

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

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| -----X   | :                               |
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| <b>In re:</b>                                      | <b>: Chapter 11</b>             |
|  | :                               |
| <b>NOBLE ENVIRONMENTAL POWER, LLC,<sup>1</sup></b> | <b>: Case No. 16-12055 (KG)</b> |
|  | :                               |
| <b>Debtor.</b>                                     | :                               |
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| -----X   |                                 |

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**PLAN OF REORGANIZATION OF THE DEBTOR  
PURSUANT TO CHAPTER 11 OF THE BANKRUPTCY CODE**

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Dated: Wilmington, Delaware  
September 28, 2016

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<sup>1</sup> The Debtor in this chapter 11 case, along with the last four digits of its federal tax identification number, where applicable, is: Noble Environmental Power, LLC (7076). The Debtor's principal offices are located at 6 Main Street, Suite 121, Centerbrook, CT 06409.

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## INTRODUCTION

The Debtor proposes the following plan of reorganization under section 1121(a) of chapter 11 of title 11 of the United States Code. Capitalized terms used in the Plan and not otherwise defined shall have the meaning ascribed to such terms in Article I.

Claims against, and Equity Interests in, the Debtor will be treated as set forth herein. Reference is made to the Disclosure Statement accompanying the Plan, including the exhibits thereto, for a discussion of the Debtor's history, business, results of operations, and projections for future operations and risk factors, together with a summary and analysis of the Plan.

Parties are encouraged to read the Plan and the Disclosure Statement and their respective exhibits and schedules in their entirety before voting to accept or reject the Plan. No materials other than the Disclosure Statement and the respective schedules and exhibits attached thereto and referenced therein have been authorized by the Court for use in soliciting acceptances or rejections of the Plan.

### NOTE TO PARTIES DOING BUSINESS WITH ANY NON-DEBTOR AFFILIATE OR SUBSIDIARY OF THE DEBTOR:

This Plan applies solely to Noble Environmental Power, LLC (the Debtor herein) and does not apply to any of the Debtor's affiliates or subsidiaries, none of whom is a chapter 11 debtor. As a result, it is expressly intended that nothing in this Plan shall impact, impair, limit, interfere, harm or otherwise affect any parties to any contracts, instruments, leases, licenses, permits, loans, guaranties, litigation or any other relationship with any non-debtor affiliate or subsidiary of the Debtor.

## ARTICLE I. DEFINITIONS AND CONSTRUCTION OF TERMS

### A. Definitions.

Unless otherwise defined herein the following terms shall have the respective meanings set forth below. Any term that is used and not otherwise defined herein, but that is defined in the Bankruptcy Code or the Bankruptcy Rules, shall have the meaning ascribed to it in the Bankruptcy Code or the Bankruptcy Rules, as applicable.

1. *Administrative Expense Claim*: means any right to payment constituting a cost or expense of administration of the Chapter 11 Case of a kind specified under section 503(b) of the Bankruptcy Code and entitled to priority under sections 507(a)(2), 507(b) or 1114(e)(2) of the Bankruptcy Code, including (i) any actual and necessary costs and expenses of preserving the Estate, (ii) any actual and necessary costs and expenses of operating the Debtor's business, (iii) any indebtedness or obligations assumed by the Debtor in connection with the conduct of its business during the Chapter 11 Case, (iv) any fees or charges assessed against the Estate under section 1930 of title 28 of the United States Code, (v) any Claim for goods delivered to the

Debtor within twenty (20) days of the Petition Date and entitled to administrative priority pursuant to section 503(b)(9) of the Bankruptcy Code.

2. Allowed: means, with reference to a Claim, (i) a Claim against the Debtor that has been listed in the Schedules, as such Schedules may be amended by the Debtor from time to time in accordance with Bankruptcy Rule 1009, as liquidated in amount and not Disputed or contingent and for which no contrary Proof of Claim has been timely filed, (ii) a Claim with respect to which a Proof of Claim that has been timely filed by the applicable Bar Date (or for which Claim under this Plan, the Bankruptcy Code or Final Order of the Court a Proof of Claim is or shall not be required to be filed), which Proof of Claim has not been withdrawn and as to which Proof of Claim no objection to allowance, request for estimation, or motion or other effort to subordinate or reclassify has been interposed prior to the expiration of the time for filing any such objection, or (iii) any Claim expressly Allowed by a Final Order or Allowed under this Plan, provided that any Claim that is Allowed for the limited purpose of voting to accept or reject this Plan pursuant to an order of the Court shall not be considered “Allowed” for the purpose of distributions hereunder.

3. Ballots: means each of the ballots distributed with the Disclosure Statement to each holder of an Impaired Claim that is entitled to vote to accept or reject the Plan.

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

5. Bankruptcy Rules: means the Federal Rules of Bankruptcy Procedure as promulgated by the United States Supreme Court under section 2075 of title 28 of the United States Code, and local rules of the Court, as the context may require, as in effect with respect to the Chapter 11 Case.

6. Bar Date: means the applicable date on which a Proof of Claim must be filed as may be specifically fixed by an order of the Court.

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

8. Cash: means cash and cash equivalents, including, but not limited to, bank deposits, wire funds, checks and legal tender of the United States of America or equivalents thereof.

9. Causes of Action: means, without limitation, any and all claims, causes of actions, cross-claims, counterclaims, third-party claims, indemnity claims, contribution claims, defenses, demands, rights, actions, debts, damages, judgments, remedies, Liens, indemnities, guaranties, suits, obligations, liabilities, accounts, offsets, recoupments, powers, privileges, licenses, and franchises of any kind or character whatsoever, known or unknown, contingent or non-contingent, matured or unmatured, suspected or unsuspected, disputed or undisputed, foreseen or unforeseen, direct or indirect, choate or inchoate, whether arising before, on or after the Petition Date, including through the Effective Date, in contract or in tort, in law or in equity, and/or pursuant to any other theory of law. For the avoidance of doubt, the term “Causes of

Action” shall include: (i) all rights of setoff, counterclaim or recoupment and claims on contracts or for breaches of duties imposed by law or in equity; (ii) the right to object to Claims and Administrative Expense Claims; (iii) all claims pursuant to sections 362, 510, 542, 543, 544 through 550, 552 or 553 of the Bankruptcy Code; (iv) such claims and defenses such as fraud, mistake, duress, and/or usury and/or any other defenses set forth in section 558 of the Bankruptcy Code; or (v) any state law fraudulent transfer claims.

10. Chapter 11 Case: means the Chapter 11 Case commenced by the Debtor.
11. Claim: means a “claim” against the Debtor, as such term is defined in section 101(5) of the Bankruptcy Code.
12. Claims and Voting Agent: means American Legal Claims Services, LLC.
13. Class: means a group of Claims or Equity Interests classified under the Plan.
14. Collateral: means any property or interest in property of the Estate subject to a Lien to secure the payment or performance of an Allowed Claim, which Lien has not been avoided or is not subject to avoidance under the Bankruptcy Code or is otherwise invalid under the Bankruptcy Code or applicable law.
15. Confirmation: means the entry of the Confirmation Order on the docket of the Chapter 11 Case.
16. Confirmation Date: means the date of Confirmation.
17. Confirmation Hearing: means the confirmation hearing held by the Court pursuant to Bankruptcy Rule 3020(b)(2) and section 1128 of the Bankruptcy Code, including any adjournments thereof, at which the Court will consider confirmation of the Plan.
18. Confirmation Order: means the order entered by the Court confirming the Plan pursuant to section 1129 of the Bankruptcy Code, which shall be in form and substance acceptable to the Debtor and the Lender.
19. Court: means (i) the United States Bankruptcy Court for the District of Delaware, (ii) to the extent there is no reference pursuant to section 157 of title 28 of the United States Code, the United States District Court for the District of Delaware and (iii) any other court having jurisdiction over the Chapter 11 Case or proceedings arising therein.
20. Cure Claim: means a claim in an amount equal to all unpaid monetary obligations under an Executory Contract or Unexpired Lease assumed by the Debtor pursuant to section 365 of the Bankruptcy Code, to the extent such obligations are enforceable under the Bankruptcy Code and applicable non-bankruptcy law. Any Cure Claim to which the holder thereof disagrees with the priority and/or amount thereof as determined by the Debtor shall be deemed a Disputed Claim under this Plan.

21. Debtor: means Noble Environmental Power, LLC, as Debtor and debtor in possession, its capacity as a debtor and debtor in possession in the Chapter 11 Case.

22. Disclosure Statement: means the *Disclosure Statement for the Plan of Reorganization of the Debtor Under Chapter 11 of the Bankruptcy Code*, in furtherance of this Plan, as amended, supplemented or modified from time to time, including all exhibits and schedules thereto and references there that relate to the Plan, and that is prepared and distributed in accordance with the Bankruptcy Code, the Bankruptcy Rules and any other applicable law.

23. Disputed: means, with reference to any Claim, any Claim that is not yet an Allowed Claim.

24. Effective Date: means the date which is the first Business Day selected by the Debtor, on which (a) all of the conditions to the occurrence of the Effective Date specified in Article VIII have been satisfied or waived in accordance with this Plan and (b) no stay of the Confirmation Order is in effect, provided that if the first Business Day is a designated legal holiday in the United States or the United Kingdom, then the Effective Date will be the next Business Day in the United States or the United Kingdom.

