CLERK OF THE COURT

Clerk's Stamp
SEP 19 2011

CALGARY, ALBERTA

COURT FILE NUMBER	1001-13659
COURT	COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
IN THE MATTER OF	The Companies' Creditors Arrangement Act, RSC 1985, c C-36, as amended, and
AND IN THE MATTER OF	An Application under section 46 and following of the Companies Creditors Arrangement Act, RSC 1985, c C-36, as amended
DOCUMENT	**FIFTH REPORT OF ERNST & YOUNG INC., IN ITS CAPACITY AS COURT-APPOINTED INFORMATION OFFICER OF PETROFLOW ENERGY LTD.** **SEPTEMBER 19, 2011**
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	**INFORMATION OFFICER**

ERNST & YOUNG

1000, 440 - 2nd Avenue SW
Calgary, Alberta T2P 5E9
Attention: Neil Narfason / Orest Konowalchuk
Telephone: 403-206-5067 / (403) 206-5698
Fax: 403-206-5075
Email: Neil.Narfason@ca.ey.com
Orest.Konowalchuk@ca.ey.com

COUNSEL
Scott Watson
PARLEE McLAWS LLP
3400, 150 – 6TH Avenue SW
Calgary, Alberta T2P 3Y7
Phone: 403-294-7038
Fax: 403-265-8263
Email: swatson@parlee.com
File: 68789-3

TABLE OF CONTENTS OF THE FIFTH REPORT

LISTING OF APPENDICES TO THE FIFTH REPORT

INTRODUCTION

1. On September 17, 2010, Petroflow Energy Ltd. ("Petroflow") obtained an order from the Alberta Court of Queen's Bench (the "Canadian Court") recognizing the bankruptcy proceedings commenced by Petroflow in the United States Bankruptcy Court for the District of Delaware (the "U.S. Court"), pursuant to a chapter 11 of the United States Bankruptcy Code (the "U.S. Bankruptcy Code") and administered with Petroflow's related debtor proceedings (the "U.S. Proceedings"), as a "foreign main proceeding" for the purposes of section 47 of the *Companies' Creditors Arrangement Act*, R.S.C. 1985 c. C-36, as amended, (the "CCAA") (the "Recognition Order").

2. Pursuant to the Recognition Order, Ernst & Young Inc. was appointed information officer ("IO") of Petroflow during these CCAA proceedings.

3. The purpose of this fifth report of the IO (the "Fifth Report") is to provide this Honourable Court with an update in respect of the following:

   a) debtors' (defined below) motion filed on September 14, 2011 to the U.S. Court to approve a confirmation order (the "Confirmation Order") with respect to approving the findings of fact, conclusions of law for the first amended joint chapter 11 plan of the Debtors' (the "First Amended Plan");

   b) the results of the voting procedure on the First Amended Plan by September 2, 2011 (the "Voting Deadline") as discussed in the Disclosure Statement in the fourth report of the IO (the "Fourth Report"); and

   c) the IO's recommendations.

4. Capitalized terms not defined in this Fifth Report are as defined in the Recognition Order, the first report of the IO (the "First Report"), the second report of the IO (the "Second Report"), the third report of the IO (the "Third

Report"), the Fourth Report, the Disclosure Statement Order, the Disclosure Statement, the Solicitation Procedure, the Proposed Plan and the First Amended Plan.

BACKGROUND

5. Petroflow is a Canadian company and the parent company of North American Petroleum Corporation USA ("NAPCUS"), a Delaware corporation and directly owns all of its equity interests. NAPCUS has one wholly-owned subsidiary, Prize Petroleum, LLC ("Prize") which is an Oklahoma limited liability company.

6. Petroflow's assets consist predominately of its equity interest in NAPCUS.

7. Petroflow, NAPCUS and Prize (collectively, the "Debtors") operate an independent exploration and production company that predominately engages in unconventional well drilling operations for natural gas extraction in certain locations in Oklahoma.

8. The IO has posted various information regarding the U.S. Proceeding, including the Recognition Order and the September 14th Schott Affidavit, on its website at: www.ey.com/ca/petroflow . Further information may also be obtained from the debtors' website relating to the U.S. Proceedings at: http://dm.epiq11.com/NAP/Project/default.aspx .

FIRST AMENDED PLAN

9. On September 14, 2011, the U.S. Court granted the Confirmation Order with respect to the First Amended Plan. A copy of the Confirmation Order is attached as Appendix "A" to this report.

10. In order to assist the U.S. Court in its determination of whether or not to grant the Confirmation Order, the U.S. Court relied on various filed materials that provided evidence to the U.S. Court that the First Amended Plan meets all statutory requirements under U.S. Bankruptcy Code and that the First Amended Plan is

fair, equitable and does not unfairly discriminate the Voting Classes (as defined below) and/or the Impaired Classes that have not voted to accept the First Amended Plan.

11. In particular, the U.S. Court relied on the following, but not limited to:

a) a memorandum of Law (1) in support of the First Amended Plan (the "Memorandum"). A copy of the Memorandum is attached at Appendix "B" to this report;

b) a statement (the "Statement in Support") from the Official Committee of Equity Security Holders (the "Equity Committee") in support of the First Amended Plan. A copy of the Statement in Support is attached as Appendix "C" to this report;

c) declaration of Jane Sullivan (the "Sullivan Declaration") on behalf of Epiq regarding voting and tabulation of ballots accepting and rejecting Debtors' First Amended Plan. A copy of the Sullivan Declaration is attached as Appendix "D" to this report;

d) declaration of Louis G. Schott (the "Schott Declaration"), the in-house counsel and corporate officer of the Debtors', in support of the confirmation of the First Amended Plan. A copy of the Schott Declaration is appended to Memorandum as discussed above; and

e) declaration of Sudhin Roy (the "Roy Declaration"), a Senior Managing Director of Kinetic Advisors, LLC ("Kinetic") (whom have acted as the Debtors financial advisors during the U.S Proceedings), in support of the confirmation of the First Amended Plan. A copy of the Roy Declaration is appended to the Memorandum as discussed above.

12. The First Amended Plan, which is appended to the Confirmation Order, has certain non-substantive changes made to it from the previously filed Proposed

Plan as discussed and analyzed by the IO in its Fourth Report. As a result, the Fifth Report should be read in conjunction with Fourth Report in terms of the IO's discussion, analysis and support of the First Amended Plan.

13. The material changes to the Proposed Plan which are now reflected in the First Amended Plan are as follows:

a) To ensure that all members of Class 5 (as discussed in detail in the Fourth Report) have full access to the First Amended Plan documents and disclosure as to their treatment under the First Amended Plan, the Debtors have amended the notices contained in the Solicitation Materials to inform the Petroflow shareholders of the proposed treatment of the equity holders under the First Amended Plan and additional avenues by which equity holders may obtain information, including by providing the contact information of the Equity Committee's counsel and a direct link to the claims agent website;

b) To ensure that the time period during which distributions for Class 5B claimants are deferred is minimized as much as practicable, the Debtors have:

i. amended the Proposed Plan to require that the distribution to Class 5B claimants be made no later than two years after emergence;

ii. amended the Proposed Plan to provide additional triggering events which accelerate the occurrence of the Determination Date, including (I) the payment of any cash dividends or cash distributions to the common stock and (II) the occurrence of an "Acquisition Event", which is defined in the First Amended Plan; and

iii. amended the Proposed Plan to require the Reorganized NAPCUS board to formally meet every six months to determine whether to continue to defer the distribution to Class 5B claimants, and in making this determination, to consider the legitimate interests of the Class 5B holders in receiving a tangible distribution under the First Amended Plan;

c) to ensure that, Class 5B claimants are given an opportunity to participate in the liquidity events available to the holders of Reorganized NAPCUS Common Stock and its economic interests are not unfairly prejudiced. For instance, the Debtors have amended the Proposed Plan to provide for the distribution to Class 5B claimants in conjunction with either an Acquisition Event and/or a payment of any type of cash dividend or cash distribution to the holders of Reorganized NAPCUS Common Stock; and

d) to ensure that Class 5B holders receive adequate information after the Effective Date and are in a position to monitor the timing of the Determination Date by requiring the Reorganized NAPCUS board to provide formal updates on their website of meetings that take place.

14. The IO continues to be of the view that the Debtors have provided credible efforts in identifying various restructuring options available to it, while working with all stakeholders to come to the final terms Final Amended Plan.

15. The IO understands that Petroflow currently has approximately 4,235 shareholders, some 1335 of which reside in Alberta. The IO also understands that Canadian residents will hold approximately 70% of the NAPCUS common shares projected to be issued at emergence.

16. The Debtors, with the support of the Equity Committee, and approval by the U.S. Court in granting the Confirmation Order, believe that the First Amended Plan offers a better recovery for the creditors and stakeholders of Petroflow versus the realization of the Remaining Plan Assets through a Liquidation Scenario.

17. The IO also believes that the First Amended Plan offers a better recovery for the creditors and stakeholders of Petroflow versus the realization of the Remaining Plan Assets through a Liquidation Scenario.

VOTING RESULTS ON FIRST AMENDED PLAN

18. As discussed in the Fourth Report and in accordance with the Disclosure Statement Order, Epiq was appointed to assist the Debtors in connection with, *inter alia*, soliciting, receiving, and tabulating the ballots from the Claim Holders accepting or rejecting the First Amended Plan. Pursuant to the First Amended Plan, only Claim Holders in the following classes (collectively, the "Voting Classes") were entitled to accept or reject the First Amended Plan:

    a) Class 3. Petroflow General Unsecured Claims; and

    b) Class 4. NAPCUS General Unsecured Claims.

19. For a ballot to be counted as valid, the ballot must have been properly completed in accordance with the procedures set forth in the Disclosure Statement Order and executed by the relevant Claim Holder, or such holder's authorized representative, and must have been received by Epiq by the Voting Deadline.

20. The IO understands that the Sullivan Declaration discusses and confirms the positive results of the vote and provides a detailed breakdown of the votes for and against the First Amended Plan.

21. On the basis of the foregoing, the required majority in number and in value of Claim Holders in each of the Voting Classes voted in favour of the First Amended Plan.

RECOMMENDATIONS

22. The IO recommends this Honourable Court recognize and give full force and effect to the Confirmation Order granted by the U.S. Court on September 14, 2011.

23. In the IO's view, Petroflow and its related Debtors are acting in good faith and with due diligence during these U.S. and Canadian Proceedings.

All of which is respectfully submitted this 19th day of September 2011.

ERNST & YOUNG INC.
in its capacity as Information Officer
Petroflow Energy Ltd.

Neil Narfason, CA•CIRP, CBV
Senior Vice-President

APPENDIX A

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	)	Chapter 11
NORTH AMERICAN PETROLEUM CORPORATION USA, *et al.*,[1]	)	Case No. 10-11707 (CSS)
Debtors.	)	Jointly Administered
	)	**Related to Docket No. 970**

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER CONFIRMING THE FIRST AMENDED JOINT CHAPTER 11 PLAN OF NORTH AMERICAN PETROLEUM CORPORATION USA, *ET AL.*

The above-captioned debtors and debtors in possession (collectively, the "Debtors") having filed the *First Amended Joint Chapter 11 Plan of North American Petroleum Corporation USA, et al.* [Docket No. 970], a copy of which is attached hereto as **Exhibit 1** and incorporated herein by reference (the "Plan"),[2] with the United States Bankruptcy Court for the District of Delaware (the "Court"); and the Court having entered an order, dated July 29, 2011, [Docket No. 966] (the "Disclosure Statement Order"), after due notice and a hearing pursuant to sections 105, 502, 1123, 1124, 1125, 1126 and 1128 of title 11 of the United States Code (the "Bankruptcy Code"), Rules 2002, 3003, 3016, 3017, 3018 and 3020 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and Rules 2002-1 and 3017-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States District Court for the District of

1 The Debtors in the above-captioned chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number or Canadian corporation number, include: North American Petroleum Corporation USA (9766); Prize Petroleum LLC (2460); and Petroflow Energy Ltd. (517-5). The location of the Debtors' corporate headquarters and the Debtors' service address is: 525 South Main Street, Suite 1120, Tulsa, Oklahoma 74103, Attn.: Louis G. Schott.

2 Capitalized terms used but not otherwise defined herein have the meanings ascribed to such terms in the Plan.

Delaware (the "Local Rules"), approving (a) the *Disclosure Statement for the First Amended Joint Chapter 11 Plan of North American Petroleum Corporation USA, et al.* [Docket No. 971] (the "Disclosure Statement"), (b) the solicitation packages and procedures for the distribution thereof, (c) the forms of ballots and manner of notice, (d) the voting record date, solicitation deadline, and voting deadline, and (e) establishing notice and objection procedures for Confirmation and scheduling the Confirmation Hearing; and the Disclosure Statement having been transmitted to all holders of Claims in Classes 3 and 4 (collectively, the "Voting Classes") as provided for by the Disclosure Statement Order; and the Plan Supplement having been filed before the Confirmation Hearing as described herein; and the Confirmation Hearing having been held before the Court on September 14, 2011, after due notice to holders of Claims and Interests and all other parties in interest in accordance with the Disclosure Statement, the Disclosure Statement Order, the Bankruptcy Code, the Bankruptcy Rules and the Local Rules; and upon all of the proceedings had before the Court, and after full consideration of: (a) the Debtors' *Memorandum of Law (I) in Support of the First Amended Joint Chapter 11 Plan of North American Petroleum Corporation USA, et al. and (II) Describing Resolution of Objection Thereto* [Docket No. 1043], filed September 9, 2011; (b) the *Declaration of Jane Sullivan on Behalf of Epiq Bankruptcy Solutions, LLC, Regarding Voting and Tabulation of Ballots Accepting and Rejecting Debtors' First Amended Joint Chapter 11 Plan of North American Petroleum Corporation USA, et al.*, [Docket No. 1039] (the "Voting Certification"), filed September 6, 2011, and the testimony contained therein; (c) the declarations of Louis G. Schott [Docket No. 1043, Ex. A] and Sudhin Roy [Docket No. 1043, Ex. B] submitted in support of confirmation of the Plan; and (d) all other evidence proffered or adduced at the Confirmation Hearing, as well as oral arguments of counsel made in connection therewith; and after due deliberation and sufficient cause appearing therefor:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

A. Exclusive Jurisdiction; Venue; Core Proceeding.

1. The Court has jurisdiction over these chapter 11 cases in accordance with 28 U.S.C. §§ 157 and 1334. Confirmation is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2) and the Court has jurisdiction to enter a final order with respect thereto. Venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409. The Court has exclusive jurisdiction to determine whether the Plan complies with the applicable provisions of the Bankruptcy Code and should be confirmed.

B. Eligibility for Relief.

2. The Debtors were and are entities eligible for relief under section 109 of the Bankruptcy Code.

C. Commencement and Joint Administration of these Chapter 11 Cases.

3. On May 25, 2010, North American Petroleum Corporation USA and Prize Petroleum LLC each filed voluntary petitions under chapter 11 of the Bankruptcy Code. On August 20, 2010, Petroflow Energy Ltd. filed a voluntary petition under chapter 11 of the Bankruptcy Code. The Debtors are operating their businesses and managing their property as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. The Debtors' chapter 11 cases are consolidated for procedural purposes only and are being jointly administered pursuant to Bankruptcy Rule 1015(b). An official committee of unsecured creditors (the "Creditors' Committee") and an official committee of equity security holders (the "Equity Committee") have been appointed by the United States Trustee for the District of Delaware (the "U.S. Trustee") pursuant to section 1102 of the Bankruptcy Code.

D. Judicial Notice.

4. The Court takes judicial notice of (and deems admitted into evidence for Confirmation) the docket of the Chapter 11 Cases and all related adversary proceedings, including all pleadings and other documents on file, all orders entered, all hearing transcripts and all evidence and arguments made, proffered or adduced at the hearings held before the applicable court during the pendency of the Chapter 11 Cases. Any resolutions of objections to Confirmation explained on the record at the Confirmation Hearing are hereby incorporated by reference.

E. Burden of Proof.

5. The Debtors, as proponents of the Plan in accordance with section 1121(a) of the Bankruptcy Code, bear the burden of proving the elements of sections 1129(a) and 1129(b) of the Bankruptcy Code. The applicable evidentiary standard is a preponderance of the evidence. The Debtors have satisfied the their evidentiary burden, and, indeed, have proven the elements of sections 1129(a) and 1129(b) of the Bankruptcy Code by clear and convincing evidence.

F. Transmittal and Mailing of Materials; Notice.

6. As evidenced by the *Affidavit of Service of Solicitation Materials* [Docket No. 987], filed on August 5, 2011, due, adequate, and sufficient notice of the Disclosure Statement, the Plan, and the Confirmation Hearing, together with all deadlines for objecting to, and voting to accept or reject, the Plan, has been provided to: (a) the U.S. Trustee; (b) the Creditors' Committee; (c) the Equity Committee; (d) the Internal Revenue Service; (e) the Securities and Exchange Commission; (f) the Delaware Secretary of State; (g) the Delaware Secretary of the Treasury; and (h) all entities that have filed a request for service of filings in these chapter 11 cases pursuant to Bankruptcy Rule 2002 (collectively, the "Notice Parties").

7. Due, adequate, and sufficient notice of the Confirmation Hearing and the other dates and hearings described in the Disclosure Statement Order was provided to all parties entitled to notice in compliance with the Bankruptcy Rules and the Disclosure Statement Order, and no other or further notice is or shall be required. In compliance with the Disclosure Statement Order and Bankruptcy Rule 2002(l), the Debtors also published notice of the Confirmation Hearing (the "Confirmation Hearing Notice") on August 3, 2011 in the following publications: the *San Antonio Express-News*; *The Wall Street Journal* (national edition); *The Globe and Mail*; and the *Tulsa World*, as evidenced by the affidavits filed on August 12, 2011 [Docket Nos. 998, 999, 1000, and 1001, respectively].

8. As evidenced by the *Affidavit of Service* [Docket No. 1026], filed on August 25, 2011, due, adequate, and sufficient notice of the Plan Supplement has been provided to the Notice Parties and all parties entitled to vote on the Plan in compliance with the Disclosure Statement Order.

G. Solicitation.

9. Votes for acceptance and rejection of the Plan were solicited in good faith and in compliance with sections 1125 and 1126 of the Bankruptcy Code, Bankruptcy Rules 3017 and 3018, the Disclosure Statement Order, all applicable provisions of the Bankruptcy Code, and all other applicable rules, laws, and regulations. Specifically, the Court-approved solicitation materials, including the Disclosure Statement, the Plan, the Disclosure Statement Order, the ballots ("Ballots"), the cover letter, and the Confirmation Hearing Notice (collectively, the "Solicitation Packages"), were served on all holders of Claims in the Voting Classes, in compliance with section 1125 of the Bankruptcy Code, the Disclosure Statement Order, the Bankruptcy Rules, and the Local Rules. Such service of the Solicitation Packages was adequate

and sufficient and no further notice is or shall be required.

10. The Debtors were excused from mailing Solicitation Packages to: (a) those Entities to whom the Debtors mailed a notice regarding the hearing to consider approval of the Disclosure Statement and received a notice from the United States Postal Service or other carrier that such notice was undeliverable and (b) holders of Claims or Interests in Classes 1, 2, 5A, and 5B (collectively, the "Non-Voting Classes") not entitled to vote on the Plan. Holders of Claims or Interests in the Non-Voting Classes were provided with notice of their non-voting status and related materials in substantially the same forms approved by the Court as part of the Disclosure Statement Order. All procedures used to distribute the Solicitation Packages to holders of Claims were fair and conducted in accordance with the Disclosure Statement Order, the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and all other applicable rules, laws, and regulations.

H. Voting Certification.

11. Before the Confirmation Hearing, the Debtors filed the Voting Certification. All procedures used to tabulate the Ballots were fair and conducted in accordance with the Disclosure Statement Order, the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and all other applicable rules, laws, and regulations.

12. As evidenced by the Voting Certification, Classes 3 and 4 voted to accept the Plan.

I. Plan Supplement.

13. On August 23, 2011, the Debtors filed the Plan Supplement [Docket No. 1025], including the Investment Agreements, forms of the Reorganized NAPCUS Charter and Reorganized NAPCUS Bylaws, a list of retained causes of action, a list of contracts and leases to

be rejected, a list of contracts and leases to be assumed (with proposed cure amounts), and a list of members of the Reorganized NAPCUS Board, to the extent known, and other disclosures pursuant to section 1129(a)(5) of the Bankruptcy Code. All materials included in the Plan Supplement and the amendments thereto are integral to, part of, and incorporated by reference into the Plan. The Plan Supplement complies with the terms of the Plan, and the filing and notice of thereof in accordance with the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules, and no other or further notice is necessary. Consistent with the terms of the Plan, the Debtors reserve their right to alter, amend, update, or modify the Plan Supplement before the Effective Date.

J. Bankruptcy Rule 3016.

14. The Plan is dated and identifies the Entities submitting it, thereby satisfying Bankruptcy Rule 3016(a). The filing of the Disclosure Statement with the Clerk of the Court satisfied Bankruptcy Rule 3016(b).

K. Compliance with the Requirements of Section 1129 of the Bankruptcy Code.

15. The Plan complies with all applicable provisions of section 1129(a) of the Bankruptcy Code, as follows:

i. Section 1129(a)(1) — Compliance with the Applicable Provisions of the Bankruptcy Code.

a. Section 1122 and 1123(a)(1) — Proper Classification.

16. The classification of Claims and Interests under the Plan is proper under the Bankruptcy Code. In accordance with sections 1122(a) and 1123(a)(1) of the Bankruptcy Code, Article III of the Plan provides for the separate classification of Claims and Interests into six Classes, based on differences in the legal nature or priority of such Claims and Interests. Article II of the Plan addresses Administrative Claims and Priority Tax Claims, which, under

section 1123(a)(1) of the Bankruptcy Code, are not required to be designated as separate Classes.

17. Valid business, factual, and legal reasons exist for the Plan's separate classification of the various Classes of Claims and Interests. The classifications were not made for any improper purpose. The Classes under the Plan do not unfairly discriminate between or among holders of Claims or Interests. As required by section 1122(a) of the Bankruptcy Code, each Class of Claims and Interests contains only Claims or Interests that are substantially similar to the other Claims or Interests within that Class. Accordingly, the requirements of sections 1122 and 1123(a)(1) of the Bankruptcy Code have been satisfied.

b. Section 1123(a)(2) — Specification of Not Impaired Classes.

18. Article III of the Plan specifies that Claims in Classes 1 and 2 are not Impaired under the Plan. Additionally, Article II of the Plan specifies that Administrative Claims and Priority Tax Claims are not Impaired, although these Claims are not classified under the Plan. Accordingly, the requirements of section 1123(a)(2) of the Bankruptcy Code have been satisfied.

c. Section 1123(a)(3) — Specification of Treatment of Impaired Classes.

19. Article III of the Plan specifies the treatment of each Impaired Class under the Plan, including Classes 3, 4, 5A, and 5B. Accordingly, the requirements of section 1123(a)(3) of the Bankruptcy Code have been satisfied.

d. Section 1123(a)(4) — No Discrimination.

20. In accordance with section 1123(a)(4) of the Bankruptcy Code, Article III of the Plan provides for the same treatment of each Claim or Interest in a particular Class unless the holder of a particular Claim or Interest has agreed to a less favorable treatment with respect to such Claim or Interest. Accordingly, the requirements of section 1123(a)(4) of the Bankruptcy Code have been satisfied.

e. Section 1123(a)(5) — Adequate Means for Plan Implementation.

