committee Professionals Budget*” means subsection (c)(ii) of the Professional Fee Payment Amount, which does not include services required to respond to or defend any discovery

requests, litigation or contested matters directed to the Creditors Committee Professionals or Creditors Committee members (solely in their capacities as members on the Creditors Committee). If such discovery requests are served or the Creditors Committee or Creditors Committee members are required to respond to a litigation or contested matter, the Creditors Committee shall notify the Debtors and the DIP Term Facility Agent, and the parties will consult in good faith to increase the Professional Fee Payment Amount to include such fees that are reasonable and necessary to respond to such requests, litigation or contested matter. If the parties are unable to reach an agreement, the parties will submit the matter to the Bankruptcy Court to determine a reasonable increase to the Professional Fee Payment Amount to allow the Creditors Committee Professionals to respond to the discovery requests, litigation or contested matter (and the amount determined by the Bankruptcy Court will be added to the Professional Fee Payment Amount). Further, the Creditors Committee Professionals will not be required to reconcile, object to or estimate claims, or file a substantive response to any confirmation objection, and if requested to do so by the Debtors or the DIP Term Facility Agent, the parties will consult in good faith to increase the Professional Fee Payment Amount to account for such work (and any such increase shall require the prior written approval of the DIP Term Facility Agent).

44. “*Cure*” means a Claim (unless waived or modified by the applicable counterparty) based upon a Debtor’s defaults under an Executory Contract or an Unexpired Lease assumed by such Debtor under section 365 of the Bankruptcy Code, other than a default that is not required to be cured pursuant to section 365(b)(2) of the Bankruptcy Code.

45. “*Debtor Contested Matters*” means any litigation, contested matter, or non-ordinary course activity related to the operation of the business or Confirmation of the Plan.

46. “*Debtor Professionals Budget*” means subsection (a)(ii) of the Professional Fee Payment Amount, which does not include services required to respond to or defend any Debtor Contested Matter. If such Debtor Contested Matter arises, the Debtors shall notify the DIP Term Facility Agent, and the parties will consult in good faith to increase the Professional Fee Payment Amount to include such fees and expenses that are reasonable and necessary for the Debtor Professionals to represent the Debtors with respect to such matters. If the parties are unable to reach an agreement, the Debtor Professionals Budget may only be increased upon order of the Bankruptcy Court.

47. “*Debtors*” means, collectively, each of Boomerang, BTCSP, LLC and BT Financing, Inc.

48. “*DIP ABL Facility*” means that certain \$85.0 million debtor-in-possession revolving credit facility under the DIP ABL Facility Loan Agreement.

49. “*DIP ABL Facility Agent*” means Wells Fargo Capital Finance, LLC, in its capacity as administrative and collateral agent (for the benefit of the DIP ABL Facility Lenders) pursuant to the terms of the DIP ABL Facility Documents, and any successor or replacement agent appointed pursuant to the terms of the DIP ABL Facility Loan Agreement.

50. “*DIP ABL Facility Claims*” means any Claim held by the DIP ABL Facility Lenders or the DIP ABL Facility Agent arising under or related to the DIP ABL Facility Documents.

51. “*DIP ABL Facility Documents*” means, collectively, the DIP ABL Facility Loan Agreement, the DIP ABL Facility Order, each other Loan Document (as defined in the DIP ABL Facility Loan Agreement), and all other agreements, documents, and instruments delivered or entered into in connection therewith (including any guarantee agreements, pledge and collateral agreements, intercreditor agreements, and other security documents).



52. “*DIP ABL Facility Lenders*” means those certain lenders party to the DIP ABL Facility Loan Agreement.

53. “*DIP ABL Facility Loan Agreement*” means that certain debtor-in-possession credit agreement, dated as of June 11, 2015 (as amended, restated, modified, or supplemented from time to time), by and among Boomerang, the DIP ABL Facility Agent, and the DIP ABL Facility Lenders from time to time party thereto.

54. “*DIP ABL Facility Order*” means, collectively, the interim and final orders entered by the Bankruptcy Court authorizing the Debtors, among other things, to enter into the DIP ABL Facility Documents and utilize the DIP ABL Facility.

55. “*DIP Budget*” means the “Approved Budget” as defined in the DIP Term Facility Order.

56. “*DIP Facility Claims*” means, collectively, DIP ABL Facility Claims and DIP Term Facility Claims.

57. “*DIP Term Facility*” means that certain \$60.0 million debtor-in-possession credit facility provided under the DIP Term Facility Loan Agreement.

58. “*DIP Term Facility Agent*” means Cortland Capital Market Services LLC.

59. “*DIP Term Facility Claims*” means any Claim held by the DIP Term Facility Lenders or the DIP Term Facility Agent arising under or related to the DIP Term Facility Loan Agreement or the DIP Term Facility Order.

60. “*DIP Term Facility Lenders*” means those certain lenders party to the DIP Term Facility Loan Agreement.

61. “*DIP Term Facility Loan Agreement*” means that certain debtor-in-possession credit agreement, dated as of June 11, 2015 (as amended, restated, modified, or supplemented from time to time), by and among Boomerang, the DIP Term Facility Agent, and the DIP Term Facility Lenders from time to time party thereto.

62. “*DIP Term Facility Order*” means, collectively, the interim and final orders entered by the Bankruptcy Court authorizing the Debtors, among other things, to enter into the DIP Term Facility Loan Agreement and access the DIP Term Facility.

63. “*Disclosure Statement*” means the disclosure statement for the Plan, as may be amended, supplemented, or modified from time to time, including all exhibits and schedules thereto, to be approved by the Confirmation Order.

64. “*Disputed*” means, as to a Claim or an Interest, a Claim or an Interest: (a) that is not Allowed; (b) that is not disallowed under the Plan, the Bankruptcy Code, or a Final Order, as applicable; and (c) with respect to which a party in interest has filed a Proof of Claim or otherwise made a written request to a Debtor for payment and for which the applicable deadline to object to such Proof of Claim has not expired.

65. “*Disputed Claims Reserve*” means the reserve fund(s) maintained pursuant to Section 6.1(a) of the Plan.

66. “*Distribution Agent*” means, as applicable, the Reorganized Debtors or any Entity that the Reorganized Debtors select to make or to facilitate distributions in accordance with the Plan.

67. “*Distribution Date*” means, except as otherwise set forth herein, the date or dates determined by the Debtors or the Reorganized Debtors on or after the Effective Date, upon which the Distribution Agent shall make distributions to holders of Allowed Claims entitled to receive distributions under the Plan, subject to Section 7.5.

68. “*Effective Date*” means the date that is the first Business Day after the Confirmation Date on which all conditions precedent to the occurrence of the Effective Date set forth in Section 9.1 have been satisfied or waived in accordance with Section 9.2.

69. “*Eisenberg Party*” shall mean any of: (i) Gregg Eisenberg, (ii) any trust settled by Mr. Eisenberg (including, without limitation, the Gregg Eisenberg Revocable Living Trust), (iii) any current or former spouse, successor, heir, assign, of Mr. Eisenberg, and (iv) any entity, other than a publicly traded entity that is a Creditor of any Debtor, in which Mr. Eisenberg owns an interest or has a beneficial interest (but expressly excluding any Debtor or Reorganized Debtor).

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

71. “*Equity Security*” has the meaning set forth in section 101(16) of the Bankruptcy Code and includes, for the avoidance of doubt, membership interests, Boomerang Preferred Units, Boomerang Common Units, and Boomerang Other Equity Securities.

72. “*Estate*” means the estate of any Debtor created under sections 301 and 541 of the Bankruptcy Code upon the commencement of the applicable Debtor’s Chapter 11 Case.

73. “*Exculpated Party*” means each of the following, in its capacity as such: (a) each Debtor and Reorganized Debtor; (b) the Debtors’ current and former officers and directors; (c) the Creditors Committee and each of its members; and (d) each of the foregoing entities’ respective current and former: predecessors, successors and assigns, and members, limited partners, general partners, principals, partners, members, employees, agents, officers, directors, managers, trustees, professionals, representatives, advisors, attorneys, financial advisors, accountants, investment bankers, and consultants, in each case solely in their capacity as such; provided that notwithstanding anything to the contrary in the Plan and for the avoidance of doubt, no Eisenberg Party shall be an “Exculpated Party” in any capacity.

74. “*Executory Contract*” means a contract or lease to which one or more of the Debtors is a party that is subject to assumption or rejection under section 365 of the Bankruptcy Code.

75. “*Exit ABL Facility*” means a senior secured revolving credit facility under the Exit ABL Facility Loan Agreement.

76. “*Exit ABL Facility Agent*” means the administrative agent for the Exit ABL Facility.

77. “*Exit ABL Facility Documents*” means, collectively, the Exit ABL Facility Loan Agreement, the Exit Intercreditor Agreement, the Subordinated Notes Intercreditor Agreement, each other ancillary loan document specified in the Exit ABL Facility Loan Agreement, and all other agreements, documents, and instruments to be delivered or entered into in connection therewith (including any guarantee agreements, pledge and collateral agreements, intercreditor agreements, and

other security documents), each of which shall be satisfactory in form and substance to the Debtors, the Reorganized Debtors, the Majority Term Loan Lenders, and the Exit ABL Facility Lenders.

78. “*Exit ABL Facility Lender*” means each Lender (as defined in the Exit ABL Facility Loan Agreement) that is a party to the Exit ABL Facility Loan Agreement.

79. “*Exit ABL Facility Loan Agreement*” means the credit agreement by and among New Opco, as borrower, the lenders from time to time party thereto, and the Exit ABL Facility Agent, to be effective on the Effective Date, which agreement shall be satisfactory in form and substance to the Debtors, the Reorganized Debtors, the Majority Term Loan Lenders, the Majority Exit Term Facility Lenders, and the Exit ABL Facility Lenders.

80. “*Exit ABL Facility Loans*” means the loans under the Exit ABL Facility.

81. “*Exit Intercreditor Agreement*” means the intercreditor agreement by and among the Reorganized Debtors, the Exit ABL Facility Agent and the Exit Term Facility Agent, to be effective on the Effective Date, which agreement shall be (a) satisfactory in form and substance to the Debtors, the Reorganized Debtors, the Majority Term Loan Lenders, the Majority Exit Term Facility Lenders, the Exit ABL Facility Agent (with the consent of Exit ABL Facility Lenders as determined in accordance with the Exit ABL Facility terms), and the Exit Term Facility Agent (with the consent of the Majority Exit Term Facility Lenders) and (b) substantially in the form contained in the Plan Supplement.

82. “*Exit Term Facility*” means the senior secured term loan facility under the Exit Term Facility Loan Agreement.

83. “*Exit Term Facility Agent*” means Cortland Capital Market Services LLC.

84. “*Exit Term Facility Closing Fee*” means twenty percent (20%) of the New Holdco Common Stock to be issued to the Exit Term Facility Lenders (or their respective designated investment advisors, managers, affiliates, related funds or managed accounts).

85. “*Exit Term Facility Documents*” means, collectively, the Exit Term Facility Loan Agreement, the Exit Intercreditor Agreement, the Subordinated Notes Subordination Agreement, each other Loan Document (as defined in the Exit Term Facility Loan Agreement), and all other agreements, documents, and instruments to be delivered or entered into in connection therewith (including any guarantee agreements, pledge and collateral agreements, intercreditor agreements, and other security documents) each of which shall be (a) satisfactory in form and substance to the Debtors, the Reorganized Debtors, the Majority Term Loan Lenders, the Majority Exit Term Facility Lenders, and the Exit ABL Facility Lenders and (b) consistent in all respects with the Exit Term Facility Term Sheet.

86. “*Exit Term Facility Lender*” means each Lender (as defined in the Exit Term Facility Loan Agreement) that is a party to the Exit Term Facility Loan Agreement.

87. “*Exit Term Facility Loan Agreement*” means the credit agreement by and among New Opco, as borrower, the lenders from time to time party thereto, and the Exit Term Facility Agent, to be effective on the Effective Date, which agreement shall be (a) satisfactory in form and substance to the Debtors, the Reorganized Debtors, the Majority Term Loan Lenders, the Majority Exit Term Facility Lenders, and the Exit ABL Facility Lenders, (b) consistent in all respects with the Exit Term Facility Term Sheet, and (c) substantially in the form contained in the Plan Supplement.

88. “*Exit Term Facility Term Sheet*” means the Exit Term Facility Term Sheet attached as Exhibit C to the Disclosure Statement.

89. “*Final Decree*” means the decree contemplated under Bankruptcy Rule 3022.

90. “*Final Order*” means, as applicable, an order or judgment of the Bankruptcy Court or other court of competent jurisdiction with respect to the relevant subject matter that has not been reversed, stayed, modified, or amended, and as to which the time to appeal or seek certiorari has expired and no appeal or petition for certiorari has been timely taken, or as to which any appeal that has been taken or any petition for certiorari that has been or may be filed has been resolved by the highest court to which the order or judgment could be appealed or from which certiorari could be sought or the new trial, reargument, or rehearing shall have been denied, resulted in no modification of such order, or has otherwise been dismissed with prejudice.

91. “*General Unsecured Claim*” means any Claim other than an Administrative Claim, an Intercompany Claim, a Professional Claim, an Other Secured Claim, a Priority Tax Claim, an Other Priority Claim, an ABL Facility Claim, a Term Loan Facility Claim, a DIP Facility Claim, an SBI Lender Secured Claim, SBI Secured Claim, or a Section 510(b) Claim.

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

93. “*GUC Consideration*” means cash in the amount of \$2,250,000.

94. “*GUC Consideration Escrow Account*” shall mean an account established on or prior to the Effective Date for purposes of holding the GUC Consideration, which account and the funds therein shall be maintained exclusively for the benefit of holders of Allowed Class 6 General Unsecured Claims that are entitled to a distribution under the Plan and shall not constitute property of the Reorganized Debtors.

95. “*Impaired*” means, with respect to any Class of Claims or Interests, a Claim or an Interest that is not Unimpaired.

96. “*Indemnification Provisions*” means each of the Debtors’ indemnification provisions currently in place whether in the Debtors’ bylaws, certificates of incorporation, certificates of formation and operating agreements, board resolutions, or indemnification agreements or employment contracts for the current directors, officers, managers, and employees of the Debtors.

97. “*Initial Distribution Date*” means the date on which the Reorganized Debtors shall make their initial Distribution, which shall be a date selected by the Reorganized Debtors subject to Section 7.5.

98. “*Insider*” has the meaning set forth in section 101(31) of the Bankruptcy Code.

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

100. “*Intercompany Contract*” means a contract between or among two or more Debtors or a contract between or among one or more Affiliates and one or more Debtors.

101. “*Intercompany Interest*” means an Interest held by a Debtor with respect to any other Debtor.

102. “*Interest*” means any Equity Security of a Debtor existing immediately prior to the Effective Date.

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

104. “*Majority Exit Term Facility Lenders*” means Exit Term Facility Lenders who hold, in the aggregate, at least 50.1% of the principal amount of the total commitments under the Exit Term Facility as of such date the Majority Exit Term Facility Lenders make a determination in accordance with the Plan.

105. “*Majority Term Loan Lenders*” means Term Loan Lenders who hold, in the aggregate, at least 50.1% of the principal amount of the total outstanding loans under the Term Loan Agreement held by all Term Loan Lenders as of such date the Majority Term Loan Lenders make a determination in accordance with the Plan.

106. “*Majority Holder*” means Black Diamond Capital Management, L.L.C. (or a group of affiliated holders of, or holders under common control with, Black Diamond Capital Management, L.L.C.), in its capacity as holder of the majority of New Holdco Common Stock on the Effective Date.

107. “*Management Agreement*” means the Second Amended and Restated Management Consulting Agreement, dated as of June 8, 2015, by and between Boomerang and Access Tubulars, LLC.

108. “*New Board*” means New Holdco’s initial board of directors.

109. “*New Holdco*” means Boomerang Tube Holdings, Inc., a new corporation formed under the laws of the State of Delaware, the Reorganized Debtors’ ultimate parent company upon Consummation.

110. “*New Holdco Bylaws*” means the bylaws of New Holdco, substantially in the form contained in the Plan Supplement and satisfactory in form and substance to the Debtors and the Majority Term Loan Lenders.

111. “*New Holdco Certificate of Incorporation*” means the certificate of incorporation of New Holdco, substantially in the form contained in the Plan Supplement and satisfactory in form and substance to the Debtors and the Majority Term Loan Lenders.

112. “*New Holdco Common Stock*” means the common stock of New Holdco.

113. “*New Holdco Governance Documents*” means, as applicable, the New Holdco Certificate of Incorporation, the New Holdco Bylaws, and the New Holdco Shareholders Agreement.

114. “*New Holdco Shareholders Agreement*” means that certain shareholders agreement to be filed as part of the Plan Supplement, effective as of the Effective Date, to which all parties receiving New Holdco Common Stock (and all persons to whom such parties may sell or transfer their equity in the future and all persons who purchase or acquire equity from the Debtors in future transactions) will be required to become or will be deemed parties, in substantially the form included in the Plan Supplement, which agreement shall be in form and substance satisfactory to the Debtors and the Majority Term Loan Lenders.

115. “*New Opco*” means reorganized Boomerang, the direct parent company of each of reorganized BTCSP, LLC and BT Financing, Inc. upon Consummation.

116. “*New Opco Certificate of Formation*” means the amended and restated certificate of formation of New Opco, substantially in the form contained in the Plan Supplement and satisfactory in form and substance to the Debtors and the Majority Term Loan Lenders.

117. “*New Opco Common Units*” means the common units of New Opco.

118. “*New Opco Governance Documents*” means, as applicable, the New Opco Certificate of Formation and the New Opco LLC Agreement.

119. “*New Opco LLC Agreement*” means the limited liability company agreement of New Opco, substantially in the form contained in the Plan Supplement and satisfactory in form and substance to the Debtors and the Majority Term Loan Lenders.