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

26. Equity Interest: means any “equity security” in the Debtor as such term is defined in section 101(16) of the Bankruptcy Code, including any issued, unissued, authorized or outstanding limited liability interests, membership interest, or other ownership units of the Debtor together with any warrants, options or contractual to purchase or acquire such Equity Interest at any time and all rights arising with respect thereto or any other instrument evidencing an ownership interest in the Debtor, whether or not transferable.

27. Estate: means the Estate of the Debtor created in the Chapter 11 Case pursuant to section 541 of the Bankruptcy Code.

28. Executory Contract: means a contract to which one or more Debtor is a party that is subject to assumption or rejection under section 365 of the Bankruptcy Code.

29. Federal Rate: shall mean, for any day, the rate per annum equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers on such day, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day; provided, that (a) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, and (b) if no such rate is so published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the rate for the prior Business Day.

30. Fee Claim: means any request for allowance and payment of claims for Professional Fees.

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

32. General Unsecured Claim: means any Unsecured Claim that is not an Intercompany Claim.

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

34. Guaranty: means that certain Second Amended Guarantee, dated as of December 21, 2010, pursuant to which the Debtor guaranteed the obligations of NEP Equipment under the Paragon Note.

35. Impaired: means, when used with reference to Claims or Equity Interests, Claims or Equity Interests that are “impaired” within the meaning of section 1124 of the Bankruptcy Code.

36. Insured Claim: means any Claim or portion of a Claim that is or may be insured under any insurance policies issued for the benefit of the Debtor.

37. Intercompany Claim: means any Claim held by the Debtor against one of its non-debtor affiliates or subsidiaries, or any claim of such non-debtor affiliate or subsidiary against the Debtor.

38. Lender: means Paragon Noble LLC, a Delaware limited liability company, in its capacity as Lender under the Paragon Note.

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

40. NEP Equipment: means NEP Equipment Finance Hold Co., LLC, a Delaware limited liability company.

41. New Equity: means new limited liability company membership interests in Reorganized NEP having the powers, preferences, priorities and rights and qualifications, limitations and restrictions as set forth in the Operating Agreement.



42. Operating Agreement: means the limited liability company agreement with respect to Reorganized NEP in form and substance as that attached to the Plan Supplement, which has been approved in writing by the Lender.

43. Other Priority Claim: means a Claim entitled to priority pursuant to section 507(a) of the Bankruptcy Code, other than (i) an Administrative Expense Claim or (ii) a Priority Tax Claim.

44. Other Secured Claim: means any Claim that is Secured, other than the Secured Lender Claim.

45. Paragon Note: means that certain Second Amended and Restated Promissory Note and Waiver, dated December 21, 2010, given by NEP Equipment in favor of the Lender.

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

47. Petition Date: means the date on which the Debtor commenced the Chapter 11 Case.

48. Plan: means this *Plan of Reorganization of the Debtor Under Chapter 11 of the Bankruptcy Code*, together with all addenda, exhibits, schedules or other attachments, if any, including the Plan Supplement, each of which is incorporated herein by reference, and as may be amended, modified, or supplemented from time to time in accordance with the terms herein and in the Plan Support Agreement, as applicable.

49. Plan Support Agreement: means the agreement, dated as of July 15, 2016, among the Debtor and the Lender, as it may be amended, modified or supplemented by the parties thereto in accordance with the terms of such agreement.

50. Plan Supplement: means the compilation of documents and forms of documents, schedules and exhibits to the Plan to be filed with the Court on notice to parties-in-interest, including the following: (i) the Operating Agreement, and (ii) the identity of the officers of Reorganized NEP. The Debtor shall file substantially complete versions of the materials comprising the Plan Supplement no later than five (5) Business Days before the deadline to object to the confirmation of the Plan. All Plan Supplement documents shall be in form and substance acceptable to Debtor and the Lender.

51. Priority Tax Claim: means any Claim that is entitled to a priority in right of payment under sections 502(i) and 507(a)(8) of the Bankruptcy Code.

52. Professional: means any professional employed or retained in the Chapter 11 Case pursuant to sections 327, 328, 330, or 1103 of the Bankruptcy Code.

53. Professional Fees: means fees and expenses for legal, financial advisory, accounting and other services and reimbursement of expenses related thereto that are awardable

and allowable under sections 328, 330(a), 331, 503(b) or 1103(a) of the Bankruptcy Code or otherwise and that are rendered (a) prior to the Effective Date, or (b) thereafter in connection with applications filed pursuant to section 330, 331, 503(b) or 1103(a) of the Bankruptcy Code. To the extent that the Court or any higher court denies by a Final Order any amount of a Professional's fees or expenses, then those amounts shall no longer be Professional Fees.

54. Proof of Claim: means a written proof of Claim filed in the Chapter 11 Case.

55. Pro Rata: means, with respect to any Claim, the proportion that the amount of such Claim bears to the aggregate amount of all Claims (including Disputed Claims) in the applicable Class or group of Classes, unless the Plan provides otherwise.

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

57. Released Parties: means each of: (a) the Debtor and Reorganized NEP, (b) the Lender and (c) each holder of an Allowed General Unsecured Claim, other than those who voted to reject the Plan or have checked the box on the applicable Ballot indicating that they opt not to grant the releases provided in the Plan, and (d) with respect to each of the foregoing in clauses (a) through (c), such entities' predecessors, Professionals, successors and assigns, subsidiaries, funds, portfolio companies, and each of their respective current and former officers, directors, employees, managers, attorneys, financial advisors, accountants, investment bankers, consultants, management companies or other professionals or representatives, in each case solely in their capacity as such.

58. Releasing Parties: means each of: (a) the Lender, (b) the holders of Allowed General Unsecured Claims other than those who voted to reject the Plan or have checked the box on the applicable Ballot indicating that they opt not to grant the releases provided in the Plan, and (c) with respect to the foregoing entities in clauses (a) through (b), solely to the extent such party is entitled to assert claims on behalf of the foregoing entities, such entity's current subsidiaries, officers, directors, principals, members, employees, agents, financial advisors, attorneys, accountants, investment bankers, consultants, representatives, equity holders, partners, and other professionals, in each case solely in their capacity as such.

59. Reorganized NEP: means the Debtor or any successor thereto by merger, consolidation or otherwise, on and after the Effective Date.

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

61. Schedules: means the schedules of assets and liabilities, statements of financial affairs, and lists of holders of Claims and Equity Interests, filed with the Court by the Debtor, including any amendments or supplements thereto.

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

63. Secured Lender Claim: means any and all Claims against the Debtor held by the Lender arising under the Paragon Note and the related agreements and documentation securing such Claim, and guaranteed by the Debtor pursuant to the Guaranty.

64. Secured Lender Expenses: means any reasonable and documented fees and out-of-pocket costs and expenses, incurred prior to or after the Petition Date by the Lender in connection with the Chapter 11 Case (including without limitation reasonable fees and expenses of the Lender's counsel and financial advisor).

65. Unexpired Lease: means a lease to which the Debtor is a party that is subject to assumption or rejection under section 365 of the Bankruptcy Code.

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

67. Unsecured Claim: means any Claim that is not Secured or entitled to priority under the Bankruptcy Code or an order of the Court, including any Claim arising from the rejection of an Executory Contract or Unexpired Lease under section 365 of the Bankruptcy Code.

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

69. Voting Deadline: means the deadline for submitting Ballots to either accept or reject the Plan in accordance with section 1126 of the Bankruptcy Code, which shall be \_\_\_\_\_, 2016 at 4:00 p.m. (prevailing Eastern Time).

70. Voting Record Date: means \_\_\_\_\_, 2016.

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

Capitalized terms that are not defined herein shall have the same meanings assigned to such terms by the Bankruptcy Code or Bankruptcy Rules, as the case may be. Meanings of capitalized terms shall be equally applicable to both the singular and plural forms of such terms. The words "herein," "hereof," and "hereunder" and other words of similar import refer to the Plan as a whole (and, for the avoidance of doubt, the Plan Supplement) and not to any particular section or subsection in the Plan unless expressly provided otherwise. The words

“includes” and “including” are not limiting and mean that the things specifically identified are set forth for purposes of illustration, clarity or specificity and do not in any respect qualify, characterize or limit the generality of the Class within which such things are included. Captions and headings to articles, sections and exhibits are inserted for convenience of reference only, are not a part of this Plan, and shall not be used to interpret this Plan. The rules of construction set forth in section 102 of the Bankruptcy Code shall apply to this Plan.

**C. Computation of Time.**

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

**D. Reference to Monetary Figures.**

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

**ARTICLE II.  
ADMINISTRATIVE AND PRIORITY CLAIMS**

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

**A. Administrative Expense Claims.**

1. Administrative Expense Claims.

Each holder of an Allowed Administrative Expense Claim as of the Effective Date shall receive from the Debtor (i) Cash in an amount equal to the amount of such Allowed Administrative Expense Claim as soon as practicable after the later of (a) the Effective Date if such Administrative Expense Claim is Allowed as of the Effective Date, (b) thirty (30) days after the date such Administrative Expense Claim becomes an Allowed Administrative Expense Claim if such Administrative Expense Claim is Disputed as of or following the Effective Date, or (c) the date such Allowed Administrative Expense Claim becomes due and payable by its terms, or as soon thereafter as is practicable or (ii) such other treatment as the Debtor and such holder shall have agreed upon in writing, with the consent of the Lender; provided, however, that Allowed Administrative Expense Claims that arise in the ordinary course of the Debtor’s business shall be paid in the ordinary course of business in accordance with the terms and subject to the conditions of any agreements governing, instruments evidencing or other documents relating to such transactions.