21. Pursuant to section 1123(a)(5) of the Bankruptcy Code, Article IV of the Plan and various other provisions of the Plan provide for adequate and proper means for the Plan's implementation, including for the following: (a) the authorization to take all actions necessary to effectuate the Plan; (b) the dissolution of Prize Petroleum LLC and Petroflow Energy Ltd. and creation of a single reorganized Debtor entity, Reorganized NAPCUS; (c) the consummation of the Investment Agreements; (d) the sources of consideration for Plan distributions, including the Investment Commitment; (e) the issuance and distribution of Reorganized NAPCUS Common Stock and Reorganized NAPCUS Convertible Preferred Stock; (f) the vesting of certain specified property in Reorganized NAPCUS on the Effective Date; (g) the preservation of certain Causes of Action; (h) the cancellation of existing securities; (i) the exemption of the issuance of new securities from the registration requirements under applicable securities laws pursuant to section 1145 of the Bankruptcy Code; (j) the entry into the Reorganized NAPCUS Charter and Reorganized NAPCUS Bylaws; (k) the appointment of the Reorganized NAPCUS Board; and (l) a process for implementing the Management Equity Plan. Accordingly, the requirements of section 1123(a)(5) of the Bankruptcy Code have been satisfied.

f. Section 1123(a)(6) — Voting Power of Equity Securities.

22. The Plan and Reorganized NAPCUS' corporate documents filed as part of the Plan Supplement do not contemplate the issuance of non-voting equity securities. Accordingly, the requirements of section 1123(a)(6) of the Bankruptcy Code have been satisfied.

g. Section 1123(a)(7) — Selection of Officers and Directors.

23. Section 4.14 of the Plan describes the manner of selection of directors and officers of Reorganized NAPCUS. In addition, to the extent known and determined, the identities and

affiliations of any and all persons proposed to serve as a director or officer of Reorganized NAPCUS were disclosed at or before the Confirmation Hearing, in compliance with section 1129(a)(5) of the Bankruptcy Code. The selection of the initial directors of the Reorganized NAPCUS Board and the initial officers of Reorganized NAPCUS was consistent with the interests of holders of Claims and Interests and public policy. Accordingly, the requirements of section 1123(a)(7) of the Bankruptcy Code have been satisfied.

h. Section 1123(b) — Permissive Contents of the Plan.

24. The Plan contains various provisions that may be construed as permissive and are not required for Confirmation under the Bankruptcy Code. As set forth below, the discretionary provisions included in the Plan comply with section 1123(b) of the Bankruptcy Code and are not inconsistent in any way with any other applicable provision of the Bankruptcy Code. Accordingly, the requirements of section 1123(b) of the Bankruptcy Code have been satisfied.

(1) Section 1123(b)(1) — Claims and Interests.

25. Pursuant to section 1123(b)(1) of the Bankruptcy Code, Article III of the Plan impairs or leaves unimpaired, as the case may be, each Class of Claims or Interests.

(2) Section 1123(b)(2) — Executory Contracts and Unexpired Leases.

26. Pursuant to section 1123(b)(2) of the Bankruptcy Code, Article V of the Plan provides for the assumption or rejection of the Debtors' Executory Contracts and Unexpired Leases that the Debtors did not previously assume or reject pursuant to section 365 of the Bankruptcy Code.

(3) Section 1123(b)(3) — Settlement, Releases, Exculpation, Injunction, and Preservation of Claims Provisions.

27. **Compromise and Settlement.** Pursuant to section 363 of the Bankruptcy Code and Bankruptcy Rule 9019, and in consideration for the distributions and other benefits provided

pursuant to the Plan, the provisions of the Plan constitute a good faith compromise of all Claims, Interests, and controversies relating to the contractual, legal, and subordination rights that a holder of a Claim or Interest may have with respect to any Allowed Claim or Interest, or any distribution to be made on account of such Allowed Claim or Interest. The compromise and settlement of such Claims and Interests embodied in the Plan is in the best interests of the Debtors, their Estates, and all holders of Claims, and is fair, equitable, and reasonable.

28. **Release of Liens.** The full release and discharge of all mortgages, deeds of trust, Liens, pledges, or other security interests against any property of the Estates described in Section 8.11 of the Plan (the "Lien Release") is necessary to implement the Plan. The provisions of the Lien Release are appropriate, fair, equitable, and reasonable and are in the best interests of the Debtors, their Estates, and holders of Claims.

29. **Releases by the Debtors.** The release and discharge of Claims and Causes of Action by the Debtors, Reorganized NAPCUS, and the Estates described in Section 8.4 of the Plan (the "Debtor Release") releases the Released Parties and is a necessary and an important aspect of the Plan. The Debtor Release is based on a valid exercise of sound business judgment and is reasonable and acceptable pursuant to the standards that courts in this district generally apply. Each of the Released Parties provided good and valuable consideration in exchange for the Debtor Release, including, among other things, the service of the Released Parties in facilitating the expeditious reorganization of the Debtors and the implementation of the restructuring contemplated in the Plan. The Released Parties played an integral role in the formulation of the Plan and have expended significant time and resources analyzing and negotiating the issues presented by the Debtors' prepetition capital structure.

30. **Third Party Release by Holders of Claims and Interests.** The release of Claims and Causes of Action by holders of Claims and Interests solely in their capacities as Released Parties as described in Section 8.5 of the Plan (the "Third Party Release") is an important aspect of the Plan. The Third Party Release is designed to provide finality for the Debtors, Reorganized NAPCUS, the Estates, and the Released Parties regarding the parties' respective obligations under the Plan to the extent permitted by applicable law.

The Confirmation Hearing Notice and the Ballots sent to all holders of Impaired Claims entitled to vote on the Plan unambiguously stated that the Plan contained the Third Party Release. Further, as set forth in Exhibit 4 to the Disclosure Statement Order, the Ballots provided each holder of a Claim entitled to vote to accept or reject the Plan the option to "opt-out" of the Third Party Release and provided such parties due, adequate, and sufficient notice that they would be bound by the Third Party Release if they did not otherwise "opt-out." Additionally, for the avoidance of doubt, those holders of Claims that elected on their Ballots to opt-out of the Third Party Release or voted to reject the Plan will not be bound by the Third Party Release.

31. **Exculpation.** The exculpation described in Section 8.6 of the Plan (the "Exculpation") is appropriate under applicable law because it is part of the Plan and was proposed in good faith, was vital to the Plan formulation process, and is appropriately limited in scope. The Exculpation, including its carve-out for gross negligence or willful misconduct, is entirely consistent with established practice in this jurisdiction and others.

32. **Preservation of Causes of Action.** Subject to Article VIII of the Plan, Section 4.17 of the Plan appropriately provides that Reorganized NAPCUS will retain and may enforce all rights to commence and pursue, as appropriate, any and all Causes of Action, whether arising before or after the Petition Date, including any actions specifically enumerated in the

Plan Supplement, in accordance with section 1123(b)(3)(B) of the Bankruptcy Code. The retained Causes of Action include, without limitation, any actions specifically enumerated in Exhibit C to the Plan Supplement, and Reorganized NAPCUS' rights to commence, prosecute, or settle such Causes of Action are preserved notwithstanding the occurrence of the Effective Date The provisions regarding the preservation of Causes of Action in the Plan are appropriate, fair, equitable, and reasonable and are in the best interests of the Debtors, their Estates, and holders of Claims.

33. **Injunction.** The injunction provision set forth in Section 8.7 of the Plan (the "Injunction") is necessary to preserve and enforce the Debtor Release, the Third Party Release, and the Exculpation, and is narrowly tailored to achieve this purpose.

34. Based on the foregoing, each of the Debtor Release, the Third Party Release, the Exculpation, and the Injunction set forth in the Plan: (a) is within the jurisdiction of the Court under 28 U.S.C. §§ 1334(a), 1334(b) and 1334(d); (b) is necessary to implement the Plan pursuant to section 1123(a)(6) of the Bankruptcy Code; (c) is an integral element of the transactions incorporated into the Plan; (d) confers material benefits on, and is in the best interests of, the Debtors, their Estates, and the holders of Claims; (e) is important to the overall objectives of the Plan to finally resolve all Claims among or against the parties in interest in these chapter 11 cases with respect to the Debtors; and (f) is consistent with applicable law, including sections 105, 1123, 1129, and other applicable provisions of the Bankruptcy Code.

35. The record of the Confirmation Hearing and these chapter 11 cases is sufficient to support the Lien Release, the Debtor Release, the Third Party Release, the Exculpation, and the Injunction provisions contained in Article VIII of the Plan. The failure to implement the Lien Release, the Debtor Release, the Third Party Release, the Exculpation, and the Injunction

provisions of the Plan would seriously impair the Debtors' ability to confirm the Plan.

i. Section 1123(d) — Cure of Defaults.

36. Article V of the Plan provides for the satisfaction of any monetary defaults under each Executory Contract and Unexpired Lease to be assumed pursuant to the Plan in accordance with section 365 of the Bankruptcy Code by payment of Cure amounts on the Effective Date, as set forth in Article V of the Plan. The Debtors, in accordance with the Plan, distributed to counterparties to Executory Contracts and Unexpired Leases to be assumed notices of assumption and proposed amounts of Cures. Such notices included procedures for objecting to (and ultimately resolving objections to) proposed assumptions of Executory Contracts and Unexpired Leases and payments of any related Cures.

i. Section 1129(a)(2) — Compliance of the Debtors and Others with the Applicable Provisions of the Bankruptcy Code.

37. The Debtors, as proponents of the Plan, have complied with all applicable provisions of the Bankruptcy Code and the Bankruptcy Rules, including sections 1123, 1125, 1126, and 1127 of the Bankruptcy Code and Bankruptcy Rules 3017, 3018, and 3019. Accordingly, the requirements of section 1129(a)(2) of the Bankruptcy Code have been satisfied.

(1) Section 1125 — Solicitation.

38. The Debtors and their members, officers, directors, employees, partners, attorneys, financial advisors, accountants, investment bankers, investment advisors, professionals, agents, affiliates, fiduciaries, and other representatives (collectively, the "Debtors' Representatives") did not solicit the acceptance or rejection of the Plan by any holders of Claims or Interests after the Petition Date and before the approval and transmission of the Disclosure Statement. Votes to accept or reject the Plan were only solicited after the Petition Date by the Debtors and certain of the Debtors' agents after disclosure to holders of Claims and Interests of

adequate information as defined in section 1125(a) of the Bankruptcy Code.

39. The Debtors' Representatives solicited acceptance or rejection of the Plan in good faith and in compliance with the applicable provisions of the Disclosure Statement Order, the Bankruptcy Code, the Bankruptcy Rules, and all other applicable rules, laws, and regulations. The Debtors' Representatives also participated in the issuance and distribution of the Securities issued to the Plan and Cash in good faith and in compliance with the applicable provisions of the Disclosure Statement Order, the Bankruptcy Code, the Bankruptcy Rules, and all other applicable rules, laws, and regulations. Accordingly, the Debtors' Representatives are entitled to the protections afforded by section 1125(e) of the Bankruptcy Code, the Debtor Release, the Third Party Release, the Exculpation, and the Injunction provisions set forth in Article VIII of the Plan.

(2) Section 1126 — Requirements for Acceptance.

40. Pursuant to section 1126 of the Bankruptcy Code, only holders of Allowed Claims in Impaired Classes of Claims that will receive or retain property under the Plan on account of such Claims voted to accept or reject the Plan.

ii. <u>Section 1129(a)(3) — Proposal of Plan in Good Faith</u>.

41. The Debtors have proposed the Plan in good faith and not by any means forbidden by law. In determining that the Plan has been proposed in good faith, the Court has examined the totality of the circumstances surrounding the filing of these chapter 11 cases, the Plan, and the process leading to its formulation. The good faith of each of the Entities who negotiated the Plan is evident from the facts and records of these chapter 11 cases, the Disclosure Statement and the hearing thereon, and the record of the Confirmation Hearing and other proceedings held in these chapter 11 cases. The Plan (including the Plan Supplement) is the product of arm's-length

negotiations between the Debtors and the Debtors' key creditor constituencies, through their respective professionals. The Plan, and the process leading to its formulation, provide independent evidence of the good faith of such Entities who negotiated the Plan, serve the public interest, and assure fair treatment of holders of Claims and Interests. The Debtors and the key creditor constituencies, through their respective professionals, negotiated with the legitimate and honest purposes of maximizing the value of the Debtors' Estates for the benefit of all creditors and affording the Debtors the ability to emerge from these chapter 11 cases with a deleveraged capital structure. Consistent with the overriding purpose of chapter 11 of the Bankruptcy Code, these chapter 11 cases were filed, and the Plan was proposed, with the legitimate purpose of allowing the Debtors to reorganize and emerge from chapter 11 with restructured operations that will allow Reorganized NAPCUS to effectively compete in the marketplace.

iii. <u>Section 1129(a)(4) — Court Approval of Certain Payments as Reasonable</u>.

42. The procedures set forth in the Plan for the Court's review and ultimate determination of the fees and expenses to be paid by the Debtors in connection with these chapter 11 cases, or in connection with the Plan and incident to these chapter 11 cases, satisfy the objectives of, and are in compliance with, section 1129(a)(4) of the Bankruptcy Code. Accordingly, the requirements of section 1129(a)(4) of the Bankruptcy Code have been satisfied.

iv. <u>Section 1129(a)(5) — Disclosure of Necessary Information Regarding Directors and Officers</u>.

43. The Debtors have provided, to the extent known and determined, requisite disclosures regarding the proposed directors of the Reorganized NAPCUS Board, as well as the officers of Reorganized NAPCUS following Confirmation, as and to the extent required by section 1129(a)(5) of the Bankruptcy Code. The nature of such directors' and officers' compensation has been disclosed. Accordingly, the requirements of section 1129(a)(5) of the

Bankruptcy Code have been satisfied.

v. **Section 1129(a)(6) — Approval of Rate Changes**.

44. The Plan does not contain any rate changes subject to the jurisdiction of any governmental regulatory commission and will not require any such governmental regulatory approval. Accordingly, the requirements of section 1129(a)(6) of the Bankruptcy Code have been satisfied.

vi. **Section 1129(a)(7) — Best Interests of Holders of Claims and Interests**.

45. The liquidation analysis attached as Exhibit D to the Disclosure Statement (the "Liquidation Analysis") and the other evidence related thereto that was proffered or adduced at or before the Confirmation Hearing: (a) are reasonable, persuasive, and credible; (b) utilize reasonable and appropriate methodologies and assumptions; (c) have not been controverted by other evidence; and (d) establish that, with respect to each Impaired Class, each holder of an Allowed Claim or Interest in such Class has voted to accept the Plan or will receive under the Plan on account of such Claim or Interest property of a value, as of the Effective Date, that is not less than the amount such holder would receive if the Debtors were liquidated on the Effective Date under chapter 7 of the Bankruptcy Code. Accordingly, the requirements under section 1129(a)(7) of the Bankruptcy Code have been satisfied.

vii. **Section 1129(a)(8) — Conclusive Presumption of Acceptance by Unimpaired Classes; Acceptance of the Plan by Impaired Classes**.

46. Classes 1 and 2 are each a Class of holders of Claims that are not impaired and, therefore, are conclusively presumed to have accepted the Plan under section 1126(f) of the Bankruptcy Code.

47. Classes 3 and 4 are each a Class of Impaired Claims that have voted to accept the Plan.

48. Additionally, Classes 5A and 5B, as Classes of Impaired Interests, are each deemed to have rejected the Plan. While the Plan does not satisfy section 1129(a)(8) of the Bankruptcy Code with respect to Classes 5A and 5B, the Plan is confirmable because it satisfies sections 1129(a)(10) and 1129(b) of the Bankruptcy Code, as discussed below.

viii. <u>Section 1129(a)(9) — Treatment of Claims Entitled to Priority Pursuant to Section 507(a) of the Bankruptcy Code</u>.

49. Allowed Administrative Claims and Allowed Priority Tax Claims are not Impaired under Article II of the Plan. Accordingly, the requirements of section 1129(a)(9) of the Bankruptcy Code with respect to such Classes have been satisfied.

ix. <u>Section 1129(a)(10) — Acceptance by At Least One Impaired Class</u>.

50. As set forth in the Voting Certification, Classes 3 and 4 are each a Class of Impaired Claims and have voted to accept the Plan (determined without including any acceptance of the Plan by any "insider" (as defined under section 101(31) of the Bankruptcy Code)). As such, there is at least one Class of Claims that is Impaired and has accepted the Plan, determined without including any acceptance of the Plan by any insider. Accordingly, the requirements of section 1129(a)(10) of the Bankruptcy Code have been satisfied.

x. <u>Section 1129(a)(11) — Feasibility of the Plan</u>.

51. The evidence proffered or adduced at, or before, the Confirmation Hearing in connection with the feasibility of the Plan, including the projections of the Debtors' financial performance for the years 2011 through 2014, attached as <u>Exhibit E</u> to the Disclosure Statement and the statements set forth in the declaration of Sudhin Roy in support of confirmation of the Plan, is reasonable, persuasive, and credible, has not been controverted by other evidence, and establishes that Confirmation is not likely to be followed by the liquidation or need for further

financial reorganization of Reorganized NAPCUS, thereby satisfying the requirements of section 1129(a)(11) of the Bankruptcy Code.

xi. **Section 1129(a)(12) — Payment of Bankruptcy Fees**.

52. Section 13.2 of the Plan provides that all fees payable pursuant to 28 U.S.C. § 1930(a), as determined by the Bankruptcy Court at a hearing pursuant to section 1128 of the Bankruptcy Code if necessary, shall be paid for each quarter (including any fraction thereof) until these chapter 11 cases are converted, dismissed, or a Final Decree is issued, whichever occurs first. Accordingly, the requirements of section 1129(a)(12) of the Bankruptcy Code have been satisfied.

xii. **Section 1129(a)(13) — Retiree Benefits**.

53. Pursuant to section 1129(a)(13) of the Bankruptcy Code, on and after the Effective Date, all retiree benefits (as that term is defined in section 1114 of the Bankruptcy Code), if any, shall continue to be paid in accordance with applicable law. Accordingly, the requirements of section 1129(a)(13) of the Bankruptcy Code have been satisfied.

xiii. **Sections 1129(a)(14), (15), and (16) — Domestic Support Obligations; Unsecured Claims Against Individual Debtors; Transfers by Nonprofit Organizations**.

54. None of the Debtors have domestic support obligations, are individuals, or are nonprofit organizations. Therefore, sections 1129(a)(14), (15), and (16) of the Bankruptcy Code do not apply to these chapter 11 cases.

xiv. **Section 1129(b) — No Unfair Discrimination; Fair and Equitable**.

55. Despite the Debtors' inability to satisfy section 1129(a)(8) of the Bankruptcy Code, based upon the evidence proffered, adduced, and presented by the Debtors at the Confirmation Hearing, or otherwise filed or on the record in these chapter 11 cases, including the Disclosure Statement and the exhibits thereto, the Plan does not discriminate unfairly and is fair

and equitable with respect to Classes 5A and 5B, as required by sections 1129(b)(1) and (b)(2) of the Bankruptcy Code. Furthermore, both Class 3 and Class 4 voted in favor of the Plan. Thus, the Plan may be Confirmed notwithstanding the deemed rejection of the Plan by Classes 5A and 5B.

xv. <u>Section 1129(c) — Only One Plan</u>.

56. Other than the Plan (including previous versions thereof), no other plan has been filed in these chapter 11 cases. Accordingly, the requirements of section 1129(c) of the Bankruptcy Code have been satisfied.

xvi. <u>Section 1129(d) — Principal Purpose of the Plan Is Not Avoidance of Taxes or Section 5 of the Securities Act of 1933</u>.

57. No Governmental Unit has requested that the Court refuse to confirm the Plan on the grounds that the principal purpose of the Plan is the avoidance of taxes or the avoidance of the application of section 5 of the Securities Act. Accordingly, the requirements of section 1129(d) of the Bankruptcy Code have been satisfied.

L. Satisfaction of Confirmation Requirements.

58. Based upon the foregoing, all other filed pleadings, documents, exhibits, statements, declarations, and affidavits filed in connection with Confirmation of the Plan and all evidence and arguments made, proffered, or adduced at the Confirmation Hearing, the Plan satisfies the requirements for confirmation set forth in section 1129 of the Bankruptcy Code.

M. Good Faith.

59. Based on the record before the Court in these chapter 11 cases: (a) the Debtors; (b) the Creditors' Committee; (c) the Equity Committee; (d) the Investors; and (e) all of the current members (including ex officio members), officers, directors, employees, partners, attorneys, financial advisors, accountants, managed funds, investment bankers, investment

advisors, actuaries, professionals, agents, affiliates, fiduciaries, and other representatives of each of the foregoing Entities (in each case in his, her, or its capacity as such) as of or after the Petition Date have acted in good faith within the meaning of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and any applicable non-bankruptcy law, rule, or regulation. Moreover, all of the aforementioned parties will continue to act in good faith if they proceed to: (a) consummate the Plan and the agreements, settlements, transactions, and transfers contemplated thereby; and (b) take the actions authorized and directed by this Confirmation Order, and are entitled to the protections afforded by section 1125(e) of the Bankruptcy Code and, to the extent such parties are listed therein, the Exculpation provisions set forth in Article VIII of the Plan.

N. Disclosure — Agreements and Other Documents.

60. The Debtors have timely disclosed all material facts regarding: (a) the Reorganized NAPCUS Bylaws; (b) the forms of the Reorganized NAPCUS Charter; (c) the Investment Agreements; (d) the retained causes of action; (e) the Executory Contracts and Unexpired Leases to be rejected; (f) the Executory Contracts and Unexpired Leases to be assumed (with proposed Cure amounts); (g) the selection of the members of the Reorganized NAPCUS Board; (h) the selection of the officers of Reorganized NAPCUS; (i) the Management Equity Plan; and (j) the adoption, execution and delivery of all contracts, leases, instruments, securities, releases, indentures, and other agreements related to any of the foregoing.

O. Transfers by the Debtors; Vesting of Assets.

61. Pursuant to sections 1141(b) and (c) of the Bankruptcy Code and subject to paragraph 79 below, all property of each of the Debtors (excluding property that has been abandoned pursuant to the Plan or an order of the Court) shall vest in Reorganized NAPCUS or

its successors or assigns, as the case may be, free and clear of all Liens, Claims, charges, or other encumbrances, except as expressly provided in the Plan or herein. Such vesting does not constitute a voidable transfer under the Bankruptcy Code or applicable non-bankruptcy law.

P. Likelihood of Satisfaction of Conditions Precedent to the Effective Date.

62. Each of the conditions precedent to the Effective Date, as set forth in Article X of the Plan, has been satisfied or waived in accordance with the provisions of the Plan or is reasonably likely to be satisfied or waived.

Q. Investment Commitment.

63. Confirmation shall be deemed approval of the Investment Agreements (including any amendments thereto and the transactions contemplated thereby, and all actions to be taken, undertakings to be made, and obligations to be incurred by Reorganized NAPCUS in connection therewith).

R. Implementation of Necessary Documents and Agreements.

64. All documents and agreements necessary to implement the Plan are in the best interests of the Debtors, Reorganized NAPCUS, and holders of Claims, have been negotiated in good faith and at arm's-length, and shall, upon completion of documentation and execution, be valid, binding, and enforceable agreements and not be in conflict with any federal or state law. The Debtors have exercised reasonable business judgment in determining to enter into all such documents and agreements and have provided sufficient and adequate notice of such documents and agreements. The terms and conditions of such documents and agreements are fair and reasonable and are approved. The Debtors are authorized, without any further notice to or action, order, or approval of the Court, to finalize and execute and deliver all agreements, documents, instruments, and certificates relating thereto and perform their obligations thereunder

in accordance with the Plan.