120. “*Ombudsman*” means the Person designated by the Creditors Committee, which designation shall be reasonably satisfactory to the Debtors or Reorganized Debtors (as the case may be) and the DIP Term Facility Agent, who shall act as an advocate for all holders of Claims in Class 6 and whose fees and expenses, not to exceed a cap of \$50,000, shall be paid by the Reorganized Debtors. The Ombudsman shall have the duties set forth in Section 7.5 of the Plan and in the Plan Supplement.

121. “*Other Priority Claim*” means any Claim entitled to priority in right of payment under section 507(a) of the Bankruptcy Code, other than an Administrative Claim or a Priority Tax Claim.

122. “*Other Secured Claim*” means any Secured Claim other than the following: (a) an ABL Facility Claim; (b) a Term Loan Facility Claim; (c) a DIP Facility Claim; (d) an SBI Secured Claim; or (e) an SBI Lender Secured Claim. For the avoidance of doubt, “*Other Secured Claims*” includes any Claim arising under, derived from, or based upon any letter of credit issued in favor of one or more Debtors, the reimbursement obligation for which is either secured by a Lien on collateral or is subject to a valid right of setoff pursuant to section 553 of the Bankruptcy Code that is lawfully exercised on or before the Confirmation Date or timely preserved in accordance with Section 6.5.

123. “*Person*” has the meaning set forth in section 101(41) of the Bankruptcy Code.

124. “*Petition Date*” means the date on which each of the Debtors filed their petitions for relief commencing the Chapter 11 Cases.

125. “*Plan*” means this chapter 11 plan, as it may be altered, amended, modified, or supplemented from time to time in accordance with the terms hereof, including the Plan Supplement and all exhibits, supplements, appendices, and schedules, which plan shall be in form and substance satisfactory to the Debtors and the Required Lenders.

126. “*Plan Supplement*” means any compilation of documents and forms of documents, agreements, schedules, and exhibits to the Plan, which shall be filed by the Debtors no later than ten (10) days before the Confirmation Hearing or such later date as may be approved by the Bankruptcy Court on notice to parties in interest, and additional documents filed with the Bankruptcy Court prior to the Effective Date as amendments to the Plan Supplement, each of which shall be consistent in all respects with, and shall otherwise contain, the terms and conditions set forth on the exhibits attached hereto, where applicable, and, without limiting the foregoing, shall be satisfactory in form and

substance to the Required Lenders, the Debtors and (solely with respect to documentation related to the Ombudsman and GUC Consideration Escrow Account) the Creditors Committee, except to the extent otherwise expressly provided herein.

127. “*Plan Support Agreement*” means that certain Plan Support Agreement, dated as of June 8, 2015 (as amended, restated, modified, or supplemented from time to time), by and among the Debtors, the Term Loan Lenders, the ABL Facility Lenders, and the Sponsor, which was terminated effective as of November 11, 2015.

128. “*Priority Tax Claim*” means any Claim of a Governmental Unit of the kind specified in section 507(a)(8) of the Bankruptcy Code.

129. “*Professional*” means an Entity: (a) employed in the Chapter 11 Cases pursuant to a Final Order in accordance with sections 327 and 1103 of the Bankruptcy Code and to be compensated for services rendered prior to or on the Effective Date pursuant to sections 327, 328, 329, 330, and 331 of the Bankruptcy Code or (b) for which compensation and reimbursement has been Allowed by the Bankruptcy Court pursuant to section 503(b)(4) of the Bankruptcy Code. Solely for purposes of implementing the Professional Fee Payment Amount, Zolfo Cooper Management, LLC and Kevin Nystrom shall be deemed Professionals under this Plan.

130. “*Professional Claim*” means a Claim by a Professional seeking an award by the Bankruptcy Court of compensation for services rendered or reimbursement of expenses incurred through and including the Effective Date under sections 328, 330, 331, 503(b)(2), 503(b)(3), 503(b)(4), or 503(b)(5) of the Bankruptcy Code or payment of compensation for services rendered or reimbursement of expenses incurred through and including the Effective Date under section 363 of the Bankruptcy Code.

131. “*Professional Fee Escrow Amount*” means the aggregate amount of unpaid Professional Claims and other unpaid fees and expenses Professionals estimate they have incurred or will incur in rendering services to the Debtors or the Estates prior to and as of the Effective Date, which estimates Professionals shall deliver to the Debtors as set forth in Section 2.3 herein, which, for the Professionals to which the Professional Fee Payment Amount applies, shall not exceed an amount equal to the Professional Fee Payment Amount minus any amounts paid on account of the Professional Claims of such Professionals prior to the Effective Date.

132. “*Professional Fee Escrow Account*” means an interest-bearing account funded by the Debtors with Cash on the Effective Date in an amount equal to the Professional Fee Escrow Amount for the purposes of satisfying Professional Claims, which account and the funds therein shall be maintained exclusively for the benefit of holder of Professional Claims and shall not constitute property of the Reorganized Debtors. The Reorganized Debtors shall have a reversionary interest in the Professional Fee Escrow Account solely to the extent of the funds therein that are in excess of the amounts that are sufficient to satisfy all Allowed Professional Claims.

133. “*Professional Fee Payment Amount*” shall mean an amount equal to: (a) for Debevoise & Plimpton LLP, Young Conaway Stargatt & Taylor, LLP, and Zolfo Cooper Management LLC and Kevin Nystrom, collectively, (i) \$5,344,000 for Allowed Professional Claims incurred from the Petition Date through and including November 30, 2015, plus (ii) an amount not to exceed \$1,000,000 for Allowed Professional Claims incurred from December 1, 2015 through and including January 31, 2016, which in each instance shall be allocated by agreement between the foregoing Professionals; (b) for Lazard Frères & Co. LLC, \$1,026,309; and (c) for Alvarez & Marsal North America, LLC, Brown Rudnick LLP, and Morris, Nichols, Arsht & Tunnell LLP, collectively, (i) \$3,256,000 for Allowed

Professional Claims incurred from the Petition Date through and including November 30, 2015, plus (ii) an amount not to exceed \$200,000 for Allowed Professional Claims incurred from December 1, 2015 through and including January 31, 2016, which in each instance shall be allocated pro rata among the foregoing Professionals; provided that the amounts in clauses (a)(ii) and (c)(ii) shall be intended for the limited scope of work described in the Debtor Professionals Budget and the Creditors Committee Professionals Budget, respectively, subject to adjustment by agreement between the affected Professionals and the DIP Term Facility Agent or by order of the Court.

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

135. “*Released Party*” means each of the following, in its capacity as such: (a) each Debtor and Reorganized Debtor; (b) the Debtors’ current and former officers and directors; (c) the Term Loan Agent; (d) the Term Loan Lenders; (e) the ABL Facility Agent; (f) the ABL Facility Lenders; (g) the DIP Term Facility Agent; (h) the DIP Term Facility Lenders; (i) the DIP ABL Facility Agent; (j) the DIP ABL Facility Lenders; (k) the Sponsor; (l) the ABL Facility Guarantor; and (m) each of the foregoing entities’ respective current and former: predecessors, successors and assigns, and stockholders, members, limited partners, general partners, equity holders, Affiliates and its and their subsidiaries, principals, partners, members, employees, agents, officers, directors, managers, trustees, professionals, representatives, advisors, attorneys, financial advisors, accountants, investment bankers, and consultants, in each case solely in their capacity as such; provided that notwithstanding anything to the contrary in the Plan and for the avoidance of doubt, no Eisenberg Party or SBI Party shall be a “Released Party” in any capacity. In addition, solely in each party’s capacity as a member or professional to the Creditors Committee, (i) the members of the Creditors Committee (including their employees, officers, directors, agents and their professionals) and (ii) Creditors Committee Professionals, shall each be a Released Party.

136. “*Releasing Parties*” means each of the following in its capacity as such: (a) the Debtors’ current officers and directors; (b) the Term Loan Agent; (c) holders of Term Loan Facility Claims; (d) the ABL Facility Agent, (e) holders of ABL Facility Claims; (f) the DIP ABL Facility Agent; (g) holders of DIP ABL Facility Claims; (h) the DIP Term Facility Agent; (i) holders of DIP Term Facility Claims; (j) the Sponsor; (k) the ABL Facility Guarantor; (l) without limiting the foregoing, each other holder of a Claim that is a member of a Class that is unimpaired and presumed to accept the Plan; and (m) with respect to each of the foregoing parties under (a) through (l), any successors or assigns thereof.

137. “*Reorganized Debtor*” means a Debtor, or any successor or assign thereto, by merger, consolidation, or otherwise, on and after the Effective Date.

138. “*Required Lenders*” means, collectively, the ABL Lenders and the Majority Term Loan Lenders.

139. “*Restructuring Transactions*” means the transactions described in Section 4.17.

140. “*SBI*” means SB Boomerang Tubular, LLC.

141. “*SBI Financing Agreement*” means that certain Equipment Lease Agreement, dated as of February 18, 2011, by and between SBI and Boomerang, as subsequently amended, which was determined by the Bankruptcy Court to be a secured financing pursuant to its bench ruling made on November 9, 2015.



142. “*SBI Heat Treat Line Collateral*” means the heat treatment quench and temper equipment manufactured by F&D Furnaces, LLC, owned by Boomerang and installed at Boomerang’s manufacturing facility in Liberty, Texas, as described more particularly in the SBI Financing Agreement.

143. “*SBI Lender*” means Wells Fargo Equipment Finance, Inc.

144. “*SBI Lender Financing Agreement*” means Equipment Schedule Series W No. 1 (but not any other schedules) to that certain Master Lease Agreement, dated as of September 12, 2011, by and between SBI and SBI Lender (the latter, as assignee of BB&T Equipment Finance Corporation).

145. “*SBI Lender Financing Agreement Payment Schedule*” means Exhibit A to Rider No. 3 To Equipment Schedule Series W No. 1 (but not any other schedules) to the SBI Lender Financing Agreement, dated as of August 1, 2012, by and between SBI and SBI Lender.

146. “*SBI Lender Secured Claim*” means the Claim against SBI arising under the SBI Lender Financing Agreement, to the extent such Claim is secured by a Lien in the SBI Heat Treat Line Collateral. The SBI Lender Secured Claim shall be Allowed in an amount to be determined by the Bankruptcy Court after notice and a hearing (which hearing may be the Confirmation Hearing) or as stipulated to by the Debtors or Reorganized Debtors and SBI, but not to exceed \$4,663,157.00 as of September 30, 2015.

147. “*SBI Parties*” shall mean any of: (a) SB Boomerang Tubular, LLC, Pinnacle Machine Works, LLC, CST Partners, LLC, SB American Tubulars, LLC, SB International, Inc., and SB Navitas Tubular Inc.; (b) any Affiliate of the entities listed in clause (a); and (c) any direct or indirect equity holder, agent, employee or Insider of the entities identified in clauses (a) or (b), including, without limitation, Arish Gupta, Satish Gupta, Yasmin Gupta, J.P. Wu, and any trust settled by the foregoing; *provided* that for the avoidance of doubt no Debtor or Released Party shall be considered an SBI Party.

148. “*SBI Secured Claim*” means the secured portion of a Claim(s) arising under the SBI Financing Agreement, which collectively shall be equal to \$9,750,000 minus the amount of the Allowed SBI Lender Secured Claim.

149. “*Schedules*” means, collectively, the schedules of assets and liabilities, schedules of Executory Contracts and Unexpired Leases, and statements of financial affairs Filed by the Debtors pursuant to section 521 of the Bankruptcy Code and in substantial accordance with the Official Bankruptcy Forms, as the same may have been amended, modified, or supplemented from time to time.

150. “*Section 510(b) Claim*” means any Claim against the Debtors arising from rescission of a purchase or sale of a security or Interest of the Debtors or an Affiliate of the Debtors, for damages arising from the purchase or sale of such a security or Interest, or for reimbursement or contribution allowed under section 502 of the Bankruptcy Code on account of such a Claim.

151. “*Secured Claim*” means a Claim: (a) secured by a Lien on collateral to the extent of the value of such collateral, as determined in accordance with section 506(a) of the Bankruptcy Code or (b) subject to a valid right of setoff pursuant to section 553 of the Bankruptcy Code that is lawfully exercised on or before the Confirmation Date or timely preserved in accordance with Section 6.5.

152. “*Securities Act*” means the Securities Act of 1933, as amended, 15 U.S.C. §§ 77a–77aa, or any similar federal, state, or local law.

153. “*Security*” has the meaning set forth in section 2(a)(1) of the Securities Act.

154. “*Servicer*” means an agent or other authorized representative of holders of Claims or Interests.

155. “*Solicitation Agent*” means Donlin, Recano & Company, Inc., the notice, claims, and solicitation agent retained by the Debtors in the Chapter 11 Cases by Bankruptcy Court order.

156. “*Sponsor*” means, collectively, Access Tubulars, LLC, Access Tubular Lender, LLC, and their respective affiliates, in any capacity, including, without limitation, in their respective capacities as holders of Boomerang Preferred Units, holders of Boomerang Common Units, Term Loan Lenders, Term DIP Facility Lenders, ABL Facility Guarantor and party to the Management Agreement.

157. “*Subordinated Notes*” means the \$55 million of subordinated secured notes of New Opco issued pursuant to the Subordinated Notes Agreement and guaranteed by the other Reorganized Debtors.

158. “*Subordinated Notes Agreement*” means the credit agreement by and among the Reorganized Debtors, as credit parties, the Subordinated Notes Facility Lenders party thereto, as lenders, and the Subordinated Notes Facility Agent, to be effective on the Effective Date, which agreement shall be (a) satisfactory in form and substance to the Debtors, the Majority Term Loan Lenders, the Majority Exit Term Facility Lenders, and the Exit ABL Facility Lenders, (b) consistent in all respects with the Subordinated Notes Facility Term Sheet, and (c) substantially in the form contained in the Plan Supplement.

159. “*Subordinated Notes Facility*” means the subordinated secured notes facility under the Subordinated Notes Agreement.

160. “*Subordinated Notes Facility Agent*” means Cortland Capital Market Services LLC.

161. “*Subordinated Notes Facility Documents*” means, collectively, the Subordinated Notes Agreement, each other Loan Document (as defined in the Subordinated Notes Agreement), and all other agreements, documents, and instruments to be delivered or entered into in connection therewith (including any guarantee agreements, pledge and collateral agreements, intercreditor agreements, and other security documents), each of which shall be (a) satisfactory in form and substance to the Debtors, the Majority Term Loan Lenders, the Majority Exit Term Facility Lenders, and the Exit ABL Facility Lenders, and (b) consistent in all respects with the description of the Subordinated Notes Facility in the Subordinated Notes Facility Term Sheet.

162. “*Subordinated Notes Facility Lender*” means each Lender (as defined in the Subordinated Notes Agreement) that is a party to the Subordinated Notes Agreement.

163. “*Subordinated Notes Facility Term Sheet*” means the Subordinated Notes Facility Term Sheet attached as Exhibit D to the Disclosure Statement.

164. “*Subordinated Notes Intercreditor Agreement*” means the subordination and intercreditor agreement by and among the Reorganized Debtors, the Exit ABL Facility Agent, the Exit Term Facility Agent and the Subordinated Notes Facility Agent, to be effective on the Effective Date, which agreement shall be (a) satisfactory in form and substance to the Debtors, the Reorganized Debtors, the Majority Term Loan Lenders, the Exit ABL Facility Agent (with the consent of Exit ABL Facility Lenders as determined in accordance with the Exit ABL Facility terms), and the Exit Term

Facility Agent (with the consent of Majority Exit Term Facility Lenders), and (b) substantially in the form contained in the Plan Supplement.

165. “*Term Loan Agent*” means the Cortland Capital Market Services LLC, in its capacity as administrative agent pursuant to the Term Loan Facility Documents, and its successors, assigns or any replacement agent appointed pursuant to the terms of the Term Loan Agreement.

166. “*Term Loan Agreement*” means the Credit Agreement, dated October 11, 2012 (as amended, restated, modified, or supplemented from time to time prior to the Petition Date), by and among Boomerang, as borrower, the various lenders from time to time party thereto and the Term Loan Agent.

167. “*Term Loan Facility*” means the senior secured term loan facility under the Term Loan Agreement.

168. “*Term Loan Facility Claim*” means any Claim arising under, derived from, or based upon the Term Loan Facility Documents.

169. “*Term Loan Facility Documents*” means, collectively, the Term Loan Agreement, each other Loan Document (as defined in the Term Loan Agreement), and all other agreements, documents, and instruments delivered or entered into in connection therewith (including any guarantee agreements, pledge and collateral agreements, intercreditor agreements, and other security documents).

170. “*Term Loan Lenders*” means each Lender (as defined in the Term Loan Agreement) that is a party to the Term Loan Agreement.

171. “*Transaction*” means the Debtors’ recapitalization and restructuring.

172. “*Unclaimed Distribution*” means any distribution under the Plan on account of an Allowed Claim to a holder that has not: (a) accepted a particular distribution or, in the case of distributions made by check, negotiated such check; (b) given notice to the Reorganized Debtors of an intent to accept a particular distribution; (c) responded to the Debtors’ or Reorganized Debtors’ requests for information necessary to facilitate a particular distribution; or (d) taken any other action necessary to facilitate such distribution.

173. “*Unexpired Lease*” means a lease of nonresidential real property to which one or more of the Debtors is a party that is subject to assumption or rejection under section 365 of the Bankruptcy Code.

174. “*Unimpaired*” means a Class of Claims or Interests that is unimpaired within the meaning of section 1124 of the Bankruptcy Code, after giving effect to the limitations on allowance of claims as set forth in section 502 of the Bankruptcy Code.