2. Time for Filing Administrative Expense Claims.

The holder of an Administrative Expense Claim accruing on or after September 15, 2016, other than: (a) a Fee Claim; (b) an Administrative Expense Claim that has been

Allowed on or before the Effective Date; and (c) a claim for U.S. Trustee Fees, must submit to the Claims and Voting Agent and serve on Reorganized NEP and its counsel, a request for such Administrative Expense Claim so as to be received by 5:00 p.m. (prevailing Eastern Time) on the date that is thirty (30) days after service of notice of occurrence of the Effective Date. Such request must include at a minimum: (i) the name of the Debtor(s) that are purported to be liable for the Administrative Expense Claim; (ii) the name of the holder of the Administrative Expense Claim; (iii) the amount of the Administrative Expense Claim; (iv) the basis of the Administrative Expense Claim; and (v) supporting documentation for the Administrative Expense Claim. **FAILURE TO FILE AND SERVE SUCH NOTICE OR REQUEST TIMELY AND PROPERLY SHALL RESULT IN THE ADMINISTRATIVE EXPENSE CLAIM BEING FOREVER BARRED AND EXTINGUISHED.**

**B. Fee Claims.**

1. *Professional Compensation and Reimbursement Claims.*

All requests for allowance of Fee Claims on a final basis must be filed with the Court and served on Reorganized NEP and its counsel, and the U.S. Trustee, no later than forty-five (45) days after the Effective Date. After notice and a hearing in accordance with the procedures established by the Bankruptcy Code and prior orders of the Court in the Chapter 11 Case, the allowed amounts of such Fee Claims shall be determined by the Court. Parties in interest will have 21 days to object to any Fee Claim. For the avoidance of doubt, this Section of the Plan shall not be applicable to any Secured Lender Expenses, which shall be paid pursuant to Article II.E of the Plan. **FAILURE TO FILE AND SERVE FINAL FEE APPLICATIONS TIMELY AND PROPERLY SHALL RESULT IN THE UNDERLYING FEE CLAIMS BEING FOREVER BARRED AND EXTINGUISHED.**

Objections to Fee Claims, if any, must be filed and served pursuant to the procedures set forth in the Confirmation Order no later than twenty-one (21) days after the date that a Fee Claim is filed with the Court.

Upon final allowance by the Court of any Fee Claim, Reorganized NEP shall pay the amount of all Allowed but unpaid Professional Fees promptly and directly to the applicable Professional.

2. *Post-Effective Date Fees and Expenses.*

Reorganized NEP shall pay in Cash the reasonable legal, professional, or other fees and expenses incurred by the Professionals that have been retained by the Debtor on and after the Effective Date, in the ordinary course of business and without any further notice to or action, order or approval of the Court. Upon the Effective Date, any requirement that Professionals retained by Reorganized NEP comply with sections 327 through 331 of the Bankruptcy Code in seeking retention or compensation for services rendered after such date shall terminate, and such Professionals may be employed and paid in the ordinary course of business without any further notice to or action, order, or approval of the Court.

**C. Priority Tax Claims.**

Each holder of an Allowed Priority Tax Claim due and payable on or before the Effective Date shall receive, at the option of Reorganized NEP, in full satisfaction, settlement, release, and discharge, of and in exchange for such Priority Tax Claim, (i) payment in full in Cash as soon as practicable after the Effective Date in an amount equal to the amount of such Allowed Priority Tax Claim, plus statutory interest on any outstanding balance from the Effective Date, calculated at the prevailing rate under applicable nonbankruptcy law for each taxing authority and to the extent provided for by section 511 of the Bankruptcy Code, and in a manner not less favorable than the most favored nonpriority Unsecured Claim provided for by the Plan (other than Cash payments made to a Class of creditors pursuant to section 1122(b) of the Bankruptcy Code); or (ii) such other treatment as may be agreed upon by such holder and the Debtor or otherwise determined upon a Final Order of the Court.

**D. U.S. Trustee Fees.**

Notwithstanding anything to the contrary contained herein, on the Effective Date, the Debtor shall pay, in full, in Cash, any fees due and owing to the U.S. Trustee at the time of Confirmation. On and after the Effective Date, Reorganized NEP shall be responsible for filing required post-confirmation reports and paying quarterly fees due to the U.S. Trustee until the entry of a final decree in the Chapter 11 Case. Reorganized NEP shall remain obligated to pay quarterly fees to the U.S. Trustee until the Chapter 11 Case is closed.

**E. Secured Lender Expenses**

Notwithstanding anything to the contrary contained herein, on the Effective Date or as soon as practicable thereafter, Reorganized NEP shall pay, in full, in Cash, any outstanding and unpaid Secured Lender Expenses incurred through the Effective Date.

**ARTICLE III.  
CLASSIFICATION AND TREATMENT OF  
CLAIMS AND EQUITY INTERESTS**

**A. Classification of Claims and Equity Interests.**

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

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

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

| <b>Class</b> | <b>Claim or Equity Interest</b> | <b>Status</b> | <b>Voting Rights</b> |
|--------------|---------------------------------|---------------|----------------------|
| 1            | Other Priority Claims           | Unimpaired    | Deemed to Accept     |
| 2            | Other Secured Claims            | Unimpaired    | Deemed to Accept     |
| 3            | Secured Lender Claim            | Impaired      | Entitled to Vote     |
| 4            | General Unsecured Claims        | Impaired      | Entitled to Vote     |
| 5            | Intercompany Claims             | Unimpaired    | Deemed to Accept     |
| 6            | Equity Interests                | Impaired      | Deemed to Reject     |

Consistent with § 1122 of the Bankruptcy Code, a Claim or Equity Interest is classified by the Plan in a particular Class only to the extent the Claim or Equity Interest is within the description of the Class, and a Claim or Equity Interest is classified in a different Class to the extent it is within the description of that different Class.

The treatment in this Plan is in full and complete satisfaction of the legal, contractual, and equitable rights that each entity holding an Allowed Claim or an Allowed Equity Interest may have in or against the Debtor or its property. This treatment supersedes and replaces any agreements or rights those entities have in or against the Debtor or its property. All distributions under the Plan will be tendered to the Person holding the Allowed Claim or Allowed Equity Interest in accordance with the terms of this Plan.

**C. Treatment of Classified Claims and Equity Interests.**1. Class 1 – Other Priority Claims.

(a) Classification: Class 1 consists of Other Priority Claims.

(b) Treatment: Except to the extent that a holder of an Allowed Other Priority Claim agrees in writing to less favorable treatment, in full and final satisfaction, settlement, release and discharge and in exchange for each Allowed Other Priority Claim, each holder of an Allowed Other Priority Claim shall receive payment in Cash in an amount equal to such Allowed Other Priority Claim as soon as practicable after the later of (i) the Effective Date and (ii) thirty (30) days after the date when such Other Priority Claim becomes an Allowed Other Priority Claim.

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

The Debtor is currently unaware of any creditors within this Class.

2. Class 2 – Other Secured Claims.

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

(b) Treatment: Except to the extent that a holder of an Allowed Other Secured Claim agrees in writing to less favorable treatment, at the option of the Debtor with the consent of the Lender, in full and final satisfaction, settlement, release and discharge of and in exchange for such Other Secured Claim, each holder of an Allowed Other Secured Claim shall either: (i) have its Allowed Other Secured Claim Reinstated and rendered Unimpaired, (ii) receive Cash in an amount equal to such Allowed Other Secured Claim, including any interest on such Allowed Other Secured Claim, if such interest is required to be paid pursuant to sections 506(b) and/or 1129(a)(9) of the Bankruptcy Code, as soon as practicable after the later of (a) the Effective Date, and (b) thirty (30) days after the date such Other Secured Claim becomes an Allowed Other Secured Claim, or (iii) receive the Collateral securing its Allowed Other Secured Claim as soon as practicable after the later of (a) the Effective Date and (b) thirty (30) days after the date such Other Secured Claim becomes an Allowed Other Secured Claim.

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

The Debtor is currently unaware of any creditors within this Class.

3. Class 3 – Secured Lender Claim.

(a) Classification: Class 3 consists of the Secured Lender Claim.

1. Treatment: Upon the Effective Date of the Plan, the Secured Lender Claim shall be Allowed, in the aggregate, in the amount of \$215,134,126.26. On or as soon as practicable after the Effective Date, in full and final satisfaction, settlement, release and discharge of and in exchange for the Secured Lender Claim, (i) the Secured Lender Claim shall be reinstated as follows: (a) such Claim shall be reduced in principal amount outstanding by 10% (so as to be Allowed in the amount of \$193,620,713.63); (b) the maturity date of such Claim shall be extended by five years (resulting in a maturity date of July 31, 2022); and (c) to the extent such rate is lower than the current applicable interest rate, the interest rate applicable to such Claim shall be the applicable mid-term Federal Rate in effect as of the Effective Date of the Plan; (ii) the Lender shall receive 100% of the New Equity in Reorganized NEP.