S. Executory Contracts and Unexpired Leases.

65. The provisions regarding Executory Contracts and Unexpired Leases set forth in Article V of the Plan shall be approved and hereby are approved.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

66. **Confirmation of the Plan.** The Plan is confirmed. All requirements for Confirmation of the Plan have been satisfied. The Plan and the Plan Supplement (as such may be amended by this Confirmation Order or in accordance with the Plan) and each of the provisions thereof are confirmed in each and every respect pursuant to section 1129 of the Bankruptcy Code, as may be modified by this Confirmation Order. Each of the Debtors and Reorganized NAPCUS hereby is authorized and empowered to take such actions and to perform such acts as may be necessary, desirable or appropriate to comply with or implement the Plan, the Plan Supplement, any other Plan documents, and all documents, instruments, securities and agreements related thereto and all annexes, exhibits and schedules appended thereto, and the obligations thereunder shall constitute legal, valid, binding and authorized obligations of each of the respective parties thereto, enforceable in accordance with their terms without the need for any Court, stockholder or board of directors' approval.

67. The documents contained in the Plan Supplement, and any amendments, modifications, and supplements thereto, and all documents and agreements related thereto (including all exhibits and attachments thereto and documents referred to in such papers), and the execution, delivery, and performance thereof by Reorganized NAPCUS, are authorized and

approved as finalized, executed, and delivered. Without any further notice to or action, order, or approval of the Court, the Debtors, Reorganized NAPCUS, and their successors are authorized and empowered to make all modifications to all documents included as part of the Plan Supplement that are consistent with the Plan. As set forth in the Plan, once finalized and executed, the documents comprising the Plan Supplement and all other documents contemplated by the Plan shall constitute legal, valid, binding, and authorized obligations of the respective parties thereto, enforceable in accordance with their terms and, to the extent applicable, shall create, as of the Effective Date, all Liens and other security interests purported to be created thereby.

68. The terms of the Plan, the Plan Supplement, and exhibits thereto are incorporated by reference into, and are an integral part of, this Confirmation Order. The terms of the Plan, the Plan Supplement, all exhibits thereto, and all other relevant and necessary documents shall be effective and binding as of the Effective Date.

69. **Objections.** All objections, responses to, statements, comments, and all reservations of rights pertaining to Confirmation that have not been withdrawn, waived, or settled, before or on the record at, the Confirmation Hearing are hereby overruled on the merits.

70. **Findings of Fact and Conclusions of Law.** The findings of fact and the conclusions of law stated in this Confirmation Order shall constitute findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to the proceeding by Bankruptcy Rule 9014. To the extent any finding of fact shall be determined to be a conclusion of law, it shall be so deemed, and to the extent any conclusion of law shall be determined to be a finding of fact, it shall be so deemed.

71. **Plan Classification Controlling.** The classification of Claims and Interests for purposes of distributions made under the Plan shall be governed solely by the terms of the Plan. The classifications set forth on the Ballots tendered to or returned by the creditors in connection with voting on the Plan (a) were set forth on the Ballots solely for purposes of voting to accept or reject the Plan, (b) do not necessarily represent, and in no event shall be deemed to modify or otherwise affect, the actual classification of such Claims under the Plan for distribution purposes, and (c) shall not be binding on the Debtors.

72. **Operation as of the Effective Date.** Subject to Section 10.1 of the Plan and notwithstanding Bankruptcy Rules 3020(e), 6004(h), or 7062 or otherwise, upon the occurrence of the Effective Date, the terms of the Plan and the Plan Supplement shall be immediately effective and enforceable and deemed binding upon the Debtors, Reorganized NAPCUS, any and all holders of Claims and Interests (irrespective of whether their Claims or 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 Debtors. This Confirmation Order shall not be stayed, and the terms and conditions of this Confirmation Order shall be immediately effective and enforceable upon its entry.

73. **Cancellation of Securities.** Except as otherwise provided in the Plan, any agreement, instrument, or other document incorporated in the Plan or the Plan Supplement, on and after the Effective Date, all notes, instruments, Certificates, and other documents evidencing Claims or Interests shall be cancelled and the obligations of the Debtors or Reorganized NAPCUS thereunder or in any way related thereto shall be discharged consistent

with the terms and conditions set forth in Section 4.8 of the Plan; provided, however, that notwithstanding Confirmation or the occurrence of the Effective Date, any agreement that governs the rights of the holder of a Claim shall continue in effect solely for purposes of allowing holders to receive distributions under the Plan.

74. **Administrative Claims.** Unless otherwise agreed to by the holder of an Allowed Administrative Claim and the Debtors or Reorganized NAPCUS, as applicable, each holder of an Allowed Administrative Claim (other than holders of Fee Claims and Claims for fees and expenses pursuant to section 1930 of chapter 123 of title 28 of the United States Code), will receive in full and final satisfaction of its Administrative Claim an amount of Cash equal to the amount of such Allowed Administrative Claim either: (a) on the Effective Date, or as soon as practicable thereafter; (b) if the Administrative Claim is not Allowed as of the Effective Date, no later than 30 days after the date on which an order Allowing such Administrative Claim becomes a Final Order, or as soon as reasonably practicable thereafter; or (c) if the Allowed Administrative Claim is based on liabilities incurred by the Debtors in the ordinary course of their business after the Petition Date, pursuant to the terms and conditions of the particular transaction giving rise to such Allowed Administrative Claims, without any further action by the holders of such Allowed Administrative Claims.

75. **Administrative Claims Bar Date.** All requests for payment of an Administrative Claim (except with respect to Fee Claims or as otherwise provided in the Plan) must be filed with the Claims and Solicitation Agent and served upon counsel for the Debtors or Reorganized NAPCUS, as applicable, on or before the date that is 30 days after the Effective Date. Reorganized NAPCUS may settle and pay any Administrative Claims in the ordinary course of business without any further notice or action, order, or approval of the Bankruptcy Court. In the

event that any party with standing objects to an Administrative Claim, the Bankruptcy Court shall determine the Allowed amount of such Administrative Claim. Notwithstanding the foregoing, no request for payment of an Administrative Claim is required with respect to an Administrative Claim previously Allowed by Final Order. Any holder of an Administrative Claim that is required to, but does not, file and serve a request for payment of such Administrative Claim by such date shall be forever barred, estopped, and enjoined from asserting such Administrative Claim against the Debtors or their property and such Administrative Claim shall be deemed discharged as of the Effective Date.

76. **Fee Claims.** Except as otherwise provided in the Plan, pursuant to Article IX of the Plan, Professionals asserting a Fee Claim for services rendered before the Confirmation Date must file and serve on the Debtors and such other Entities who are designated by the Bankruptcy Rules, the Confirmation Order, the Interim Compensation Order, or any other applicable order of the Bankruptcy Court, an application for final allowance of such Fee Claim no later than 30 days after the Effective Date; provided, however, that any Professional who may receive compensation or reimbursement of expenses pursuant to the *Order Authorizing the Debtors to Retain and Compensate Professionals Utilized in the Ordinary Course of Business* [Docket No. 76] (the "Ordinary Course Professional Order") may continue to receive such compensation or reimbursement of expenses for services rendered before the Confirmation Date, without further Bankruptcy Court order, pursuant to the Ordinary Course Professional Order. Objections to any Fee Claim must be filed and served on Reorganized NAPCUS and the requesting party no later than 60 days after the Effective Date. To the extent necessary, the Confirmation Order shall amend and supersede any previously entered order regarding the payment of Fee Claims.

77. **Professional Fee Escrow Account.** On the Effective Date, in accordance with Section 9.1 of the Plan, the Debtors shall fund the Professional Fee Escrow Account with Cash equal to the Professional Fee Reserve Amount for all Professionals. Such funds shall not be property or be deemed property of the Debtors or Reorganized NAPCUS, as applicable. The Professional Fee Escrow Account may be an interest-bearing account. Pursuant to Section 9.1 of the Plan, when all Allowed Fee Claims have been paid in full, amounts remaining in the Professional Fee Escrow Account, if any, shall be paid to Reorganized NAPCUS.

78. **Post-Confirmation Date Fees and Expenses.** Except as otherwise specifically provided in the Plan, from and after the Confirmation Date, the Debtors and Reorganized NAPCUS shall, in the ordinary course of business and without any further notice to or action, order, or approval of the Bankruptcy Court, pay in Cash the reasonable legal, professional, or other fees and expenses related to implementation and Consummation of the Plan incurred by the Debtors or Reorganized NAPCUS, as the case may be. Upon the Confirmation Date, any requirement that Professionals comply with sections 327 through 331 and 1103 of the Bankruptcy Code in seeking retention or compensation for services rendered after such date shall terminate, and the Debtors and Reorganized NAPCUS may employ and pay any Professional for services rendered or expenses incurred after the Confirmation Date in the ordinary course of business without any further notice to any party or action, order, or approval of the Bankruptcy Court. Upon entry of this Confirmation Order, the Completion Fee shall be approved; provided that, notwithstanding anything to the contrary in the Plan or otherwise, the Completion Fee shall be paid only after all Allowed NAPCUS General Unsecured Claims of holders who did not elect or agree to a stock recovery on account of such claims are paid in full in Cash. On the Effective Date, the reasonable and documented fees and expenses that Professionals for the Equity

Committee incurred prior to, but in contemplation of, the appointment of the Equity Committee shall be paid by Reorganized NAPCUS.

79. **Corporate Existence and Vesting of Assets in Reorganized NAPCUS.** Pursuant to Section 4.7 of the Plan, after giving effect to the actions to be taken by the Debtors under the Plan: (a) Prize Petroleum LLC, as of the Effective Date, shall be deemed dissolved and cease to exist, shall be deemed to have satisfied all of its obligations, shall have complied in all respects with all legal requirements for dissolution under applicable non-bankruptcy law, and have no liabilities or obligations to any party in interest other than those expressly set forth in the Plan; and (b) on, or immediately after, the Effective Date, Petroflow Energy Ltd. shall dissolve and cease to exist in compliance with all legal requirements for dissolution under applicable non-bankruptcy law, and have no liabilities or obligations to any party in interest other than those expressly set forth in the Plan. Except as otherwise provided herein or in any agreement, instrument, or other document incorporated in the Plan, on the Effective Date all property in each Estate, all Causes of Action, and any property acquired by any of the Debtors pursuant to the Plan shall, pursuant to the Plan, be transferred to and vest in Reorganized NAPCUS, free and clear of all Liens, Claims, charges, or other encumbrances. On and after the Confirmation Date, except as otherwise provided in the Plan, the Debtors and Reorganized NAPCUS may operate their business and may use, acquire, or dispose of property and compromise or settle any Claims, Interests, or Causes of Action without supervision or approval by the Bankruptcy Court and free of any restrictions of the Bankruptcy Code or Bankruptcy Rules. Unless the Debtors determine it is necessary for the cases of Prize Petroleum LLC or Petroflow Energy Ltd. to remain open to effectuate the Plan (or any transaction contemplated therein), as of the Effective Date and upon filing of the Notice of Effective Date (defined below), the chapter 11 cases of Prize Petroleum

LLC and Petroflow Energy Ltd. shall be closed and the Debtors are authorized to present this Confirmation Order and the Notice of Effective Date to the Clerk of the Bankruptcy Court, at which point, the closing of the chapter 11 cases of Prize Petroleum LLC and Petroflow Energy Ltd. shall be immediately effective with the Clerk immediately effectuating closing of such cases. At the time of closing, any remaining U.S. Trustee reports and fees due and still owing by Prize Petroleum LLC or Petroflow Energy Ltd. may, upon closing of their chapter 11 cases, be filed or paid by Reorganized NAPCUS.

80. **Rejection Claims and Rejection Bar Date.** Unless otherwise provided by an order of the Bankruptcy Court, any Proofs of Claim asserting Claims arising from the rejection of the Debtors' Executory Contracts or Unexpired Leases pursuant to the Plan must be filed by holders of such Claims with the Claims and Solicitation Agent no later than 30 days after the later of (a) the Effective Date or (b) the effective date of rejection for such holders to be entitled to receive distributions under the Plan on account of such Claims. Any holder of a Proof of Claim arising from the rejection of the Debtors' Executory Contracts or Unexpired Leases that does not timely file such Proof of Claim shall not (a) be treated as a creditor with respect to such Claim or (b) participate in any distribution in the Chapter 11 Cases on account of such Claim, and such Claim shall be deemed fully satisfied, released, and discharged, notwithstanding anything in the Schedules or a Proof of Claim to the contrary.

81. **Assumption of Executory Contracts or Unexpired Leases: Release and Satisfaction of Claims or Defaults.** Unless otherwise indicated or agreed to by a Debtor and a counter-party, assumptions of Executory Contracts and Unexpired Leases pursuant to the Plan are effective as of the Effective Date. Each Executory Contract or Unexpired Lease assumed pursuant to the Plan or by Bankruptcy Court order but not assigned to a third party before the Effective Date shall re-vest in and be fully enforceable by Reorganized NAPCUS in accordance with its terms, except as such terms may have been modified by the provisions of the Plan, agreement of the parties, or any order of the Bankruptcy Court authorizing and providing for its assumption under applicable federal law. Any motions to assume Executory Contracts or Unexpired Leases pending on the Effective Date shall be subject to approval by the Bankruptcy Court on or after the Effective Date by a Final Order.

82. Any monetary defaults under each Executory Contract and Unexpired Lease as reflected on the *Assumed Executory Contracts and Unexpired Lease List* in the Plan Supplement shall be satisfied, pursuant to section 365(b)(1) of the Bankruptcy Code, by payment of the default amount in Cash on, or reasonably practicable after, the Effective Date, as set forth in the Plan.

83. Assumption of any Executory Contract or Unexpired Lease pursuant to the Plan or otherwise shall result in the full release and satisfaction of any Claims or defaults, whether monetary or nonmonetary, including defaults of provisions restricting the change in control or ownership interest composition or other bankruptcy-related defaults, arising under any assumed Executory Contract or Unexpired Lease at any time before the assumption of such Executory Contract or Unexpired Lease.. Any Proofs of Claim filed with respect to an Executory Contract or Unexpired Lease that has been assumed shall be deemed disallowed and expunged, without further notice to or action, order, or approval of the Bankruptcy Court.

84. **Discharge of Claims and Termination of Interests.** As provided in Section 8.1 of the Plan, pursuant to section 1141(d) of the Bankruptcy Code, effective as of the Effective Date, and except as otherwise provided for in the Plan: (a) the rights afforded in the Plan and the treatment of all Claims and Interests shall be in exchange for and in complete satisfaction, discharge, and release of all Claims and Interests of any nature whatsoever, including any interest accrued on such Claims from and after the Petition Date, against the Debtors or any of their assets, property, or Estates; (b) the Plan shall bind all holders of Claims and Interests, notwithstanding whether any such holders failed to vote to accept or reject the Plan or voted to reject the Plan; (c) all Claims and Interests shall be satisfied, discharged, and released in full, and the Debtors' liability with respect thereto shall be extinguished completely, including any liability of the kind specified under section 502(g) of the Bankruptcy Code; and (d) all Entities shall be precluded from asserting against the Debtors, the Debtors' Estates, Reorganized NAPCUS, their successors and assigns, and their assets and properties any other Claims or Interests based upon any documents, instruments, or any act or omission, transaction, or other activity of any kind or nature that occurred prior to the Effective Date.

85. **Release of Liens.** As provided for in Section 8.11 of the Plan, except as otherwise provided herein or in any contract, instrument, release, or other agreement or document created pursuant to the Plan, on the Effective Date all mortgages, deeds of trust, Liens, pledges, or other security interests against any property of the Estates, if any, shall be fully released and discharged, and all of the right, title, and interest of any holder of such mortgages, deeds of trust, Liens, pledges, or other security interests shall revert to Reorganized NAPCUS and its successors and assigns.

86. **Release by the Debtors. As provided for in Section 8.4 of the Plan, in accordance with section 1123(b) of the Bankruptcy Code, and except as otherwise provided for in the Plan, as of the Effective Date, the Debtor Release is approved and authorized in all respects.**

87. **Release by Holders of Claims and Interests. As provided for in Section 8.5 of the Plan, and to the extent permitted by applicable law, the Third Party Release is approved and authorized in all respects. For the avoidance of doubt, any holder of a Claim that elected on its Ballot to opt-out of the Third Party Release or reject the Plan will not be subject to the Third Party Release.**

88. **Exculpation. As provided for in Section 8.6 of the Plan, and except as otherwise provided for in the Plan, the Exculpation is approved and authorized in all respects.**

89. **Injunction. From and after the Effective Date, and as contemplated in Section 8.7 of the Plan, the Injunction shall be in full force and effect.**

90. **Termination of Injunction or Stays.** Pursuant to Section 13.8 of the Plan, unless otherwise provided in the Plan or the Confirmation Order, all injunctions or stays in effect in these chapter 11 cases pursuant to sections 105 or 362 of the Bankruptcy Code or any order of the Bankruptcy Court, and existing on the Confirmation Date (excluding any injunctions or stays contained in the Plan or the Confirmation Order) shall remain in full force and effect until the Effective Date. All injunctions or stays contained in the Plan or the Confirmation Order shall remain in full force and effect in accordance with their terms.

91. **Distribution of Reorganized NAPCUS Securities.** Pursuant to Section 4.3 of the Plan, on, or as soon as practicable after, the Effective Date or the Determination Date, as applicable, Reorganized NAPCUS is authorized to issue all Securities, notes, instruments, Certificates, and other documents required to be issued pursuant to the Plan. The issuance of shares of Reorganized NAPCUS Convertible Preferred Stock (with par value of $0.001 per share or as otherwise set forth on Reorganized NAPCUS' preferred stock certificate) and Reorganized NAPCUS Common Stock are each authorized without the need for any further corporate action (including, action by the Debtors or Reorganized NAPCUS, as applicable, or their respective shareholders or board of directors or other governing bodies) or without any further action by a holder of Claims or Interests.

92. If Reorganized NAPCUS is to distribute Reorganized NAPCUS Common Stock to Class 5B Petroflow Other Interests holders on account of the events set forth in Section 1.135(b), (c) or (d) of the Plan, at the time of such distribution, Reorganized NAPCUS must be a reporting issuer under applicable U.S. and Canadian securities law; and, if Reorganized NAPCUS is unable to become a reporting issuer by the time it is required to make a distribution pursuant to the Plan, at such date, in lieu of distributing stock, Reorganized

NAPCUS must distribute Cash to Class 5B holders in an amount equal to the fair value (as determined pursuant to the Plan) of the Reorganized NAPCUS Common Stock the Class 5B holders would have otherwise received. Subject to the immediately preceding sentence, all terms, provisions and conditions governing and with respect to the Determination Date Distribution set forth in the Plan are hereby approved.

93. **Investment Commitment.** The Debtors are authorized to consummate the Investment Agreements (including any amendments thereto and the transactions contemplated thereby) and the Debtors and all other parties to the Investment Agreements are authorized to take all actions necessary or appropriate to implement the terms of the Investment Agreements (including any amendments thereto and the transactions contemplated thereby) without further notice to or action, order, or approval of this or any other court.

94. **Management Equity Plan.** The Management Equity Plan (as described in the Disclosure Statement and the Plan Supplement) hereby is approved. On the Effective Date, the Management Equity Plan shall be deemed adopted and approved without further action by the Reorganized NAPCUS Board or otherwise. The issuance of any equity or other award under the Management Equity Plan is authorized and approved without need of any further corporate action or Court approval.

95. **Securities Exemption.** Pursuant to section 1145 of the Bankruptcy Code, the offering, issuance, and distribution of the Reorganized NAPCUS Series B Convertible Preferred Stock, Reorganized NAPCUS Series C Convertible Preferred Stock, and Reorganized NAPCUS Common Stock pursuant to the Plan and any and all settlement agreements incorporated herein will be exempt from the registration requirements of section 5 of the Securities Act. By virtue of section 4(2) of the Securities Act or Regulation D promulgated thereunder, the offering,

issuance, and distribution of the Reorganized NAPCUS Series A Convertible Preferred Stock and any and all settlement agreements incorporated herein will be exempt from the registration requirements of section 5 of the Securities Act. In addition, Reorganized NAPCUS Convertible Preferred Stock and Reorganized NAPCUS Common Stock issued pursuant to the Plan and any and all settlement agreements incorporated therein will be freely transferable under the Securities Act by the recipients thereof, subject to: (a) the provisions of section 1145(b)(1) of the Bankruptcy Code relating to the definition of an underwriter in section 2(a)(11) of the Securities Act, and compliance with any applicable state or foreign securities laws, if any, and the rules and regulations of the United States Securities and Exchange Commission, if any, applicable at the time of any future transfer of such Securities or instruments; (b) the restrictions, if any, on the transferability of such Securities and instruments, including those set forth in the Reorganized NAPCUS Charter and Section 4.9 of the Plan; and (c) any other applicable regulatory approval.

96. **Section 1146 Exemption**. Pursuant to section 1146(a) of the Bankruptcy Code, any transfers of property pursuant to the Plan shall not be subject to any document recording tax, stamp tax, conveyance fee, intangibles, or similar tax, mortgage tax, stamp act, real estate transfer tax, mortgage recording tax, or other similar tax or governmental assessment, and upon entry of the Confirmation Order, the appropriate state or local governmental officials or agents are directed to forgo the collection of any such tax or governmental assessment and accept for filing and recordation any of the foregoing instruments or other documents without the payment of any such tax, recordation fee, or governmental assessment.

97. **Corporate Action: Authorizations and Approvals.** Upon entry of the Confirmation Order, each of the matters provided for by the Plan involving the corporate structure of the Debtors, Reorganized NAPCUS, or corporate or related actions to be taken by or required of the Debtors or Reorganized NAPCUS, whether taken prior to or as of the Effective Date, shall be authorized without the need for any further corporate action (including, action by the Debtors or Reorganized NAPCUS, as applicable, or their respective shareholders or board of directors or other governing bodies) or without any further action by a holder of Claims or Interests. Such actions may include: (a) the consummation and implementation of the Investment Agreements; (b) the amendment and restatement of the Reorganized NAPCUS Charter and Reorganized NAPCUS Bylaws; (c) the appointment of the Reorganized NAPCUS Board and Reorganized NAPCUS' officers; (d) the adoption and implementation of the Management Equity Plan; (e) the dissolution of Petroflow Energy Ltd. and Prize Petroleum LLC; and (f) the authorization, issuance, and distribution of Reorganized NAPCUS Convertible Preferred Stock, Reorganized NAPCUS Common Stock, and any other Securities to be authorized, issued, and distributed pursuant to the Plan. Upon entry of the Confirmation Order, the Debtors and Reorganized NAPCUS shall have the authority to take any actions necessary or appropriate to implement the Plan in Canada.

98. **Government Approvals Not Required.** This Confirmation Order shall constitute all approvals and consents required, if any, by the laws, rules, or regulations of any state or any other governmental authority with respect to the implementation or consummation of the Plan and any documents, instruments, or agreements, and any amendments or modifications thereto, and any other acts referred to in or contemplated by the Plan and any documents, instruments, or agreements, and any amendments or modifications thereto.

99. **Dissolution of Official Committees.** On the Effective Date, the Creditors' Committee and the Equity Committee shall dissolve (provided, however, that following the Effective Date, the Creditors' Committee and Equity Committee shall continue to have standing and a right to be heard solely with respect to Fee Claims and/or applications for compensation by Professionals) and the members thereof shall be released and discharged from all rights, duties, responsibilities and liabilities arising from, or related to, the Chapter 11 Cases. Except for fees and expenses in the final fee applications of the Creditors' Committee and Equity Committee that are approved by the Court, the Debtors and Reorganized NAPCUS shall not be responsible for paying any fees or expenses incurred by the members of or advisors to the Creditors' Committee or the Equity Committee after the Effective Date.

100. **Payment of Statutory Fees.** All fees payable pursuant to 28 U.S.C. § 1930(a), as determined by the Court at a hearing pursuant to section 1128 of the Bankruptcy Code, shall be paid for each quarter (including any fraction thereof) until the Chapter 11 Cases are converted, dismissed or closed, whichever occurs first.

101. **Severability of Plan Provisions.** This Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of the Plan, as it may have been altered or interpreted in accordance with the foregoing, is: (a) valid and enforceable pursuant to its terms; (b) integral to the Plan and may not be deleted or modified without the Debtors' consent; and (c) nonseverable and mutually dependent.