## **1.2. Rules of Interpretation**

For purposes of the Plan: (a) in the appropriate context, each term, whether stated in the singular or the plural, shall include both the singular and the plural, and pronouns stated in the masculine, feminine, or neuter gender shall include the masculine, feminine, and the neuter gender; (b) unless otherwise specified, any reference herein to a contract, lease, instrument, release, indenture, or other agreement or document being in a particular form or on particular terms and conditions means that such document shall be substantially in such form or substantially on such terms and conditions; (c) unless

otherwise specified, any reference herein to an existing document, schedule, or exhibit, shall mean such document, schedule, or exhibit, as it may have been or may be amended, modified, or supplemented; (d) unless otherwise specified, all references herein to “Articles” and “Sections” are references to Articles and Sections, respectively, hereof or hereto; (e) the words “herein,” “hereof,” and “hereto” refer to the Plan in its entirety rather than to any particular portion of the Plan; (f) captions and headings to Articles and Sections are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation of the Plan; (g) unless otherwise specified herein, the rules of construction set forth in section 102 of the Bankruptcy Code shall apply; (h) any term used in capitalized form herein that is not otherwise defined but that is used in the Bankruptcy Code or the Bankruptcy Rules shall have the meaning assigned to such term in the Bankruptcy Code or the Bankruptcy Rules, as applicable; (i) references to docket numbers of documents filed in the Chapter 11 Cases are references to the docket numbers under the Bankruptcy Court’s CM/ECF system; (j) references to “Proofs of Claim,” “Holders of Claims,” “Disputed Claims,” and the like shall include “Proofs of Interest,” “Holders of Interests,” “Disputed Interests,” and the like as applicable; (k) references to “shareholders,” “directors,” and/or “officers” shall also include “members” and/or “managers,” as applicable, as such terms are defined under the applicable state limited liability company laws; and (l) any immaterial effectuating provisions may be interpreted by the Debtors or the Reorganized Debtors in such a manner that is consistent with the overall purpose and intent of the Plan all without further notice to or action, order, or approval of the Bankruptcy Court or any other Entity.

### **1.3. Computation of Time**

Bankruptcy Rule 9006(a) applies in computing any period of time prescribed or allowed herein.

### **1.4. Governing Law**

Except to the extent that the Bankruptcy Code or Bankruptcy Rules apply, and subject to the provisions of any contract, lease, instrument, release, indenture, or other agreement or document entered into expressly in connection herewith, the rights and obligations arising hereunder shall be governed by, and construed and enforced in accordance with, the laws of the State of New York, without giving effect to conflict of laws principles.

### **1.5. Reference to Monetary Figures**

All references in the Plan to monetary figures refer to currency of the United States of America, unless otherwise expressly provided.

### **1.6. Reference to the Debtors or the Reorganized Debtors**

Except as otherwise specifically provided in the Plan to the contrary, references in the Plan to the Debtors or to the Reorganized Debtors mean the Debtors and the Reorganized Debtors, as applicable, to the extent that the context requires.

### **1.7. Controlling Document**

In the event of an inconsistency between the Plan and the Disclosure Statement, the terms of the Plan shall control in all respects. In the event of an inconsistency between the Plan and the Plan Supplement, the Plan shall control. In the event of any inconsistency between the Plan and the Confirmation Order, the Confirmation Order shall control.

## ARTICLE II

### ADMINISTRATIVE AND PRIORITY CLAIMS

In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Claims, DIP Facility Claims, Professional Claims, and Priority Tax Claims have not been classified and thus are excluded from the Classes of Claims set forth in ARTICLE III.

#### **2.1. Administrative Claims**

Unless otherwise agreed to by the holder of an Allowed Administrative Claim and the Debtors, in consultation with the Required Lenders, or the Reorganized Debtors, as applicable, each holder of an Allowed Administrative Claim (other than holders of Professional Claims, which are subject to Section 2.3 of the Plan, and Claims for fees and expenses pursuant to section 1930 of chapter 123 of title 28 of the United States Code) will receive in full and final satisfaction of its Administrative Claim an amount of Cash equal to the amount of such Allowed Administrative Claim either: (a) if an Administrative Claim is Allowed on or prior to the Effective Date, on the Effective Date or as soon as reasonably practicable thereafter (or, if not then due and payable, when such Allowed Administrative Claim is due and payable or as soon as reasonably practicable thereafter); (b) if such Administrative Claim is not Allowed as of the Effective Date, no later than thirty (30) days after the date on which an order Allowing such Administrative Claim becomes a Final Order, or as soon as reasonably practicable thereafter; (c) if such Allowed Administrative Claim is based on liabilities incurred by the Debtors in the ordinary course of their business after the Petition Date in accordance with the terms and conditions of the particular transaction giving rise to such Allowed Administrative Claim, without any further action by the holders of such Allowed Administrative Claim; (d) at such time and upon such terms as may be agreed upon by such holder and the Debtors or the Reorganized Debtors, as applicable; or (e) at such time and upon such terms as set forth in an order of the Bankruptcy Court. The U.S. Trustee's right to object to Administrative Claims is reserved.

#### **2.2. DIP Facility Claims**

##### **(1) DIP ABL Facility Claims**

Except to the extent that a holder of a DIP ABL Facility Claim agrees to less favorable treatment, on the Effective Date, each holder of a DIP ABL Facility Claim shall either (a) if the identities of the Exit ABL Facility Agent and Exit ABL Facility Lenders are, respectively, the same as those of the DIP ABL Facility Agent and DIP ABL Facility Lenders, receive its pro rata share (based on the aggregate commitments of the Exit ABL Facility Lenders under the DIP ABL Facility and the ABL Facility) of interests in the Exit ABL Facility Loans and the Exit ABL Facility Documents, or (b) if the identities of the Exit ABL Facility Agent and Exit ABL Facility Lenders are not, respectively, the same as those of the DIP ABL Facility Agent and DIP ABL Facility Lenders, receive Cash in an amount sufficient to pay in full all accrued, and collateralize all contingent, obligations and other amounts owed in accordance with the terms of the DIP ABL Facility Documents.

##### **(2) DIP Term Facility Claims**

Except to the extent that a holder of a DIP Term Facility Claim agrees to less favorable treatment, on the Effective Date, each holder of a DIP Term Facility Claim shall receive Cash in an amount equal to the Allowed amount of such DIP Term Facility Claim.

### **2.3. Professional Claims**

All requests for payment of Professional Claims for services rendered and reimbursement of expenses incurred prior to the Effective Date must be filed no later than thirty (30) days after the Effective Date. The Bankruptcy Court shall determine the Allowed amounts of such Professional Claims after notice and a hearing in accordance with the procedures established by the Bankruptcy Code. None of the Debtors, Reorganized Debtors, Term Loan Lenders, Term Loan Agent, DIP Term Facility Lenders, DIP Term Facility Agent, Exit Term Facility Lenders, Exit Term Facility Agent, ABL Facility Lenders, ABL Facility Agent, DIP ABL Facility Lenders, DIP ABL Facility Agent, Exit ABL Facility Lenders, Exit ABL Facility Agent, the Creditors Committee or any Professionals of the foregoing shall object to any Professional Claims that comprise the Professional Fee Payment Amount. The U.S. Trustee's right to object to Professional Claims is reserved.

On the Effective Date, or within ten (10) days of their allowance for Professional Claims not Allowed as of the Effective Date (or authorized to be paid pursuant to any interim compensation order entered by the Bankruptcy Court), the Reorganized Debtors shall disburse Cash from the Professional Fee Escrow Account to pay Professional Claims in the amount Allowed by the Bankruptcy Court (or authorized to be paid pursuant to any interim compensation order entered by the Bankruptcy Court), but not to exceed the applicable Professional Fee Payment Amount *less* any amounts paid on account of Professional Claims prior to the Effective Date. The Debtors shall establish the Professional Fee Escrow Account in trust for the Professionals and fund the Professional Fee Escrow Account with Cash equal to the Professional Fee Escrow Amount on or prior to the Effective Date. Professionals shall deliver to the Debtors their estimates for purposes of the Reorganized Debtors computing the Professional Fee Escrow Amount no later than five (5) Business Days prior to the anticipated Effective Date. For the avoidance of doubt, no such estimate shall be deemed to limit the amount of the fees and expenses that are the subject of a Professional's final request for payment of Professional Claims filed with the Bankruptcy Court. If a Professional does not provide an estimate, the Debtors may estimate the unpaid and unbilled fees and expenses of such Professional. No funds in the Professional Fee Escrow Account shall be property of the Estates or the Reorganized Debtors nor shall be subject to any Lien. Any funds remaining in the Professional Fee Escrow Account after all Allowed Professional Claims have been paid (subject to the Professional Fee Payment Amount) will be turned over to New Opco.

From and after the Effective Date, (i) any requirement that Professionals comply with sections 327 through 331 and 1103 of the Bankruptcy Code in seeking retention or compensation for services rendered after such date shall terminate, and (ii) the Debtors or the Reorganized Debtors, as applicable, may employ and pay any Professional in the ordinary course of business without any further notice to or action, order, or approval of the Bankruptcy Court.

### **2.4. Priority Tax Claims**

Except to the extent that a holder of an Allowed Priority Tax Claim agrees to less favorable treatment, each holder of an Allowed Priority Tax Claim, or any portion thereof, due and payable on or before the Effective Date shall receive on the Effective Date, or as soon as practicable thereafter, from the respective Debtor liable for such Allowed Priority Tax Claim, payment in Cash in an amount equal to the amount of such Allowed Priority Tax Claim, or the portion thereof that is then due and payable. To the extent that any Allowed Priority Tax Claim, or any portion thereof, is not due and payable on the Effective Date, such Claim, or portion of such Claim, shall be paid in full in Cash in accordance with the terms of any agreement between the Debtors and the holder of such Claim, or as may be due and payable under applicable non-bankruptcy law, or in the ordinary course of business.

## ARTICLE III

### CLASSIFICATION, TREATMENT, AND VOTING OF CLAIMS AND INTERESTS

#### 3.1. Classification of Claims and Interests

The Plan constitutes a separate Plan proposed by each Debtor. Except for the Claims addressed in ARTICLE II, all Claims and Interests are classified in the Classes set forth below in accordance with section 1122 of the Bankruptcy Code. A Claim or an Interest is classified in a particular Class only to the extent that the Claim or Interest qualifies within the description of that Class and is classified in other Classes to the extent that any portion of the Claim or Interest qualifies within the description of such other Classes. A Claim or an Interest also is classified in a particular Class for the purpose of receiving distributions under the Plan only to the extent that such Claim or Interest is an Allowed Claim or Interest in that Class and has not been paid, released, or otherwise satisfied prior to the Effective Date.

Below is a chart assigning each Class a number for purposes of identifying each separate Class.

<b>Class</b>	<b>Claim or Interest</b>	<b>Status</b>	<b>Voting Rights</b>
1	Other Secured Claims	Unimpaired	Presumed to Accept
2	Other Priority Claims	Unimpaired	Presumed to Accept
3	ABL Facility Claims	Impaired	Entitled to Vote
4	Term Loan Facility Claims	Impaired	Entitled to Vote
5	Heat Treat Line Secured Claims	Impaired	Entitled to Vote
6	General Unsecured Claims	Impaired	Entitled to Vote
7	Intercompany Claims	Unimpaired	Presumed to Accept
8	Intercompany Interests	Unimpaired	Presumed to Accept
9	Boomerang Preferred Units	Impaired	Deemed to Reject
10	Boomerang Common Units	Impaired	Deemed to Reject
11	Boomerang Other Equity Securities	Impaired	Deemed to Reject
12	Section 510(b) Claims	Impaired	Deemed to Reject

#### 3.2. Treatment of Classes of Claims and Interests

Except to the extent that the Debtors or the Reorganized Debtors, as applicable, and a holder of an Allowed Claim or Interest, as applicable, agree to a less favorable or other treatment, such holder shall receive under the Plan the treatment described below in full and final satisfaction, settlement, release, and discharge of and in exchange for such holder's Allowed Claim or Interest. Unless otherwise indicated or as agreed by the Debtors or the Reorganized Debtors, as applicable, and a holder of an Allowed Claim or Interest, the holder of an Allowed Claim or Interest, as applicable, shall receive such treatment on, or as soon as practicable after, the latest of (i) the Effective Date, (ii) the date on which such Allowed Claim or Interest becomes Allowed, or (iii) the date on which such Allowed Claim or Interest becomes due and payable in the ordinary course of business or pursuant to the terms established by the Debtors and the holder thereof.

##### (a) **Class 1 — Other Secured Claims**

(1) *Classification:* Class 1 consists of any Other Secured Claims against any Debtor.

- (2) *Treatment:* Upon Allowance, each holder of an Allowed Class 1 Claim shall receive, as the Debtors or the Reorganized Debtors, as applicable, determine:
- A. reinstatement, or such other treatment, such that its Allowed Class 1 Claim is rendered Unimpaired in accordance with section 1124 of the Bankruptcy Code;
  - B. payment in full in Cash of its Allowed Class 1 Claim;
  - C. the collateral (or proceeds thereof, to the extent of the value of such holder's interest in such collateral) securing its Allowed Class 1 Claim and any interest required to be paid pursuant to section 506(b) of the Bankruptcy Code; or
  - D. such other distribution as necessary to satisfy the requirements of section 1129 of the Bankruptcy Code.
- (3) *Voting:* Class 1 is Unimpaired. Holders of Allowed Class 1 Claims are conclusively presumed to have accepted the Plan under section 1126(f) of the Bankruptcy Code. Holders of Allowed Class 1 Claims are not entitled to vote to accept or reject the Plan.

(b) **Class 2 — Other Priority Claims**

- (1) *Classification:* Class 2 consists of any Other Priority Claims against any Debtor.
- (2) *Treatment:* Each holder of an Allowed Class 2 Claim shall receive reinstatement, or such other treatment, such that its Allowed Class 2 Claim is rendered Unimpaired in accordance with section 1124 of the Bankruptcy Code.
- (3) *Voting:* Class 2 is Unimpaired. Holders of Allowed Class 2 Claims are conclusively presumed to have accepted the Plan under section 1126(f) of the Bankruptcy Code. Holders of Allowed Class 2 Claims are not entitled to vote to accept or reject the Plan.

(c) **Class 3 — ABL Facility Claims**

- (1) *Classification:* Class 3 consists of any ABL Facility Claims.
- (2) *Allowance:* On the Effective Date, all Class 3 Claims not previously determined to be Allowed pursuant to the DIP ABL Facility Order, or otherwise, shall be deemed Allowed in an amount equal to the then-existing obligations of the Debtors under the ABL Facility Documents.
- (3) *Treatment:* Each holder of an Allowed Class 3 Claim shall release the ABL Facility Limited Sponsor Guaranty and shall:
- A. receive payment in full in Cash of all unpaid amounts allowable as part of such holder's Class 3 Claim under section 506(b) of the Bankruptcy Code; and



- B. if the identities of the Exit ABL Facility Agent and Exit ABL Facility Lenders are, respectively, the same as those of the ABL Facility Agent and ABL Facility Lenders, receive its pro rata share (based on the aggregate commitments of the Exit ABL Facility Lenders under the DIP ABL Facility and the ABL Facility) of interests in the Exit ABL Facility Loans and the Exit ABL Facility Documents; or
  - C. if the identities of the Exit ABL Facility Agent and Exit ABL Facility Lenders are not, respectively, the same as those of the ABL Facility Agent and ABL Facility Lenders, receive Cash in an amount sufficient to pay in full all accrued, and collateralize all contingent, obligations and other amounts owed in accordance with the terms of the ABL Facility Documents.
- (4) *Voting:* Class 3 is Impaired. Holders of Allowed Class 3 Claims are entitled to vote to accept or reject the Plan.
- (d) **Class 4 — Term Loan Facility Claims**
- (1) *Classification:* Class 4 consists of any Term Loan Facility Claims.
  - (2) *Allowance:* On the Effective Date, Class 4 Claims shall be Allowed in the aggregate principal amount of not less than \$214,000,000, plus any accrued but unpaid interest thereon payable at the applicable non-default interest rate in accordance with the Term Loan Agreement.
  - (3) *Treatment:*
    - A. Each holder of an Allowed Class 4 Claim (or its designated investment advisor, manager, affiliate, related fund or managed account) shall receive:
      - 1. its pro rata share of one hundred percent (100%) of the New Holdco Common Stock (subject to dilution for (x) issuances of equity under a management incentive plan not to exceed five percent (5%) of the total outstanding equity of New Holdco, and (y) by the Exit Term Facility Closing Fee); and
      - 2. its pro rata share of one hundred percent (100%) of the Subordinated Notes; and
    - B. the Term Loan Agent shall receive payment in full in Cash of all outstanding professional fees and expenses payable to or incurred by the Term Loan Agent under and pursuant to the Term Loan Facility Documents.
  - (4) *Voting:* Class 4 is Impaired. Holders of Allowed Class 4 Claims are entitled to vote to accept or reject the Plan.

(e) **Class 5 – Heat Treat Line Secured Claims**

- (1) *Classification:* Class 5 consists of SBI Secured Claims and SBI Lender Secured Claims against Boomerang, and Class 5 shall be deemed a separate sub-Class with respect to each holder of an Allowed Class 5 Claim.
- (2) *Treatment:* Upon the Effective Date, each holder of an Allowed Class 5 Claim shall receive, at the Reorganized Debtors' election, one of the following treatments under the Plan:
  - A. **Class 5 Note Option:** The holders of the Class 5 Notes shall be subject to the following payment waterfall using the Debtors' maximum aggregate monthly payment obligations based on the Class 5 Note Base Calculation (*i.e.*, \$136,663.00 per month):
    1. First, a Class 5 Note shall be issued to the SBI Lender in the principal amount of the Allowed SBI Lender Secured Claim with monthly payments to be made equal to, but not exceeding, the SBI Lender Financing Agreement Payment Schedule (*i.e.*, \$108,740.00 per month) from the Effective Date through June 1, 2019 in accordance with the SBI Lender Financing Agreement Payment Schedule.
    2. Second, a Class 5 Note shall be issued to SBI in the principal amount of the Allowed SBI Secured Claim with monthly payments to be made equal to, but not exceeding, the difference between (i) the monthly payment amount paid in any month under the Class 5 Note issued to SBI Lender and (ii) the monthly payment amount under the Class 5 Note Base Calculation.