(b) Voting: Class 3 is Impaired. Therefore, the holder of the Class 3 Secured Lender Claim is entitled to vote to accept or reject the Plan.

4. Class 4 – General Unsecured Claims

(a) Classification: Class 4 consists of General Unsecured Claims against the Debtor.



(b) Treatment: In full and final satisfaction, settlement, release and discharge of and in exchange for each Allowed General Unsecured Claim against the Debtor, within 30 days following the Effective Date, each holder of an Allowed General Unsecured Claim shall, at the discretion of Reorganized NEP: (i) receive Cash in an amount equal to the full principal amount of such Allowed General Unsecured Claim, provided that such payment shall not include any interest, late fees, or expenses (including without limitation attorney's fees and expenses), (ii) receive such other treatment as may be agreed between such holder and Reorganized NEP, or (iii) receive such other treatment that will render it Unimpaired pursuant to section 1124 of the Bankruptcy Code.

(c) Voting: Class 4 is Impaired. Therefore, holders of Class 4 General Unsecured Claims are entitled to vote to accept or reject the Plan.

5. Class 5 – Intercompany Claims.

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

(b) Treatment: On the Effective Date, Intercompany Claims will be Reinstated in full. On and after the Effective Date, the Debtor and Reorganized NEP will be permitted to transfer funds between and among themselves and their affiliates and subsidiaries as they determine to be necessary or appropriate to enable Reorganized NEP to satisfy its obligations under the Plan. Except as set forth herein, any changes to intercompany account balances resulting from such transfers will be accounted for and settled in accordance with the Debtor's historical intercompany account settlement practices.

(c) Voting: Class 5 is Unimpaired. Holders of Class 5 Intercompany Claims are conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code, as applicable. Therefore, holders of Class 5 Intercompany Claims are not entitled to vote to accept or reject the Plan.

6. Class 6 – Equity Interests in the Debtor.

(a) Classification: Class 6 consists of any and all Equity Interests in the Debtor.

(b) Treatment: On the Effective Date, Equity Interests in the Debtor shall be cancelled and discharged and shall be of no further force and effect, whether surrendered for cancellation or otherwise and holders of Class 6 Equity Interests shall not receive or retain any property under the Plan on account of such Equity Interests.

(c) Voting: Class 6 is Impaired. Holders of Class 6 Equity Interests are conclusively presumed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code. Therefore, holders of Class 6 Equity Interests are not entitled to vote to accept or reject the Plan.

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

Except as otherwise specifically provided in this Plan, nothing herein shall be deemed to affect, diminish, or impair the Debtor's or Reorganized NEP's rights and defenses, both legal and equitable, with respect to any Reinstated Claim or Unimpaired Claim, including, but not limited to, legal and equitable defenses to setoffs or recoupment against Reinstated Claims or Unimpaired Claims; and, except as otherwise specifically provided in this Plan, nothing herein shall be deemed to be a waiver or relinquishment of any Cause of Action or other legal or equitable defense which the Debtor had immediately prior to the Petition Date, against or with respect to any Claim left Unimpaired by this Plan. Except as otherwise specifically provided in this Plan, Reorganized NEP shall have, retain, reserve, and be entitled to assert all such Causes of Action, rights of setoff, and other legal or equitable defenses which they had immediately prior to the Petition Date fully as if the Chapter 11 Case had not been commenced, and all of Reorganized NEP's legal and equitable rights with respect to any Reinstated Claim or Claim left Unimpaired by this Plan may be asserted after the Confirmation Date and the Effective Date to the same extent as if the Chapter 11 Case had not been commenced.

**E. Special Provision Regarding the Debtor's Non-Debtor Affiliates and Subsidiaries.**

Notwithstanding anything to the contrary in this or any other document, instrument or order, and for the avoidance of doubt, it is expressly understood, agreed and intended by the Debtor and Reorganized NEP that (1) the Plan and any and all related documents and orders in this bankruptcy case shall apply solely to the Debtor and Reorganized NEP and not to any non-debtor affiliate or subsidiary (with the sole exception of NEP Equipment, but solely as relates to the consensual change to the Claims described in the Plan Support Agreement), (2) the rights, claims and remedies of any Person (including but not limited to any lender to any non-debtor entity) relating to any contract, lease, license, permit, guaranty, litigation, loan, instrument or obligation of any non-debtor affiliate or subsidiary of the Debtor shall remain at all times in full force and effect without any limitation, waiver, release, cancellation or alteration whatsoever as if this Chapter 11 Case had not been filed, and (3) each and every contract, lease, license, guaranty, permit and instrument of the Debtor shall be, and hereby is, assumed and Reinstated in full with no amendments, modifications, alterations, discharge, release or limitations to any such agreement or any provision therein (other than the agreed upon changes to the Claim of the Lender, as described herein), and without any further notice, order, instrument or action by or on behalf of the Debtor, other than such notice as may be required pursuant to the Confirmation Order, and subject to any legal or equitable defenses or rights of setoff held by the Debtor or any other party existing as of the Petition Date.

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

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

The provisions of the Plan shall, upon consummation, constitute a good faith compromise and settlement pursuant to Bankruptcy Rule 9019 and section 1123 of the Bankruptcy Code between the Debtor and the Lender and the Debtor and holders of Claims and Equity Interests. In the event that, for any reason, the Confirmation Order is not entered or the

Effective Date does not occur, the Debtor and the Lender reserve all of their respective rights with respect to any and all matters, Claims or disputes resolved and settled under the Plan. The entry of the Confirmation Order shall constitute the Court's approval of each of the compromises and settlements embodied in the Plan, and the Court's findings shall constitute its determination that such compromises and settlements are in the best interests of the Debtor, its estate, creditors, and other parties-in-interest, and are fair, equitable, and within the range of reasonableness. The provisions of the Plan, including, without limitation, its release, injunction, exculpation and compromise provisions, are mutually dependent and non-severable.

**B. Voting of Claims.**

Each holder of a Claim as of the Voting Deadline in an Impaired Class of Claims that (a) is not deemed to have rejected the Plan or (b) is not conclusively presumed to have accepted the Plan, and (c) has not been disallowed by the Court as of the Voting Record Date, shall be entitled to vote to accept or reject the Plan. The instructions for completion of the Ballots are set forth in the instructions accompanying the Ballot. Approval for the procedures with respect to the solicitation and tabulation of votes to accept or reject the Plan will be sought in the Plan Scheduling Motion. The procedures with respect to the solicitation and tabulation of votes to accept or reject the Plan are described in the Disclosure Statement.

**C. Confirmation Pursuant to Section 1129(b) of the Bankruptcy Code.**

Class 6 of Equity Interests in the Debtor is deemed to reject this Plan. Accordingly, this Plan shall constitute a motion to request that the Court confirm the Plan in accordance with section 1129(b) of the Bankruptcy Code with respect to such non-accepting Class.

**D. Continued Existence and Vesting of Assets.**

Except as otherwise provided herein: (i) the Debtor will, as Reorganized NEP, continue to exist after the Effective Date as a separate legal entity, with all of the powers of such a legal entity under applicable law and without prejudice to any right to alter or terminate such existence (whether by merger, dissolution or otherwise) under applicable law; and (ii) on the Effective Date, all property of its Estate, and any property acquired by the Debtor or Reorganized NEP under the Plan, will vest in Reorganized NEP free and clear of all Claims, Liens, charges, other encumbrances, Equity Interests and other interests, except for the Liens and Claims established under the Plan. To the extent any certificate of formation, bylaws or other analogous formation or governing documents are amended in connection with the Plan, such documents are deemed to be amended by the Plan and require no further action or approval other than any requisite filings required under applicable state, provincial or federal law.

On and after the Effective Date, Reorganized NEP may operate its businesses and may use, acquire and dispose of property and compromise or settle any claims without supervision or approval by the Court and free of any restrictions of the Bankruptcy Code or Bankruptcy Rules, subject only to those restrictions expressly imposed by the Plan or the Confirmation Order as well as the documents and instruments executed and delivered in

connection therewith, including the documents, exhibits, instruments and other materials comprising the Plan Supplement.

**E. Issuance of New Equity of Reorganized NEP.**

1. Issuance of New Equity. Issuance of the New Equity shall be authorized under the Operating Agreement of Reorganized NEP, and the New Equity shall be issued on the Effective Date and distributed as soon as practicable thereafter in accordance with the Plan. All New Equity, issuable in accordance with the Plan, when so issued, shall be duly authorized, validly issued, fully paid, and non-assessable. The issuance of the New Equity is authorized without the need for any further corporate action and without any further action by any holder of a Claim or Equity Interest.

2. Exemption from Registration. Pursuant to section 1145 of the Bankruptcy Code, the offering, issuance, and distribution of any securities pursuant to this Plan and any and all settlement agreements incorporated herein shall be exempt from, among other things, the registration requirements of section 5 of the Securities Act to the maximum extent permitted thereunder and any other applicable State or local law requiring registration prior to the offering, issuance, distribution or sale of securities. In addition, except as otherwise provided in this Plan, to the maximum extent provided under section 1145 of the Bankruptcy Code, any and all New Equity contemplated by this Plan and any and all settlement agreements incorporated therein will be freely tradable by the recipients thereof, subject to: (1) 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 any 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; (2) the restrictions, if any, on the transferability of such Securities and instruments; and (3) applicable regulatory approval.