102. **Plan Consummation.** The Debtors are authorized to consummate the Plan at any time after the entry of this Confirmation Order subject to satisfaction or waiver of the conditions precedent to the Effective Date set forth in Section 10.1 of the Plan. On the Effective Date, the Plan shall be deemed to be substantially consummated under sections 1101 and 1127(b) of the

Bankruptcy Code.

103. **Conflicts with the Plan.** If there is any direct conflict between the terms of the Plan or the Plan Supplement and the terms of this Confirmation Order, the terms of this Confirmation Order shall govern and control.

104. **Non-Occurrence of Effective Date and Reservation of Rights.** Except as expressly set forth in the Plan, the Plan shall have no force or effect unless the Bankruptcy Court enters the Confirmation Order, and the Confirmation Order shall have no force or effect if the Effective Date does not occur. None of the filing of the Plan, any statement or provision contained in the Plan, or the taking of any action by any Debtor with respect to the Plan, the Disclosure Statement, or the Plan Supplement shall be or shall be deemed to be an admission or waiver of any rights of any Debtor with respect to the holders before the Effective Date.

105. **Retention of Jurisdiction.** Notwithstanding the entry of the Confirmation Order and the occurrence of the Effective Date, on and after the Effective Date, the Bankruptcy Court shall retain exclusive jurisdiction over all matters arising out of, or related to, these chapter 11 cases and the Plan pursuant to Article XII of the Plan.

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

107. **Notice of Entry of Confirmation Order and Occurrence of the Effective Date.** Pursuant to Bankruptcy Rules 2002(f)(7), 2002(k), and 3020(c), Reorganized NAPCUS shall file and serve notice of (a) entry of this Confirmation Order (the "Notice of Confirmation") and (b) occurrence of the Effective Date (the "Notice of Effective Date") substantially in the forms

annexed hereto as **Exhibit 2** and **Exhibit 3**, respectively, on: (a) all holders of Claims and Interests; (b) the U.S. Trustee; (c) the Creditors' Committee; (d) the Equity Committee; (e) the Internal Revenue Service; (f) the SEC; (g) the Delaware Secretary of State; (h) the Delaware Secretary of the Treasury; (i) the U.S. Attorney for the District of Delaware and (j) all entities that have filed a request for service of filings in the chapter 11 cases pursuant to Bankruptcy Rule 2002. The Notice of Confirmation and the Notice of Effective Date shall also be published in *The Wall Street Journal* (national edition), *The Globe and Mail*, the *Tulsa World*, and the *San Antonio Express-News* and posted electronically at http://dm.epiq11.com/NAP. Such notices are adequate under the particular circumstances and no other or further notices are necessary. The form of Notice of Confirmation and the Notice of Effective Date substantially in the form annexed hereto as **Exhibit 2** and **Exhibit 3**, respectively, are approved.

108. **Resolution of the Internal Revenue Service's Objection.** Notwithstanding any provision to the contrary in the Plan, the Order confirming the Plan, and any implementing Plan documents (collectively, "Documents"), nothing shall: (1) affect the ability of the Internal Revenue Service (the "IRS") to pursue any non-debtors to the extent allowed by non-bankruptcy law for any liabilities that may be related to any federal tax liabilities owed by the Debtors or the Debtors' Estates; (2) affect the rights of the IRS to assert setoff and recoupment and such rights are expressly preserved; (3) discharge any claim of the IRS described in 11 U.S.C. Section 1141(d)(6); (4) extend the 11 U.S.C. Section 362 automatic stay with respect to IRS claims beyond the time provided for in 11 U.S.C. Section 362(c)(2)(C); or (5) require the IRS to file a claim described in 11 U.S.C. Section 503(b)(1)(B) and (C). To the extent the IRS priority tax claims (including any penalties, interest or additions to tax entitled to priority under the Bankruptcy Code), if any, are not paid in full in cash on the Effective Date, the IRS priority tax

claims shall accrue interest commencing on the Effective Date at the rate and method set forth in 26 U.S.C. Sections 6621 and 6622. If not paid when due, IRS administrative expense claims shall accrue interest and penalties as provided by non-bankruptcy law until paid in full.

109. **Final Order.** This Confirmation Order is a Final Order.

110. **Effectiveness of Order.** In accordance with Bankruptcy Rules 3020(e), 6004(h) and 6006(d) (and notwithstanding any other provision of the Bankruptcy Code or the Bankruptcy Rules), this Confirmation Order shall not be stayed and shall be effective and enforceable immediately upon its entry. This Confirmation Order is and shall be deemed to be a separate order with respect to each Debtor for all purposes.

Dated: 9/14, 2011
Wilmington, Delaware

The Honorable Christopher S. Sontchi
United States Bankruptcy Judge

EXHIBIT 1

The Plan

APPENDIX A

SOLICITATION VERSION

KIRKLAND & ELLIS LLP
David R. Seligman, P.C. (admitted *pro hac vice*)
Ryan Blaine Bennett (admitted *pro hac vice*)
Paul Wierbicki (admitted *pro hac vice*)
300 North LaSalle
Chicago, Illinois 60654
Telephone: (312) 862-2000

KLEHR HARRISON HARVEY BRANZBURG LLP
Domenic E. Pacitti
Margaret M. Manning
919 Market Street, Suite 1000
Wilmington, Delaware 19801-3062
Telephone: (302) 426-1189

- and -

Morton Branzburg
1835 Market Street, Suite 1400
Philadelphia, Pennsylvania 19103
Telephone: (215) 569-2700

Attorneys for the Debtors and Debtors in Possession

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	)	Chapter 11
	)	
NORTH AMERICAN PETROLEUM CORPORATION USA, *et al.*,[1]	)	Case No. 10-11707 (CSS)
Debtors.	)	Jointly Administered

FIRST AMENDED JOINT CHAPTER 11 PLAN
OF NORTH AMERICAN PETROLEUM CORPORATION USA, *ET AL.*

Dated: July 29, 2011

1 The Debtors in the above-captioned chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number or Canadian corporation number, include: North American Petroleum Corporation USA (9766); Prize Petroleum LLC (2460); and Petroflow Energy Ltd. (517-5). The location of the Debtors' corporate headquarters and the Debtors' service address is: 525 South Main Street, Suite 1120, Tulsa, Oklahoma 74103, Attn.: Louis G. Schott.

TABLE OF CONTENTS

K&E 10394274

INTRODUCTION

North American Petroleum Corporation USA and the other Debtors in the above-captioned chapter 11 cases jointly propose the following Plan for the resolution of outstanding claims against and interests in each Debtor pursuant to the Bankruptcy Code. Each Debtor is a proponent of the Plan within the meaning of section 1129 of the Bankruptcy Code. The classifications of claims and interests set forth in Article III herein shall be deemed to apply separately with respect to each Plan proposed by each Debtor, as applicable. The Plan does not contemplate or provide for the substantive consolidation of any of the Debtors or their Estates.

ARTICLE I

DEFINED TERMS, RULES OF INTERPRETATION, COMPUTATION OF TIME, AND GOVERNING LAW

1.1 Defined Terms

1. "*Accrued Professional Compensation*" means, at any given moment, all accrued fees and expenses for services rendered by a Professional through and including the Confirmation Date, to the extent such fees and expenses have not been paid pursuant to the Interim Compensation Order or other order of the Bankruptcy Court and regardless of whether a fee application has been filed for such fees and expenses. To the extent the Bankruptcy Court or any higher court denies or reduces by a Final Order any amount of a Professional's fees or expenses, then the amount by which such fees or expenses are reduced or denied shall no longer constitute Accrued Professional Compensation.

2. "*Acquisition Event*" means: (a) any merger, consolidation or other business combination in which the stockholders of Reorganized NAPCUS immediately prior to the merger, consolidation or other business combination will own less than a majority of the outstanding voting power of the outstanding equity interests of the surviving entity or its parent; (b) any transaction or series of related transactions that results in the assignment, transfer, conveyance or other disposition, in each case, by then existing holders of Reorganized NAPCUS capital stock of 50% or more of Reorganized NAPCUS' outstanding capital stock to a single person or entity or to a group of persons and/or entities acting in concert; (c) any sale, transfer, conveyance or other disposition, in one or a series of related transactions, of all or substantially all of the assets of Reorganized NAPCUS and its subsidiaries, taken as a whole except where such sale, transfer, conveyance or other disposition is to a subsidiary of Reorganized NAPCUS; or (d) any voluntary or involuntary liquidation, dissolution or winding up of the affairs of Reorganized NAPCUS or the adoption of a plan relating to the liquidation, dissolution or winding up of the affairs of Reorganized NAPCUS.

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

4. "*Affiliate*" has the meaning set forth in section 101(2) of the Bankruptcy Code.

5. "*Allowed*" means, except as otherwise provided herein: (a) a Claim or Interest that is (i) listed in the Schedules as of the Effective Date as not disputed, not contingent, and not unliquidated, or (ii) evidenced by a valid Proof of Claim, filed by the applicable Bar Date and as to which the Debtors or other parties in interest have not filed an objection to the allowance thereof within the applicable period of time fixed by the Plan, the Bankruptcy Code, the Bankruptcy Rules, or the Bankruptcy Court, or (b) a Claim that is Allowed pursuant to the Plan or any stipulation approved by, or Final Order of, the Bankruptcy Court.

6. "*Avoidance Actions*" means any and all avoidance, recovery, subordination, or other actions or remedies that may be brought on behalf of the Debtors or their Estates under the Bankruptcy Code or applicable

non-bankruptcy law, including actions or remedies under sections 544, 547, 548, 550, 551, 552, or 553 of the Bankruptcy Code.

7. *"Bankruptcy Code"* means Title 11 of the United States Code, 11 U.S.C. §§ 101-1532, as may be amended from time to time.

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

9. *"Bankruptcy Rules"* means the Federal Rules of Bankruptcy Procedure as applicable to the Chapter 11 Cases and the general, local, and chambers rules of the Bankruptcy Court.

10. *"Bar Date"* means, as applicable, (a) November 22, 2010, for all Persons or Entities other than Governmental Units, (b) the Government Bar Date, or (c) such other date specifically fixed by an order of the Bankruptcy Court for filing Proofs of Claim.

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

12. *"Canadian Proceeding"* means that proceeding commenced when Petroflow Energy Ltd. filed for creditor protection under the Companies' Creditors Arrangement Act (Canada), as amended, in the Court of Queen's Bench of Alberta, Judicial Centre Calgary in connection with its chapter 11 filing, administered under court file number 1001-13659.

13. *"Canadian Recognition Order"* means an order in the Canadian Proceeding recognizing and giving full effect to the Plan.

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

15. *"Causes of Action"* means any and all claims, actions, causes of action, choses in action, suits, debts, damages, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, judgments, remedies, rights of set-off, third-party claims, subrogation claims, contribution claims, reimbursement claims, indemnity claims, counterclaims, and crossclaims (including all claims and any avoidance, recovery, subordination, or other actions against Insiders and/or any other Entities under the Bankruptcy Code, including Avoidance Actions) of any of the Debtors, the debtors in possession, and/or the Estates (including those actions set forth in the Plan Supplement), whether known or unknown, liquidated or unliquidated, fixed or contingent, matured or unmatured, disputed or undisputed, that are or may be pending on the Effective Date or commenced by Reorganized NAPCUS after the Effective Date against any Entity, based in law or equity, including under the Bankruptcy Code, whether direct, indirect, derivative, or otherwise and whether asserted or unasserted as of the date of entry of the Confirmation Order.

16. *"Certificate"* means any instrument evidencing a Claim or an Interest.

17. *"Chapter 11 Cases"* means the jointly administered chapter 11 cases commenced by the Debtors, with case numbers 10-11707, 10-11708, and 10-12608, and styled *In re North American Petroleum Corporation USA, et al.*, Case No. 10-11707 (CSS), which are currently pending before the Bankruptcy Court.

18. *"Claim"* has the meaning set forth in section 101(5) of the Bankruptcy Code.

19. *"Claims and Solicitation Agent"* means Epiq Bankruptcy Solutions, LLC, located at 757 Third Avenue, New York, New York, 10017, retained as the Debtors' claims and solicitation agent by order of the Bankruptcy Court dated May 28, 2010, entitled *Order Authorizing the Employment and Retention of Epiq Bankruptcy Solutions, LLC as Notice, Claims and Balloting Agent* [Docket No. 26].

20. *"Claims Register"* means the official register of Claims maintained by the Claims and Solicitation Agent.

21. *"Class"* means a category of holders of Claims or Interests pursuant to section 1122(a) of the Bankruptcy Code.

22. *"Compensation and Benefit Claims"* means any and all Claims arising on account of, or relating to, the Compensation and Benefits Programs assumed pursuant to Section 5.6 of the Plan.

23. *"Compensation and Benefits Programs"* means all employment and severance agreements and policies, and all compensation and benefits plans, policies, and programs of the Debtors, and all amendments and modifications thereto, applicable to the Debtors' employees, former employees, retirees and non-employee directors and the employees, former employees and retirees of their subsidiaries, including, without limitation, all savings plans, retirement plans, health care plans, disability plans, severance benefit agreements and plans, incentive plans, deferred compensation plans and life, accidental death and dismemberment insurance plans.

24. *"Completion Fee"* means a fee of $1.0 million earned by and payable to Kinetic Advisors LLC, the Debtors' financial advisors, on the Effective Date.

25. *"Confirmation"* means the entry of the Confirmation Order on the docket of the Chapter 11 Cases.

26. *"Confirmation Date"* means the date upon which the Bankruptcy Court enters the Confirmation Order on the docket of the Chapter 11 Cases, within the meaning of Bankruptcy Rules 5003 and 9021.

27. *"Confirmation Hearing"* means the hearing(s) before the Bankruptcy Court at which the Debtors seek entry of the Confirmation Order.

28. *"Confirmation Order"* means the order of the Bankruptcy Court confirming the Plan pursuant to section 1129 of the Bankruptcy Code.

29. *"Consummation"* means the occurrence of the Effective Date.

30. *"Creditor"* has the meaning set forth in section 101(10) of the Bankruptcy Code.

31. *"Creditors' Committee"* means the Official Committee of Unsecured Creditors appointed pursuant to section 1102 of the Bankruptcy Code by the United States Trustee for the District of Delaware on June 24, 2010 [Docket No. 83], as it may be reconstituted from time to time.

32. *"Cure"* means a Claim based upon a Debtor's defaults under an Executory Contract or Unexpired Lease assumed by such Debtor pursuant to section 365 of the Bankruptcy Code.

33. *"Debtors"* means each of the following Entities, collectively, North American Petroleum Corporation USA, Prize Petroleum LLC, and Petroflow Energy Ltd.

34. *"Depository"* means a securities depository system, including The Depository Trust Company and CDS Clearing and Depository Services Inc. and their respective successors and assigns.

35. *"Determination Date"* means any date for payment of Allowed Petroflow Other Interests, as determined by the board of directors or other governing body of Reorganized NAPCUS, but in no event later than the second anniversary of the Effective Date, on which one of the following events occurs: (a) Reorganized NAPCUS is able to fulfill (as determined by the board of directors or other governing body of Reorganized NAPCUS), or has obtained an exemption from, any applicable public reporting or registration requirements under applicable United States securities laws and regulations and Canadian securities laws and regulations (including filing a non-offering or other prospectus and obtaining a final receipt thereof to become a reporting issuer or its equivalent in the applicable Canadian jurisdictions) which may arise from the issuance of Reorganized NAPCUS

Common Stock to holders of Petroflow Other Interests on, or as soon as practicable following, such date; (b) the Reorganized NAPCUS Board determines, in its discretion, to no longer defer distributions of Reorganized NAPCUS Common Stock to holders of Allowed Petroflow Other Interests; (c) an Acquisition Event occurs; (d) Reorganized NAPCUS declares or approves payment of any cash dividends or other cash distributions on then existing shares of Reorganized NAPCUS Common Stock; or (e) at any time, in lieu of issuing Reorganized NAPCUS Common Stock to holders of Petroflow Other Interests, Reorganized NAPCUS elects to pay Cash to such holders on account of their Petroflow Other Interests in an amount equal to the fair value (as determined pursuant to Section 6.3) of the Reorganized NAPCUS Common Stock such holders would have otherwise received; provided, however that, notwithstanding the foregoing, a "Determination Date" will not occur as a result of: (i) any repurchase by Reorganized NAPCUS or any of its subsidiaries of any shares of capital stock or any security convertible into capital stock in connection with any employee's termination of employment; (ii) any dividend or other distribution in exchange for, or out of the proceeds of a capital contribution or a substantially concurrent offering of, shares of Reorganized NAPCUS capital stock; (iii) any dividend or other distribution on any class or series of preferred stock of Reorganized NAPCUS; (iv) the repurchase of capital stock deemed to occur upon the exercise of options or warrants if such capital stock represents all or a portion of the exercise price thereof or payments in lieu of the issuance of fractional shares of capital stock or withholding to pay for taxes payable by such employee upon such grant or award; or (v) any non-cash dividends or non-cash distributions on Reorganized NAPCUS Common Stock.

36. *"Determination Date Distribution"* means the distributions required to be made by Reorganized NAPCUS to holders of Petroflow Other Interests on account of their Petroflow Other Interests on the Determination Date or as soon as practicable thereafter in accordance with the terms of the Plan and the Reorganized NAPCUS Charter, consisting of, at the option of Reorganized NAPCUS: (a) one share of Reorganized NAPCUS Common Stock for every one share of Petroflow Interests held by such holders as of the Distribution Record Date; provided, that such distribution shall be subject to dilution by conversion of Reorganized NAPCUS Convertible Preferred Stock and the Management Equity Plan; or (b) Cash in an amount equal to the fair value, as of the Determination Date and as determined pursuant to Section 6.3, of the Reorganized NAPCUS Common Stock such holders would have otherwise received pursuant to clause (a) of this paragraph; provided, however that, notwithstanding anything to the contrary in this paragraph, in the event an Acquisition Event occurs, distributions to holders of Petroflow Other Interests on account of their Petroflow Other Interests shall be made in the same form and amount of consideration payable to the holders of Reorganized NAPCUS Common Stock existing immediately before the Acquisition Event occurs (or if such consideration is not cash, at Reorganized NAPCUS's option, in cash in an amount equal to the fair value as of the Determination Date (and as determined pursuant to Section 6.3) of such non-cash consideration).

37. *"Disclosure Statement"* means the disclosure statement for the Plan, supplemented or modified from time to time, including all exhibits and schedules thereto, as approved by the Bankruptcy Court pursuant to section 1125 of the Bankruptcy Code.

38. *"Disclosure Statement Order"* means the Final Order approving the Disclosure Statement, among other things.

39. *"Disputed Claim"* means any Claim that is not Allowed.

40. *"Distribution Agent"* means Reorganized NAPCUS, the Claims and Solicitation Agent or the Entity or Entities selected by Reorganized NAPCUS, as applicable, to make or to facilitate distributions pursuant to the Plan.

41. *"Distribution Date"* means the date or dates determined by the Debtors or Reorganized NAPCUS, in their sole discretion, on or after the Effective Date, upon which the Distribution Agent shall make distributions to holders of Allowed Claims entitled to receive distributions under the Plan.

42. *"Distribution Record Date"* means the date for determining which holders of Allowed Claims are eligible to receive distributions hereunder, which shall be (a) the Confirmation Date or (b) such other date as designated in a Bankruptcy Court order.

43. "*Effective Date*" means the date that is the first Business Day after the Confirmation Date on which all conditions precedent to the Effective Date have been satisfied or waived.

44. "*Entity*" has the meaning set forth in section 101(15) of the Bankruptcy Code.

45. "*Equity Committee*" means the Official Committee of Equity Security holders appointed pursuant to section 1102 of the Bankruptcy Code by the United States Trustee for the District of Delaware on May 4, 2011 [Docket No. 800], as it may be reconstituted from time to time.

46. "*Equity Security*" has the meaning set forth in section 101(16) of the Bankruptcy Code.

47. "*Estate*" means the bankruptcy estate of any Debtor created pursuant to sections 301 and 541 of the Bankruptcy Code upon the commencement of the Chapter 11 Cases.

48. "*Exculpated Claim*" means any Claim related to any act or omission in connection with, relating to, or arising out of the Debtors' in or out-of-court restructuring efforts, the Chapter 11 Cases, formulation, preparation, dissemination, negotiation, or filing of the Disclosure Statement or Plan or any contract, instrument, release, or other agreement or document created or entered into in connection with the Disclosure Statement or Plan, the preparation for and filing of the Chapter 11 Cases, the pursuit of Confirmation, the pursuit of Consummation, the administration and implementation of the Plan, or the distribution of property under the Plan or any other agreement.

49. "*Exculpated Party*" means each of the following in its capacity as such: (a) the Debtors; (b) Reorganized NAPCUS; (c) the Released Parties; (d) with respect to each of the foregoing Entities in clauses (a) through (c), such Entities' successors and assigns; and (e) with respect to each of the foregoing Entities or Persons in clauses (a) through (d), such Entities' or Persons' subsidiaries, affiliates, officers, directors, principals, employees, agents, financial advisors, attorneys, accountants, investment bankers, consultants, representatives, and other Professionals.

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

51. "*Fee Claim*" means a Claim for Accrued Professional Compensation.

52. "*Final Decree*" means the decree contemplated under Bankruptcy Rule 3022.

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

54. "*General Unsecured Claim*" means any Claim other than Administrative Claims, Fee Claims, Secured Claims, Priority Tax Claims, Other Priority Claims, and Intercompany Claims.

55. "*Government Bar Date*" means November 22, 2010, in connection with the filing of Proofs of Claim against either of North American Petroleum Corporation USA or Prize Petroleum LLC, and February 17, 2011, in connection with the filing of Proofs of Claim against Petroflow Energy Ltd.

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

57. "*Impaired*" means, with respect to any Class of Claims or Interests, a Claim or Interest that is not Unimpaired.

58. "*Indemnification Obligation*" means a Debtor's obligation under an Executory Contract, or corporate or other document, or otherwise to indemnify directors, officers, or employees of the Debtors who served in such capacity at any time, with respect to or based upon any act or omission taken or omitted in any of such capacities, or for or on behalf of any Debtor, pursuant to and to the maximum extent provided by the Debtors' respective articles of incorporation, certificates of formation, bylaws, similar corporate documents, and applicable law, as in effect as of the Effective Date.

59. "*Insider*" has the meaning set forth in section 101(31) of the Bankruptcy Code.

60. "*Intercompany Claim*" means a Claim by a Debtor against another Debtor.

61. "*Intercompany Contract*" means a contract between or among two or more Debtors.

62. "*Intercompany Interest*" means an Interest held by a Debtor in another Debtor.

63. "*Interest*" means any Equity Security of a Debtor existing immediately prior to the Effective Date.

64. "*Interim Compensation Order*" means the *Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses for Professionals and Official Committee Members*, entered by the Bankruptcy Court on June 21, 2010 [Docket No. 75].

65. "*Investors*" means those parties to the Investment Agreements who under the Investment Agreement are obligated by the Investment Commitment.

66. "*Investment Agreements*" means, collectively, those agreements by and between the Debtors and the Investors memorializing the Investment Commitment, included as part of the Plan Supplement.

67. "*Investment Commitment*" means the obligation of the Investors, severally and not jointly, to subscribe for and purchase, or cause one or more of their affiliates to subscribe for and purchase, Reorganized NAPCUS Series A Convertible Preferred Stock in an aggregate amount equal to $3.0 million, as set forth in the Investment Agreements.

68. "*Lien*" has the meaning set forth in section 101(37) of the Bankruptcy Code.

69. "*Management Equity Plan*" means that certain management equity plan for the benefit of Reorganized NAPCUS management, the terms of which are described in the Disclosure Statement (and supplemented or otherwise described, if at all, in the Plan Supplement).

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

71. "*Person*" has the meaning set forth in section 101(41) of the Bankruptcy Code.