For the avoidance of doubt, issuance of the Class 5 Note to the holder(s) of SBI Lender Secured Claims shall also be deemed to satisfy SBI Secured Claims in the principal amount of such SBI Lender Note(s).

**OR**

- B. **Class 5 1111(b) Election Note Option:** The holders of the Class 5 1111(b) Election Notes shall be subject to the following payment waterfall using the Debtors' maximum aggregate monthly payment obligations based on the Class 5 1111(b) Election Note Base Calculation (*i.e.*, \$90,000.00 per month):
  1. First, a Class 5 1111(b) Election Note shall be issued to the SBI Lender in the principal amount of the Allowed SBI Lender Secured Claim with monthly payments to be made up to, but not exceeding, the Class 5 1111(b) Election Note Base Calculation amount (*i.e.*, \$90,000.00 per month) from the Effective Date through the date that the SBI Lender shall have received payments with a present value equal to the Allowed SBI Lender Secured Claim based on a 4.75% interest rate.

2. Second, a Class 5 1111(b) Election Note shall be issued to SBI with monthly payments to be made equal to, but not exceeding, the difference between (i) the monthly payment amount paid in any month under the Class 5 1111(b) Election Note issued to SBI Lender and (ii) the monthly payment amount under the Class 5 1111(b) Election Note Base Calculation; *provided that*, monthly payments may not commence until after the satisfaction of the SBI Lender Class 5 1111(b) Election Note.

For the avoidance of doubt, issuance of the Class 5 1111(b) Election Note to the holder(s) of SBI Lender Secured Claims shall also be deemed to satisfy SBI Secured Claims in the principal amount of such Class 5 1111(b) Election Note(s).

**OR**

- C. Abandonment of the SBI Heat Treat Line Collateral. The Reorganized Debtors shall abandon the SBI Heat Treat Line Collateral.

**OR**

- D. Such other treatment as the Debtors or Reorganized Debtors, as applicable, agree with the holder of an Allowed Class 5 Claim.

- (3) *Voting*: Class 5 is Impaired. Allowed Class 5 Claims are entitled to vote to accept or reject the Plan.

(f) **Class 6 — General Unsecured Claims**

- (1) *Classification*: Class 6 consists of any General Unsecured Claims against any Debtor.
- (2) *Treatment*: Each holder of an Allowed General Unsecured Claim shall receive its pro rata share of the GUC Consideration.
- (3) *Voting*: Class 6 is Impaired. Allowed Class 6 Claims are entitled to vote to accept or reject the Plan.

(g) **Class 7 — Intercompany Claims**

- (1) *Classification*: Class 7 consists of any Intercompany Claims.
- (2) *Treatment*: Each holder of an Allowed Class 7 Claim shall have its Allowed Class 7 Claim:
  - A. reinstated such that it is rendered Unimpaired in accordance with section 1124 of the Bankruptcy Code; or
  - B. cancelled and discharged, as mutually agreed by such holder and the Debtors or the Reorganized Debtors, as applicable.

- (3) *Voting:* Class 7 is Unimpaired. Holders of Allowed Class 7 Claims are conclusively presumed to have accepted the Plan under section 1126(f) of the Bankruptcy Code. Holders of Allowed Class 7 Claims are not entitled to vote to accept or reject the Plan.

(h) **Class 8 — Intercompany Interests**

- (1) *Classification:* Class 8 consists of any Intercompany Interests.
- (2) *Treatment:* Each holder of an Allowed Class 8 Interest shall have its Allowed Class 8 Interest left unaltered and rendered Unimpaired in accordance with section 1124 of the Bankruptcy Code.
- (3) *Voting:* Class 8 is Unimpaired. Holders of Allowed Class 8 Interests are conclusively presumed to have accepted the Plan under section 1126(f) of the Bankruptcy Code. Holders of Allowed Class 8 Interests are not entitled to vote to accept or reject the Plan.

(i) **Class 9 — Boomerang Preferred Units**

- (1) *Classification:* Class 9 consists of any Interests arising under or related to the Boomerang Preferred Units.
- (2) *Treatment:* Class 9 Interests will be canceled, released, and extinguished as of the Effective Date, and will be of no further force or effect, and holders of Class 9 Interests will not receive any distribution on account of such Class 9 Interests.
- (3) *Voting:* Class 9 is Impaired. Holders of Interests in Class 9 are deemed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code and, therefore, are not entitled to vote to accept or reject the Plan.

(j) **Class 10 — Boomerang Common Units**

- (1) *Classification:* Class 10 consists of any Interests arising under or related to the Boomerang Common Units.
- (2) *Treatment:* Class 10 Interests will be canceled, released, and extinguished as of the Effective Date, and will be of no further force or effect, and holders of Class 10 Interests will not receive any distribution on account of such Class 10 Interests.
- (3) *Voting:* Class 10 is Impaired. Holders of Interests in Class 10 are deemed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code and, therefore, are not entitled to vote to accept or reject the Plan.

(k) **Class 11 — Boomerang Other Equity Securities**

- (1) *Classification:* Class 11 consists of any Interests arising under or related to the Boomerang Other Equity Securities.

- (2) *Treatment:* Class 11 Interests will be canceled, released, and extinguished as of the Effective Date, and will be of no further force or effect, and holders of Class 11 Interests will not receive any distribution on account of such Class 11 Interests.
  - (3) *Voting:* Class 11 is Impaired. Holders of Interests in Class 11 are deemed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code and, therefore, are not entitled to vote to accept or reject the Plan.
- (1) **Class 12 — Section 510(b) Claims**
- (1) *Classification:* Class 12 consists of any Section 510(b) Claims against any Debtor.
  - (2) *Allowance:* Notwithstanding anything to the contrary herein, a Class 12 Claim, if any such Claim exists, may only become Allowed by Final Order of the Bankruptcy Court. The Debtors are not aware of any valid Class 12 Claim and believe that no such Class 12 Claim exists.
  - (3) *Treatment:* Allowed Class 12 Claims, if any, shall be discharged, canceled, released, and extinguished as of the Effective Date, and shall be of no further force or effect, and holders of Allowed Section 510(b) Claims shall not receive any distribution on account of such Allowed Section 510(b) Claims.
  - (4) *Voting:* Class 12 is Impaired. Holders (if any) of Allowed Class 12 Claims are conclusively deemed to have rejected the Plan under section 1126(g) of the Bankruptcy Code. Holders (if any) of Allowed Class 12 Claims are not entitled to vote to accept or reject the Plan.

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

Except as otherwise provided in the Plan, nothing under the Plan shall affect the Debtors' or the Reorganized Debtors' rights regarding any Unimpaired Claim, including all rights regarding legal and equitable defenses to or setoffs or recoupments against any such Unimpaired Claim.

### **3.4. Elimination of Vacant Classes**

Any Class of Claims or Interests that does not have a holder of an Allowed Claim or Allowed Interest or a Claim or Interest temporarily Allowed by the Bankruptcy Court as of the date of the Confirmation Hearing shall be deemed eliminated from the Plan for purposes of voting to accept or reject the Plan and for purposes of determining acceptance or rejection of the Plan by such Class pursuant to section 1129(a)(8) of the Bankruptcy Code.

### **3.5. Voting Classes; Presumed Acceptance by Non-Voting Classes**

If a Class contains Claims or Interests eligible to vote and no holders of Claims or Interests eligible to vote in such Class vote to accept or reject the Plan, the Debtors shall request the Bankruptcy Court to deem the Plan accepted by the holders of such Claims or Interests in such Class.

### **3.6. Confirmation Pursuant to Sections 1129(a)(10) and 1129(b) of the Bankruptcy Code**

The Debtors shall seek Confirmation of the Plan pursuant to section 1129(b) of the Bankruptcy Code with respect to any rejecting Class of Claims or Interests. The Debtors, with the consent of the Required Lenders, reserve the right to modify the Plan in accordance with ARTICLE X hereof to the extent, if any, that Confirmation pursuant to section 1129(b) of the Bankruptcy Code requires modification, including by modifying the treatment applicable to a Class of Claims or Interests to render such Class of Claims or Interests Unimpaired to the extent permitted by the Bankruptcy Code and the Bankruptcy Rules.

## **ARTICLE IV**

### **PROVISIONS FOR IMPLEMENTATION OF THE PLAN**

#### **4.1. General Settlement of Claims and Interests**

Unless otherwise set forth in the Plan, pursuant to section 1123 of the Bankruptcy Code and Bankruptcy Rule 9019, and in consideration for the classification, distributions, releases, and other benefits provided under the Plan, on the Effective Date, the provisions of the Plan shall constitute a good-faith compromise and settlement of all Claims and Interests.

#### **4.2. New Holdco Common Stock and New Opco Common Units**

All existing Equity Securities in Boomerang shall be cancelled as of the Effective Date, and no distribution under the Plan shall be made on account of such Equity Securities. On the Effective Date, (a) New Holdco shall issue New Holdco Common Stock to holders of Class 4 Claims entitled to receive New Holdco Common Stock pursuant to the Plan, and (b) New Opco shall issue one hundred percent (100%) of the New Opco Common Units to New Holdco. The issuance of New Holdco Common Stock and the New Opco Common Units, including, to the extent set forth herein, any options for the purchase thereof and equity awards associated therewith, are authorized without the need for any further corporate action and without any further action by the Debtors, New Holdco or New Opco, as applicable. The New Holdco Governance Documents shall authorize the issuance and distribution on the Effective Date of New Holdco Common Stock to the Distribution Agent for the benefit of holders of Allowed Claims in Class 4 as provided herein. The New Opco Governance Documents shall authorize the issuance and distribution on the Effective Date of New Opco Common Units to New Holdco. All New Holdco Common Stock and New Opco Common Units issued under the Plan shall be duly authorized, validly issued, fully paid, and non-assessable. The holders of New Holdco Common Stock and New Opco Common Units shall execute and become parties to the New Holdco Shareholders Agreement and the New Opco LLC Agreement, respectively (in their capacity as shareholders of New Holdco and unit holders of New Opco, respectively) as a condition to receiving their distributions under the Plan. All participants in the management incentive plan shall execute a joinder to the new Holdco Shareholders Agreement. The New Holdco Shareholders Agreement and the New Opco LLC Agreement shall be adopted on the Effective Date and shall be deemed to be valid, binding, and enforceable in accordance with their respective terms, and each holder of New Holdco Common Stock and New Opco Common Units (as applicable) shall be bound thereby.

#### **4.3. Exit ABL Facility**

The Reorganized Debtors may choose to enter into the Exit ABL Facility on the Effective Date, subject to the consent of the Majority Term Loan Lenders. In such event, on the Effective Date, the Reorganized Debtors shall execute and deliver the Exit ABL Facility Loan Documents, which shall

become effective and enforceable in accordance with their terms and the Plan. Confirmation of the Plan shall provide for and be deemed to approve of the Exit ABL Facility and the Exit ABL Facility Documents, and all transactions contemplated thereby, including, without limitation, any supplemental or additional syndication of the Exit ABL Facility, and all actions to be taken, undertakings to be made, and obligations to be incurred by the Reorganized Debtors in connection therewith, including the payment of all fees, indemnities, and expenses provided for therein, and authorization of the Reorganized Debtors to enter into and execute the Exit ABL Facility Documents and such other documents as may be required to effectuate the treatment afforded by the Exit ABL Facility. On the Effective Date, all of the Liens and security interests to be granted in accordance with the Exit ABL Facility Documents (a) shall be deemed to be approved, (b) shall be legal, binding, and enforceable Liens on, and security interests in, the collateral granted thereunder in accordance with the terms of the Exit ABL Facility Documents, (c) shall be deemed perfected on the Effective Date, subject only to such Liens and security interests as may be permitted to be senior to the Liens in favor of the Exit ABL Facility Agent under the Exit ABL Facility Documents, and (d) shall not be subject to recharacterization or equitable subordination for any purposes whatsoever and shall not constitute preferential transfers or fraudulent conveyances under the Bankruptcy Code or any applicable non-bankruptcy law. The Reorganized Debtors and the persons and entities granted such Liens and security interests are authorized to make all filings and recordings, and to obtain all governmental approvals and consents necessary to establish and perfect such Liens and security interests under the provisions of the applicable state, provincial, federal, or other law (whether domestic or foreign) that would be applicable in the absence of the Plan and the Confirmation Order (it being understood that perfection shall occur automatically by virtue of the entry of the Confirmation Order and any such filings, recordings, approvals, and consents shall not be required), and will thereafter cooperate to make all other filings and recordings that otherwise would be necessary under applicable law to give notice of such Liens and security interests to third parties. On and after the Effective Date, the relative Lien, payment, and enforcement priorities of (i) the Exit ABL Facility and the Exit Term Facility shall be governed by the terms of the Exit Intercreditor Agreement, and (ii) the Exit ABL Facility, the Exit Term Facility and the Subordinated Notes Facility shall be governed by the terms of the Subordinated Notes Intercreditor Agreement.

#### **4.4. Exit Term Facility**

On the Effective Date, the Reorganized Debtors shall execute and deliver the Exit Term Facility Loan Documents, which shall become effective and enforceable in accordance with their terms and the Plan. Confirmation of the Plan shall provide for and be deemed to approve of the Exit Term Facility and the Exit Term Facility Documents, and all transactions contemplated thereby, including, without limitation, any supplemental or additional syndication of the Exit Term Facility, and all actions to be taken, undertakings to be made, and obligations to be incurred by the Reorganized Debtors in connection therewith, including the payment of all fees, indemnities, and expenses provided for therein, and authorization of the Reorganized Debtors to enter into and execute the Exit Term Facility Documents and such other documents as may be required to effectuate the treatment afforded by the Exit Term Facility. On the Effective Date, all of the Liens and security interests to be granted in accordance with the Exit Term Facility Documents (a) shall be deemed to be approved, (b) shall be legal, binding, and enforceable Liens on, and security interests in, the collateral granted thereunder in accordance with the terms of the Exit Term Facility Documents, (c) shall be deemed perfected on the Effective Date, subject only to such Liens and security interests as may be permitted under the Exit Term Facility Documents, and (d) shall not be subject to recharacterization or equitable subordination for any purposes whatsoever and shall not constitute preferential transfers or fraudulent conveyances under the Bankruptcy Code or any applicable non-bankruptcy law. The Reorganized Debtors and the persons and entities granted such Liens and security interests are authorized to make all filings and recordings, and to obtain all governmental approvals and consents necessary to establish and perfect such Liens and security interests under the provisions of the applicable state, provincial, federal, or other law (whether domestic or foreign) that

would be applicable in the absence of the Plan and the Confirmation Order (it being understood that perfection shall occur automatically by virtue of the entry of the Confirmation Order and any such filings, recordings, approvals, and consents shall not be required), and will thereafter cooperate to make all other filings and recordings that otherwise would be necessary under applicable law to give notice of such Liens and security interests to third parties. On and after the Effective Date, the relative Lien, payment, and enforcement priorities of (i) the Exit Term Facility and the Exit ABL Facility shall be governed by the terms of the Exit Intercreditor Agreement, and (ii) the Exit Term Facility, the Exit ABL Facility and the Subordinated Notes Facility shall be governed by the terms of the Subordinated Notes Intercreditor Agreement.

#### **4.5. Subordinated Notes**

On the Effective Date, the Reorganized Debtors shall execute and deliver the Subordinated Notes Facility Loan Documents, which shall become effective and enforceable in accordance with their terms and the Plan. Confirmation of the Plan shall provide for and be deemed to approve of the Subordinated Notes Facility and the Subordinated Notes Facility Documents, and all transactions contemplated thereby, including, without limitation, the issuance of the Subordinated Notes, any supplemental or additional syndication of the Subordinated Notes Facility, and all actions to be taken, undertakings to be made, and obligations to be incurred by the Reorganized Debtors in connection therewith, including the payment of all fees, indemnities, and expenses provided for therein, and authorization of the Reorganized Debtors to enter into and execute the Subordinated Notes Facility Documents and such other documents as may be required to effectuate the treatment afforded by the Subordinated Notes Facility. On the Effective Date, all of the Liens and security interests to be granted in accordance with the Subordinated Notes Facility Documents (a) shall be deemed to be approved, (b) shall be legal, binding, and enforceable Liens on, and security interests in, the collateral granted thereunder in accordance with the terms of the Subordinated Notes Facility Documents, (c) shall be deemed perfected on the Effective Date, subject only to such Liens and security interests as may be permitted under the Subordinated Notes Facility Documents, and (d) shall not be subject to recharacterization or equitable subordination for any purposes whatsoever and shall not constitute preferential transfers or fraudulent conveyances under the Bankruptcy Code or any applicable non-bankruptcy law. The Reorganized Debtors and the persons and entities granted such Liens and security interests are authorized to make all filings and recordings, and to obtain all governmental approvals and consents necessary to establish and perfect such Liens and security interests under the provisions of the applicable state, provincial, federal, or other law (whether domestic or foreign) that would be applicable in the absence of the Plan and the Confirmation Order (it being understood that perfection shall occur automatically by virtue of the entry of the Confirmation Order and any such filings, recordings, approvals, and consents shall not be required), and will thereafter cooperate to make all other filings and recordings that otherwise would be necessary under applicable law to give notice of such Liens and security interests to third parties. On and after the Effective Date, the relative Lien, payment, and enforcement priorities of the Subordinated Notes Facility, the Exit ABL Facility and the Exit Term Facility shall be governed by the terms of the Subordinated Notes Intercreditor Agreement.