**F. Cancellation of Existing Securities.**

On the Effective Date, except as otherwise specifically provided for in the Plan: (i) the obligations of the Debtor under any instrument or document directly or indirectly evidencing or creating any indebtedness or obligation of or ownership interest in the Debtor giving rise to any Claim or Equity Interest (except such certificates, notes or other instruments or documents evidencing indebtedness or obligations of the Debtor that are specifically Reinstated pursuant to the Plan), shall be cancelled, and Reorganized NEP shall not have any continuing obligations thereunder; and (ii) the obligations of the Debtor pursuant, relating or pertaining to any agreements, indentures, certificates of designation, bylaws or certificate or articles of incorporation or similar documents governing the shares, certificates, notes, bonds, purchase rights, options, warrants or other instruments or documents evidencing or creating any indebtedness or obligation of the Debtor (except such agreements, certificates, notes or other instruments evidencing indebtedness or obligations of the Debtor that are specifically Reinstated pursuant to the Plan or assumed by the Debtor) shall be released and discharged. For the avoidance of doubt, nothing in this section shall affect (a) the Secured Lender Claim, which shall not be cancelled as of the Effective Date of the Plan but shall continue in full force and effect as a legal and binding obligation of the Debtor and NEP Equipment in all respects, other than as specifically amended pursuant to Article III.C.3 of this Plan (and any documentation effectuating

the amendment of the Secured Lender Claim); or (b) the discharge of or result in any obligation, liability or expense of the Debtor or Reorganized NEP or affect the discharge of Claims or Equity Interests pursuant to the Bankruptcy Code, the Confirmation Order or the Plan, or result in any additional obligation, expense or liability of the Debtor or Reorganized NEP.

**G. Preservation of Causes of Action.**

In accordance with section 1123(b) of the Bankruptcy Code, Reorganized NEP may pursue the Causes of Action in its sole discretion. Reorganized NEP expressly reserves all rights to prosecute any and all Causes of Action against any Entity, except as otherwise expressly provided in the Plan. Unless any Causes of Action against an Entity are expressly waived, relinquished, exculpated, released, compromised or settled in the Plan or a Court order, Reorganized NEP expressly reserves all Causes of Action, for later adjudication, and, therefore, no preclusion doctrine, including the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion, estoppel (judicial, equitable or otherwise) or laches, shall apply to the Causes of Action upon, after or as a consequence of the Confirmation or Consummation. In accordance with section 1123(b)(3) of the Bankruptcy Code, Reorganized NEP may exclusively enforce any and all Causes of Action. Reorganized NEP 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 Causes of Action and to decline to do any of the foregoing without further notice to or action, order or approval of the Court.

**ARTICLE V.  
PROVISIONS REGARDING CORPORATE GOVERNANCE  
OF REORGANIZED NEP**

**A. Appointment of Managers.**

As of the Effective Date, the term of the current members of the Debtor's board of managers shall expire without further action by any Person and such members shall have no continuing obligations to the Debtor or Reorganized NEP on or after the Effective Date. Effective as of the Effective Date, Reorganized NEP shall be managed by its sole member.

**B. Powers of Officers.**

The officers of the Debtor or Reorganized NEP, as the case may be, shall have the power to enter into or execute any documents or agreements that they deem reasonable and appropriate to effectuate the terms of the Plan.

**C. Corporate Action.**

On or prior to the Effective Date, the Debtor and, after the Effective Date, Reorganized NEP, may enter into or undertake any corporate transactions and may take such actions as may be determined by the Debtor or Reorganized NEP to be necessary or appropriate to effect such corporate transactions as contemplated by and consistent with the Plan. The actions to effect the corporate transactions may include, without limitation: (i) the execution and delivery of appropriate agreements or other documents of merger, consolidation, conversion, restructuring, recapitalization, disposition, liquidation or dissolution containing terms that are

consistent with the terms herein and that satisfy the requirements of applicable law and such other terms to which the applicable entities may agree; (ii) the execution and delivery of appropriate instruments of transfer, assignment, assumption, disposition, or delegation of any asset, property, right, liability, duty or obligation on terms consistent with the terms herein and having such other terms to which the applicable entities may agree; (iii) the filing of appropriate certificates or articles of merger, consolidation, conversion or dissolution (or similar instrument) pursuant to applicable law; and (iv) all other actions which the applicable entities may determine to be necessary or appropriate, including making filings or recordings that may be required by applicable law in connection with such transactions. The corporate transactions may include one or more mergers, consolidations, conversions, restructurings, recapitalizations, dispositions, liquidations or dissolutions, as may be determined by the Debtor to be necessary or appropriate to effect the purposes of such transactions for the benefit of Reorganized NEP, including, without limitation, the potential simplification of the organizational structure of the Debtor. Implementation of the corporate transactions shall not affect (a) any distributions, discharges, exculpations, releases or injunctions set forth in this Plan, or (b) any Claim, rights or contract held by any Person with any non-debtor affiliate or subsidiary of the Debtor. The corporate transactions shall be authorized and approved by the Confirmation Order pursuant to, among other provisions, sections 1123 and 1141 of the Bankruptcy Code and title 6 and title 8 of the Delaware Code, if applicable, without any further notice, action, third-party consents, court order or process of any kind, except as otherwise set forth herein or in the Confirmation Order.

## **ARTICLE VI. DISTRIBUTIONS UNDER THE PLAN**

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

1. Objections to Claims. From and after the Effective Date, Reorganized NEP shall have the right to object to any and all Claims that have not been previously Allowed. Any objections to Claims shall be filed and served on or before the later of (i) one hundred and eighty (180) days after the Effective Date, and (ii) such later date as may be fixed by the Court upon a motion by Reorganized NEP without notice to any party or a hearing, which later date may be fixed before or after the date specified in clause (i) above. No objection shall be required with respect to a Proof of Claim filed after the applicable Bar Date, and any and all such Claims shall be deemed disallowed unless otherwise ordered by the Court after notice and a hearing. Objections to Professional Fee Claims shall be filed and served in accordance with Article II.B.

2. Settlement of Claims. Notwithstanding the requirements that may be imposed pursuant to Bankruptcy Rule 9019, from and after the Effective Date, Reorganized NEP shall have the authority to settle or compromise any claim or objections or proceedings relating to the allowance of Claims as and to the extent deemed prudent and reasonable without further review or approval of the Court and without the need to file a formal objection. Nothing in this Article VI.A shall be deemed to affect or modify the applicable Bar Dates previously established in this Chapter 11 Case.

3. No Distributions Pending Allowance. Notwithstanding any other provision hereof, if any portion of a Claim is a Disputed Claim, no payment or Distribution

provided hereunder shall be made on account of the Disputed portion of such Claim until the Disputed portion of such Claim becomes an Allowed Claim.

4. Interest on Disputed Claims. Unless otherwise specifically provided for in this Plan or as otherwise required by sections 506(b), 511 or 1129(a)(9)(C)-(D) of the Bankruptcy Code, interest shall not accrue or be paid on any Disputed Claim in respect of the period from the Effective Date to the date a final Distribution is made when and if such Disputed Claim becomes and Allowed Claim.

5. Estimation of Claims. The Debtor or Reorganized NEP may at any time request that the Court estimate any Disputed Claim pursuant to section 502(c) of the Bankruptcy Code or other applicable law regardless of whether the Debtor or Reorganized NEP have previously objected to such Claim or whether the Court has ruled on any such objection. The Court will retain jurisdiction to estimate any Claim at any time during the pendency of litigation concerning any objection to any Claim, including during the pendency of any appeal relating to any such objection. In the event that the Court estimates any Disputed Claim, such estimated amount shall constitute either (a) the Allowed amount of such Claim, (b) the amount on which a reserve is to be calculated for purposes of any reserve requirement to this Plan or (c) a maximum limitation on such Claim, as determined by the Court. If the estimated amount constitutes a maximum limitation on such Claim, the Debtor or Reorganized NEP, as applicable, may pursue supplementary proceedings to object to the allowance of such Claim. Claims may be estimated and subsequently compromised, settled, withdrawn or resolved by any mechanism approved by the Court.

## **B. Allowed Claims.**

1. Delivery of Distributions. Except with respect to distributions of New Equity, distributions under the Plan shall be made by Reorganized NEP (or its agent or designee) to the holders of Allowed Claims in all Classes for which a distribution is provided in this Plan at the addresses set forth on the Schedules, unless such addresses are superseded by Proofs of Claim or transfers of Claim filed pursuant to Bankruptcy Rule 3001 (or at the last known addresses of such holders if the Debtor or Reorganized NEP have been notified in writing of a change of address).

2. Distribution of Cash. Any payment of Cash by Reorganized NEP pursuant to the Plan shall be made at the option and in the sole discretion of Reorganized NEP by (i) a check drawn on, or (ii) wire transfer from, a bank selected by Reorganized NEP.