72. "*Petition Date*" means May 25, 2010, with respect to North American Petroleum Corporation USA and Prize Petroleum LLC, and August 20, 2010, with respect to Petroflow Energy Ltd.

73. "*Petroflow Emergence Interests*" means shares of Petroflow Interests that are held by any holder of Petroflow Interests in an aggregate amount equal to or more than the Petroflow Interests Threshold Amount.

74. "*Petroflow Interests*" means Interests in Petroflow Energy Ltd.

75. "*Petroflow Interests Threshold Amount*" means 250,000 shares of Petroflow Energy Ltd. common stock, or such other number of such shares as determined by the Debtors, such that (after giving effect to distributions of Reorganized NAPCUS Common Stock made on, or as soon as practicable after, the Effective Date but prior to the Determination Date) Reorganized NAPCUS has, and determines it will continue to have, no more

than 300 Record Holders holding Reorganized NAPCUS Common Stock (on an as converted basis) and no more than 51 beneficial holders in Canada (with no more than 15 beneficial holders in each of the jurisdictions of Canada) holding Reorganized NAPCUS Common Stock (on an as converted basis).

76. "*Petroflow Other Interests*" means shares of Petroflow Interests that are held by any holder of Petroflow Interests in an aggregate amount less than the Petroflow Interests Threshold Amount.

77. "*Plan*" means the Debtors' joint chapter 11 plan of reorganization as may be altered, amended, modified, or supplemented from time to time, including the Plan Supplement and all exhibits, supplements, appendices, annexes and/or schedules hereto and thereto, all of which are incorporated herein by reference.

78. "*Plan Supplement*" means the compilation of documents and forms of documents, schedules, and exhibits to the Plan, including the Investment Agreements, forms of the Reorganized NAPCUS Charter and Reorganized NAPCUS Bylaws, a list of retained causes of action, a list of contracts and leases to be rejected, a list of contracts and leases to be assumed (with proposed cure amounts), a list of members of the Reorganized NAPCUS Board, to the extent known, and other disclosures pursuant to section 1129(a)(5) of the Bankruptcy Code, to be filed by the Debtors no later than ten days prior to the Voting Deadline or such later date as may be approved by the Bankruptcy Court on notice to parties in interest, and additional documents filed with the Bankruptcy Court prior to the Effective Date as amendments to the Plan Supplement.

79. "*Priority Claim*" means, collectively, Priority Tax Claims and Other Priority Claims.

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

81. "*Professional*" means an Entity: (a) employed in the Chapter 11 Cases pursuant to a Final Order in accordance with sections 327 and 1103 of the Bankruptcy Code and to be compensated for services rendered prior to or on the Effective Date, pursuant to sections 327, 328, 329, 330, and 331 of the Bankruptcy Code or (b) for which compensation and reimbursement has been Allowed by the Bankruptcy Court pursuant to section 503(b)(4) of the Bankruptcy Code.

82. "*Professional Fee Escrow Account*" means an interest-bearing account in an amount equal to the Professional Fee Reserve Amount and funded by the Debtors on the Effective Date.

83. "*Professional Fee Reserve Amount*" means that amount estimated in accordance with Section 9.2 herein.

84. "*Proof of Claim*" means a proof of Claim filed against any of the Debtors in the Chapter 11 Cases.

85. "*Record Holder*" means the owner of record of shares of stock (as determined in accordance with United States securities laws and regulations).

86. "*Released Party*" means each of the following in its capacity as such: (a) the Debtors' and Reorganized NAPCUS's current and former affiliates, subsidiaries, officers, directors, principals, employees, agents, financial advisors, attorneys, accountants, investment bankers, consultants, and representatives; (b) the Investors; (c) the Creditors' Committee and the members thereof; (d) the Equity Committee and members thereof; and (e) with respect to each of the foregoing Entities or Persons in clauses (b) through (d), their respective current and former affiliates, subsidiaries, officers, directors, principals, employees, agents, financial advisors, attorneys, accountants, investment bankers, consultants, representatives, and other Professionals.

87. "*Releasing Party*" means each of the following in its capacity as such: (a) the Investors; (b) the Creditors' Committee and the members thereof; (c) the Equity Committee and members thereof; and (d) each holder of a Claim or Interest who has voted to accept the Plan and did not check the box on the applicable Ballot indicating that it opts not to grant the releases provided in the Plan.

88. "*Reorganized NAPCUS*" means North American Petroleum Corporation USA or any successor thereto, by merger, consolidation, or otherwise, on or after the Effective Date.

89. "*Reorganized NAPCUS Board*" means the board of directors of Reorganized NAPCUS as of the Effective Date.

90. "*Reorganized NAPCUS Bylaws*" means the bylaws of Reorganized NAPCUS, substantially in the form contained in the Plan Supplement.

91. "*Reorganized NAPCUS Charter*" means the amended and restated certificate of incorporation of Reorganized NAPCUS, substantially in the form contained in the Plan Supplement.

92. "*Reorganized NAPCUS Common Stock*" means newly-issued shares of common stock of Reorganized NAPCUS.

93. "*Reorganized NAPCUS Convertible Preferred Stock*" means, collectively, the Reorganized NAPCUS Series A Convertible Preferred Stock, the Reorganized NAPCUS Series B Convertible Preferred Stock, and the Reorganized NAPCUS Series C Convertible Preferred Stock.

94. "*Reorganized NAPCUS Series A Convertible Preferred Stock*" means shares of convertible preferred stock of Reorganized NAPCUS, par value $0.01 per share, convertible to shares of Reorganized NAPCUS Common Stock with terms substantially consistent with the term sheets attached to the Investment Agreements, and as set forth in the Reorganized NAPCUS Charter. Reorganized NAPCUS Series A Convertible Preferred Stock will rank senior and have priority over Reorganized NAPCUS Series B Convertible Preferred Stock and Reorganized NAPCUS Series C Convertible Preferred Stock.

95. "*Reorganized NAPCUS Series B Convertible Preferred Stock*" means shares of convertible preferred stock of Reorganized NAPCUS, par value of $0.01 per share, convertible to shares of Reorganized NAPCUS Common Stock with terms as set forth in the Reorganized NAPCUS Charter. Reorganized NAPCUS Series B Convertible Preferred Stock will rank senior and have priority over Reorganized NAPCUS Series C Convertible Preferred Stock.

96. "*Reorganized NAPCUS Series C Convertible Preferred Stock*" means shares of convertible preferred stock of Reorganized NAPCUS, par value of $0.01 per share, convertible to shares of Reorganized NAPCUS Common Stock with terms as set forth in the Reorganized NAPCUS Charter.

97. "*Schedules*" means the schedules of assets and liabilities, schedules of Executory Contracts and Unexpired Leases, and statements of financial affairs filed by the Debtors pursuant to section 521 of the Bankruptcy Code and the Bankruptcy Rules.

98. "*Secured Claim*" means a Claim, other than a Claim that as of the Effective Date has been released and discharged in accordance with a settlement approved by the Bankruptcy Court by Final Order pursuant to Bankruptcy Rule 9019, (a) secured by a Lien on collateral to the extent of the value of such collateral, as determined in accordance with section 506(a) of the Bankruptcy Code or (b) subject to a valid right of setoff pursuant to section 553 of the Bankruptcy Code.

99. "*Securities Act*" means the Securities Act of 1933, 15 U.S.C. §§ 77a-77aa, or any similar federal, state, or local law.

100. "*Security*" has the meaning set forth in section 2(a)(1) of the Securities Act.

101. "*Unclaimed Distribution*" means any distribution under the Plan on account of an Allowed Claim to a holder that has not: (a) accepted a particular distribution or, in the case of distributions made by check, negotiated such check; (b) given notice to Reorganized NAPCUS of an intent to accept a particular distribution;

(c) responded to the Debtors' or Reorganized NAPCUS's requests for information necessary to facilitate a particular distribution; or (d) taken any other action necessary to facilitate such distribution.

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

103. "*Unimpaired*" means a Class of Claims or Interests that is unimpaired within the meaning of section 1124 of the Bankruptcy Code.

104. "*Voting Deadline*" means September 2, 2011, at 5:00 p.m. prevailing Eastern Time, which is the deadline for, among other things, voting to accept or reject the Plan.

1.2 Rules of Interpretation

For purposes of the Plan: (a) in the appropriate context, each term, whether stated in the singular or the plural, shall include both the singular and the plural, and pronouns stated in the masculine, feminine, or neuter gender shall include the masculine, feminine, and the neuter gender; (b) unless otherwise specified, any reference herein to a contract, lease, instrument, release, indenture, or other agreement or document being in a particular form or on particular terms and conditions means that such document shall be substantially in such form or substantially on such terms and conditions; (c) unless otherwise specified, any reference herein to an existing document, schedule, or exhibit, shall mean such document, schedule, or exhibit, as it may have been or may be amended, modified, or supplemented; (d) unless otherwise specified, all references herein to "Articles" are references to Articles hereof or hereto and all references herein to "Sections" are references to Sections hereof or hereto; (e) the words "herein," "hereof," and "hereto" refer to the Plan in its entirety rather than to any particular portion of the Plan; (f) captions and headings to Articles are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation of the Plan; (g) unless otherwise specified herein, the rules of construction set forth in section 102 of the Bankruptcy Code shall apply; and (h) any term used in capitalized form herein that is not otherwise defined but that is used in the Bankruptcy Code or the Bankruptcy Rules shall have the meaning assigned to such term in the Bankruptcy Code or the Bankruptcy Rules, as applicable.

1.3 Computation of Time

The provisions of Bankruptcy Rule 9006(a) shall apply in computing any period of time prescribed or allowed herein.

1.4 Governing Law

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

1.5 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.

1.6 Reference to the Debtors or Reorganized NAPCUS

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

ARTICLE II

ADMINISTRATIVE AND PRIORITY CLAIMS

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

2.1 Administrative Claims

Unless otherwise agreed to by the holder of an Allowed Administrative Claim and the Debtors or Reorganized NAPCUS, as applicable, each holder of an Allowed Administrative Claim (other than holders of Fee Claims and Claims for fees and expenses pursuant to section 1930 of chapter 123 of title 28 of the United States Code), will receive in full and final satisfaction of its Administrative Claim an amount of Cash equal to the amount of such Allowed Administrative Claim either: (a) on the Effective Date, or as soon as practicable thereafter; (b) if the Administrative Claim is not Allowed as of the Effective Date, no later than 30 days after the date on which an order Allowing such Administrative Claim becomes a Final Order, or as soon as reasonably practicable thereafter; or (c) if the Allowed Administrative Claim is based on liabilities incurred by the Debtors in the ordinary course of their business after the Petition Date, pursuant to the terms and conditions of the particular transaction giving rise to such Allowed Administrative Claims, without any further action by the holders of such Allowed Administrative Claims.

2.2 Priority Tax Claims

Each holder of an Allowed Priority Tax Claim due and payable on or before the Effective Date shall receive, at the sole option of the Debtors or Reorganized NAPCUS, as applicable, one of the following treatments on account of such Claim: (a) Cash in an amount equal to the amount of such Allowed Priority Tax Claim; or (b) Cash in the aggregate amount of such Allowed Priority Tax Claim payable in installment payments over a period not more than five years after the Petition Date pursuant to section 1129(a)(9)(C) of the Bankruptcy Code. To the extent any Allowed Priority Tax Claim is not due and owing on the Effective Date, such Claim shall be paid in full in Cash in accordance with the terms of any agreement between the Debtors and the holder of such Claim, or as may be due and payable under applicable non-bankruptcy law or in the ordinary course of business.

ARTICLE III

CLASSIFICATION, TREATMENT, AND VOTING OF CLAIMS AND INTERESTS

3.1 Classification of Claims and Interests

Except for the Claims addressed in Article II, all Claims and Interests are classified in the Classes set forth below pursuant to section 1122 of the Bankruptcy Code. In accordance with section 1123(a)(1) of the Bankruptcy Code, the Debtors have not classified Administrative Claims, Fee Claims, and Priority Tax Claims. A Claim or Interest is classified in a particular Class only to the extent that the Claim or Interest qualifies within the description of that Class and is classified in other Classes to the extent that any portion of the Claim or Interest qualifies within the description of such other Classes. A Claim or Interest is also classified in a particular Class for the purpose of receiving distributions pursuant to the Plan only to the extent that such Claim or Interest is an Allowed Claim or Interest in that Class and has not been paid, released, or otherwise satisfied prior to the Effective Date. There are no existing or anticipated future Claims against Prize Petroleum LLC; accordingly, the Plan does not contain any Classes of Claims with respect to Prize Petroleum LLC.

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

Class	Claim or Interest	Status	Voting Rights
1	Secured Claims	Unimpaired	Deemed to Accept
2	Other Priority Claims	Unimpaired	Deemed to Accept
3	Petroflow General Unsecured Claims	Impaired	Entitled to Vote
4	NAPCUS General Unsecured Claims	Impaired	Entitled to Vote
5A	Petroflow Emergence Interests	Impaired	Deemed to Reject
5B	Petroflow Other Interests	Impaired	Deemed to Reject

3.2 Treatment of Classes of Claims and Interests

(a) Class 1 — Secured Claims.

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

(2) *Treatment*: Except to the extent that a holder of an Allowed Class 1 Claim agrees to a less favorable treatment, such holder, in full and final satisfaction, settlement, release, and discharge of and in exchange for such holder's Allowed Class 1 Claim, at the sole option of the Debtors or Reorganized NAPCUS, as applicable, shall:

A. have its Allowed Class 1 Claim reinstated and rendered Unimpaired in accordance with section 1124(2) of the Bankruptcy Code, notwithstanding any contractual provision or applicable non-bankruptcy law that entitles the holder of such Allowed Class 1 Claim to demand or receive payment of such Allowed Class 1 Claim prior to the stated maturity of such Allowed Class 1 Claim from and after the occurrence of a default;

B. receive Cash in an amount equal to such Allowed Class 1 Claim, including any interest on such Allowed Class 1 Claim required to be paid pursuant to section 506(b) of the Bankruptcy Code, on the later of the Effective Date and the date such Allowed Class 1 Claim becomes an Allowed Class 1 Claim, or as soon as practicable thereafter; or

C. receive the collateral securing its Allowed Class 1 Claim and any interest on such Allowed Class 1 Claim required to be paid pursuant to section 506(b) of the Bankruptcy Code.

(3) *Voting*: Class 1 is Unimpaired and holders of Allowed Class 1 Claims are conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, holders of Allowed Class 1 Claims are not entitled to vote to accept or reject the Plan.

(b) Class 2 — Other Priority Claims.

(1) *Classification*: Class 2 consists of any Other Priority Claims against any Debtor.

(2) *Treatment*: Except to the extent that a holder of an Allowed Class 2 Claim agrees to a less favorable treatment, such holder, in full and final satisfaction, settlement, release, and discharge of and in exchange for such holder's Allowed Class 2 Claim, shall be paid in full in Cash on the later of (a) the Effective Date, or as soon as practicable thereafter,

and (b) the date such Class 2 Claim becomes Allowed, or as soon as practicable thereafter.

(3) *Voting*: Class 2 is Unimpaired and holders of Allowed Class 2 Claims are conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, holders of Allowed Class 2 Claims are not entitled to vote to accept or reject the Plan.

(c) Class 3 — Petroflow General Unsecured Claims.

(1) *Classification*: Class 3 consists of any General Unsecured Claims against Petroflow Energy Ltd.

(2) *Treatment*: Except to the extent that a holder of an Allowed Class 3 Claim agrees to a less favorable treatment, such holder, in full and final satisfaction, settlement, release, and discharge of and in exchange for such holder's Allowed Class 3 Claim, on the Effective Date, or as soon as practicable thereafter, shall receive shares of Reorganized NAPCUS Series C Convertible Preferred Stock of a value equal to the aggregate amount of such holder's Allowed Class 3 Claim.

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

(d) Class 4 — NAPCUS General Unsecured Claims.

(1) *Classification*: Class 4 consists of any General Unsecured Claims against North American Petroleum Corporation USA.

(2) *Treatment*: Except to the extent that a holder of an Allowed Class 4 Claim agrees to a less favorable treatment, such holder, in full and final satisfaction, settlement, release, and discharge of and in exchange for such holder's Allowed Class 4 Claim, shall on the Effective Date, or as soon as practicable thereafter, be paid in full in Cash (unless such holder on account of its Allowed Class 4 Claim elects, on the ballot used to cast such holder's vote to accept or reject the Plan, to receive shares of Reorganized NAPCUS Series B Convertible Preferred Stock of a value in aggregate equal to such holder's Allowed Class 4 Claim instead of being paid in full in Cash); provided, however, if the Allowed Class 4 Claims of holders receiving Cash in exchange for their Allowed Class 4 Claims in aggregate exceed a value of $500,000 (or such higher amount as may later be agreed by the Debtors and the Creditors' Committee), each such holder shall on account of its Allowed Class 4 Claim receive (a) its pro rata share of $500,000 (or such higher amount as may later be agreed by the Debtors and the Creditors' Committee) in Cash, based on the pool of Allowed Class 4 Claims of holders receiving Cash, and (b) shares of Reorganized NAPCUS Series B Convertible Preferred Stock of a value in aggregate equal to that portion of such holder's Allowed Class 4 Claim not paid in Cash.

(3) *Voting*: Class 4 is Impaired and holders of Allowed Class 4 Claims are entitled to vote to accept or reject the Plan.

(e) Class 5A — Petroflow Emergence Interests.

(1) *Classification*: Class 5A consists of Petroflow Emergence Interests.

(2) *Treatment*: On the Effective Date, all Petroflow Emergence Interests shall be cancelled and extinguished, and each holder of an Allowed Class 5A Interest, in full and final satisfaction, settlement, release, and discharge of such holder's Allowed Class 5A

Interest, on, or as soon as practicable after, the Effective Date, shall receive one share of Reorganized NAPCUS Common Stock for every one share of Petroflow Interests it holds as of the Distribution Record Date; provided, that such distribution shall be subject to dilution by conversion of Reorganized NAPCUS Convertible Preferred Stock, any shares issued as part of the Determination Date Distribution and the Management Equity Plan.

(3) *Voting*: Class 5A is Impaired, and holders of Allowed Class 5A Interests are conclusively deemed to have rejected the Plan. Therefore, holders of Allowed Class 5A Interests are not entitled to vote to accept or reject the Plan.

(f) Class 5B — Petroflow Other Interests.

(1) *Classification*: Class 5B consists of Petroflow Other Interests.

(2) *Treatment*: On the Effective Date, all Petroflow Other Interests shall be cancelled and extinguished. Reorganized NAPCUS will pay each holder of an Allowed Class 5B Interest, in full and final satisfaction, settlement, release, and discharge of such holder's Allowed Class 5B Interest such holder's pro rata share of the Determination Date Distribution on, or as soon as practicable after, the applicable Determination Date.

(3) *Voting*: Class 5B is Impaired, and holders of Allowed Class 5B Interests are conclusively deemed to have rejected the Plan. Therefore, holders of Allowed Class 5B Interests are not entitled to vote to accept or reject the Plan.

3.3 Special Provision Governing Unimpaired Claims

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

3.4 Intercompany Claims and Intercompany Interests

Except as otherwise set forth herein, there shall be no distributions on account of Intercompany Claims or Intercompany Interests. Notwithstanding the foregoing, Reorganized NAPCUS or the Debtors, as applicable, may reinstate, compromise, or cancel, as applicable, all Intercompany Claims and Intercompany Interests as necessary or appropriate to give effect to the transactions and distributions contemplated hereunder.

3.5 Acceptance or Rejection of the Plan

(a) Presumed Acceptance of the Plan.

Classes 1 and 2 are Unimpaired under the Plan and are conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code.

(b) Voting Classes.

Classes 3 and 4 are Impaired under the Plan, and holders of Allowed Class 3 and Class 4 Claims are entitled to vote to accept or reject the Plan.

(c) Deemed Rejection of the Plan.

Classes 5A and 5B are Impaired and are conclusively presumed to have rejected the Plan.

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

Section 1129(a)(10) of the Bankruptcy Code shall be satisfied for purposes of Confirmation by acceptance of the Plan by an Impaired Class of Claims. The Debtors shall seek Confirmation of the Plan pursuant to section 1129(b) of the Bankruptcy Code with respect to any rejecting Class of Claims or Interests. The Debtors reserve the right to modify the Plan in accordance with Article XI of the Plan to the extent, if any, that Confirmation pursuant to section 1129(b) of the Bankruptcy Code requires modification.

ARTICLE IV
PROVISIONS FOR IMPLEMENTATION OF THE PLAN

4.1 General Settlement of Claims

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

4.2 Sources of Consideration for Plan Distributions

All consideration necessary for the Debtors or Reorganized NAPCUS, as applicable, to make payments or distributions pursuant hereto shall be obtained from the issuance of Reorganized NAPCUS Common Stock and Reorganized NAPCUS Convertible Preferred Stock, the Investment Commitment or other Cash on hand of the Debtors or Reorganized NAPCUS, including Cash derived from business operations.

4.3 Reorganized NAPCUS Securities

On, or as soon as practicable after, the Effective Date or the Determination Date, as applicable, Reorganized NAPCUS shall issue all Securities, notes, instruments, Certificates, and other documents required to be issued pursuant to the Plan. The issuance of shares of Reorganized NAPCUS Convertible Preferred Stock or Reorganized NAPCUS Common Stock are each authorized without the need for any further corporate action (including, action by the Debtors or Reorganized NAPCUS, as applicable, or their respective shareholders or board of directors or other governing bodies) or without any further action by a holder of Claims or Interests. The Reorganized NAPCUS Charter shall, pursuant to and as a result of the Plan, authorize the issuance and distribution of (a) shares of Reorganized NAPCUS Convertible Preferred Stock to the Distribution Agent on or after the Effective Date for the benefit of the Investors and holders of Allowed Claims in Classes 3 and 4, (b) Reorganized NAPCUS Common Stock to the Distribution Agent on or after the Effective Date for the benefit of holders of Allowed Class 5A Interests and (c) Reorganized NAPCUS Common Stock to the Distribution Agent on or after the Determination Date for the benefit of holders of Allowed Class 5B Interests, subject to Reorganized NAPCUS electing to issue shares of such stock in lieu of paying the cash equivalent of such shares to holders of Allowed Class 5B Interests. All of the shares of Reorganized NAPCUS Common Stock and Reorganized NAPCUS Convertible Preferred Stock issued pursuant to the Plan shall be duly authorized, validly issued, fully paid, and non-assessable. Each distribution and issuance referred to in Article VI hereof shall be governed by the terms and conditions set forth herein applicable to such distribution or issuance and by the terms and conditions of the instruments evidencing or relating to such distribution or issuance, which terms and conditions shall bind each Person or Entity receiving such distribution or issuance. If, at any time after the Effective Date, Reorganized NAPCUS implements a public equity securities offering in the United States or elsewhere that raises at least a certain threshold amount of capital (with such threshold amount being agreed to by the holders of Reorganized Convertible Preferred Stock prior to the time of their investment), all then outstanding Reorganized NAPCUS Convertible Preferred Stock, plus any accrued but unpaid dividends, shall automatically convert to Reorganized NAPCUS Common Stock on the terms set forth in the Reorganized NAPCUS Charter.

4.4 Investment Commitment

Upon entry of the Confirmation Order, the Debtors are authorized to consummate the Investment Agreements and the Debtors and all other parties to the Investment Agreements are authorized to take all actions necessary or appropriate to implement the terms of the Investment Agreements without need of any further court or other approvals. On the Effective Date, the Investors shall fulfill the Investment Commitment in all respects and the Debtors and Reorganized NAPCUS, as applicable, shall have full and unrestricted access to the funds committed by the Investors under the Investment Agreements. On the Effective Date, or as soon as practicable thereafter, each Investor shall receive Reorganized NAPCUS Series A Convertible Preferred Stock on account such Investor's new capital investment in accordance with the terms of the Plan and the Investment Agreements.