#### **4.6. Exemption from Registration Requirements**

The offering, issuance, and distribution of any Securities, including New Holdco Common Stock and the New Opco Common Units, pursuant to the Plan will be exempt from the registration requirements of section 5 of the Securities Act pursuant to section 1145 of the Bankruptcy Code or any other available exemption from registration under the Securities Act, as applicable. Pursuant to section 1145 of the Bankruptcy Code, New Holdco Common Stock and New Opco Common Units issued under the Plan will be freely transferable under the Securities Act by the recipients thereof, subject to: (a) the provisions of section 1145(b)(1) of the Bankruptcy Code relating to the definition of an “underwriter” in section 2(a)(11) of the Securities Act and compliance with applicable federal, state or foreign securities laws, if



any, and the rules and regulations of the United States Securities and Exchange Commission, if any, applicable at the time of any future transfer of such Securities or instruments; (b) the restrictions, if any, on the transferability of such Securities and instruments in the New Holdco Shareholders Agreement; and (c) any other applicable regulatory approval.

#### **4.7. Subordination**

Except as set forth herein, the allowance, classification, and treatment of all Claims and Interests under the Plan shall conform to and be consistent with the respective contractual, legal, and equitable subordination rights of such Claims and Interests, and the Plan shall recognize and implement any such rights. Pursuant to section 510 of the Bankruptcy Code, except where otherwise provided herein, the Reorganized Debtors reserve the right to re-classify any Allowed Claim or Interest in accordance with any contractual, legal, or equitable subordination relating thereto.

#### **4.8. Vesting of Assets in the Reorganized Debtors**

Except as otherwise provided herein, or in any agreement, instrument, or other document incorporated in the Plan (including, without limitation, the Exit ABL Facility Documents, the Exit Term Facility Documents and the Subordinated Notes Facility Documents, as applicable), on the Effective Date, all property in each Debtor's Estate (including, for the avoidance of doubt, the SBI Heat Treat Line Collateral unless abandoned prior to the Effective Date pursuant to Section 3.2(e)(2)(C) of the Plan), all Causes of Action, and any property acquired by any of the Debtors under the Plan shall vest in each respective Reorganized Debtor, free and clear of all Liens, Claims, charges, or other encumbrances. On and after the Effective Date, except as otherwise provided herein, each Reorganized Debtor may operate its business and may use, acquire, or dispose of property and compromise or settle any Claims, Interests, or Causes of Action without supervision or approval by the Bankruptcy Court and free of any restrictions of the Bankruptcy Code or Bankruptcy Rules.

For the avoidance of doubt, no funds in the GUC Consideration Escrow Account (or any Disputed Claims Reserve funded from the GUC Consideration) shall be property of the Estates or the Reorganized Debtors, or subject to any Lien, upon the occurrence of the Effective Date, and such funds shall be distributed to the holders of Allowed General Unsecured Claims in accordance with the provisions of the Plan.

Additionally, for the avoidance of doubt, no funds in the Professional Fee Escrow Account shall be property of the Estates or the Reorganized Debtors, or subject to any Lien, upon the occurrence of the Effective Date, and such funds shall be distributed to the holders of Professional Claims in accordance with the provisions of the Plan.

#### **4.9. Cancellation of Notes, Instruments, Certificates, and Other Documents**

On the Effective Date, except to the extent otherwise provided herein, all notes, instruments, Certificates, and other documents evidencing Claims or Interests shall be cancelled and the obligations of the Debtors or the Reorganized Debtors; *provided, however*, that notwithstanding Confirmation or the occurrence of the Effective Date, any credit document or agreement that governs the rights of the holder of a Claim or Interest shall continue in effect (a) solely for purposes of allowing holders of Allowed Claims to receive distributions under the Plan, (b) solely for purposes of allowing and preserving the rights of the Term Loan Agent and any Servicer, as applicable, to make distributions on account of Allowed Claims as provided herein, and (c) with respect to the rights of such holders and obligations that expressly survive the termination thereof. In addition, on the Effective Date, the ABL Facility Sponsor

Guaranty shall be cancelled and the obligations of the ABL Facility Guarantor thereunder or in any way related thereto shall be released.

#### **4.10. Corporate Action**

Each of the matters provided for by the Plan involving the corporate structure of New Holdco, the Debtors or corporate or related actions to be taken by or required of the Reorganized Debtors, whether taken prior to or as of the Effective Date, shall be deemed authorized and approved in all respects without the need for any further corporate action and without any further action by New Holdco, the Debtors or the Reorganized Debtors, as applicable. Such actions may include: (a) the adoption and filing of the New Holdco Certificate of Incorporation and the New Opco Certificate of Formation; (b) the adoption of the New Holdco Bylaws and the New Holdco Shareholders Agreement; (c) the execution of the New Opco LLC Agreement; (d) the selection of the directors, managers, and officers for New Holdco and the Reorganized Debtors, including the appointment of the New Board; (e) the authorization, issuance, and distribution of the New Holdco Common Stock, the Subordinated Notes and the New Opco Common Units; (f) the adoption, assumption, or rejection, as applicable, of Executory Contracts or Unexpired Leases; and (g) the entry into the Exit Term Facility, the Exit ABL Facility and the Subordinated Notes Facility and the execution and delivery of the Exit Term Facility Documents, the Exit ABL Facility Documents and the Subordinated Notes Facility Documents, as and to the extent applicable.

#### **4.11. Charters and Organizational Documents**

The New Holdco Certificate of Incorporation and the New Holdco Bylaws shall be consistent with the provisions of the Plan and the Bankruptcy Code, and such documents and agreements shall be consistent in all respects with, and shall otherwise contain, the terms and conditions set forth on the exhibits hereto. The New Holdco Governance Documents shall, among other things: (a) authorize the issuance of the New Holdco Common Stock; and (b) pursuant to and only to the extent required by section 1123(a)(6) of the Bankruptcy Code, include a provision prohibiting the issuance of non-voting Equity Securities. After the Effective Date, New Holdco may amend and restate its certificate of incorporation and other formation and constituent documents as permitted by the laws of its respective jurisdiction of formation and the terms of such documents.

The Debtors' respective certificates of incorporation and bylaws (and other formation and constituent documents relating to limited liability companies) shall be amended as may be required to be consistent with the provisions of the Plan, the Exit Term Facility Documents, as applicable, the Exit ABL Facility Documents, as applicable, the Subordinated Notes Facility Documents, as applicable, and the Bankruptcy Code, and such documents and agreements shall be consistent in all respects with, and shall otherwise contain, the terms and conditions set forth on the exhibits hereto. The New Opco Governance Documents shall, among other things: (a) authorize the issuance of the New Opco Common Units and the Subordinated Notes; and (b) pursuant to and only to the extent required by section 1123(a)(6) of the Bankruptcy Code, include a provision prohibiting the issuance of non-voting Equity Securities. After the Effective Date, each Reorganized Debtor may amend and restate its certificate of incorporation and other formation and constituent documents as permitted by the laws of its respective jurisdiction of formation and the terms of such documents.

#### **4.12. Effectuating Documents; Further Transactions**

On and after the Effective Date, the Reorganized Debtors, and the officers and members of the boards of directors and managers thereof, are authorized to and may issue, execute, deliver, file, or record such contracts, Securities, instruments, releases, and other agreements or documents and take such actions as may be necessary or appropriate to effectuate, implement, and further evidence the terms and

conditions of the Plan, the Exit Term Facility Documents, as applicable, the Exit ABL Facility Documents, as applicable, the Subordinated Notes Facility Documents, as applicable, and the Securities issued pursuant to the Plan in the name of and on behalf of the Reorganized Debtors, without the need for any approvals, authorizations, or consents except for those expressly required under the Plan.

#### **4.13. Section 1146(a) Exemption**

To the fullest extent permitted by section 1146(a) of the Bankruptcy Code, any transfers (whether from a Debtor to a Reorganized Debtor or to any other Person) of property under the Plan, including: (a) the issuance, distribution, transfer, or exchange of any debt, equity security, or other interest in New Holdco, the Debtors or the Reorganized Debtors; (b) the creation, modification, consolidation, termination, refinancing, and/or recording of any mortgage, deed of trust, or other security interest, or the securing of additional indebtedness by such or other means; (c) the making, assignment, or recording of any lease or sublease; (d) the grant of collateral as security for any or all of the Exit Term Facility or the Exit ABL Facility, as applicable; or (e) the making, delivery, or recording of any deed or other instrument of transfer under, in furtherance of, or in connection with, the Plan, including any deeds, bills of sale, assignments, or other instrument of transfer executed in connection with any transaction arising out of, contemplated by, or in any way related to the Plan, shall not be subject to any document recording tax, stamp tax, conveyance fee, intangibles or similar tax, mortgage tax, real estate transfer tax, mortgage recording tax, Uniform Commercial Code filing or recording fee, regulatory filing or recording fee, or other similar tax or governmental assessment, and upon entry of the Confirmation Order, the appropriate state or local governmental officials or agents shall forego the collection of any such tax or governmental assessment and accept for filing and recordation any of the foregoing instruments or other documents without the payment of any such tax, recordation fee, or governmental assessment. All filing or recording officers (or any other Person with authority over any of the foregoing), wherever located and by whomever appointed, shall comply with the requirements of section 1146(a) of the Bankruptcy Code, shall forego the collection of any such tax or governmental assessment, and shall accept for filing and recordation any of the foregoing instruments or other documents without the payment of any such tax or governmental assessment.

#### **4.14. Directors and Officers**

The members of the New Board and the officers, directors, and/or managers of each of the Reorganized Debtors and New Holdco will be identified in the Plan Supplement and the members of the board of directors of any subsidiary of the Reorganized Debtors shall be satisfactory to the Majority Term Loan Lenders. The members of Boomerang's board of directors shall be deemed to have resigned as of the Effective Date. On the Effective Date, the New Board will consist of seven (7) members, (i) one (1) of whom will be New Holdco's chief executive officer (once appointed), (ii) four (4) of whom will be appointed initially by the Majority Holder, (iii) one (1) of whom will be appointed initially by the second largest holder (including any affiliated holder or holders under common control with respect to such holder) of New Holdco Common Stock on the Effective Date, and (iv) one (1) of whom will be appointed initially by the holders of a majority of the New Holdco Common Stock on the Effective Date other than the two largest holders (including, with respect to each such holder, any affiliated holder or holders under common control with respect to such holder) of the New Holdco Common Stock. On the Effective Date, the existing officers of the Debtors shall serve in their current capacities for the Reorganized Debtors. From and after the Effective Date, each director, officer, or manager of New Holdco and the Reorganized Debtors shall serve pursuant to the terms of their respective charters and bylaws or other formation and constituent documents, and applicable laws of the applicable jurisdiction of formation. In accordance with section 1129(a)(5) of the Bankruptcy Code, the identities and affiliations of the proposed members of the New Board and any Person proposed to serve as an officer of New Holdco shall be disclosed at or before the Confirmation Hearing.

In connection with the Transaction, the Debtors shall secure tail liability coverage for a period of six (6) years for the Debtors' directors and officers effective as of the Effective Date that is consistent with the existing directors' and officers' liability coverage.

#### **4.15. Incentive Plans and Employee and Retiree Benefits**

Except as otherwise provided herein, on and after the Effective Date, subject to any Final Order, and without limiting any authority provided to the New Board under the Debtors' respective certificates of incorporation, bylaws and other formation and constituent documents, the Reorganized Debtors shall: (a) amend, adopt, assume and/or honor in the ordinary course of business, any contracts, agreements, policies, programs, and plans, in accordance with their respective terms, for, among other things, compensation, including any incentive plans, health care benefits, disability benefits, deferred compensation benefits, savings, severance benefits, retirement benefits, welfare benefits, workers' compensation insurance, and accidental death and dismemberment insurance for the directors, officers, and employees of any of the Debtors who served in such capacity from and after the Petition Date; and (b) honor, in the ordinary course of business, Claims of employees employed as of the Effective Date for accrued vacation time arising prior to the Petition Date and not otherwise paid pursuant to a Bankruptcy Court order. Notwithstanding the foregoing, pursuant to section 1129(a)(13) of the Bankruptcy Code, from and after the Effective Date, all retiree benefits (as such term is defined in section 1114 of the Bankruptcy Code), if any, shall continue to be paid in accordance with applicable law.

#### **4.16. Preservation of Rights of Action and Covenant Not to Sue**

Unless any Causes of Action against an Entity are expressly waived, relinquished, exculpated, released, compromised, or settled in the Plan or by a Final Order, in accordance with section 1123(b) of the Bankruptcy Code, the Reorganized Debtors shall retain and may enforce all rights to commence and pursue any and all Causes of Action, whether arising before or after the Petition Date, including any actions specifically enumerated in the Plan Supplement, and the Reorganized Debtors' rights to commence, prosecute, or settle such Causes of Action shall be preserved notwithstanding the occurrence of the Effective Date. **No Entity may rely on the absence of a specific reference in the Plan, the Plan Supplement, or the Disclosure Statement to any Cause of Action against them as any indication that the Debtors or the Reorganized Debtors will not pursue any and all available Causes of Action against them. The Debtors and the Reorganized Debtors expressly reserve all rights to prosecute any and all Causes of Action against any Entity, except as otherwise expressly provided herein.** Unless any Causes of Action against an Entity are expressly waived, relinquished, exculpated, released, compromised, or settled in the Plan or a Bankruptcy Court order, the Reorganized Debtors expressly reserve all Causes of Action, for later adjudication, and, therefore no preclusion doctrine, including the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion, estoppel (judicial, equitable, or otherwise), or laches, shall apply to such Causes of Action upon, after, or as a consequence of the Confirmation or Consummation.

Subject to Section 8.2 of the Plan, the Reorganized Debtors reserve and shall retain all Causes of Action. In accordance with section 1123(b)(3) of the Bankruptcy Code, any Causes of Action that a Debtor may hold against any Entity shall vest in the Reorganized Debtors. The applicable Reorganized Debtor, through its authorized agents or representatives, shall retain and may exclusively enforce any and all such Causes of Action. The Reorganized Debtors shall have the exclusive right, authority, and discretion to determine and to initiate, file, prosecute, enforce, abandon, settle, compromise, release, withdraw, or litigate to judgment any such Causes of Action, or to decline to do any of the foregoing, without the consent or approval of any third party or any further notice to or action, order, or approval of the Bankruptcy Court.

The Reorganized Debtors covenant and agree not to bring, and upon the Effective Date shall waive and release, any Avoidance Action against any party except for the Eisenberg Parties and SBI Parties.

#### **4.17. Restructuring Transactions**

On the Effective Date, the Debtors, with the consent of the Required Lenders, or the Reorganized Debtors, as applicable, may enter into the following transactions and take any actions as may be necessary or appropriate to effect a corporate restructuring of their respective businesses or a corporate restructuring of the overall corporate structure of the Reorganized Debtors, as and to the extent provided therein. The Restructuring Transactions may include one or more intercompany mergers, consolidations, amalgamations, arrangements, continuances, restructurings, conversions, dissolutions, transfers, liquidations, or other corporate transactions as may be determined by the Debtors, with the consent of the Required Lenders, or the Reorganized Debtors, as applicable, to be necessary or appropriate. The actions to effect the Restructuring Transactions may include: (a) the execution and delivery of appropriate agreements or other documents of merger, amalgamation, consolidation, restructuring, conversion, disposition, transfer, arrangement, continuance, dissolution, sale, purchase, or liquidation containing terms that are consistent with the terms of the Plan; (b) the execution and delivery of appropriate instruments of transfer, assignment, assumption, or delegation of any asset, property, right, liability, debt, or obligation on terms consistent with the terms of the Plan and having other terms for which the applicable parties agree; (c) the filing of appropriate certificates or articles of incorporation, reincorporation, merger, consolidation, conversion, amalgamation, arrangement, continuance, or dissolution pursuant to applicable state law; and (d) all other actions that the applicable Entities determine to be necessary or appropriate, including making filings or recordings that may be required by applicable law in connection with the Restructuring Transactions.

#### **4.18. Certain Released Party Actions and Plan Settlement Implementation Provisions**

##### **(a) Sponsor Actions**

The consideration for inclusion of the Sponsor as a “Released Party” under the Plan includes, among other things, and as a condition to approval of inclusion of the Sponsor as a “Released Party,” the following: (i) conditioned upon the occurrence of the Effective Date, on or prior to the Effective Date, the Sponsor shall pay \$500,000 to the Reorganized Debtors for the sole purpose of paying employee- related obligations (either existing obligations of the Debtors or future obligations of the Reorganized Debtors), as determined (x) by the Debtors’ Chief Restructuring Officer or (y) if he ceases to serve as the Chief Restructuring Officer, by the Reorganized Debtors, (ii) upon the Effective Date, the Sponsor shall waive any General Unsecured Claims that it holds (as well as any right to receive any distributions from the GUC Consideration on account of such Claims), and (iii) the Sponsor has consented to its inclusion in the “Releasing Parties” under the Plan.

##### **(b) Officer Actions**

As partial consideration for his inclusion as a “Released Party” under the Plan and as a condition to approval of his inclusion as a “Released Party,” (i) upon the Effective Date, Sudhakar Kanthamneni shall waive any General Unsecured Claims that he holds (as well as any right to receive any distributions from the GUC Consideration on account of such Claims), and (ii) Mr. Kanthamneni has consented to his inclusion in the “Releasing Parties” under the Plan.

(c) Creditors Committee's and its Members' Covenant

The Creditors Committee and its counsel and the members of the Creditors Committee and their counsel shall not seek any substantial contribution fee award or request any fee enhancement, success fee or any other similar amounts, and no such amounts shall be Allowed.

**ARTICLE V****TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES****5.1. Assumption of Executory Contracts and Unexpired Leases**

Except as otherwise provided herein, or in any contract, instrument, release, indenture or other agreement or document entered into in connection with the Plan, each of the Debtors' Executory Contracts and Unexpired Leases shall be deemed rejected as of the Effective Date, unless such Executory Contract or Unexpired Lease: (1) was assumed or rejected previously by the Debtors; (2) previously expired or terminated pursuant to its own terms; (3) is the subject of a motion to assume or reject filed on or before the Effective Date; or (4) is identified as an Executory Contract or Unexpired Lease to be assumed pursuant to the Plan Supplement before the Effective Date.