3. Unclaimed Distributions of Cash. Subject to Article VI.B.5 herein, any distribution of Cash under the Plan that is unclaimed after one year after it has been delivered (or attempted to be delivered) shall, pursuant to section 347(b) of the Bankruptcy Code, become the property of Reorganized NEP notwithstanding any domestic state or other escheat or similar laws to the contrary, and the entitlement by the holder of such unclaimed Allowed Claim to such distribution or any subsequent distribution on account of such Allowed Claim shall be extinguished and forever barred.

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

5. Distributions to Holders of Claims:

(a) Initial Distribution to Claims Allowed as of the Effective Date. On or as soon as reasonably practicable after the Effective Date, or as otherwise expressly set forth in the Plan, Reorganized NEP (or its agent or designee) shall distribute Cash or Collateral, as the case may be, to the holders of Allowed Claims as contemplated herein.

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

**C. Allocation of Consideration.**

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

**D. Insured Claims.**

If any portion of an Allowed Claim is an Insured Claim, no distributions under the Plan shall be made on account of such Allowed Claim until the holder of such Allowed Claim has exhausted all remedies with respect to any applicable insurance policies.

**E. Compliance with Tax Requirements.**

In connection with the Plan, to the extent applicable, the Debtor and Reorganized NEP, as applicable, 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 Debtor or Reorganized NEP 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 Debtor and Reorganized NEP, as applicable, reserve the right to allocate all distributions made under the Plan in compliance with applicable wage garnishments, alimony, child support and other spousal awards, liens and encumbrances.



**F. Setoff and Recoupment.**

The Debtor or Reorganized NEP may, but shall not be required to, setoff against or recoup from any Claims of any nature whatsoever that the Debtor may have against the claimant pursuant to section 558 of the Bankruptcy Code or otherwise, but neither the failure to do so nor the allowance of any Claim hereunder shall constitute a waiver or release by the Debtor or Reorganized NEP of any such Claim it may have against the holder of such Claim.

**Unless otherwise authorized by a Final Order, any holder of a Claim, other than a holder of a Governmental Claim, must assert any setoff rights against a Claim by the Debtor against such Entity by filing an appropriate motion seeking authority to setoff on or before the Confirmation Date or will be deemed to have waived and be forever barred from asserting any right to setoff against a Claim by the Debtor or Reorganized NEP, notwithstanding any statement to the contrary in a Proof of Claim or any other pleading or document Filed with the Court or delivered to the Debtor.**

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

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

Except as otherwise provided herein, each Executory Contract and Unexpired Lease not previously assumed, assumed and assigned, or rejected shall be deemed automatically assumed pursuant to sections 365 and 1123 of the Bankruptcy Code as of the Effective Date, unless any such executory contract or unexpired lease: (i) has been previously rejected by the Debtor by Final Order as of the Effective Date; (ii) is the subject of a motion to reject pending as of the Effective Date; or (iii) is otherwise rejected pursuant to the terms herein.

The Confirmation Order will constitute an order of the Court approving such assumptions pursuant to sections 365 and 1123 of the Bankruptcy Code as of the Effective Date or as otherwise set forth in the Plan Supplement.

**B. Cure Claims.**

At the election of the Debtor or Reorganized NEP, as applicable, any monetary defaults under each Executory Contract and Unexpired Lease to be assumed under the Plan shall be satisfied pursuant to section 365(b)(1) of the Bankruptcy Code in one of the following ways: (i) payment of the Cure Claim in Cash on or as soon as reasonably practicable to occur of (A) thirty (30) days after the determination of the Cure Claim, and (B) the Effective Date or such other date as may be set by the Court, or (ii) on such other terms as agreed to by the Debtor or Reorganized NEP and the non-Debtor counterparty to such Executory Contract or Unexpired Lease. In the event of a dispute pertaining to assumption or assignment, the Cure Claim payments required by section 365(b)(1) of the Bankruptcy Code shall be made following the resolution of the dispute in accordance with Article VI.A of this Plan. Reorganized NEP shall be deemed to have provided adequate assurance of future performance through the promise of Reorganized NEP to perform all obligations under any Executory Contract or Unexpired Lease under this Plan.

**ASSUMPTION OF ANY EXECUTORY CONTRACT OR UNEXPIRED LEASE AND SATISFACTION OF THE CURE CLAIM PURSUANT TO THE PLAN OR OTHERWISE SHALL RESULT IN THE FULL RELEASE AND SATISFACTION OF ANY CLAIMS OR DEFAULTS, WHETHER MONETARY OR NONMONETARY, INCLUDING DEFAULTS OF PROVISIONS RESTRICTING THE CHANGE IN CONTROL OR OWNERSHIP INTEREST COMPOSITION OR OTHER BANKRUPTCY-RELATED DEFAULTS, ARISING UNDER ANY ASSUMED EXECUTORY CONTRACT OR UNEXPIRED LEASE AT ANY TIME BEFORE THE DATE THE DEBTOR OR REORGANIZED NEP ASSUMES SUCH EXECUTORY CONTRACT OR UNEXPIRED LEASE. ANY PROOFS OF CLAIM FILED WITH RESPECT TO AN EXECUTORY CONTRACT OR UNEXPIRED LEASE THAT HAS BEEN ASSUMED SHALL BE DEEMED MOOT AND EXPUNGED, WITHOUT FURTHER NOTICE TO OR ACTION, ORDER OR APPROVAL OF THE COURT UPON PAYMENT OF ANY CURE CLAIM.**

**C. Reservation of Rights.**

Neither the exclusion nor inclusion of any contract or lease in the Plan Supplement, as applicable, nor anything contained in the Plan, shall constitute an admission by the Debtor that any such contract or lease is in fact an Executory Contract or Unexpired Lease or that Reorganized NEP has any liability thereunder. In the event a written objection is filed with the Court asserting that a contract or lease is executory or unexpired, the right of the Debtor or Reorganized NEP to move to reject such contract or lease shall be extended until the date that is thirty (30) days after the entry of a Final Order by the Court determining that the contract or lease is executory or unexpired, in which case the deemed assumption provided for in the Plan shall not apply to such contract or lease.

**D. Assignment.**

Any Executory Contract or Unexpired Lease, if not expressly assumed and assigned to a third party previously in the Chapter 11 Case, will be deemed assumed and assigned to Reorganized NEP pursuant to section 365 of the Bankruptcy Code. If an objection to a proposed assumption, assumption and assignment or Cure Claim is not resolved in favor of the Debtor before the Effective Date, the applicable Executory Contract or Unexpired Lease may be designated by the Debtor or Reorganized NEP for rejection within five (5) Business Days of the entry of a Final Order of the Court resolving the matter against the Debtor. Such rejection shall be deemed effective as of the Effective Date.

**E. Insurance Policies.**

Notwithstanding anything in this Plan to the contrary, all of the Debtor's insurance policies and any agreements, documents or instruments relating thereto, are treated as and deemed to be Executory Contracts under the Plan. On the Effective Date, the Debtor shall be deemed to have assumed all insurance policies and any agreements, documents and instruments related thereto, *in toto* and with no changes whatsoever, and such insurance policies (and all rights and obligations thereunder) shall continue uninterrupted and remain in full force and effect at all times.

**F. Post-Petition Contracts and Leases.**

All contracts, agreements and leases that were entered into or assumed by the Debtor after the Petition Date shall be deemed assigned by the Debtor to Reorganized NEP on the Effective Date.

**ARTICLE VIII.  
CONFIRMATION AND CONSUMMATION OF THE PLAN**

**A. Conditions to Confirmation.**

The following are conditions to the entry of the Confirmation Order unless such conditions, or any of them, have been satisfied or duly waived in accordance with Article VIII.B:

1. The Court shall have approved the Disclosure Statement with respect to this Plan in an order in form and substance reasonably acceptable to the Debtor and the Lender.
2. The Confirmation Order, the Plan and Plan Supplement shall be in form and substance acceptable to the Debtor and the Lender.
3. All authorizations, consents, certifications, approvals, rulings, no-action letters, opinions or other documents or actions required by any law, regulation or order to be received or to occur in order to implement this Plan on the Effective Date shall have been obtained or shall have occurred unless failure to do so will not have a material adverse effect on Reorganized NEP.

**B. Conditions to Effectiveness.**

The Plan shall not become effective unless and until:

1. any amended certificate of formation, any other constituent documents of Reorganized NEP, and the Operating Agreement, as may be necessary and applicable, in form and substance acceptable to the Debtor and the Lender, shall have been adopted and (where required by applicable law) filed with the applicable authorities of the relevant jurisdictions of organization and shall have become effective in accordance with such jurisdictions' corporation or limited liability company laws;
2. the Confirmation Order shall have been entered by the Court and shall be a Final Order;
3. the Plan Supplement documents shall have been executed and become effective; and
4. all other documents and agreements necessary to implement this Plan on the Effective Date, in form and substance acceptable to the Debtor and the Lender, to the extent required herein or in the Plan Support Agreement, shall have been executed and delivered and all other actions required to be taken in connection with the Effective Date shall have occurred.

**C. Waiver of Conditions.**

The Debtor, with the written consent of the Lender, to the extent not prohibited by law, may waive one or more of the conditions to (i) confirmation of the Plan set forth in Article VIII.A above at any time without leave of or order of the Court and without any formal action; or (ii) to effectiveness of the Plan set forth in Article VIII.B above at any time.