4.5 Exemption

Pursuant to section 1145 of the Bankruptcy Code, the offering, issuance, and distribution of the Reorganized NAPCUS Series B Convertible Preferred Stock, Reorganized NAPCUS Series C Convertible Preferred Stock and Reorganized NAPCUS Common Stock pursuant to the Plan and any and all settlement agreements incorporated herein will be exempt from the registration requirements of section 5 of the Securities Act. By virtue of Section 4(2) of the Securities Act or Regulation D promulgated thereunder, the offering, issuance, and distribution of the Reorganized NAPCUS Series A Convertible Preferred Stock and any and all settlement agreements incorporated herein will be exempt from the registration requirements of section 5 of the Securities Act. In addition, Reorganized NAPCUS Convertible Preferred Stock and Reorganized NAPCUS Common Stock issued pursuant to the Plan and any and all settlement agreements incorporated therein will be freely transferable under the Securities Act by the recipients thereof, subject to: (a) the provisions of section 1145(b)(1) of the Bankruptcy Code relating to the definition of an underwriter in section 2(a)(11) of the Securities Act, and compliance with any applicable state or foreign securities laws, if any, and the rules and regulations of the United States Securities and Exchange Commission, if any, applicable at the time of any future transfer of such Securities or instruments; (b) the restrictions, if any, on the transferability of such Securities and instruments, including those set forth in the Reorganized NAPCUS Charter and Section 4.9; and (c) any other applicable regulatory approval. For the purposes of Canadian securities laws, the offering, issuance and distribution of any Securities pursuant to the Plan will be issued in connection with a reorganization in accordance with the Companies' Creditors Arrangement Act (Canada), as amended, under which the Debtors will obtain the Canadian Recognition Order and by doing so such Securities issued pursuant to the Plan and any and all settlement agreements incorporated herein will be exempt from Canadian prospectus requirements.

4.6 Subordination

The classification and treatment of all Claims and Interests under the Plan shall conform to and with the respective contractual, legal, and equitable subordination rights of such Claims and Interests, and any such rights shall be settled, compromised, and released pursuant to the Plan.

4.7 Corporate Existence and Vesting of Assets in Reorganized NAPCUS

After giving effect to the actions to be taken by the Debtors hereunder: (a) Prize Petroleum LLC shall, as of the Effective Date, be deemed dissolved and cease to exist, be deemed to have satisfied all of its obligations, have complied in all respects with all legal requirements for dissolution under applicable non-bankruptcy law, and have no liabilities or obligations to any party in interest other than those expressly set forth in the Plan; and (b) on, or immediately after, the Effective Date, Petroflow Energy Ltd. shall dissolve and cease to exist in compliance with all legal requirements for dissolution under applicable non-bankruptcy law, and have no liabilities or obligations to any party in interest other than those expressly set forth in the Plan. Except as otherwise provided herein or in any agreement, instrument, or other document incorporated in the Plan, on the Effective Date all property in each Estate, all Causes of Action, and any property acquired by any of the Debtors pursuant to the Plan shall, pursuant to the Plan, be transferred to and vest in Reorganized NAPCUS, free and clear of all Liens, Claims, charges, or other encumbrances. On and after the Confirmation Date, except as otherwise provided in the Plan, Reorganized NAPCUS may operate its business and may use, acquire, or dispose of property and compromise or settle any Claims, Interests, or Causes of Action without supervision or approval by the Bankruptcy Court and free of any restrictions of the Bankruptcy Code or Bankruptcy Rules.

4.8 Cancellation of Notes, Instruments, Certificates and Other Documents

On the Effective Date, except to the extent otherwise provided, all notes, instruments, Certificates, and other documents evidencing Claims or Interests shall be cancelled and the obligations of the Debtors or Reorganized NAPCUS thereunder or in any way related thereto shall be discharged; provided, however, that notwithstanding Confirmation or the occurrence of the Effective Date, any agreement that governs the rights of the holder of a Claim shall continue in effect solely for purposes of allowing holders to receive distributions under the Plan.

4.9 Private Company

On the Effective Date, Reorganized NAPCUS shall be a private company under United States securities law. As such, Reorganized NAPCUS will not list the Reorganized NAPCUS Common Stock or Reorganized NAPCUS Convertible Preferred Stock on a national or any other securities exchange and shall not be required to (but may in its discretion) register with the United States Securities and Exchange Commission or other similar regulatory authority in the United States or elsewhere any equity securities of Reorganized NAPCUS or to file periodic reports under Section 13 or 15(d) of the Securities Exchange Act of 1934, as amended. Upon the securities commissions of the Canadian provinces of British Columbia, Alberta and Ontario on the Effective Date, or as soon as practicable thereafter, approving the Debtors' or Reorganized NAPCUS's, as applicable, application recognizing that Reorganized NAPCUS is not a reporting issuer under applicable Canadian securities laws, Reorganized NAPCUS shall not be required to file continuous disclosure documents in Canada.

4.10 Corporate Action

Upon entry of the Confirmation Order, each of the matters provided for by the Plan involving the corporate structure of the Debtors, Reorganized NAPCUS, or corporate or related actions to be taken by or required of the Debtors or Reorganized NAPCUS, whether taken prior to or as of the Effective Date, shall be authorized without the need for any further corporate action (including, action by the Debtors or Reorganized NAPCUS, as applicable, or their respective shareholders or board of directors or other governing bodies) or without any further action by a holder of Claims or Interests. Such actions may include: (a) consummation and implementation of the Investment Agreements; (b) the amendment and restatement of the Reorganized NAPCUS Charter and Reorganized NAPCUS Bylaws; (c) the appointment of the Reorganized NAPCUS Board; (d) the adoption and implementation of the Management Equity Plan; (e) the dissolution of Petroflow Energy Ltd. and Prize Petroleum LLC; and (f) the authorization, issuance, and distribution of Reorganized NAPCUS Convertible Preferred Stock, Reorganized NAPCUS Common Stock, and any other Securities to be authorized, issued, and distributed pursuant to the Plan. Upon entry of the Confirmation Order, the Debtors and Reorganized NAPCUS shall have the authority to take any actions necessary or appropriate to implement the Plan in Canada.

4.11 Certificate of Incorporation and Bylaws

After the Effective Date, Reorganized NAPCUS may amend and restate its certificate of incorporation and other constituent documents as permitted by the laws of its respective jurisdiction of formation and its respective charter and bylaws. The amended and restated Reorganized NAPCUS Charter shall, among other things: (a) authorize the issuance of the shares of Reorganized NAPCUS Convertible Preferred Stock and Reorganized NAPCUS Common Stock and (b) pursuant to and only to the extent required by section 1123(a)(6) of the Bankruptcy Code, include a provision prohibiting the issuance of non-voting Equity Securities. The form and substance of the Reorganized NAPCUS Charter and Reorganized NAPCUS Bylaws shall be included in the Plan Supplement.

4.12 Effectuating Documents, Further Transactions

On and after the Effective Date, Reorganized NAPCUS, and the officers and members of the Reorganized NAPCUS Board are authorized to and may issue, execute, deliver, file, or record such contracts, Securities, instruments, releases, and other agreements or documents and take such actions as may be necessary or appropriate to effectuate, implement, and further evidence the terms and conditions of the Plan and the Securities issued pursuant to the Plan in the name of and on behalf of Reorganized NAPCUS, without the need for any approvals, authorizations, or consents except for those expressly required pursuant to the Plan. Upon entry of the Confirmation Order, the Debtors shall seek entry of the Canadian Recognition Order in the Canadian Proceeding.

4.13 Section 1146(a) Exemption

Pursuant to section 1146(a) of the Bankruptcy Code, any transfers of property pursuant to the Plan shall not be subject to any document recording tax, stamp tax, conveyance fee, intangibles or similar tax, mortgage tax, stamp act, real estate transfer tax, mortgage recording tax, or other similar tax or governmental assessment, and upon entry of the Confirmation Order, the appropriate state or local governmental officials or agents are directed to forgo the collection of any such tax or governmental assessment and accept for filing and recordation any of the foregoing instruments or other documents without the payment of any such tax, recordation fee, or governmental assessment.

4.14 Directors and Officers of Reorganized NAPCUS

On the Effective Date, the terms of all directors of the Debtors shall be deemed to have expired, and all such directors shall be relieved of their respective duties, and the Reorganized NAPCUS Board shall be appointed. The Debtors' existing officers immediately prior to the Effective Date shall, on and after the Effective Date, serve as officers of Reorganized NAPCUS in the same capacities in which they served as officers of the Debtors immediately prior to the Effective Date. The identities and affiliates of the members of the Reorganized NAPCUS Board shall be disclosed in advance of the Confirmation Hearing in accordance with section 1129(a)(5) of the Bankruptcy Code. On and after the Effective Date, each director or officer of Reorganized NAPCUS shall serve pursuant to the terms of the Reorganized NAPCUS Charter, the Reorganized NAPCUS Bylaws, or other constituent documents, and applicable state corporation law.

4.15 Employee Benefits

On and after the Effective Date, Reorganized NAPCUS shall have the sole discretion to (a) amend, adopt, assume, and/or honor, in the ordinary course of business or as otherwise provided for herein, any contracts, agreements, policies, programs, and plans for, among other things, compensation, pursuant to the terms thereof or hereof, including any incentive plan, as applicable, including health care benefits, disability benefits, deferred compensation benefits, savings, severance benefits, retirement benefits, welfare benefits, workers' compensation insurance, and accidental death and dismemberment insurance for the directors, officers, and employees of any of the Debtors who served in such capacity from and after the Petition Date and (b) honor, in the ordinary course of business, Claims of employees employed as of the Effective Date for accrued vacation time, if any, arising prior to the Petition Date and not otherwise paid pursuant to a Bankruptcy Court order. Notwithstanding the foregoing, pursuant to section 1129(a)(13) of the Bankruptcy Code, on and after the Effective Date, all retiree benefits (as that term is defined in section 1114 of the Bankruptcy Code), if any, shall continue to be paid in accordance with applicable law.

4.16 Management Equity Plan

On the Effective Date, the Management Equity Plan shall be deemed adopted, approved, and authorized without further action of the Reorganized NAPCUS Board. The issuance of any equity or other award reserved for under the Management Equity Plan is authorized without the need for any further corporate action (including, action by the Debtors or Reorganized NAPCUS, as applicable, or their respective shareholders or board of directors or other governing bodies) or without any further action by a holder of Claims or Interests.

4.17 Preservation of Rights of Action

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

Reorganized NAPCUS reserves and shall retain the foregoing Causes of Action notwithstanding the rejection of any Executory Contract or Unexpired Lease during the Chapter 11 Cases or pursuant to the Plan. In accordance with section 1123(b)(3) of the Bankruptcy Code, any Causes of Action that a Debtor may hold against any Entity shall vest in Reorganized NAPCUS. Reorganized NAPCUS, through its authorized agents or representatives, shall retain and may exclusively enforce any and all such Causes of Action. Reorganized NAPCUS shall have the exclusive right, authority, and discretion to determine and to initiate, file, prosecute, enforce, abandon, settle, compromise, release, withdraw, or litigate to judgment any such Causes of Action, or to decline to do any of the foregoing, without the consent or approval of any third party or any further notice to or action, order, or approval of the Bankruptcy Court.

4.18 Restructuring Transactions

On the Effective Date or as soon as reasonably practicable thereafter, the Debtors or Reorganized NAPCUS, as applicable, may take all actions as may be necessary or appropriate to effect any transaction described in, approved by, contemplated by or necessary to effectuate the Plan, including, without limitation: (a) the execution and delivery of appropriate agreements or other documents of merger, consolidation, liquidation, dissolution or reorganization containing terms that are consistent with the terms of the Plan and that satisfy the requirements of applicable law; (b) the execution and delivery of appropriate instruments of transfer, assignment, assumption or delegation of any property, right, liability, duty or obligation on terms consistent with the terms of the Plan; (c) the filing of appropriate certificates of incorporation, merger or consolidation with the appropriate governmental authorities pursuant to applicable law; and (d) all other actions that the Debtors or Reorganized NAPCUS determine are necessary or appropriate, including making any filings or recordings that may be required by applicable law in connection with any of the transactions approved by, contemplated by or necessary or appropriate to effectuate the Plan.

4.19 Provisions Governing the Determination Date Distribution

The right of a holder of Allowed Petroflow Other Interests to receive a distribution pursuant to the Determination Date Distribution will not represent any ownership or equity interest in Reorganized NAPCUS nor bear any stated rate of interest, and will not entitle any holder of Allowed Petroflow Other Interests to have any voting or dividend rights. The right of a holder of Allowed Petroflow Other Interests to receive a distribution pursuant to the Determination Date Distribution: (a) shall not be transferrable in any respect except in accordance with a will, the laws of intestacy or by other operation of law; and (b) will not be evidenced by any certificate or other instrument. The amount and form of consideration (including Cash) to be issued upon the making of distributions pursuant to the Determination Date Distribution shall be appropriately and equitably adjusted to reflect fully the effect of any stock dividend, stock split, reverse stock split, reclassification, recapitalization, consolidation, exchange of similar changes with respect to the Reorganized NAPCUS Common Stock that occurred prior to the Determination Date.

Until such time as the Determination Date Distribution is fully made, the Reorganized NAPCUS Board shall, beginning on the date that is six months after the Effective Date and every six months thereafter, consider whether it would be appropriate to continue to defer making distributions pursuant to the Determination Date Distribution, after taking into consideration the legitimate interests of Allowed Petroflow Other Interests holders in receiving a tangible distribution in respect of their Allowed Petroflow Other Interests. Promptly after each time the Reorganized NAPCUS Board makes its decision as to whether to continue to defer or to make distributions pursuant to the Determination Date Distribution, Reorganized NAPCUS shall provide notice of such decision to holders of Allowed Petroflow Other Interests by publication on Reorganized NAPCUS's website or other similar means.

4.20 Administrative Claims Bar Date

All requests for payment of an Administrative Claim (except with respect to Fee Claims or as otherwise provided in the Plan) must be filed with the Claims and Solicitation Agent and served upon counsel for the Debtors or Reorganized NAPCUS, as applicable, on or before the date that is thirty (30) days after the Effective Date. Reorganized NAPCUS may settle and pay any Administrative Claims in the ordinary course of business without any further notice or action, order or approval of the Bankruptcy Court. In the event that any party with standing objects to an Administrative Claim, the Bankruptcy Court shall determine the Allowed amount of such Administrative Claim. Notwithstanding the foregoing, no request for payment of an Administrative Claim is required with respect to an Administrative Claim previously Allowed by Final Order.

ARTICLE V

TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES

5.1 Assumption of Executory Contracts and Unexpired Leases

Except as otherwise provided herein, or in any contract, instrument, release, indenture, or other agreement or document entered into in connection with the Plan, or by prior order of the Bankruptcy Court, each Debtor shall be deemed to have assumed each Executory Contract and Unexpired Lease to which it is a party except any contract or lease as of the Effective Date that: (a) was assumed or rejected previously by the Debtors pursuant to an order of the Bankruptcy Court entered prior to the Effective Date; (b) previously expired or terminated pursuant to its own terms; (c) is the subject of a motion to reject filed on or before the Confirmation Date; or (d) is set forth in a schedule, as an Executory Contract or Unexpired Lease to be rejected, filed as part of the Plan Supplement; provided, however, that the Debtors reserve the right on or prior to the Confirmation Date, to amend the schedules contained in the Plan Supplement to delete any Executory Contract or Unexpired Lease therefrom or add any Executory Contract or Unexpired Lease thereto, in which event such Executory Contract(s) or Unexpired Lease(s) shall be deemed to be, respectively, either rejected or assumed as of the Effective Date. The Debtors shall provide notice of any such amendments to the parties to the Executory Contracts and Unexpired Leases affected thereby.

Notwithstanding the foregoing paragraph, after the Effective Date, Reorganized NAPCUS shall have the right to terminate, amend, or modify any Intercompany Contracts, leases, or other agreements without approval of the Bankruptcy Court.

Entry of the Confirmation Order shall, subject to and upon the occurrence of the Effective Date, constitute (a) the approval, pursuant to sections 365(a) and 1123(b)(2) of the Bankruptcy Code, of the assumption of the Executory Contracts and Unexpired Leases assumed pursuant to the Plan and (b) the approval, pursuant to sections 365(a) and 1123(b)(2) of the Bankruptcy Code, of the rejection of the Executory Contracts and Unexpired Leases rejected pursuant to the Plan Supplement.

5.2 Cure of Defaults and Objections to Cure and Assumption

With respect to any Executory Contract or Unexpired Lease, to be assumed pursuant to the Plan, all Cures will be satisfied by payment of the Cures in Cash on the Effective Date or as soon as reasonably practicable thereafter as set forth in the Plan or on such other terms as the parties to each such Executory Contract or Unexpired Lease may otherwise agree without any further notice to or action, order, or approval of the Bankruptcy Court. With respect to each such Executory Contract and Unexpired Lease to be assumed pursuant to the Plan, the Debtors will have designated a proposed amount of the Cure to be included in the Plan Supplement and will send notice of such proposed assumption and Cure to the applicable lease and contract counterparties, and the assumption of such

Executory Contract and Unexpired Lease may be conditioned upon the disposition of all issues with respect to such Cure.

Requests for payment of a Cure with respect to any Executory Contract or Unexpired Lease to be assumed pursuant to the Plan in an amount different than specified in the Plan Supplement must be filed and served on the Debtors no later than ten days after the filing of the relevant Plan Supplement. **Holders of Cures with respect to any Executory Contract or Unexpired Lease that do not file and serve such a request by such date will be forever barred, estopped and enjoined from asserting such Cures against the Debtors, Reorganized NAPCUS, or their respective property, and such Cures will be deemed discharged as of the Effective Date.**

With respect to any Executory Contract or Unexpired Lease, in the event of a dispute regarding: (a) the amount of any Allowed Cure; (b) the ability of Reorganized NAPCUS to provide "adequate assurance of future performance" (within the meaning of section 365 of the Bankruptcy Code), if applicable, under the Executory Contract or the Unexpired Lease to be assumed; or (c) any other matter pertaining to assumption, the Cures shall be paid following the entry of a Final Order resolving the dispute and approving the assumption of such Executory Contracts or Unexpired Leases; provided, however, that the Debtors or Reorganized NAPCUS may settle any dispute regarding the amount of any Cure without any further notice to or action, order, or approval of the Bankruptcy Court.

5.3 Claims Based on Rejection of Executory Contracts and Unexpired Leases

Unless otherwise provided by an order of the Bankruptcy Court, any Proofs of Claim asserting Claims arising from the rejection of the Debtors' Executory Contracts or Unexpired Leases pursuant to the Plan must be filed by holders of such Claims with the Claims and Solicitation Agent no later than thirty (30) days after the later of (a) the Effective Date or (b) the effective date of rejection for such holders to be entitled to receive distributions under the Plan on account of such Claims. Any holder of a Proof of Claim arising from the rejection of the Debtors' Executory Contracts or Unexpired Leases that does not timely file such Proof of Claim shall not (a) be treated as a creditor with respect to such Claim or (b) participate in any distribution in the Chapter 11 Cases on account of such Claim, and such Claim shall be deemed fully satisfied, released, and discharged, notwithstanding anything in the Schedules or a Proof of Claim to the contrary.

5.4 Indemnification Obligations

Each Indemnification Obligation shall be deemed assumed by the applicable Debtor effective as of the Effective Date, pursuant to section 365 of the Bankruptcy Code, unless such Indemnification Obligation previously was rejected by the Debtors pursuant to a Bankruptcy Court order or is the subject of a motion to reject pending on the Effective Date. Reorganized NAPCUS reserves the right to honor or reaffirm, at any time, Indemnification Obligations other than those terminated by a prior or subsequent order of the Bankruptcy Court, whether or not executory, in which case such honoring or reaffirmation shall be in complete satisfaction, discharge, and release of any Claim on account of such Indemnification Obligation. Each Indemnification Obligation that is assumed, deemed assumed, honored, or reaffirmed shall remain in full force and effect, shall not be modified, reduced, discharged, impaired, or otherwise affected in any way, and shall survive Unimpaired and unaffected, irrespective of when such obligation arose.

5.5 Insurance Policies

Each insurance policy (including any and all of the Debtors' unexpired directors' and officers' liability insurance policies and fiduciary policies) shall be deemed assumed by Reorganized NAPCUS as of the Effective Date, pursuant to sections 365 and 1123 of the Bankruptcy Code, to the extent such insurance policy is executory, unless such insurance policy previously was rejected by the Debtors pursuant to a Bankruptcy Court order, is the subject of a motion to reject pending on the Effective Date.

5.6 Compensation and Benefits Programs

Subject to the provisions of the Plan, all Compensation and Benefits Programs shall be treated as Executory Contracts under the Plan and deemed assumed on the Effective Date pursuant to the provisions of sections 365 and 1123 of the Bankruptcy Code, except for any prepetition employee equity or equity-based incentive plans. Any and all Compensation and Benefit Claims are Unimpaired and entitled to full payment.

5.7 Contracts, Intercompany Contracts, and Leases Entered Into After the Petition Date

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

5.8 Reservation of Rights

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

ARTICLE VI

PROVISIONS GOVERNING DISTRIBUTIONS

6.1 Distributions on Account of Claims and Interests Allowed as of the Effective Date

Except as otherwise provided in the Plan, a Final Order, or as otherwise agreed to by the relevant parties, on the first Distribution Date, the Distribution Agent shall make initial distributions under the Plan on account of Claims and Interests Allowed on or before the Effective Date, subject to Reorganized NAPCUS's right to object to Claims; provided, however, that (a) distributions under the Determination Date Distribution shall not be made until the Determination Date has occurred, (b) Allowed Administrative Claims with respect to liabilities incurred by the Debtors in the ordinary course of business during the Chapter 11 Cases or assumed by the Debtors prior to the Effective Date shall be paid or performed in the ordinary course of business in accordance with the terms and conditions of any controlling agreements, course of dealing, course of business, or industry practice, and (c) Allowed Priority Tax Claims shall be paid in full in Cash on the first Distribution Date or in installment payments over a period not more than five years after the Petition Date pursuant to section 1129(a)(9)(C) of the Bankruptcy Code. To the extent any Allowed Priority Tax Claim is not due and owing on the Effective Date, such Claim shall be paid in full in Cash in accordance with the terms of any agreement between the Debtors and the holder of such Claim or as may be due and payable under applicable non-bankruptcy law or in the ordinary course of business.

6.2 Distributions on Account of Claims and Interests Allowed After the Effective Date

(a) Payments and Distributions on Disputed Claims and Interests.

Except as otherwise provided in the Plan, a Final Order, or as agreed to by the relevant parties, distributions under the Plan on account of Disputed Claims or Interests that become Allowed after the Effective Date shall be made on the Distribution Date that is at least 30 days after the Disputed Claim or Interest becomes an Allowed Claim or Allowed Interest; provided, that, notwithstanding the foregoing, (a) holders of Disputed Interests that are Petroflow Emergence Interests or Petroflow Other Interests that become Allowed after the Effective Date but prior to the Determination Date shall receive the distribution to which they are entitled under the Plan on account of such Interests on the Determination Date, or as soon as practicable thereafter, (b) Disputed Claims that are Administrative Claims with respect to liabilities incurred by the Debtors in the ordinary course of business during the Chapter 11 Cases or assumed by the Debtors on or before the Effective Date that become Allowed after the

Effective Date shall be paid or performed in the ordinary course of business in accordance with the terms and conditions of any controlling agreements, course of dealing, course of business, or industry practice, and (c) Disputed Claims that are Priority Tax Claims that become Allowed Priority Tax Claims after the Effective Date shall be paid in full in Cash on the Distribution Date that is at least 30 days after the Disputed Claim becomes an Allowed Claim or over a five-year period as provided in section 1129(a)(9)(C) of the Bankruptcy Code with annual interest provided by applicable non-bankruptcy law.