Entry of the Confirmation Order shall constitute a Bankruptcy Court order approving the assumptions or rejections of such Executory Contracts or Unexpired Leases as set forth in the Plan, all pursuant to sections 365(a) and 1123 of the Bankruptcy Code. Unless otherwise indicated, all assumptions or rejections of Executory Contracts and Unexpired Leases pursuant to the Plan are effective as of the Effective Date. Each Executory Contract or Unexpired Lease assumed pursuant to the Plan or by Bankruptcy Court order but not assigned to a third party before the Effective Date shall revert in and be fully enforceable by the applicable contracting Reorganized Debtor in accordance with its terms, except as such terms may have been modified by such order. Notwithstanding anything to the contrary in the Plan, the Debtors or the Reorganized Debtors, as applicable, reserve the right to alter, amend, modify or supplement the list of Executory Contracts and Unexpired Leases identified in the Plan Supplement at any time before the Effective Date. Any alteration, amendment, modification or supplement to the list of Executory Contracts and Unexpired Leases identified for assumption in the Plan Supplement shall be agreed to by the Majority Term Loan Lenders. After the Effective Date, the Reorganized Debtors shall have the right to terminate, amend or modify any intercompany contracts, leases or other agreements without approval of the Bankruptcy Court.

**5.2. Claims Based on Rejection of Executory Contracts and Unexpired Leases**

All Proofs of Claim with respect to Claims arising from the rejection of Executory Contracts or Unexpired Leases, if any, must be filed with the Bankruptcy Court no later than 30 days after entry of an order of the Bankruptcy Court (including the Confirmation Order) approving such rejection. **Any Claims arising from the rejection of an Executory Contract or Unexpired Lease for which Proofs of Claim were not timely filed as set forth in the immediately preceding sentence shall be automatically disallowed, forever barred from assertion and shall not be enforceable against the Debtors or the Reorganized Debtors, the Estates or their property without the need for any objection by the Reorganized Debtors or further notice to, or action, order or approval of the Bankruptcy Court.** All Allowed Claims arising from the rejection of the Debtors' Executory Contracts or Unexpired Leases shall be deemed General Unsecured Claims and classified as Class 6 against the appropriate Debtor. The deadline to object to Claims arising from the rejection of Executory Contracts or Unexpired Leases, if any, as the later of (a) 90 days following the date on which such Claim was filed and (b) such other period

of limitations as may be specifically fixed by an order of the Bankruptcy Court for objecting to such Claims.

### **5.3. Indemnification**

On and as of the Effective Date, the Indemnification Provisions will be assumed and irrevocable and will survive the effectiveness of the Plan, and the Reorganized Debtors' governance documents will provide for the indemnification, defense, reimbursement, exculpation, and/or limitation of liability of, and advancement of fees and expenses to the Debtors' and the Reorganized Debtors' current directors, officers, and employees at least to the same extent as the organizational documents of each of the respective Debtors on the Petition Date, against any claims or Causes of Action whether direct or derivative, liquidated or unliquidated, fixed or contingent, disputed or undisputed, matured or unmatured, known or unknown, foreseen or unforeseen, asserted or unasserted, and none of the Reorganized Debtors will amend and/or restate their respective governance documents before the Effective Date to terminate or adversely affect any of the Reorganized Debtors' obligations to provide such indemnification rights or such directors', officers', or employees' rights. For the avoidance of doubt, on and as of the Effective Date, the obligations of the Debtors set forth in the Management Agreement will be assumed and irrevocable and will survive the effectiveness of the Plan.

### **5.4. Cure of Defaults and Objections to Cure and Assumption**

The Debtors or the Reorganized Debtors, as applicable, shall pay Cures, if any, on the Effective Date or as soon as practicable thereafter. Unless otherwise agreed upon in writing by the parties to the applicable Executory Contract or Unexpired Lease, any objection to the assumption (or assumption and assignment) of an Executory Contract or Unexpired Lease under the Plan, including without limitation any objection to any Cure paid or proposed to be paid by the Debtors or the Reorganized Debtors, must be filed with the Bankruptcy Court on the date that is no more than 14 days from the filing and service of a notice designating such Executory Contract or Unexpired Lease for assumption (or assumption and assignment). Any objection to a proposed Cure that is not timely filed shall be disallowed and forever barred, estopped, and enjoined from assertion, and shall not be enforceable against any Reorganized Debtor, without the need for any objection by the Reorganized Debtors or any other party in interest or any further notice to or action, order, or approval of the Bankruptcy Court. Any Cure shall be deemed fully satisfied, released, and discharged upon payment by the Debtors or the Reorganized Debtors of the Cure; *provided, however*, that nothing in the Plan shall prevent the Reorganized Debtors from paying any Cure despite the failure of the relevant counterparty to file such request for payment of such Cure. The Reorganized Debtors also may settle any Cure without any further notice to or action, order, or approval of the Bankruptcy Court. Any such timely filed objection will be scheduled to be heard by the Bankruptcy Court on the Confirmation Date or, at the discretion of the Debtors' or Reorganized Debtors', as applicable, at a subsequent omnibus hearing date. Any counterparty to an Executory Contract or Unexpired Lease that fails to timely object to the proposed assumption (or assumption and assignment) of any Executory Contract or Unexpired Lease will be deemed to have consented to such assumption (or assumption and assignment).

If there is a dispute regarding Cure, the ability of the Reorganized Debtors or any assignee to provide "adequate assurance of future performance" within the meaning of section 365 of the Bankruptcy Code, or any other matter pertaining to assumption, then payment of Cure shall occur as soon as practicable after entry of a Final Order resolving such dispute, approving such assumption (and, if applicable, assignment), or as may be agreed upon by the Debtors or the Reorganized Debtors, as applicable, and the counterparty to the Executory Contract or Unexpired Lease.

Assumption of any Executory Contract or Unexpired Lease pursuant to the Plan or otherwise shall result in the full release and satisfaction of any Cures, Claims, or defaults, whether monetary or nonmonetary, including defaults of provisions restricting the change in control or ownership interest composition or other bankruptcy-related defaults, arising under any assumed Executory Contract or Unexpired Lease at any time prior to the effective date of assumption. Any and all Proofs of Claim based upon Executory Contracts or Unexpired Leases that have been assumed in the Chapter 11 Cases, including pursuant to the Confirmation Order, shall be deemed disallowed and expunged as of the Effective Date without the need for any objection thereto or any further notice to or action, order, or approval of the Bankruptcy Court.

**5.5. Contracts, Intercompany Contracts, and Leases Entered Into After the Petition Date**

Contracts, Intercompany Contracts, and leases entered into after the Petition Date by any Debtor and any Executory Contracts and Unexpired Leases assumed by any Debtor may be performed by the applicable Reorganized Debtor in the ordinary course of business.

**5.6. Reservation of Rights**

Nothing contained in the Plan or the Plan Supplement shall constitute an admission by the Debtors or any other party that any such contract or lease is in fact an Executory Contract or Unexpired Lease or that any Reorganized Debtor has any liability thereunder. If there is a dispute regarding whether a contract or lease is or was executory or unexpired at the time of assumption, the Debtors or the Reorganized Debtors, as applicable, shall have forty-five (45) days following entry of a Final Order resolving such dispute to alter their treatment of such contract or lease.

**ARTICLE VI**

**PROVISIONS GOVERNING DISTRIBUTIONS**

**6.1. Distributions on Account of Claims Allowed as of the Effective Date**

**(a) Delivery of Distributions in General**

Except as otherwise provided herein, a Final Order, or as otherwise agreed to by the Debtors or the Reorganized Debtors, as the case may be, and the holder of the applicable Claim, on the first Distribution Date, the Distribution Agent shall make initial distributions under the Plan on account of Claims and Interests Allowed on or before the Effective Date, subject to the Reorganized Debtors' right to object to Claims and Interests, and subject to the establishment of appropriate reserves for Disputed Claims in any class receiving a distribution as of such Distribution Date; *provided, however*, that (1) Allowed Administrative Claims with respect to liabilities incurred by the Debtors in the ordinary course of business during the Chapter 11 Cases or assumed by the Debtors prior to the Effective Date shall be paid or performed in the ordinary course of business in accordance with the terms and conditions of any controlling agreements, course of dealing, course of business, or industry practice, and (2) Allowed Priority Tax Claims shall be paid in accordance with Section 2.4. To the extent that any Allowed Priority Tax Claim is not due and owing on the Effective Date, such Claim shall be paid in full in Cash in accordance with the terms of any agreement between the Debtors and the holder of such Claim or as may be due and payable under applicable non-bankruptcy law or in the ordinary course of business. The timing of each Distribution Date shall be determined in the Reorganized Debtors' discretion subject to Section 7.5.



**(b) Disputed Claims Reserve**

On the Initial Distribution Date, and after making all Distributions required to be made on such date under the Plan, the Reorganized Debtors shall establish a separate Disputed Claims Reserve for Disputed Claims, which Disputed Claims Reserve shall be administered by the Reorganized Debtors. The Reorganized Debtors shall reserve in Cash or other property, for Distribution on account of each Disputed Claim, the pro rata amount that such Disputed Claim would be entitled to receive under the Plan if it were to become an Allowed Claim in its respective Class (or such lesser amount as may be determined by the Reorganized Debtors and the holder of such Disputed Claim or by the Bankruptcy Court in accordance with Article VII hereof). Any Disputed Claims Reserve(s) established for holders of Disputed General Unsecured Claims shall remain in the GUC Consideration Escrow Account and shall be treated as a “sub-class” within the GUC Consideration Escrow Account.

**6.2. Special Rules for Distributions to Holders of Disputed Claims**

Notwithstanding any provision otherwise in the Plan and except as otherwise agreed by the relevant parties no partial payments and no partial distributions shall be made with respect to a Disputed Claim until all such disputes in connection with such Disputed Claim have been resolved by settlement or Final Order. Any dividends or other distributions arising from property distributed to holders of Allowed Claims, as applicable, in a Class and paid to such holders under the Plan shall also be paid, in the applicable amounts, to any holder of a Disputed Claim, as applicable, in such Class that becomes an Allowed Claim after the date or dates that such dividends or other distributions were earlier paid to holders of Allowed Claims in such Class.

**6.3. Delivery of Distributions****(a) Record Date for Distributions to Holders of Non-Publicly Traded Securities**

On the Effective Date, the Claims Register shall be closed and the Distribution Agent shall be authorized and entitled to recognize only those record holders, if any, listed on the Claims Register as of the Effective Date; *provided* that nothing set forth in this sentence shall be construed as extending the Bar Date applicable to any holder of a Claim. Notwithstanding the foregoing, if a Claim or Interest, other than one based on a publicly traded Certificate, is transferred and the Debtors have been notified in writing of such transfer less than ten (10) days before the Effective Date, the Distribution Agent shall make distributions to the transferee (rather than the transferor) only to the extent practical and in any event only if the relevant transfer form contains an unconditional and explicit certification and waiver of any objection to the transfer by the transferor.

**(b) Distribution Process**

The Distribution Agent shall make all distributions required under the Plan, except that distributions to holders of Allowed Claims or Interests governed by a separate agreement and administered by a Servicer shall be deposited with the appropriate Servicer, at which time such distributions shall be deemed complete, and the Servicer shall deliver such distributions in accordance with the Plan and the terms of the governing agreement. Except as otherwise provided herein, and notwithstanding any authority to the contrary, distributions to holders of Allowed Claims, including Claims that become Allowed after the Effective Date, shall be made to holders of record as of the Effective Date by the Distribution Agent or a Servicer, as appropriate: (i) to the address of such holder as set forth in the books and records of the applicable Debtor (or if the Debtors have been notified in writing, on or before the date that is ten (10) days before the Effective Date, of a change of address, to the changed address; the filing of a Proof of Claim shall satisfy such notice requirement); (ii) in accordance with

Federal Rule of Civil Procedure 4, as modified and made applicable by Bankruptcy Rule 7004, if no address exists in the Debtors books and records, no Proof of Claim has been filed and the Distribution Agent has not received a written notice of a change of address on or before the date that is ten (10) days before the Effective Date; or (iii) on any counsel that has appeared in the Chapter 11 Cases on the holder's behalf. Notwithstanding anything to the contrary in the Plan, including this Section 6.3, distributions under the Plan to holders of Term Loan Facility Claims shall be made to, or to Entities at the direction of, the Term Loan Agent in accordance with the terms of the Plan and the Term Loan Agreement. The Debtors, the Reorganized Debtors, and the Distribution Agent, as applicable, shall not incur any liability whatsoever on account of any distributions under the Plan. In addition, notwithstanding anything to contrary contained herein, including this Section 6.3, distributions under the Plan to holders of publicly traded securities shall be made in accordance with customary distribution procedures applicable to such securities.

**(c) Accrual of Dividends and Other Rights**

For purposes of determining the accrual of distributions or other rights after the Effective Date, the New Holdco Common Stock and New Opco Common Units shall be deemed distributed as of the Effective Date regardless of the date on which they are actually issued, dated, authenticated, or distributed; *provided, however*, none of New Holdco or the Reorganized Debtors shall pay any such distributions or distribute such other rights, if any, until after distributions of the New Holdco Common Stock or New Opco Common Units, as applicable, actually take place.

**(d) Compliance Matters**

In connection with the Plan, to the extent applicable, the Reorganized Debtors and the Distribution Agent shall comply with all tax withholding and reporting requirements imposed on them by any Governmental Unit, and all distributions pursuant to the Plan shall be subject to such withholding and reporting requirements. Notwithstanding any provision in the Plan to the contrary, the Reorganized Debtors and the Distribution Agent shall be authorized to take all actions necessary or appropriate to comply with such withholding and reporting requirements, including liquidating a portion of the distribution to be made under the Plan to generate sufficient funds to pay applicable withholding taxes, withholding distributions pending receipt of information necessary to facilitate such distributions, or establishing any other mechanisms they believe are reasonable and appropriate. The Reorganized Debtors reserve the right to allocate all distributions made under the Plan in compliance with all applicable wage garnishments, alimony, child support, and other spousal awards, liens, and encumbrances.

**(e) Foreign Currency Exchange Rate**

Except as otherwise provided in a Bankruptcy Court order, as of the Effective Date, any Claim asserted in currency other than U.S. dollars shall be automatically deemed converted to the equivalent U.S. dollar value using the exchange rate for the applicable currency as published in The Wall Street Journal, National Edition, on the Effective Date.

**(f) Fractional, Undeliverable, Unclaimed, and De Minimis Distributions**

- (1) *Fractional Distributions.* Whenever any distribution of fractional shares of New Holdco Common Stock or New Opco Common Units would otherwise be required pursuant to the Plan, the actual distribution shall reflect a rounding of such fraction to the nearest share (up or down), with half shares or less being rounded down. Whenever any payment of Cash of a fraction of a dollar pursuant to the Plan would otherwise be required, the actual payment shall reflect a

rounding of such fraction to the nearest whole dollar (up or down), with half dollars or less being rounded down.

- (2) *Undeliverable Distributions.* If any distribution to a holder of an Allowed Claim is returned to the Distribution Agent as undeliverable, no further distributions shall be made to such holder unless and until the Distribution Agent is notified in writing of such holder's then-current address or other necessary information for delivery, at which time all currently due missed distributions shall be made to such holder on the next Distribution Date. Undeliverable distributions shall remain in the possession of the Reorganized Debtors, until such time as a distribution becomes deliverable, or such distribution reverts to the Reorganized Debtors or to holders of Allowed General Unsecured Claims, or is cancelled pursuant to Section 6.3(f)(4), and shall not be supplemented with any interest, dividends, or other accruals of any kind.
- (3) *De Minimis Distributions.* The Reorganized Debtors shall not be required to make any distribution to a Holder of a Claim if the total amount to be distributed on account of its Allowed Claims is less than \$25.00 (the "Distribution Threshold"). Any amounts that would be distributed to the holder of an Allowed Claim that are, in the aggregate, less than the Distribution Threshold shall be retained in the Disputed Claims Reserve until such time as the aggregate distributions to be made on account of such Claim are equal to or exceed the Distribution Threshold. If, at the time that final distributions are made to holders of a class of Claims, the total distribution to which a holder is entitled does not exceed the Distribution Threshold, the funds on account of such claim shall revert to the Reorganized Debtors or to holders of Allowed General Unsecured Claims in accordance with Section 6.3(f)(4).
- (4) *Reversion/Redistribution.* Any distribution under the Plan that is an Unclaimed Distribution for a period of six months after distribution shall be deemed unclaimed property under section 347(b) of the Bankruptcy Code and such Unclaimed Distribution shall revert in the applicable Reorganized Debtor; *provided that*, to the extent such Unclaimed Distribution is on account of an Allowed General Unsecured Claim, such Unclaimed Distribution shall be distributed pro rata to all other holders of Allowed General Unsecured Claims entitled to a distribution in accordance with the Plan. To the extent that such Unclaimed Distribution is New Holdco Common Stock or New Opco Common Units, shall be deemed cancelled. Upon such revesting, the Claim of any holder or its successors with respect to such property shall be cancelled, discharged, and forever barred notwithstanding any applicable federal or state escheat, abandoned, or unclaimed property laws, or any provisions in any document governing the distribution that is an Unclaimed Distribution, to the contrary.

**(g) Surrender of Cancelled Instruments or Securities**

On the Effective Date, each holder of a Certificate shall be deemed to have surrendered such Certificate to the Distribution Agent or a Servicer (to the extent that the relevant Claim or Interest is governed by an agreement and administered by a Servicer). Notwithstanding the foregoing paragraph, this Section 6.3(g) shall not apply to any Claims and Interests reinstated pursuant to the terms of the Plan.