**D. Effect of Failure of Conditions.**

In the event that the Effective Date does not occur on or before one hundred and twenty (120) days after the Confirmation Date, at the election of the Lender, and upon notification submitted by the Debtor to the Court: (i) the Confirmation Order may be vacated, (ii) no distributions under the Plan shall be made; (iii) the Debtor and all holders of Claims and Equity Interests shall be restored to the *status quo ante* as of the day immediately preceding the Confirmation Date as though the Confirmation Date had never occurred; and (iv) the Debtor's obligations with respect to the Claims and Equity Interests shall remain unchanged and nothing contained in the Plan shall constitute or be deemed a waiver, release, or discharge of any Claims or Equity Interests by or against the Debtor or any other person or to prejudice in any manner the rights of the Debtor or any person in any further proceedings involving the Debtor unless extended by Court order.

**E. Vacatur of Confirmation Order.**

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

**F. Modification of the Plan.**

Subject to the limitations contained in the Plan, and subject to the written consent of the Lender as set forth herein and in the Plan Support Agreement, (i) the Debtor reserves the right, in accordance with the Bankruptcy Code and the Bankruptcy Rules, to amend or modify the Plan prior to the entry of the Confirmation Order, including amendments or modifications to satisfy section 1129(b) of the Bankruptcy Code, and (ii) after entry of the Confirmation Order, the Debtor (with the written consent of the Lender) or Reorganized NEP, as the case may be, may amend or modify the Plan, in accordance with section 1127(b) of the Bankruptcy Code.

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

1. Right to Revoke or Withdraw. Subject to Lender's prior written consent, the Debtor reserves the right to revoke or withdraw the Plan at any time before the Effective

Date; provided, however, that such action shall not alter the rights of the parties to the Plan Support Agreement.

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

## ARTICLE IX.

### EFFECT OF CONFIRMATION AND INDEMNIFICATION, RELEASE, INJUNCTIVE AND RELATED PROVISIONS

#### A. **Binding Effect.**

From and after and after the Confirmation Date, but subject to the occurrence of the Effective Date, this Plan shall be binding and inure to the benefit of the Debtor, all present and former holders of Claims and Equity Interests, and their respective assigns, including Reorganized NEP.

#### B. **Discharge of the Debtor.**

**Pursuant to section 1141(d) of the Bankruptcy Code, and except as otherwise specifically provided in the Plan (including Article III.E) or in any contract, instrument or other agreement or document created pursuant to the Plan, the distributions, rights and treatment that are provided in the Plan shall be in complete satisfaction, discharge and release of Claims, Equity Interests and Causes of Action against the Debtor of any nature whatsoever, including any interest accrued on Claims or Equity Interests from and after the Petition Date, whether known or unknown, against, liabilities of, Liens on, obligations of, rights against and Equity Interests in, the Debtor or any of its assets or properties, regardless of whether any property shall have been distributed or retained pursuant to the Plan on account of such Claims and Equity Interests, including demands, liabilities and Causes of Action that arose before the Effective Date, any contingent or non-contingent liability on account of representations or warranties issued on or before the Effective Date, and all debts of the kind specified in sections 502(g), 502(h) or 502(i) of the Bankruptcy Code, in each case whether or not: (i) a Proof of Claim based upon such debt, right or Equity Interest is Filed or deemed Filed pursuant to section 501 of the Bankruptcy Code; (ii) a Claim or Equity Interest based upon such debt, right or Equity Interest is Allowed; or (iii) the holder of such a Claim or Equity Interest has accepted the Plan or is entitled to**

receive a distribution hereunder. Any default by the Debtor with respect to any Claim or Equity Interest that existed immediately before or on account of the filing of the Chapter 11 Case shall be deemed cured on the Effective Date. The Confirmation Order shall be a judicial determination of the discharge of all Claims and Equity Interests subject to the Effective Date occurring.

**C. Injunction.**

Except as otherwise provided in this Plan (including Article III.E) or in any document, instrument, release or other agreement entered into in connection with this Plan or approved by order of the Court, the Confirmation Order shall provide, among other things, that from and after the Effective Date all Persons or Entities who have held, hold, or may hold Claims against or Equity Interests in the Debtor are (i) permanently enjoined from taking any of the following actions against the Estate or any of its property on account of any such Claims or Equity Interests and (ii) permanently enjoined from taking any of the following actions against the Debtor, Reorganized NEP or their property on account of such Claims or Equity Interests: (A) commencing or continuing, in any manner or in any place, any action or other proceeding; (B) enforcing, attaching, collecting or recovering in any manner any judgment, award, decree or order; (C) creating, perfecting, or enforcing any Lien or encumbrance; (D) asserting a setoff or right of subrogation of any kind against any debt, liability or obligation due to the Debtor; and (E) commencing or continuing, in any manner or in any place, any action that does not comply with or is inconsistent with the provisions of this Plan; provided, however, that nothing contained herein shall preclude such Persons or Entities from exercising their rights pursuant to and consistent with the terms of this Plan and the contracts, instruments, releases, indentures and other agreements or documents assumed, delivered or Reinstated under or in connection with this Plan. By accepting distributions pursuant to this Plan, each Holder of an Allowed Claim or Equity Interest will be deemed to have specifically consented to the injunctions set forth in this Article IX.C.

Nothing in this injunction shall apply to, enjoin, bar or impair the rights of any Person as relates to any non-debtor affiliate or subsidiary of the Debtor.

**D. Releases, Exculpations and Injunctions of Released Parties.**

1. Releases by the Debtor. On the Effective Date, and notwithstanding any other provisions of the Plan, the Debtor and Reorganized NEP, on behalf of themselves and the Estate, shall be deemed to unconditionally release the Released Parties from any and all claims, obligations, suits, judgments, damages, rights, Causes of Action and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, existing or hereafter arising, in law, equity or otherwise, assertable on behalf of or derivative from the Debtor, based in whole or in part upon actions taken solely in their respective capacities described herein or any omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date in any way relating to the Debtor, the Chapter 11 Case, the purchase, sale or rescission of the purchase or sale of any security of the Debtor or Reorganized NEP, the Disclosure Statement, the Plan Support Agreement, the documents included in the Plan Supplement, or the Plan or related agreements,

instruments, or other documents, provided, however, that (a) no individual shall be released from any act or omission that constitutes gross negligence or willful misconduct as determined by a Final Order, (b) except as provided in this Article IX.D.1, Reorganized NEP shall not relinquish or waive the right to assert any of the foregoing as a legal or equitable defense or right of set-off or recoupment against any Claims, and (c) the foregoing release applies to the Released Parties solely in their respective capacities described herein. For the avoidance of doubt, the foregoing release includes any and all claims, obligations, suits, judgments, damages, rights, Causes of Action and liabilities against the Lender, including without limitation any legal or equitable defense or right of set-off or recoupment with respect to the Secured Lender Claim.

2. Releases by Holders of Claims. On the Effective Date, and notwithstanding any other provisions of the Plan (other than as provided in Article III.E), (i) each Releasing Party will be deemed to have forever released and covenanted with the Released Parties not to sue or otherwise seek recovery from any Released Party on account of any Claim, including any Claim or Cause of Action based upon tort, breach of contract, violations of federal or state securities laws or otherwise, based upon any act, occurrence, or failure to act from the beginning of time through the Effective Date in any way related to the Debtor or its businesses and affairs and (ii) each Releasing Party will be deemed to have forever released and covenanted with the Released Parties not to assert against any Released Party any Claim, obligation, right, Cause of Action or liability that any holder of a Claim may be entitled to assert, whether known or unknown, foreseen or unforeseen, existing or hereafter arising, based in whole or in part on any act or omission, transaction, or occurrence from the beginning of time through the Effective Date in any way relating to the Debtor, the purchase, sale, or rescission of the purchase or sale of any security of the Debtor or Reorganized NEP, the subject matter of, or the transactions or events giving rise to, any Claim or Equity Interest that is treated under the Plan, the Chapter 11 Case, the documents included in the Plan Supplement, the Plan Support Agreement, the Plan, or the Disclosure Statement or related agreements, instruments or other documents, provided, however, the foregoing release will not (i) apply to obligations arising under the Plan, (ii) be construed to prohibit a party in interest from seeking to enforce the terms of the Plan, and (iii) apply to any act or omission that constitutes gross negligence or willful misconduct as determined by a Final Order. The foregoing releases apply to the Released Parties solely in their respective capacities described herein.

The releases in this Plan shall apply solely to Claims held by or against the Debtor and shall not impair, release, waive, limit or affect any claim held by any Person against any non-debtor affiliate or subsidiary of the Debtor.

3. Exculpation. The Debtor and its officers, directors, and retained professionals shall have no liability whatsoever to any Entity for any act or omission that occurred prior to, or following, the Petition Date in connection with the Chapter 11 Case, including the preparation, negotiation, and filing of the Plan, the Disclosure Statement, the negotiation of the documents included in the Plan Supplement, the pursuit of approval of the Disclosure Statement or the solicitation of votes for confirmation of the Plan, the Chapter 11 Case, the consummation of the Plan, the administration of the Plan or the property to be distributed under the Plan, or any transaction contemplated by the Plan or

**Disclosure Statement or in furtherance thereof except for any act or omission that constitutes willful misconduct or gross negligence as determined by a Final Order. This exculpation shall be in addition to, and not in limitation of, all other releases, indemnities, exculpations and any other applicable law or rules protecting such Released Parties from liability.**

4. ***Injunction in Favor of Released Parties.*** Pursuant to section 105 of the Bankruptcy Code, no holder or purported holder of an Administrative Expense Claim, Claim or Equity Interest shall be permitted to commence or continue any Cause of Action, employment of process, or any act to collect, offset, or recover any Claim against a Released Party that accrued on or before the Effective Date.