(b) Special Rules for Distributions to Holders of Disputed Claims and Interests.

Notwithstanding any provision otherwise in the Plan and except as otherwise agreed by the relevant parties (a) no partial payments and no partial distributions shall be made with respect to a Disputed Claim or Interest until all such disputes in connection with such Disputed Claim or Interest have been resolved by settlement or Final Order and (b) any Entity that holds both an Allowed Claim and a Disputed Claim or an Allowed Interest and a Disputed Interest shall not receive any distribution on the Allowed Claim or Interest unless and until all objections to the Disputed Claim or Interest have been resolved by settlement or Final Order or the Claims or Interests have been Allowed or expunged. All distributions made pursuant to the Plan on account of an Allowed Claim or an Allowed Interest shall be made together with any dividends, payments, or other distributions made on account of, as well as any obligations arising from, the distributed property as if such Allowed Claim or Allowed Interest had been an Allowed Claim or Allowed Interest on the dates distributions were previously made to holders of Allowed Claims or Allowed Interests included in the applicable Class; provided, however, that no interest shall be paid on account to such Allowed Claims unless required under applicable bankruptcy law.

6.3 Determination Date Distribution

On the Determination Date, or as soon as practicable thereafter, subject to satisfaction of all necessary conditions specified in the Plan (including that all Allowed Claims in Classes 1 through 4 are satisfied in full pursuant to the Plan or holders of such Claims have agreed to less favorable treatment than set forth in the Plan), Reorganized NAPCUS shall make the Determination Date Distribution pursuant to which Reorganized NAPCUS, at its option, shall: (a) issue one share of Reorganized NAPCUS Common Stock for every one share of Petroflow Interests held by holders of Allowed Petroflow Other Interests; or (b) pay Cash to such holders in an amount equal to the fair value, as of the Determination Date, of the Reorganized NAPCUS Common Stock such holders would have otherwise received; provided, that, for purposes of the Determination Date Distribution, fair value: (a) to the extent distributions pursuant to the Determination Date Distribution are made on, or soon after, the Effective Date, shall be the Reorganized NAPCUS Common Stock share price as set forth in the Disclosure Statement; or (b) to the extent distributions pursuant to the Determination Date Distribution are made after the period set forth in the immediately preceding clause (a) of this paragraph, shall be calculated by an independent valuation firm accredited through the National Association of Certified Valuation Analysts or an equivalent nationally-recognized organization using valuation methodologies which in the opinion of such firm are generally accepted and applied by independent valuation professionals when valuing stock having the characteristics of Reorganized NAPCUS Common Stock.

Notwithstanding anything to the contrary in the immediately preceding paragraph, in the event an Acquisition Event occurs, distributions to holders of Petroflow Other Interests on account of their Petroflow Other Interests shall be made in the same form and amount of consideration payable to the holders of Reorganized NAPCUS Common Stock existing immediately before the Acquisition Event occurs (or if such consideration is not cash, at Reorganized NAPCUS's option, in cash in an amount equal to the fair value as of the date the Acquisition Event occurred (and as determined pursuant to the immediately preceding paragraph of this Section 6.3) of such non-cash consideration).

6.4 Delivery of Distributions in General

(a) Record Date for Distributions With Respect to Claims.

On the Distribution Record Date, the Claims Register for each of the Classes of Claims as maintained by the Debtors or their respective agents shall be deemed closed, and there shall be no further changes made to reflect any new record holders of any Claims. Notwithstanding the foregoing, if a Claim or Interest is transferred less than 20 days before the Distribution Record Date, the Distribution Agent shall make distributions to the transferee only to the extent practical and in any event only if the relevant transfer form contains an unconditional and explicit certification and waiver of any objection to the transfer by the transferor. The Debtors shall have no obligation to recognize any transfer of Claims made on or after the Distribution Record Date. As Petroflow Interests are being cancelled under the Plan and Petroflow Interest holders are required pursuant to the Plan to surrender their shares of Petroflow Interests, no distribution record date shall apply to Petroflow Interests.

(b) Distribution Process.

The Distribution Agent shall make all distributions required under the Plan at which time such distributions shall be deemed complete, and the Distribution Agent shall deliver such distributions in accordance with the Plan and the terms of the governing agreement. Except as otherwise provided in the Plan, and notwithstanding any authority to the contrary, distributions to holders of Allowed Claims shall be made to holders of record as of the Distribution Record Date by the Distribution Agent: (a) to the signatory set forth on any of the Proofs of Claim filed by such holder or other representative identified therein (or at the last known addresses of such holder if no Proof of Claim is filed or if the Debtors have been notified in writing of a change of address); (b) at the addresses set forth in any written notices of address changes delivered to the Distribution Agent after the date of any related Proof of Claim; (c) in accordance with Federal Rule of Civil Procedure 4, as modified and made applicable by Bankruptcy Rule 7004 if no Proof of Claim has been filed and the Distribution Agent has not received a written notice of a change of address; (d) at the addresses reflected in the Schedules if no Proof of Claim has been filed and the Distribution Agent has not received a written notice of a change of address; or (e) on any counsel that has appeared in the Chapter 11 Cases on the holder's behalf. The Debtors, Reorganized NAPCUS, and the Distribution Agent, as applicable, shall not incur any liability whatsoever on account of any distributions under the Plan.

(c) Accrual of Dividends and Other Rights.

For purposes of determining the accrual of dividends or other rights after the Effective Date, Reorganized NAPCUS Convertible Preferred Stock and Reorganized NAPCUS Common Stock, as applicable, shall be deemed distributed as of the Effective Date regardless of the date on which it is actually issued, dated, authenticated, or distributed; provided, however, Reorganized NAPCUS shall not pay any such dividends or distribute such other rights, if any, until after distributions of such Securities actually take place.

(d) Compliance Matters.

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

(e) Foreign Currency Exchange Rate.

Except as otherwise provided in the Plan or a Bankruptcy Court order, as of the Effective Date, any Claim asserted in currency other than U.S. dollars shall be automatically deemed converted to the equivalent U.S. dollar value using the exchange rate as of the Petition Date as quoted at 4:00 p.m. (EDT), mid-range spot rate of exchange for the applicable currency as published in The Wall Street Journal, National Edition, on the following Business Day.

(f) Fractional, Undeliverable, and Unclaimed Distributions.

(1) *Fractional Distributions.* Notwithstanding any other provision of the Plan to the contrary, payments of fractions of shares of Reorganized NAPCUS Convertible Preferred Stock or Reorganized NAPCUS Common Stock shall not be made and shall be deemed to be zero, and the Distribution Agent shall not be required to make distributions or payments of fractions of dollars. Whenever any payment of Cash of a fraction of a dollar pursuant to the Plan would otherwise be required, the actual payment shall reflect a rounding of such fraction to the nearest whole dollar (up or down), with half dollars or less being rounded down.

(2) *Undeliverable Distributions.* If any distribution to a holder of an Allowed Claim or Interest is returned to a Distribution Agent as undeliverable, no further distributions shall be made to such holder unless and until such Distribution Agent is notified in writing of such holder's then-current address, at which time all currently due missed distributions shall be made to such holder on the next Distribution Date. Undeliverable distributions shall remain in the possession of Reorganized NAPCUS until such time as a distribution becomes deliverable, or such distribution reverts to Reorganized NAPCUS or is cancelled pursuant to Section 6.4(f)(3), and shall not be supplemented with any interest, dividends, or other accruals of any kind.

(3) *Reversion.* Any distribution under the Plan that is an Unclaimed Distribution for a period of six months after distribution shall be deemed unclaimed property under section 347(b) of the Bankruptcy Code and such Unclaimed Distribution shall revest in Reorganized NAPCUS and, to the extent such Unclaimed Distribution is Reorganized NAPCUS Convertible Preferred Stock or Reorganized NAPCUS Common Stock, shall be deemed cancelled. Upon such revesting, the Claim of any holder or its successors with respect to such property shall be cancelled, discharged, and forever barred notwithstanding any applicable federal or state escheat, abandoned, or unclaimed property laws to the contrary. The provisions of the Plan regarding undeliverable distributions and Unclaimed Distributions shall apply with equal force to distributions that are issued by the Debtors, Reorganized NAPCUS, or the Distribution Agent made pursuant to any indenture or Certificate, notwithstanding any provision in such Certificate to the contrary and notwithstanding any otherwise applicable federal or state escheat, abandoned, or unclaimed property law.

6.5 Specific Provisions Regarding Delivery of Reorganized NAPCUS Common Stock

In accordance with the Disclosure Statement Order, holders of Petroflow Interests shall have until fourteen (14) days after the Confirmation Date to surrender their shares of Petroflow Interests through the appropriate Depository, or, in the case of certificated Interests, deliver the Certificates evidencing such Interests to the Distribution Agent, and provide registration details to the Distribution Agent and any holder of Allowed Petroflow Interests who performs these actions and held shares of Petroflow Interests equal to or greater than the Petroflow Interests Threshold Amount shall be eligible to receive their pro rata share of Reorganized NAPCUS Common Stock on the Effective Date, or as soon as practicable thereafter. On the Effective Date, holders of unsurrendered Certificates evidencing Petroflow Interests holdings shall be deemed by the Debtors to have surrendered such Certificates to the Distribution Agent. Any holder of Allowed Petroflow Interests who held shares of Petroflow Interests equal to or greater than the Petroflow Interests Threshold Amount and surrenders such shares and provides registration details to the Distribution Agent after fourteen days after the Confirmation Date but prior to the first anniversary of the Effective Date shall receive its pro rata share of Reorganized NAPCUS Common Stock on the first available Distribution Date after the date on which such holder surrendered its shares of Petroflow Interests and provided its registration details to the Distribution Agent. Determination Date Distributions to holders of Allowed Petroflow Other Interests shall be made pursuant to Section 6.3 of the Plan. All shares withdrawn and Certificates deemed to have been surrendered shall be cancelled solely with respect to the Debtors. No distribution of property pursuant to the Plan shall be made to or on behalf of any holder of Petroflow Interests through a Depository or otherwise unless and until such holder's shares are surrendered. Any holder of Petroflow Interests through a

Depository who fails to surrender their shares prior to the first anniversary of the Effective Date shall have its Petroflow Interests discharged with no further action, be forever barred from asserting any such interests against Reorganized NAPCUS or its property, be deemed to have forfeited all rights, and Claims with respect to its Petroflow Interests, and not participate in any distribution under the Plan; furthermore, all property with respect to such forfeited distributions, including any dividends or interest attributable thereto, shall revert to Reorganized NAPCUS, notwithstanding any federal or state escheat, abandoned, or unclaimed property law to the contrary.

6.6 Claims Paid or Payable by Third Parties

(a) Claims Paid by Third Parties.

The Claims and Solicitation Agent shall reduce in full a Claim, and such Claim shall be disallowed without a Claims objection having to be filed and without any further notice to or action, order, or approval of the Bankruptcy Court, to the extent that the holder of such Claim receives payment in full on account of such Claim from a party that is not a Debtor or Reorganized NAPCUS. To the extent a holder of a Claim receives a distribution on account of such Claim and receives payment from a party that is not a Debtor or Reorganized NAPCUS on account of such Claim, such holder shall, within two weeks of receipt thereof, repay or return the distribution to Reorganized NAPCUS to the extent the holder's total recovery on account of such Claim from the third party and under the Plan exceeds the amount of such Claim as of the date of any such distribution under the Plan.

(b) Claims Payable by Insurance Carriers.

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

(c) Applicability of Insurance Policies.

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

6.7 Setoffs

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

6.8 Allocation Between Principal and Accrued Interest

Except as otherwise provided in the Plan, the aggregate consideration paid to holders with respect to their Allowed Claims shall be treated pursuant to the Plan as allocated first to the principal amount of such Allowed Claims (to the extent thereof) and, thereafter, to the interest, if any, accrued through the Effective Date.

ARTICLE VII

PROCEDURES FOR RESOLVING DISPUTED CLAIMS AND INTERESTS

7.1 Prosecution of Objections to Claims and Interests

Except as otherwise specifically provided in the Plan, prior to the Effective Date, the Debtors, and on and after the Effective Date, Reorganized NAPCUS, shall have the authority: (a) to file, withdraw, or litigate to judgment, objections to Claims or Interests; (b) to settle or compromise any Disputed Claim or Interest without any further notice to or action, order, or approval by the Bankruptcy Court; and (c) to administer and adjust the Claims Register to reflect any such settlements or compromises without any further notice to or action, order, or approval by the Bankruptcy Court.

7.2 Allowance of Claims and Interests

After the Effective Date, Reorganized NAPCUS shall have and retain any and all rights and defenses any Debtor had with respect to any Claim or Interest immediately prior to the Effective Date, including the Causes of Action retained pursuant to <u>Section 4.17</u>, except with respect to any Claim or Interest deemed Allowed under the Plan. Except as expressly provided in the Plan or in any order entered in the Chapter 11 Cases prior to the Effective Date (including the Confirmation Order), no Claim or Interest shall become an Allowed Claim or Interest unless and until such Claim or Interest is deemed Allowed or the Bankruptcy Court has entered a Final Order, including the Confirmation Order, in the Chapter 11 Cases allowing such Claim or Interest. All settled Claims or Interests approved prior to the Effective Date pursuant to a Final Order of the Bankruptcy Court, pursuant to Bankruptcy Rule 9019 or otherwise shall be binding on all parties.

7.3 Estimation of Claims and Interests

Before or after the Effective Date, the Debtors or Reorganized NAPCUS, as applicable, may (but are not required to) at any time request that the Bankruptcy Court estimate any Disputed Claim or disputed Interest that is contingent or unliquidated pursuant to section 502(c) of the Bankruptcy Code for any reason, regardless of whether any party previously has objected to such Claim or Interest or whether the Bankruptcy Court has ruled on any such objection, and the Bankruptcy Court shall retain jurisdiction to estimate any such Claim or Interest, including during the litigation of any objection to any Claim or Interest or during the appeal relating to such objection. In the event that the Bankruptcy Court estimates any contingent or unliquidated Claim or Interest, that estimated amount shall constitute a maximum limitation on such Claim or Interest for all purposes under the Plan (including for purposes of distributions), and Reorganized NAPCUS may elect to pursue any supplemental proceedings to object to any ultimate distribution on such Claim or Interest.

7.4 Expungement or Adjustment to Paid, Satisfied, or Superseded Claims and Interests

Any Claim or Interest that has been paid, satisfied, or superseded, or any Claim or Interest that has been amended or superseded, may be adjusted or expunged on the Claims Register by Reorganized NAPCUS without a claims objection having to be filed and without any further notice to or action, order, or approval of the Bankruptcy Court.

7.5 No Interest

Unless otherwise specifically provided for in the Plan, postpetition interest shall not accrue or be paid on Claims, and no holder of a Claim shall be entitled to interest accruing on or after the Petition Date on any Claim or right. Additionally, and without limiting the foregoing, interest shall not accrue or be paid on any Disputed Claim with respect to the period from the Effective Date to the date a final distribution is made on account of such Disputed Claim, if and when such Disputed Claim becomes an Allowed Claim.

7.6 Disallowance of Claims or Interests

EXCEPT AS OTHERWISE AGREED, ANY AND ALL PROOFS OF CLAIM FILED AFTER THE APPLICABLE DEADLINE FOR FILING SUCH PROOFS OF CLAIM SHALL BE DEEMED DISALLOWED AND EXPUNGED AS OF THE EFFECTIVE DATE WITHOUT ANY FURTHER NOTICE TO OR ACTION, ORDER, OR APPROVAL OF THE BANKRUPTCY COURT, AND HOLDERS OF SUCH CLAIMS MAY NOT RECEIVE ANY DISTRIBUTIONS ON ACCOUNT OF SUCH CLAIMS, UNLESS SUCH LATE PROOF OF CLAIM IS DEEMED TIMELY FILED BY A FINAL ORDER OF THE BANKRUPTCY COURT ON OR BEFORE THE LATER OF (A) THE CONFIRMATION HEARING AND (B) 45 DAYS AFTER THE APPLICABLE DEADLINE FOR FILING SUCH PROOFS OF CLAIM.

All Claims of any Entity from which property is sought by the Debtors under section 542, 543, 550, or 553 of the Bankruptcy Code or that the Debtors or Reorganized NAPCUS allege is a transferee of a transfer that is avoidable under section 522(f), 522(h), 544, 545, 547, 548, 549, or 724(a) of the Bankruptcy Code shall be disallowed if (a) the Entity, on the one hand, and the Debtors or Reorganized NAPCUS, on the other hand, agree or the Bankruptcy Court has determined by Final Order that such Entity or transferee is liable to turn over any property or monies under any of the aforementioned sections of the Bankruptcy Code and (b) such Entity or transferee has failed to turn over such property by the date set forth in such agreement or Final Order.

7.7 Amendments to Claims

On or after the Effective Date, except as otherwise provided herein, a Claim may not be filed or amended without the prior authorization of the Bankruptcy Court or Reorganized NAPCUS, and, to the extent such prior authorization is not received, any such new or amended Claim filed shall be deemed disallowed in full and expunged without any further notice to or action, order, or approval of the Bankruptcy Court.

7.8 No Distributions Pending Allowance

If an objection to a Claim or Interest or any portion thereof is filed prior to the Effective Date, no payment or distribution provided under the Plan shall be made on account of such Claim or Interest or any portion thereof unless and until such Disputed Claim or Interest becomes an Allowed Claim or Allowed Interests.

7.9 Distributions After Allowance

To the extent that a Disputed Claim or Interest ultimately becomes an Allowed Claim or Interest, distributions, if any, shall be made to the holder of such Allowed Claim or Interest in accordance with the provisions of the Plan, without any interest to be paid on account of such Claim unless required under applicable bankruptcy law.

ARTICLE VIII

EFFECT OF CONFIRMATION OF THE PLAN

8.1 Discharge of Claims and Termination of Interests

Effective as of the Effective Date, and except as otherwise provided for herein: (a) the rights afforded in the Plan and the treatment of all Claims and Interests shall be in exchange for and in complete satisfaction, discharge, and release of all Claims and Interests of any nature whatsoever, including any interest accrued on such Claims from and after the Petition Date, against the Debtors or any of their assets, property, or Estates; (b) the Plan shall bind all holders of Claims and Interests, notwithstanding whether any such holders failed to vote to accept or reject the Plan or voted to reject the Plan; (c) all Claims and Interests

shall be satisfied, discharged, and released in full, and the Debtors' liability with respect thereto shall be extinguished completely, including any liability of the kind specified under section 502(g) of the Bankruptcy Code; and (d) all Entities shall be precluded from asserting against the Debtors, the Debtors' Estates, Reorganized NAPCUS, their successors and assigns, and their assets and properties any other Claims or Interests based upon any documents, instruments, or any act or omission, transaction, or other activity of any kind or nature that occurred prior to the Effective Date.

8.2 Subordinated Claims

The allowance, classification, and treatment of all Allowed Claims and Interests and the respective distributions and treatments under the Plan take into account and conform to the relative priority and rights of the Claims and Interests in each Class in connection with any contractual, legal, and equitable subordination rights relating thereto, whether arising under general principles of equitable subordination, section 510 of the Bankruptcy Code, or otherwise. Pursuant to section 510 of the Bankruptcy Code, Reorganized NAPCUS reserves the right to re-classify any Allowed Claim or Interest in accordance with any contractual, legal, or equitable subordination relating thereto.

8.3 Compromise and Settlement of Claims, Interests, and Controversies

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

8.4 Releases by the Debtors

Pursuant to section 1123(b) of the Bankruptcy Code, and except as otherwise specifically provided for herein, for good and valuable consideration, on and after the Effective Date, the Released Parties are deemed released and discharged by the Debtors, Reorganized NAPCUS, and the Estates from any and all Claims, obligations, rights, and liabilities whatsoever, whether for tort, fraud, contract, violations of federal or state securities laws, or otherwise, including any derivative Claims, asserted or that could possibly have been asserted on behalf of the Debtors, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, and any and all Causes of Action asserted or that could possibly have been asserted on behalf of the Debtors, that the Debtors, Reorganized NAPCUS, or the Estates would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the holder of any Claim or Interest or other Entity, based on or relating to, or in any manner arising from, in whole or in part, the Debtors, the Chapter 11 Cases, the purchase, sale, or rescission of the purchase or sale of any Security of the Debtors or Reorganized NAPCUS, the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan, the business or contractual arrangements between any Debtor and any Released Party, the restructuring of Claims and Interests prior to or in the Chapter 11 Cases, the negotiation, formulation, or preparation of the Plan and Disclosure Statement, or related agreements, instruments, or other documents, upon any other act or omission, transaction, agreement, event, or other occurrence taking place on or before the Confirmation Date of the Plan, other than Claims or liabilities arising out of or related to any contractual or fixed monetary obligation owed to the Debtors or Reorganized NAPCUS.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the release set forth in this <u>Section 8.3</u>, which includes by reference each of the

related provisions and definitions contained herein, and further, shall constitute the Bankruptcy Court's finding that such release is: (a) in exchange for the good and valuable consideration provided by the Released Parties; (b) a good faith settlement and compromise of the Claims released by this Section 8.3; (c) in the best interests of the Debtors and all holders of Claims and Interests; (d) fair, equitable, and reasonable; (e) given and made after due notice and opportunity for hearing; and (f) a bar to any of the Debtors asserting any Claim or Cause of Action released by this Section 8.3.

8.5 Releases by Holders of Claims and Interests

As of the Effective Date, to the fullest extent permitted by law, the Releasing Parties shall be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever, released and discharged the Debtors, Reorganized NAPCUS, the Estates, and the Released Parties from any and all Claims, Interests, obligations, rights, liabilities, actions, causes of action, choses in action, suits, debts, damages, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, remedies, rights of set-off, third-party claims, subrogation claims, contribution claims, reimbursement claims, indemnity claims, counterclaims, and crossclaims (including all claims and actions against any Entities under the Bankruptcy Code) whatsoever, whether for tort, fraud, contract, violations of federal or state securities laws, or otherwise, including any derivative Claims, asserted on behalf of the Debtors, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, that such Entity would have been legally entitled to assert (whether individually or collectively), based on or in any way relating to, or in any manner arising from, in whole or in part, the Debtors, the Debtors' restructuring, the Chapter 11 Cases, the purchase, sale, or rescission of the purchase or sale of any Security of the Debtors or Reorganized NAPCUS, the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan, the business or contractual arrangements between any Debtor and any Released Party, the restructuring of Claims and Interests prior to or in the Chapter 11 Cases, the negotiation, formulation, or preparation of the Plan, the Disclosure Statement, the Plan Supplement, or related agreements, instruments, or other documents, upon any other act or omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date of the Plan. Notwithstanding anything to the contrary in the foregoing, the release set forth above does not release any post-Effective Date obligations of any party under the Plan or any document, instrument, or agreement (including those set forth in the Plan Supplement) executed to implement the Plan. For the avoidance of doubt, nothing in this paragraph shall in any way affect the operation of Section 8.1 of the Plan, pursuant to section 1141(d) of the Bankruptcy Code.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the release set forth in this Section 8.5, which includes by reference each of the related provisions and definitions contained herein, and further, shall constitute the Bankruptcy Court's finding that such release is: (a) in exchange for the good and valuable consideration provided by the Debtors, Reorganized NAPCUS, the Estates, and the Released Parties; (b) a good faith settlement and compromise of the Claims released by this Section 8.5; (c) in the best interests of the Debtors and all holders of Claims and Interests; (d) fair, equitable, and reasonable; (e) given and made after due notice and opportunity for hearing; and (f) a bar to any Entity granting a release under this Section 8.5 from asserting any Claim or Cause of Action released by this Section 8.5.