**6.4. Claims Paid or Payable by Third Parties****(a) Claims Paid by Third Parties**

A Claim shall be reduced in full, and such Claim shall be disallowed without an objection to such Claim having to be filed and without any further notice to or action, order, or approval of the Bankruptcy Court, to the extent that the holder of such Claim receives payment in full on account of such Claim from a party that is not a Debtor or a Reorganized Debtor. To the extent that a holder of a Claim receives a distribution on account of such Claim and receives payment from a party that is not a Debtor or a Reorganized Debtor on account of such Claim, such holder shall repay, return or deliver any distribution held by or transferred to the holder to the applicable Reorganized Debtor to the extent that the holder's total recovery on account of such Claim from the third party and under the Plan exceeds the amount of such Claim as of the date of any such distribution under the Plan.

**(b) Claims Payable by Insurance Carriers**

No distributions under the Plan shall be made on account of an Allowed Claim that is payable pursuant to one of the Debtors' insurance policies until the holder of such Allowed Claim has exhausted all remedies with respect to such insurance policy. To the extent that one or more of the Debtors' insurers agrees to satisfy in full a Claim (if and to the extent adjudicated by a court of competent jurisdiction), then immediately upon such insurers' agreement, such Claim may be expunged to the extent of any agreed upon satisfaction on the Claims Register by the Solicitation Agent without a Claims objection having to be filed and without any further notice to or action, order, or approval of the Bankruptcy Court.

**(c) Applicability of Insurance Policies**

Except as otherwise provided herein, distributions to holders of Allowed Claims shall be in accordance with the provisions of an applicable insurance policy. Nothing contained in the Plan shall constitute or be deemed a waiver of any Cause of Action that the Debtors or any Entity may hold against any other Entity, including insurers under any policies of insurance, nor shall anything contained herein constitute or be deemed a waiver by such insurers of any defenses, including coverage defenses, held by such insurers.

**6.5. Setoffs**

Except with respect to the Term Loan Facility Claims, ABL Facility Claims, DIP Facility Claims, or as otherwise expressly provided for herein, each Reorganized Debtor, pursuant to the Bankruptcy Code (including sections 553 and 558 of the Bankruptcy Code), applicable non-bankruptcy law, or as may be agreed to by the holder of a Claim, may set off against any Allowed Claim and the distributions to be made pursuant to the Plan on account of such Allowed Claim (before any distribution is made on account of such Allowed Claim), any Claims, rights, and Causes of Action of any nature that such Debtor or Reorganized Debtor, as applicable, may hold against the holder of such Allowed Claim, to the extent that such Claims, rights, or Causes of Action against such holder have not been otherwise compromised or settled on or prior to the Effective Date (whether pursuant to the Plan or otherwise); *provided, however*, that neither the failure to effect such a setoff nor the allowance of any Claim pursuant to the Plan shall constitute a waiver or release by such Reorganized Debtor of any such Claims, rights, and Causes of Action that such Reorganized Debtor may possess against such holder. In no event shall any holder of Claims be entitled to set off any Claim against any Claim, right, or Cause of Action of the Debtor or Reorganized Debtor, as applicable, unless such holder has (i) filed a motion with the Bankruptcy Court requesting the authority to perform such setoff on or before the Confirmation Date or (ii) asserted the

right to effectuate such set off in a Proof of Claim that has been filed before the Bar Date applicable to such holder.

**6.6. Allocation Between Principal and Accrued Interest**

Except as otherwise provided herein, for U.S. federal income tax purposes, the aggregate consideration paid to holders with respect to their Allowed Claims shall be treated pursuant to the Plan as allocated first to the principal amount of such Allowed Claims (to the extent thereof) and, thereafter, to the interest, if any, on such Allowed Claim accrued through the Effective Date.

**ARTICLE VII**

**PROCEDURES FOR RESOLVING DISPUTED CLAIMS AND INTERESTS**

**7.1. Disputed Claims Process**

Except as otherwise provided herein, if a party files a Proof of Claim and the Debtors or the Reorganized Debtors do not determine, and without the need for notice to or action, order, or approval of the Bankruptcy Court, that the Claim subject to such Proof of Claim is Allowed, such Claim shall be Disputed unless Allowed or disallowed by a Final Order or as otherwise set forth in this ARTICLE VII. Except as otherwise provided herein, all Proofs of Claim filed after the Effective Date shall be disallowed and forever barred, estopped, and enjoined from assertion, and shall not be enforceable against any Reorganized Debtor, without the need for any objection by the Reorganized Debtors or any further notice to or action, order, or approval of the Bankruptcy Court *provided* that nothing set forth in this sentence shall be construed as extending the Bar Date applicable to any holder of a Claim.

**7.2. Prosecution and Resolution of Objections to Claims and Interests**

Except insofar as a Claim or Interest is Allowed under the Plan, the Debtors, the Reorganized Debtors, or any other party in interest shall be entitled to object to the Claim or Interest. Any objections to Claims and Interests shall be served and filed on or before the 90th day after the Effective Date or by such later date as ordered by the Bankruptcy Court. All Claims and Interests not objected to by the end of such 90-day period shall be deemed Allowed unless such period is extended upon approval of the Bankruptcy Court; *provided* that, notwithstanding the foregoing, Professional Claims shall be subject to Allowance only by order of the Bankruptcy Court; *provided further* that, the Reorganized Debtors may deem Claims and Interests Allowed by agreement with the holder of such Claim or Interest or by notice to the Bankruptcy Court prior to the expiration of the 90-day period.

For the avoidance of doubt, except as otherwise provided herein, from and after the Effective Date, each Reorganized Debtor shall have and retain any and all rights and defenses each Debtor had immediately prior to the Effective Date with respect to any Disputed Claim or Interest, including the Causes of Action retained pursuant to Section 4.16, which, for the avoidance of doubt, exclude any Avoidance Actions against any party other than the Eisenberg Parties and SBI Parties. From and after the Effective Date, the Reorganized Debtors, shall be permitted to resolve, compromise, or settle the amount of any Claim asserted in these cases or objection to any such Claim (in each instance, excluding Professional Claims) without the need for further Bankruptcy Court order.

**7.3. No Interest**

Unless otherwise specifically provided for herein or by order of the Bankruptcy Court, no postpetition interest, penalties, or other fees shall accrue or be paid on Claims, and no holder of a Claim shall be entitled to any interest, penalties, or other fees accruing on or after the Petition Date on any Claim

or right. Additionally, and without limiting the foregoing, no interest, penalties, or other fees shall accrue or be paid on any Disputed Claim with respect to the period from the Effective Date to the date a final distribution is made on account of such Disputed Claim, if and when such Disputed Claim becomes an Allowed Claim.

#### **7.4. Disallowance of Claims and Interests**

All Claims and Interests of any Entity that is the subject of an Avoidance Action that is preserved under this Plan, which, for the avoidance of doubt, are limited to Avoidance Actions against the Eisenberg Parties and SBI Parties, and brought after the Effective Date shall be disallowed if: (a) the Entity, on the one hand, and the Debtors or the Reorganized Debtors, as applicable, on the other hand, agree or the Bankruptcy Court has determined by Final Order that such Entity or transferee is liable to turn over any property or monies under any of the aforementioned sections of the Bankruptcy Code; and (b) such Entity or transferee has failed to turn over such property by the date set forth in such agreement or Final Order.

#### **7.5. Ombudsman**

As set forth herein and in the Plan Supplement, the Ombudsman shall have the right and duty to, among other things, (a) monitor the prosecution and resolution of Disputed General Unsecured Claims, (b) resolve any disputes concerning Distributions to holders of Allowed General Unsecured Claims including the timing of any Initial Distribution Date or subsequent Distribution Date solely with respect to General Unsecured Claims, (c) consent to any alternative treatment provided to holders of Class 6 Claims, and (d) pursue remedies of other protections to ensure the provisions of ARTICLES VI and VII and the treatment afforded to holders of Allowed General Unsecured Claims are adhered to, as may be appropriate. In the event a consensual resolution of any issues raised by the Ombudsman cannot be reached, the Ombudsman may seek a determination from the Bankruptcy Court of any such dispute, including as to the filing of motions on behalf of and representing holders of such General Unsecured Claims in court. The fees and expenses of the Ombudsman to be paid by the Reorganized Debtors shall not exceed \$50,000.

## **ARTICLE VIII**

### **EFFECT OF CONFIRMATION OF THE PLAN**

#### **8.1. Discharge of Claims and Termination of Interests**

**Except as otherwise provided for herein and effective as of the Effective Date: (a) the rights afforded in the Plan and the treatment of all Claims and Interests shall be in exchange for and in complete satisfaction, discharge, and release of all Claims and Interests of any nature whatsoever, including any interest accrued on such Claims from and after the Petition Date, against the Debtors or any of their assets, property, or Estates; (b) the Plan shall bind all holders of Claims and Interests, notwithstanding whether any such holders failed to vote to accept or reject the Plan or voted to reject the Plan; (c) all Claims and Interests shall be satisfied, discharged, and released in full, and the Debtors' liability with respect thereto shall be extinguished completely, including any liability of the kind specified under section 502(g) of the Bankruptcy Code; and (d) all Entities shall be precluded from asserting against the Debtors, the Debtors' Estates, the Reorganized Debtors, their successors and assigns, and their assets and properties any other Claims or Interests based upon any documents, instruments, or any act or omission, transaction, or other activity of any kind or nature that occurred prior to the Effective Date.**

## 8.2. Releases by the Debtors

Notwithstanding anything contained in the Plan to the contrary, on the Confirmation Date and effective as of the Effective Date, for the good and valuable consideration provided by each of the Released Parties, the adequacy of which is hereby confirmed, including: (1) the settlement, release, and compromise of debt, Causes of Action, Claims, and Interests, (2) the services of the Debtors' present and former officers, directors, managers, and advisors in facilitating the implementation of the restructuring contemplated herein, and (3) the good faith negotiation of, and participation in, the restructuring contemplated herein, each of the Debtors, the Reorganized Debtors, and the Estates conclusively, absolutely, unconditionally, irrevocably, and forever discharge and release and shall be deemed to have provided a full discharge and release to each Released Party (and each such Released Party so released shall be deemed fully released and discharged by the Debtors, the Reorganized Debtors, and the Estates) and their respective property from any and all Claims, obligations, debts, rights, suits, damages, Causes of Action, Avoidance Actions (other than Avoidance Actions against the Eisenberg Parties and SBI Parties), remedies, and liabilities whatsoever, including any derivative Claims asserted or which could be asserted on behalf of the Debtors and/or the Reorganized Debtors, whether known or unknown, foreseen or unforeseen, existing or arising, in law, equity, or otherwise, that the Debtors, the Reorganized Debtors, the Estates, or their Affiliates would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the holder of any Claim or Interest or other Entity, based on or relating to, or in any manner arising from, in whole or in part, the Debtors, the Reorganized Debtors, the Transaction, the Chapter 11 Cases, the purchase, sale, or rescission of the purchase or sale of any security of the Debtors or the Reorganized Debtors, any payments, distributions, or dividends any Debtor or Affiliate paid to or received from any Released Party, fraudulent or preferential transfer or conveyance, tort, contract, breach of fiduciary duty, violation of state or federal laws, including securities laws, negligence, gross negligence, the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan, the business or contractual arrangements between any Debtor and any Released Party, the Management Agreement, the restructuring of Claims and Interests prior to or in the Chapter 11 Cases, the negotiation, formulation, or preparation of the Plan Support Agreement, the Plan, the Disclosure Statement, the Plan Supplement, or related agreements, instruments, or other documents; *provided, however*, that the foregoing "Debtor Release" shall not operate to waive or release any Claims, obligations, debts, rights, suits, damages remedies, Causes of Action, and liabilities in respect of any Released Party solely to the extent arising under the Plan Support Agreement, the Plan, or any agreements entered into pursuant to the Plan.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the Debtor Release, which includes by reference each of the related provisions and definitions contained in the Plan, *and further*, shall constitute the Bankruptcy Court's finding that the Debtor Release is: (1) in exchange for the good and valuable consideration provided by the Released Parties; (2) a good faith settlement and compromise of the Claims released by the Debtor Release; (3) in the best interests of the Debtors and all holders of Claims and Interests; (4) fair, equitable, and reasonable; (5) given and made after due notice and opportunity for hearing; and (6) a bar to any of the Debtors, the Reorganized Debtors, or the Debtors' Estates asserting any Claim or Cause of Action released pursuant to the Debtor Release.

## 8.3. Releases by Holders of Claims and Interests

Notwithstanding anything contained in the Plan to the contrary (except as set forth in Section 8.8 below), on the Confirmation Date and effective as of immediately following the occurrence of the Effective Date, the Releasing Parties (regardless of whether a Releasing Party is a

Released Party) conclusively, absolutely, unconditionally, irrevocably, and forever discharge and release (and each Entity so discharged and released shall be deemed discharged and released by the Releasing Parties) the Released Parties and their respective property from any and all Claims, Interests, obligations, debts, rights, suits, damages, Causes of Action, Avoidance Actions (other than Avoidance Actions against the Eisenberg Parties and SBI Parties), remedies, and liabilities whatsoever, including any derivative Claims asserted or which could be asserted on behalf of a Debtor, whether known or unknown, foreseen or unforeseen, existing or arising, in law, equity or otherwise, that such Entity would have been legally entitled to assert (whether individually or collectively), based on or relating to, or in any manner arising from, in whole or in part, the Debtors, the Reorganized Debtors, the Transaction, the Chapter 11 Cases, the purchase, sale, or rescission of the purchase or sale of any security of the Debtors or the Reorganized Debtors, any payments, distributions, or dividends any Debtor or Affiliate paid to or received from any Released Party, fraudulent or preferential transfer or conveyance, tort, contract, breach of fiduciary duty, violation of state or federal laws, including securities laws, negligence, gross negligence, the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan, the business or contractual arrangements between any Debtor and any Released Party, the restructuring of Claims and Interests prior to or in the Chapter 11 Cases, the negotiation, formulation, or preparation of the Plan Support Agreement, the Plan, the Disclosure Statement, the Plan Supplement, or related agreements, instruments, or other documents; *provided, however*, that the foregoing “Third-Party Release” shall not operate to waive or release any Claims, obligations, debts, rights, suits, damages, remedies, Causes of Action, and liabilities in respect of any Released Party, solely to the extent (1) arising under any agreements entered into pursuant to the Plan, (2) with respect to Claims by Professionals related to Professionals’ final fee applications or accrued Professional compensation claims in the Chapter 11 Cases, or (3) arising under (i) any Indemnification Provision or (ii) any indemnification provision contained in the Management Agreement.

Entry of the Confirmation Order shall constitute the Bankruptcy Court’s approval, pursuant to Bankruptcy Rule 9019, of the Third-Party Release, which includes by reference each of the related provisions and definitions contained herein, *and, further*, shall constitute the Bankruptcy Court’s finding that the Third-Party Release is: (1) in exchange for the good and valuable consideration provided by the Released Parties; (2) a good faith settlement and compromise of the Claims released by the Third-Party Release; (3) in the best interests of the Debtors and all holders of Claims and Interests; (4) fair, equitable, and reasonable; (5) given and made after due notice and opportunity for hearing; and (6) a bar to any of the Releasing Parties asserting any claim or Cause of Action released pursuant to the Third-Party Release.

#### 8.4. Exculpation

Notwithstanding anything contained herein to the contrary, the Exculpated Parties shall neither have, nor incur any liability to any Entity for any postpetition act taken or omitted to be taken in connection with, or related to formulating, negotiating, soliciting, preparing, disseminating, confirming, or implementing the Plan, or consummating the Plan, the Plan Support Agreement, the Disclosure Statement, the Plan Supplement, the New Holdco Governance Documents, the New Opco Governance Documents, the Exit Term Facility Documents, the Exit ABL Facility Documents, the Subordinated Notes Facility Documents, the Transaction, the issuance, distribution, and/or sale of any shares of New Holdco Common Stock, the New Opco Common Units, or any other security offered, issued, or distributed in connection with the Plan, the Chapter 11 Cases, or any contract, instrument, release or other agreement or document created or entered into in connection with the Plan or any other postpetition act taken or omitted to be taken in connection with or in contemplation of the restructuring of the Debtors; *provided, however*, that



each Exculpated Party shall be entitled to rely upon the advice of counsel concerning his, her, or its duties pursuant to, or in connection with, the Plan or any other related document, instrument, or agreement; *provided, further*, that the foregoing “Exculpation” shall have no effect on the liability of any Entity solely to the extent resulting from any such act or omission that is determined in a final order to have constituted gross negligence or willful misconduct; *provided, further*, that the foregoing “Exculpation” shall have no effect on the liability of any Entity for acts or omissions occurring after the Confirmation Date.

#### **8.5. Injunction**

Except as otherwise provided herein or for obligations issued pursuant hereto, all Entities that have held, hold, or may hold Claims or Interests that have been released pursuant to Section 8.2 or Section 8.3, discharged pursuant to Section 8.1, or are subject to exculpation pursuant to Section 8.4 are permanently enjoined, from and after the Effective Date, from taking any of the following actions against, as applicable, the Debtors, the Reorganized Debtors, the Released Parties, or the Exculpated Parties: (a) commencing or continuing in any manner any action or other proceeding of any kind on account of or in connection with or with respect to any such Claims or Interests; (b) enforcing, attaching, collecting, or recovering by any manner or means any judgment, award, decree, or order against such Entities on account of or in connection with or with respect to any such Claims or Interests; (c) creating, perfecting, or enforcing any encumbrance of any kind against such Entities or the property or Estates of such Entities on account of or in connection with or with respect to any such Claims or Interests; (d) asserting any right of setoff (except where timely preserved under Section 6.5) or subrogation of any kind against any obligation due from such Entities or against the property or Estates of such Entities on account of or in connection with or with respect to any such Claims or Interests; and (e) commencing or continuing in any manner any action or other proceeding of any kind on account of or in connection with or with respect to any such Claims or Interests released, exculpated, or settled pursuant to the Plan.