**E. Votes Solicited in Good Faith.**

The Debtor has, and upon entry of the Confirmation Order shall be deemed to have, solicited acceptances of the Plan in good faith and in compliance with the applicable provisions of the Bankruptcy Code. The Debtor (and its respective agents, directors, officers, and Professionals) has participated in good faith and in compliance with the applicable provisions of the Bankruptcy Code in the offer and issuance of the securities offered and sold under the Plan and therefore have not been, and on account of such offer and issuance will not be, liable at any time for the violation of any applicable law, rule, or regulation governing the solicitation of acceptances or rejections of the Plan or the offer or issuance of the securities offered and distributed under the Plan.

**F. Preservation of Insurance.**

The Debtor's discharge and release from all Claims as provided herein shall not, except as necessary to be consistent with this Plan, diminish or impair the enforceability of any insurance policy that may provide coverage for Claims against the Debtor, Reorganized NEP, their current and former directors and officers, or any other Person.

**ARTICLE X.  
RETENTION OF JURISDICTION**

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

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



2. to determine, adjudicate, or decide any other applications, adversary proceedings, contested matters, and any other matters pending before the Court on the Effective Date;
3. to ensure that distributions to holders of Allowed Claims are accomplished as provided herein;
4. to resolve disputes as to the ownership of any Claim or Equity Interest;
5. to allow, disallow, determine, liquidate, classify, estimate, or establish the priority, secured or unsecured status, or amount of any Claim or Equity Interest relating to the Debtor, including the resolution of any request for payment of any Administrative Expense Claim and the resolution of any and all objections to the secured or unsecured status, priority, amount, or allowance of Claims or Equity Interests;
6. to enter and implement such orders as may be appropriate in the event the Confirmation Order is for any reason stayed, revoked, reversed, modified or vacated;
7. to issue such orders in aid of execution of the Plan, to the extent authorized by section 1142 of the Bankruptcy Code;
8. to consider any modifications of the Plan, to cure any defect or omission, or to reconcile any inconsistency in any order of the Court, including the Confirmation Order;
9. to hear and determine all applications, and disputes relating thereto, for compensation and reimbursement of expenses of Professionals;
10. to hear and determine disputes arising in connection with the interpretation, implementation, consummation, or enforcement of the Plan;
11. to hear and determine any issue for which the Plan requires a Final Order of the Court;
12. to hear and determine matters relating to the Debtor concerning state, local, and federal taxes in accordance with sections 346, 505 and 1146 of the Bankruptcy Code;
13. to hear and determine any Causes of Action of the Debtor, all of which have been expressly preserved under the Plan;
14. to hear and determine any matter regarding the existence, nature and scope of the Debtor's discharge;
15. to hear and determine any matter, case, controversy, suit, dispute, or Cause of Action (i) regarding the existence, nature, and scope of the discharge, releases, injunctions, and exculpation provided under the Plan, and (ii) enter such orders as may be necessary or appropriate to implement such discharge, releases, injunctions, exculpations, and other provisions of this Plan;

16. to enter a final decree closing the Chapter 11 Case;
17. to issue injunctions, enter and implement other orders, or take such other actions as may be necessary or appropriate to restrain interference by any entity with consummation or enforcement of the Plan;
18. to adjudicate any and all disputes arising from or relating to distributions under the Plan;
19. to enforce all orders previously entered by the Court; and
20. to hear any other matter not inconsistent with the Bankruptcy Code.

Notwithstanding anything to the contrary, claims solely against non-debtor affiliates and subsidiaries of the Debtor shall not be subject to this Court's jurisdiction under this Article.

## **ARTICLE XI. MISCELLANEOUS PROVISIONS**

### **A. Immediate Binding Effect.**

Notwithstanding Bankruptcy Rules 3020(e), 6004(h), 7062, or otherwise, upon the occurrence of the Effective Date, the terms of the Plan shall be immediately effective and enforceable and deemed binding upon the Debtor, Reorganized NEP, and any and all holders of Claims or Equity Interests (irrespective of whether such Claims or Equity Interests are deemed to have accepted the Plan), all Entities that are parties to or are subject to the settlements, compromises, releases, discharges, and injunctions described in the Plan, each Entity acquiring property under the Plan, and any and all non-Debtor parties to Executory Contracts and Unexpired Leases with the Debtor.

### **B. Governing Law.**

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

### **C. Filing or Execution of Additional Documents.**

On or before the Effective Date, the Debtor or Reorganized NEP shall (on terms materially consistent with the Plan) file with the Court or execute, as appropriate, such agreements and other documents as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan, which shall be in form and substance acceptable to the Debtor and the Lender in accordance with the Plan Support Agreement.

**D. Term of Injunctions of Stays.**

All injunctions or stays provided for in the Chapter 11 Case under sections 105 or 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect until the Effective Date.

**E. Withholding and Reporting Requirements.**

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

**F. Exemption From Transfer Taxes.**

Pursuant to, and to the fullest extent permitted by, section 1146(a) of the Bankruptcy Code, all transfers of property pursuant hereto, including (i) the issuance, transfer or exchange under the Plan of the New Equity, (ii) the making or assignment of any lease or sublease, or (iii) the making or delivery of any other instrument whatsoever, in furtherance of or in connection with the Plan, shall not be subject to any stamp tax or similar tax, and upon entry of the Confirmation Order, the appropriate state or local governmental officials or agents shall forego the collection of any such tax and accept for filing and recordation any of the foregoing instruments or other documents without the payment of any such tax.

**G. Plan Supplement.**

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

**H. Payment of Statutory Fees.**

All fees payable pursuant to section 1930 of title 28, United States Code, as determined by the Court, shall be paid for each quarter (including any fraction thereof) until the Chapter 11 Case are converted, dismissed or closed, whichever occurs first.

**I. Amendment or Modification of this Plan.**

Subject to section 1127 of the Bankruptcy Code and, to the extent applicable, sections 1122, 1123 and 1125 of the Bankruptcy Code, the Debtor reserves the right to alter, amend or modify this Plan at any time prior to or after the Confirmation Date but prior to the substantial consummation of this Plan, subject to the written consent of the Lender.

**J. Severability of Plan Provisions.**

If, prior to the Confirmation Date, any term or provision of this Plan is determined by the Court to be invalid, void or unenforceable, the Court will 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 will then be applicable as altered or interpreted. Notwithstanding any such holding, alteration or interpretation, the remainder of the terms and provisions of this Plan will remain in full force and effect and will in no way be affected, impaired or invalidated by such holding, alteration or interpretation, provided, however, that, to the extent any alteration or interpretation of any term or provision of this Plan adversely affects the Lender, then the Debtor shall be required to obtain the consent of the Lender, with respect to such alteration or interpretation. The Confirmation Order will constitute a judicial determination and will provide that each term and provision of this Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms.

**K. Successors and Assigns.**

This Plan shall be binding upon and inure to the benefit of the Debtor and its respective successors and assigns, including, without limitation, Reorganized NEP. The rights, benefits and obligations of any Person or Entity named or referred to in this Plan shall be binding on, and shall inure to the benefit of, any heir, executor, administrator, successor or assign of such Person or Entity.

**L. Notices.**

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

1. *To the Debtor:* (i) if by mail to (a) Morgan, Lewis & Bockius LLP, 101 Park Avenue, New York, NY 10128, Attn: Neil E. Herman and Rachel Jaffe Mauceri and (b) Young Conaway Stargatt & Taylor, LLP, Rodney Square, 1000 N. King Street, Wilmington, Delaware 19801, Attn: Robert S. Brady and Kenneth J. Enos, and (ii) if by e-mail to: [neil.herman@morganlewis.com](mailto:neil.herman@morganlewis.com), [rachel.mauceri@morganlewis.com](mailto:rachel.mauceri@morganlewis.com), [rbrady@ycst.com](mailto:rbrady@ycst.com) and [kenos@ycst.com](mailto:kenos@ycst.com).

2. *To the Lender:* (i) if by mail to: Paragon Noble, LLC, 645 Fifth Ave, 21st Floor, New York, NY 10022-5910, Attn: Marcello Liguori, Managing Director and Chief Corporate Counsel, facsimile: (212) 303-1772; (ii) if by e-mail to: [MLiguori@msdcapital.com](mailto:MLiguori@msdcapital.com).

3. To the U.S. Trustee: (i) if by mail to: Office of the United States Trustee, 844 King Street, Suite 2207, Wilmington, DE 19801, attention: Natalie Cox, Esq.; (ii) if by e-mail to: natalie.cox@usdoj.gov.

**M. Conflicts.**

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

Dated: September 28, 2016  
Wilmington, Delaware

Respectfully submitted,

**Noble Environmental Power, LLC**

By: /s/ C. Kay McCall  
C. Kay McCall  
President and Chief Executive Officer