#### **8.6. Protection Against Discriminatory Treatment**

In accordance with section 525 of the Bankruptcy Code, and consistent with paragraph 2 of Article VI of the United States Constitution, no Governmental Unit shall discriminate against any Reorganized Debtor, or any Entity with which a Reorganized Debtor has been or is associated, solely because such Reorganized Debtor was a Debtor under chapter 11, may have been insolvent before the commencement of the Chapter 11 Cases (or during the Chapter 11 Cases but before such Debtor was granted or denied a discharge), or has not paid a debt that is dischargeable in the Chapter 11 Cases.

#### **8.7. Release of Liens**

Except (a) with respect to the Liens securing (i) the DIP Term Facility to the extent set forth in the Exit Term Facility Documents, (ii) the ABL Facility and the DIP ABL Facility to the extent set forth in the Exit ABL Facility Documents, and (iii) the Other Secured Claims (depending on the treatment of such Claims), or (b) as otherwise provided herein or in any contract, instrument, release, or other agreement or document created pursuant to the Plan, on the Effective Date, all mortgages, deeds of trust, Liens, pledges, or other security interests against any property of the Estates shall be fully released and discharged, and the holders of such mortgages, deeds of trust, Liens, pledges, or other security interests shall execute such documents as may be reasonably requested by the Debtors or the Reorganized Debtors, as applicable, to reflect or effectuate such releases, and all of the right, title, and interest of any holder of such mortgages, deeds of trust, Liens, pledges, or other security interests shall revert to the Reorganized Debtor and its successors and assigns.

**8.8. Reimbursement or Contribution**

If the Bankruptcy Court disallows a Claim for reimbursement or contribution of an Entity pursuant to section 502(e)(1)(B) of the Bankruptcy Code, then to the extent that such Claim is contingent as of the Effective Date, such Claim shall be forever disallowed notwithstanding section 502(j) of the Bankruptcy Code, unless prior to the Effective Date (a) such Claim has been adjudicated as noncontingent, or (b) the relevant holder of a Claim has filed a noncontingent Proof of Claim on account of such Claim and a Final Order has been entered determining such Claim as no longer contingent.

**8.9. Compromise and Settlement**

Pursuant to section 363 of the Bankruptcy Code and Bankruptcy Rule 9019 and in consideration for the distributions and other benefits provided pursuant to the Plan, the provisions of the Plan shall constitute a good faith compromise of all Claims, Interests and controversies relating to the contractual, legal and subordination rights that a holder of a Claim may have with respect to any Allowed Claim, or any distribution made on account of such Allowed Claim. The entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of the compromise or settlement of all such Claims, Interests and controversies, as well as a finding by the Bankruptcy Court that such compromise or settlement is in the best interests of the Debtors, their Estates and holders of Claims and Interests, and is fair, equitable and reasonable. In accordance with and subject to the provisions of the Plan, pursuant to section 363 of the Bankruptcy Code and Bankruptcy Rule 9019(a), without any further notice to or action, order, or approval of the Bankruptcy Court, after the Effective Date, the Reorganized Debtors may compromise and settle Claims against them and Causes of Action against other Entities.

**ARTICLE IX****CONDITIONS PRECEDENT TO THE EFFECTIVE DATE****9.1. Conditions Precedent to the Effective Date.**

It shall be a condition to the Effective Date that the following conditions shall have been satisfied or waived pursuant to Section 9.2:

- (a) the Confirmation Order shall be a Final Order and shall not have been stayed, modified, or vacated on appeal;
- (b) all respective conditions precedent to consummation of the Exit ABL Facility Loan Agreement shall have been waived or satisfied in accordance with the terms thereof;
- (c) all respective conditions precedent to consummation of the Exit Term Facility Credit Agreement shall have been waived or satisfied in accordance with the terms thereof;
- (d) all respective conditions precedent to consummation of the Subordinated Notes Agreement shall have been waived or satisfied in accordance with the terms thereof;
- (e) the Professional Fee Escrow Account shall have been established and funded with the Professional Fee Escrow Amount;
- (f) payment in full in Cash of all reasonable and documented fees and expenses of the Term Loan Agent and certain Term Loan Lenders incurred by the following advisors to the Term Loan Agent and certain Term Loan Lenders under the Term Loan Facility Documents: (i) King & Spalding LLP; (ii) Skadden, Arps, Slate, Meagher & Flom LLP;

(iii) FTI Consulting, Inc. as set forth in that certain letter of engagement dated as of March 27, 2015, by and between King & Spalding LLP and FTI Consulting, Inc.; and  
(iv) Chipman Brown Cicero & Cole, LLP;

- (g) payment in full in Cash of all amounts of the ABL Facility Claim that are allowable under section 506(b) of the Bankruptcy Code, including the reasonable and documented fees and expenses of the ABL Facility Agent and the ABL Facility Lenders incurred by the following advisors to the ABL Facility Agent and the ABL Facility Lenders under the ABL Facility Documents: (i) Goldberg Kohn Ltd.; (ii) Huron Consulting Group Inc.; and (iii) Womble Carlyle Sandridge & Rice, LLP;
- (h) with respect to all documents and agreements necessary to implement the Plan: (1) all conditions precedent to such documents and agreements shall have been satisfied or waived pursuant to the terms of such documents or agreements; (2) such documents and agreements shall have been tendered for delivery to the required parties and been approved by any required parties and, to the extent required, filed with and approved by any applicable Governmental Units in accordance with applicable laws; and (3) such documents and agreements shall have been effected or executed;
- (i) the Sponsor entities shall have made the contribution set forth in Section 4.18(a) of the Plan; and
- (j) the GUC Consideration Escrow Account shall have been established and funded with the GUC Consideration.

The Debtors shall file a notice with the Bankruptcy Court indicating that the Effective Date has occurred within three (3) business days after such occurrence.

## **9.2. Waiver of Conditions Precedent**

The Debtors, with the prior written consent of the Required Lenders, may waive any of the conditions to the Effective Date set forth in Section 9.1 (other than Sections 9.1(e) and (j), the waiver of which shall also require the consent of the Creditors Committee) at any time without any notice to any other parties in interest and without any further notice to or action, order, or approval of the Bankruptcy Court, and without any formal action other than proceeding to confirm or consummate the Plan.

## **9.3. Effect of Non-Occurrence of Conditions to Consummation**

If prior to Consummation, the Confirmation Order is vacated pursuant to a Final Order, then except as provided in any order of the Bankruptcy Court vacating the Confirmation Order, the Plan will be null and void in all respects, and nothing contained in the Plan or Disclosure Statement shall: (a) constitute a waiver or release of any Claims, Interests, or Causes of Action; (b) prejudice in any manner the rights of any Debtor or any other Entity; or (c) constitute an admission, acknowledgment, offer, or undertaking of any sort by any Debtor or any other Entity.

## ARTICLE X

### MODIFICATION, REVOCATION, OR WITHDRAWAL OF THE PLAN

#### 10.1. Modification of Plan

Effective as of the date hereof: (a) the Debtors, with the consent of the Required Lenders, reserve the right, in accordance with the Bankruptcy Code and the Bankruptcy Rules, to amend or modify the Plan before the entry of the Confirmation Order consistent with the terms set forth herein; and (b) after the entry of the Confirmation Order, the Debtors, with the consent of the Required Lenders, or the Reorganized Debtors, as applicable, may, upon order of the Bankruptcy Court, amend or modify the Plan, in accordance with section 1127(b) of the Bankruptcy Code, to remedy any defect or omission, or reconcile any inconsistency in the Plan in such manner as may be necessary to carry out the purpose and intent of the Plan consistent with the terms set forth herein.

#### 10.2. Effect of Confirmation on Modifications

Entry of the Confirmation Order shall constitute approval of all modifications to the Plan occurring after the solicitation thereof pursuant to section 1127(a) of the Bankruptcy Code and a finding that such modifications to the Plan do not require additional disclosure or resolicitation under Bankruptcy Rule 3019.

#### 10.3. Revocation or Withdrawal of Plan

The Debtors reserve the right to revoke or withdraw the Plan before the Confirmation Date and to file subsequent chapter 11 plans. If the Debtors revoke or withdraw the Plan, or if Confirmation or the Effective Date does not occur, then: (a) the Plan will be null and void in all respects; (b) any settlement or compromise embodied in the Plan, assumption or rejection of Executory Contracts or Unexpired Leases effected by the Plan, and any document or agreement executed pursuant hereto will be null and void in all respects; and (c) nothing contained in the Plan shall (1) constitute a waiver or release of any Claims, Interests, or Causes of Action, (2) prejudice in any manner the rights of any Debtor or any other Entity, or (3) constitute an admission, acknowledgement, offer, or undertaking of any sort by any Debtor or any other Entity.

## ARTICLE XI

### RETENTION OF JURISDICTION

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

1. allow, disallow, determine, liquidate, classify, estimate, or establish the priority, secured or unsecured status, or amount of any Claim or Interest, including the resolution of any request for payment of any Claim or Interest and the resolution of any and all objections to the secured or unsecured status, priority, amount, or allowance of Claims or Interests;
2. decide and resolve all matters related to the granting and denying, in whole or in part, any applications for allowance of compensation or reimbursement of expenses to Professionals authorized pursuant to the Bankruptcy Code or the Plan;

3. resolve any matters related to Executory Contracts or Unexpired Leases, including: (a) the assumption, rejection, or assumption and assignment of any Executory Contract or Unexpired Lease to which a Debtor is party or with respect to which a Debtor may be liable and to hear, determine, and, if necessary, liquidate, any Cure or Claims arising therefrom, including pursuant to section 365 of the Bankruptcy Code; (b) any potential contractual obligation under any Executory Contract or Unexpired Lease that is assumed; and (c) any dispute regarding whether a contract or lease is or was executory or expired;

4. ensure that distributions to holders of Allowed Claims are accomplished pursuant to the provisions of the Plan and adjudicate any and all disputes arising from or relating to distributions under the Plan;

5. adjudicate, decide, or resolve any motions, adversary proceedings, contested or litigated matters, and any other matters, and grant or deny any applications involving a Debtor that may be pending on the Effective Date;

6. enter and implement such orders as may be necessary or appropriate to execute, implement, or consummate the provisions of (a) contracts, instruments, releases, indentures, and other agreements or documents approved by Final Order in the Chapter 11 Cases and (b) the Plan, the Confirmation Order, and contracts, instruments, releases, indentures, and other agreements or documents created in connection with the Plan;

7. enforce any order for the sale of property pursuant to sections 363, 1123, or 1146(a) of the Bankruptcy Code;

8. grant any consensual request to extend the deadline for assuming or rejecting Unexpired Leases pursuant to section 365(d)(4) of the Bankruptcy Code;

9. issue injunctions, enter and implement other orders, or take such other actions as may be necessary or appropriate to restrain interference by any Entity with Consummation or enforcement of the Plan;

10. hear, determine, and resolve any cases, matters, controversies, suits, disputes, or Causes of Action in connection with or in any way related to the Chapter 11 Cases, including: (a) with respect to the repayment or return of distributions and the recovery of additional amounts owed by the holder of a Claim or an Interest for amounts not timely repaid pursuant to Section 6.4(a); (b) with respect to the releases, injunctions, and other provisions contained in ARTICLE VIII, including entry of such orders as may be necessary or appropriate to implement such releases, injunctions, and other provisions; (c) that may arise in connection with the Consummation, interpretation, implementation, or enforcement of the Plan, the Confirmation Order, and contracts, instruments, releases, indentures, and other agreements or documents created in connection with the Plan; or (d) related to section 1141 of the Bankruptcy Code;

11. enter and implement such orders as are necessary or appropriate if the Confirmation Order is for any reason modified, stayed, reversed, revoked, or vacated;

12. consider any modifications of the Plan, to cure any defect or omission, or to reconcile any inconsistency in any Bankruptcy Court order, including the Confirmation Order;

13. hear and determine matters concerning state, local, and federal taxes in accordance with sections 346, 505, and 1146 of the Bankruptcy Code;

14. enter an order or Final Decree concluding or closing the Chapter 11 Cases;
15. enforce all orders previously entered by the Bankruptcy Court; and
16. hear any other matter not inconsistent with the Bankruptcy Code.

## **ARTICLE XII**

### **MISCELLANEOUS PROVISIONS**

#### **12.1. Additional Documents**

On or before the Effective Date, the Debtors may file with the Bankruptcy Court such agreements and other documents as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan. The Debtors or the Reorganized Debtors, as applicable, and all holders of Claims and Interests receiving distributions pursuant to the Plan and all other parties in interest shall, from time to time, prepare, execute, and deliver any agreements or documents and take any other actions as may be necessary or advisable to effectuate the provisions and intent of the Plan.

#### **12.2. Payment of Statutory Fees**

All fees payable pursuant to 28 U.S.C. § 1930(a) shall be paid for each quarter (including any fraction thereof) until the Chapter 11 Cases are converted, dismissed, or a Final Decree is issued, whichever occurs first. All fees payable pursuant to 28 U.S.C. § 1930(a) that are due on or before the Effective Date will be paid on the Effective Date. All fees payable pursuant to 28 U.S.C. § 1930(a) post-Effective Date will be paid when due.

#### **12.3. Reservation of Rights**

Except as expressly set forth herein, the Plan shall have no force or effect unless the Bankruptcy Court shall enter the Confirmation Order. None of the filing of the Plan, any statement or provision contained in the Plan, or the taking of any action by any Debtor with respect to the Plan, the Disclosure Statement, or the Plan Supplement shall be or shall be deemed to be an admission or waiver of any rights of any Debtor with respect to the holders of Claims or Interests prior to the Effective Date.

#### **12.4. Successors and Assigns**

The rights, benefits, and obligations of any Entity named or referred to in the Plan shall be binding on, and shall inure to the benefit of any heir, executor, administrator, successor or assign, Affiliate, officer, director, agent, representative, attorney, beneficiaries, or guardian, if any, of each Entity.

#### **12.5. Service of Documents**

After the Effective Date, any pleading, notice, or other document required by the Plan to be served on or delivered to the Reorganized Debtors shall be served on:

**Reorganized Debtors**

Boomerang Tube, LLC  
14567 N. Outer Forty Road, 5<sup>th</sup> Floor  
Chesterfield, Missouri 63017  
Attn: General Counsel or Chief Financial Officer

**Counsel to Debtors**

**Young Conaway Stargatt & Taylor, LLP**

1000 North King Street  
Wilmington, Delaware 19801  
Attn.: Robert S. Brady  
Sean M. Beach  
Ryan M. Bartley

**Special Counsel to Debtors**

**Debevoise & Plimpton LLP**

919 Third Avenue  
New York, New York 10022  
Attn.: My Chi To  
Nick S. Kaluk, III

**United States Trustee**

**Office of the United States Trustee**

**for the District of Delaware**  
844 King Street, Suite 2207  
Wilmington, Delaware 19810  
Attn.: Benjamin Hackman

**12.6. Term of Injunctions or Stays**

Unless otherwise provided herein or in the Confirmation Order, all injunctions or stays in effect in the Chapter 11 Cases (pursuant to sections 105 or 362 of the Bankruptcy Code or any order of the Bankruptcy Court) and existing on the Confirmation Date (excluding any injunctions or stays contained in the Plan or the Confirmation Order) shall remain in full force and effect until the Effective Date. All injunctions or stays contained in the Plan or the Confirmation Order shall remain in full force and effect in accordance with their terms.

**12.7. Entire Agreement**

Except as otherwise indicated, the Plan supersedes all previous and contemporaneous negotiations, promises, covenants, agreements, understandings, and representations on such subjects, all of which have become merged and integrated into the Plan.

**12.8. Plan Supplement Exhibits**

All exhibits and documents included in the Plan Supplement are incorporated into and are a part of the Plan as if set forth in full in the Plan. After the exhibits and documents are filed, copies of such exhibits and documents shall be made available upon written request to the Debtors' counsel at the address above or by downloading such exhibits and documents from the Solicitation Agent's website at [www.donlinrecano.com/bt](http://www.donlinrecano.com/bt) or the Bankruptcy Court's website at [www.deb.uscourts.gov](http://www.deb.uscourts.gov). Unless otherwise ordered by the Bankruptcy Court, to the extent that any exhibit or document in the Plan Supplement is inconsistent with the terms of any part of the Plan that does not constitute the Plan Supplement, such part of the Plan that does not constitute the Plan Supplement shall control.

**12.9. Non-Severability**

If, prior to Confirmation, any term or provision of the Plan is held by the Bankruptcy Court to be invalid, void, or unenforceable, the Bankruptcy Court shall have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void, or unenforceable, and such term or

provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration, or interpretation, the remainder of the terms and provisions of the Plan will remain in full force and effect and will in no way be affected, impaired, or invalidated by such holding, alteration, or interpretation. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of the Plan, as it may have been altered or interpreted in accordance with the foregoing, is: (a) valid and enforceable pursuant to its terms; (b) integral to the Plan and may not be deleted or modified without the Debtors' and the Required Lenders' consent, consistent with the terms set forth herein; and (c) nonseverable and mutually dependent.

**12.10. Dissolution of Creditors Committee**

On the Effective Date, the Creditors Committee shall dissolve and members thereof shall be released from all rights and duties from or related to the Chapter 11 Cases, except the Creditors Committee will remain intact solely with respect to the preparation, filing, review, and resolution of applications for Professional Claims ("Post-Effective Date Fee Prosecution"). The Debtors and Reorganized Debtor shall have no obligation to pay any fees or expenses incurred after the Effective Date by the Creditors Committee or the Committee Members, other than fees and expenses incurred by Professionals for the Creditors Committee incurred in connection with Post-Effective Date Fee Prosecution; *provided, however*, that payment of such fees and expenses shall be limited in its entirety to the Creditors Committee's portion of the Professional Fee Payment Amount.

Dated: December 29, 2015

**BOOMERANG TUBE, LLC,**  
on behalf of itself and all other Debtors

/s/ Kevin Nystrom  
Kevin Nystrom  
Interim Chief Executive Officer, President, and  
Chief Restructuring Officer  
14567 North Outer Forty Road, Suite 500  
Chesterfield, Missouri 63017