8.6 Exculpation

No Exculpated Party shall have or incur, and each Exculpated Party is hereby released and exculpated from any Exculpated Claim or any obligation, Cause of Action, or liability for any Exculpated Claim; provided, however, that the foregoing "exculpation" shall have no effect on the liability of any Entity that results from any such act or omission that is determined in a Final Order to have constituted gross negligence or willful misconduct; provided, further, that in all respects such Entities shall be entitled to reasonably rely upon the advice of counsel with respect to their duties and responsibilities pursuant to, or in connection with, the Plan. The Exculpated Parties have, and upon Confirmation shall be deemed to have, participated in good faith and in compliance with the applicable provisions of the Bankruptcy Code with regard to the solicitation and distributions pursuant to the Plan and, therefore, are not and shall 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 such distributions made pursuant to the Plan.

8.7 Injunction

Except as otherwise provided herein or for obligations issued pursuant hereto, all Entities that have held, hold, or may hold Claims or Interests that have been released pursuant to Section 8.3 or Section 8.5, discharged pursuant to Section 8.1 or are subject to exculpation pursuant to Section 8.6 are permanently enjoined, from and after the Effective Date, from taking any of the following actions against, as applicable, the Debtors, Reorganized NAPCUS, the Released Parties, or the Exculpated Parties: (a) commencing or continuing in any manner any action or other proceeding of any kind on account of or in connection with or with respect to any such Claims or Interests; (b) enforcing, attaching, collecting, or recovering by any manner or means any judgment, award, decree, or order against such Entities on account of or in connection with or with respect to any such Claims or Interests; (c) creating, perfecting, or enforcing any encumbrance of any kind against such Entities or the property or Estates of such Entities on account of or in connection with or with respect to any such Claims or Interests; (d) asserting any right of setoff or subrogation of any kind against any obligation due from such Entities or against the property or Estates of such Entities on account of or in connection with or with respect to any such Claims or Interests unless such holder has filed a Proof of Claim asserting or preserving the right to perform such setoff or has filed a motion requesting the right to perform such setoff on or before the Confirmation Date; and (e) commencing or continuing in any manner any action or other proceeding of any kind on account of or in connection with or with respect to any such Claims or Interests released, exculpated, or settled pursuant to the Plan.

8.8 Protection Against Discriminatory Treatment

Consistent with section 525 of the Bankruptcy Code and paragraph 2 of Article VI of the United States Constitution, no Governmental Unit shall discriminate against Reorganized NAPCUS or deny, revoke, suspend, or refuse to renew a license, permit, charter, franchise, or other similar grant to, condition such a grant to, discriminate with respect to such a grant against, Reorganized NAPCUS, or another Entity with whom Reorganized NAPCUS has been associated, solely because one of the Debtors has been a debtor under chapter 11, has been insolvent before the commencement of the Chapter 11 Cases (or during the Chapter 11 Cases but before the Debtor is granted or denied a discharge), or has not paid a debt that is dischargeable in the Chapter 11 Cases.

8.9 Indemnification

Except as otherwise provided in the Plan, all indemnification provisions currently in place (whether in the by-laws, certificates of incorporation, board resolutions, contracts, or otherwise) for the directors, officers, employees, attorneys, other professionals, and agents of the Debtors and such directors' and officers' respective affiliates shall be reinstated (or assumed, as the case may be) and shall survive effectiveness of the Plan.

8.10 Recoupment

In no event shall any holder of Claims or Interests be entitled to recoup any Claim or Interest against any Claim, right, or Cause of Action of the Debtors or Reorganized NAPCUS, as applicable, unless such holder actually has performed such recoupment and provided notice thereof in writing to the Debtors on or before the Confirmation Date, notwithstanding any indication in any Proof of Claim or Interest or otherwise that such holder asserts, has, or intends to preserve any right of recoupment.

8.11 Release of Liens

Except as otherwise provided herein or in any contract, instrument, release, or other agreement or document created pursuant to the Plan, on the Effective Date all mortgages, deeds of trust, Liens, pledges, or other security interests against any property of the Estates, if any, shall be fully released, and discharged, and all of the right, title, and interest of any holder of such mortgages, deeds of trust, Liens, pledges, or other security interests shall revert to Reorganized NAPCUS and its successors and assigns.

8.12 Reimbursement or Contribution

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

ARTICLE IX

ALLOWANCE AND PAYMENT OF CERTAIN ADMINISTRATIVE CLAIMS

9.1 Professional Fee Escrow Account

On the Effective Date, the Debtors shall fund the Professional Fee Escrow Account with Cash equal to the Professional Fee Reserve Amount for all Professionals. The Professional Fee Escrow Account shall be maintained in trust solely for the Professionals with respect to unpaid fees or expense or for whom fees or expenses have been held back pursuant to the Interim Compensation Order. Such funds shall not be property or be deemed property of the Debtors or Reorganized NAPCUS, as applicable. Reorganized NAPCUS shall cause Accrued Professional Compensation to be paid in Cash to such Professionals from the Professional Fee Escrow Account when such Claims are Allowed by a Bankruptcy Court order; provided that the Debtors' or Reorganized NAPCUS's liability for the Accrued Professional Compensation shall not be limited nor be deemed to be limited to the funds available from the Professional Fee Escrow Account. When all Allowed Fee Claims have been paid in full, amounts remaining in the Professional Fee Escrow Account, if any, shall be paid to Reorganized NAPCUS.

9.2 Professional Fee Reserve Amount

On or before the Effective Date, the Professionals shall estimate their Accrued Professional Compensation, including the Kinetic Completion Fee, prior to and as of the Confirmation Date and shall deliver such estimate to the Debtors. If a Professional does not provide an estimate, Reorganized NAPCUS may estimate the unpaid fees and expenses of such Professional. The total amount so estimated as of the Confirmation Date shall comprise the Professional Fee Reserve Amount; provided, that such estimate shall not be considered an admission or limitation with respect to the fees and expenses of such Professional.

9.3 Post-Confirmation Date Fees and Expenses

Except as otherwise specifically provided in the Plan, from and after the Confirmation Date, the Reorganized Debtors shall, in the ordinary course of business and without any further notice to or action, order or approval of the Bankruptcy Court, pay in Cash the reasonable legal, professional or other fees and expenses related to implementation and Consummation of the Plan incurred by the Debtors or Reorganized NAPCUS, as the case may be. Upon the Confirmation Date, any requirement that Professionals comply with sections 327 through 331 and 1103 of the Bankruptcy Code in seeking retention or compensation for services rendered after such date shall terminate, and Reorganized NAPCUS may employ and pay any Professional for services rendered or expenses incurred after the Confirmation Date in the ordinary course of business without any further notice to any party or action, order, or approval of the Bankruptcy Court. Unless otherwise approved by the Bankruptcy Court prior to entry of the Confirmation Order, upon entry of the Confirmation Order, the Completion Fee shall be approved and shall be paid on the Effective Date. Upon entry of the Confirmation Order and occurrence of the Effective Date, the reasonable and documented fees and expenses that Professionals for the Equity Committee incurred prior to, but in contemplation of, the appointment of the Equity Committee shall be paid by Reorganized NAPCUS.

ARTICLE X

CONDITIONS PRECEDENT TO CONSUMMATION OF THE PLAN

10.1 Conditions Precedent to the Effective Date

It shall be a condition to the Effective Date that the following conditions shall have been satisfied or waived pursuant to Section 10.2 hereof:

(a) the Confirmation Order, which shall provide that, among other things, the Debtors or Reorganized NAPCUS are authorized and directed to take any and all actions necessary or appropriate to consummate the Plan, shall have been entered and such order shall not have been stayed, modified, or vacated on appeal;

(b) all documents and agreements necessary to implement the Plan, including the Investment Agreements, shall have (a) all conditions precedent to such documents and agreements satisfied or waived pursuant to the terms of such documents or agreements, and (b) been effected or executed; and

(c) all actions, documents, Certificates, and agreements necessary to implement the Plan shall have been effected or executed and delivered to the required parties and, to the extent required, filed with and approved by any applicable Governmental Units in accordance with applicable laws.

10.2 Waiver of Conditions Precedent

The Debtors may waive any of the conditions to the Effective Date set forth in this Article at any time without any notice to other parties in interest and without any further notice to or action, order, or approval of the Bankruptcy Court, and without any formal action other than proceeding to confirm or consummate the Plan.

10.3 Effect of Non-Occurrence of Conditions to Consummation

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

ARTICLE XI

MODIFICATION, REVOCATION, OR WITHDRAWAL OF THE PLAN

11.1 Modification of Plan

Effective as of the date hereof and subject to the limitations and rights contained in the Plan: (a) the Debtors reserve the right, in accordance with the Bankruptcy Code and the Bankruptcy Rules, to amend or modify the Plan before the entry of the Confirmation Order and (b) after the entry of the Confirmation Order, the Debtors or Reorganized NAPCUS, as applicable, may, upon order of the Bankruptcy Court, amend or modify the Plan, in accordance with section 1127(b) of the Bankruptcy Code or remedy any defect or omission or reconcile any inconsistency in the Plan in such manner as may be necessary to carry out the purpose and intent of the Plan.

11.2 Revocation or Withdrawal of Plan

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

11.3 Confirmation of the Plan

The Debtors request Confirmation of the Plan under section 1129(b) of the Bankruptcy Code with respect to any Impaired Class that does not accept the Plan pursuant to section 1126 of the Bankruptcy Code. The Debtors reserve the right to amend the Plan to the extent, if any, that Confirmation pursuant to section 1129(b) of the Bankruptcy Code requires modification.

ARTICLE XII

RETENTION OF JURISDICTION

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

1. allow, disallow, determine, liquidate, classify, estimate, or establish the priority, secured or unsecured status, or amount of any Claim or Interest, including the resolution of any request for payment of any Administrative Claim and the resolution of any and all objections to the secured or unsecured status, priority, amount, or allowance of Claims or Interests;

2. decide and resolve all matters related to the granting and denying, in whole or in part, any applications for allowance of compensation or reimbursement of expenses to Professionals authorized pursuant to the Bankruptcy Code or the Plan;

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

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

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

6. adjudicate, decide, or resolve any and all matters related to Causes of Action;

7. adjudicate, decide, or resolve any and all matters related to section 1141 of the Bankruptcy Code;

8. enter and implement such orders as may be necessary or appropriate to execute, implement, or consummate the provisions of the Plan and all contracts, instruments, releases, indentures, and other agreements or documents created in connection with the Plan or the Disclosure Statement;

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

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

11. resolve any cases, controversies, suits, disputes, or Causes of Action that may arise in connection with the Consummation, interpretation, or enforcement of the Plan or any Entity's obligations incurred in connection with the Plan;

12. enter and implement such orders as may be necessary or appropriate to execute, implement, or consummate the provisions of all contracts, instruments, releases, indentures, and other agreements or documents approved by Final Order in the Chapter 11 Cases;

13. 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;

14. resolve any cases, controversies, suits, disputes, or Causes of Action with respect to the releases, injunctions, and other provisions contained in Article VIII and enter such orders as may be necessary or appropriate to implement such releases, injunctions, and other provisions;

15. resolve any cases, controversies, suits, disputes, or Causes of Action with respect to the repayment or return of distributions and the recovery of additional amounts owed by the holder of a Claim for amounts not timely repaid pursuant to Section 6.6(a);

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

17. determine any other matters that may arise in connection with or relate to the Plan, the Disclosure Statement, the Confirmation Order, or any contract, instrument, release, indenture, or other agreement or document created in connection with the Plan or the Disclosure Statement;

18. enter an order or Final Decree concluding or closing the Chapter 11 Cases;

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

20. determine requests for the payment of Claims and Interests entitled to priority pursuant to section 507 of the Bankruptcy Code;

21. hear and determine disputes arising in connection with the interpretation, implementation, or enforcement of the Plan or the Confirmation Order, including disputes arising under agreements, documents, or instruments executed in connection with the Plan;

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

23. hear and determine all disputes involving the existence, nature, or scope of the Debtors' discharge, including any dispute relating to any liability arising out of the termination of employment or the termination of any employee or retiree benefit program, regardless of whether such termination occurred prior to or after the Effective Date;

24. hear and determine all disputes involving the existence, nature, scope, or enforcement of any exculpations, discharges, injunctions, and releases granted under the Plan;

25. enforce all orders previously entered by the Bankruptcy Court; and

26. hear any other matter not inconsistent with the Bankruptcy Code.

ARTICLE XIII

MISCELLANEOUS PROVISIONS

13.1 Additional Documents

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

13.2 Payment of Statutory Fees

All fees payable pursuant to 28 U.S.C. § 1930(a), as determined by the Bankruptcy Court at a hearing pursuant to section 1128 of the Bankruptcy Code if necessary, shall be paid for each quarter (including any fraction thereof) until the Chapter 11 Cases are converted, dismissed, or a Final Decree is issued, whichever occurs first.

13.3 Dissolution of Creditors' Committee

On the Effective Date, the Creditors' Committee shall dissolve automatically, and its members shall be released and discharged from all rights, duties, responsibilities, and liabilities arising from, or related to, the Chapter 11 Cases; provided, the Creditors' Committee shall be deemed to remain in existence solely with respect to applications filed pursuant to sections 330 and 331 of the Bankruptcy Code.

13.4 Dissolution of Equity Committee

On the Effective Date, the Equity Committee shall dissolve automatically, and its members shall be released and discharged from all rights, duties, responsibilities, and liabilities arising from, or related to, the Chapter 11 Cases; provided, the Equity Committee shall be deemed to remain in existence solely with respect to applications filed pursuant to sections 330 and 331 of the Bankruptcy Code.

13.5 Reservation of Rights

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

13.6 Successors and Assigns

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

13.7 Service of Documents

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

Reorganized NAPCUS	Attorneys for Reorganized NAPCUS
NORTH AMERICAN PETROLEUM CORPORATION USA 525 South Main Street, Suite 1120 Tulsa, Oklahoma 74103 Attn.: Louis G. Schott	KIRKLAND & ELLIS LLP 300 North LaSalle Chicago, Illinois 60654 Attn.: David R. Seligman, Ryan Blaine Bennett and Paul Wierbicki KLEHR HARRISON HARVEY BRANZBURG LLP 919 Market Street, Suite 1000 Wilmington, Delaware 19801-3062 Attn.: Domenic E. Pacitti

After the Effective Date, the Debtors may notify Entities that, in order to continue receiving documents pursuant to Bankruptcy Rule 2002, such Entities must file with the Bankruptcy Court a renewed request to receive documents pursuant to Bankruptcy Rule 2002. After the Effective Date, Reorganzied NAPCUS is authorized to limit the list of Entities receiving documents pursuant to Bankruptcy Rule 2002 to those Entities who have filed such renewed requests.

13.8 Term of Injunctions or Stays

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

13.9 Entire Agreement

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

13.10 Conflicts

Except as set forth in the Plan, to the extent any provision of the Disclosure Statement, the Plan Supplement, or any other order (other than the Confirmation Order) referenced in the Plan (or any exhibits, appendices, supplements or amendments to any of the foregoing), conflict with or are inconsistent with any provision of the Plan, the Plan shall govern and control.

13.11 Plan Supplement Exhibits

All exhibits and documents included in the Plan Supplement are incorporated into and are a part of the Plan as if set forth in full in the Plan. After the exhibits and documents are filed, copies of such exhibits and documents shall be made available to the Creditors' Committee and Equity Committee and upon written request to the Debtors' counsel at the address above or by downloading such exhibits and documents from http://dm.epiq11.com/NAP/Project/default.aspx or the Bankruptcy Court's website at www.deb.uscourts.gov. Unless otherwise ordered by the Bankruptcy Court, to the extent any exhibit or document in the Plan Supplement is inconsistent with the terms of any part of the Plan that does not constitute the Plan Supplement, such part of the Plan that does not constitute the Plan Supplement shall control.

13.12 Non-Severability

If, prior to Confirmation, any term or provision of the Plan is held by the Bankruptcy Court to be invalid, void, or unenforceable, the Bankruptcy Court shall have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void, or unenforceable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration, or interpretation, the remainder of the terms and provisions of the Plan will remain in full force and effect and will in no way be affected, impaired, or invalidated by such holding, alteration, or interpretation. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of the Plan, as it may have been altered or interpreted in accordance with the foregoing, is: (a) valid and enforceable pursuant to its terms; (b) integral to the Plan and may not be deleted or modified without the Debtors' consent; and (c) nonseverable and mutually dependent.

[*The remainder of this page is intentionally left blank.*]

Dated: July 29, 2011

Respectfully submitted,

NORTH AMERICAN PETROLEUM CORPORATION USA
PETROFLOW ENERGY LTD.
PRIZE PETROLEUM LLC

/s/ Richard Menchaca

By: Richard Menchaca
Title: Chief Executive Officer

EXHIBIT 2

Notice of Confirmation

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	)	Chapter 11
NORTH AMERICAN PETROLEUM CORPORATION USA, *et al.*,[1]	)	Case No. 10-11707 (CSS)
Debtors.	)	Jointly Administered

NOTICE OF ENTRY OF ORDER CONFIRMING THE FIRST AMENDED JOINT CHAPTER 11 PLAN OF NORTH AMERICAN PETROLEUM CORPORATION USA, *ET AL.*

PLEASE TAKE NOTICE that on [__________], 2011, the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court") entered the *Findings of Fact, Conclusions of Law and Order Confirming the First Amended Joint Chapter 11 Plan of North American Petroleum Corporation USA, et al.* (the "Confirmation Order"). Among other things, the Confirmation Order confirmed the Debtors' *First Amended Joint Chapter 11 Plan of North American Petroleum Corporation USA, et al.*, dated July 29, 2011 [Docket No. 970] (as amended, supplemented, or modified from time to time, the "Plan")[2] as satisfying the requirements of the Bankruptcy Code, thereby authorizing North American Petroleum Corporation USA and its debtor affiliates (collectively, the "Debtors") to implement the Plan.

PLEASE TAKE FURTHER NOTICE that the Confirmation Order and the Plan are available for inspection. If you would like to obtain a copy of the Confirmation Order or the Plan, you should contact Epiq Bankruptcy Solutions, LLC, the claims and solicitation agent retained by the Debtors in these chapter 11 cases (the "Claims and Solicitation Agent"), by: (a) accessing the Debtors' restructuring website at http://dm.epiq11.com/NAP; (b) writing to NAPCUS c/o Epiq Bankruptcy Solutions, LLC, FDR Station, P.O. Box 5014, New York, New York 10150-5014; or (c) calling the Claims and Solicitation Agent at (646) 282-2400. You may also obtain copies of any pleadings filed in these chapter 11 cases for a fee via PACER at: http://www.deb.uscourts.gov.

---

1 The Debtors in the above-captioned chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number or Canadian corporation number, include: North American Petroleum Corporation USA (9766); Prize Petroleum LLC (2460); and Petroflow Energy Ltd. (517-5). The location of the Debtors' corporate headquarters and the Debtors' service address is: 525 South Main Street, Suite 1120, Tulsa, Oklahoma 74103, Attn.: Louis G. Schott.

2 Capitalized terms used but not otherwise not defined herein shall have the meanings set forth in the Plan or the Confirmation Order, as applicable.

PLEASE TAKE FURTHER NOTICE that the Confirmation Order, the Plan and its provisions are binding on the Debtors, Reorganized NAPCUS, any holder of a Claim or Interest, and such holder's respective successors and assigns, whether or not the Claim or Interest of such holder is Impaired under the Plan and whether or not such holder or Entity voted to accept the Plan.

[Remainder of page intentionally left blank.]

Dated: _______, 2011

/s/
___

KLEHR HARRISON HARVEY BRANZBURG LLP
Domenic E. Pacitti (DE Bar No. 3989)
Margaret M. Manning (DE Bar No. 4183)
919 Market Street, Suite 1000
Wilmington, Delaware 19801-3062
Telephone: (302) 426-1189
Facsimile: (302) 426-9193

- and -

Morton Branzburg (admitted *pro hac vice*)
1835 Market Street, Suite 1400
Philadelphia, Pennsylvania 19103
Telephone: (215) 569-2700
Facsimile: (215) 568-6603

- and -

KIRKLAND & ELLIS LLP
David R. Seligman, P.C. (admitted *pro hac vice*)
Ryan Blaine Bennett (admitted *pro hac vice*)
Paul Wierbicki (admitted *pro hac vice*)
300 North LaSalle
Chicago, Illinois 60654
Telephone: (312) 862-2000
Facsimile: (312) 862-2200

Counsel to the Debtors and Debtors in Possession

EXHIBIT 3

Notice of Effective Date

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	)	Chapter 11
NORTH AMERICAN PETROLEUM CORPORATION USA, *et al.*,[1]	)	Case No. 10-11707 (CSS)
Debtors.	)	Jointly Administered

NOTICE OF (A) OCCURRENCE OF THE EFFECTIVE DATE UNDER THE FIRST AMENDED JOINT CHAPTER 11 PLAN OF NORTH AMERICAN PETROLEUM CORPORATION USA, *ET AL.* AND (B) DEADLINES FOR FILING CERTAIN CLAIMS AND REQUESTS FOR PAYMENT

PLEASE TAKE NOTICE that on [__________], 2011, the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court") entered the *Findings of Fact, Conclusions of Law and Order Confirming the First Amended Joint Chapter 11 Plan of North American Petroleum Corporation USA, et al.* (the "Confirmation Order"). Among other things, the Confirmation Order confirmed the Debtors' *First Amended Joint Chapter 11 Plan of North American Petroleum Corporation USA, et al.*, dated July 29, 2011 [Docket No. 970] (as amended, supplemented, or modified from time to time, the "Plan")[2] as satisfying the requirements of the Bankruptcy Code, thereby North American Petroleum Corporation USA and its debtor affiliates (collectively, the "Debtors") to implement the Plan.

PLEASE TAKE FURTHER NOTICE that on [__________], 2011, the Effective Date under the Plan occurred and the transactions contemplated under the Plan were consummated.

PLEASE TAKE FURTHER NOTICE that the Confirmation Order and the Plan are available for inspection. If you would like to obtain a copy of the Confirmation Order or the Plan, you should contact Epiq Bankruptcy Solutions, LLC, the claims and solicitation agent retained by the Debtors in these chapter 11 cases (the "Claims and Solicitation Agent"), by: (a) accessing the Debtors' restructuring website at http://dm.epiq11.com/NAP; (b) writing to NAPCUS c/o Epiq Bankruptcy Solutions, LLC, FDR Station, P.O. Box 5014, New York, New York 10150-5014; or (c) calling the Claims and Solicitation Agent at (646) 282-2400. You may

---

1 The Debtors in the above-captioned chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number or Canadian corporation number, include: North American Petroleum Corporation USA (9766); Prize Petroleum LLC (2460); and Petroflow Energy Ltd. (517-5). The location of the Debtors' corporate headquarters and the Debtors' service address is: 525 South Main Street, Suite 1120, Tulsa, Oklahoma 74103, Attn.: Louis G. Schott.

2 Capitalized terms used but not otherwise not defined herein shall have the meanings set forth in the Plan or the Confirmation Order, as applicable.

also obtain copies of any pleadings filed in these chapter 11 cases for a fee via PACER at: http://www.deb.uscourts.gov.

PLEASE TAKE FURTHER NOTICE that all requests for payment of an Administrative Claim (except with respect to Fee Claims or as otherwise provided in the Plan) must be filed with the Claims and Solicitation Agent and served upon counsel for the Debtors or Reorganized NAPCUS, as applicable, on or before the date that is 30 days after the Effective Date. **Any holder of an Administrative Claim that is required to, but does not, file and serve a request for payment of such Administrative Claim by such date shall be forever barred, stopped, and enjoined from asserting such Administrative Claim against the Debtors or their property and such Administrative Claim shall be deemed discharged as of the Effective Date.**

PLEASE TAKE FURTHER NOTICE that, except as provided in the Confirmation Order and the Plan, all final requests for payment of Fee Claims incurred in connection with services rendered before the Confirmation Date, must be filed with the Bankruptcy Court and served on Reorganized NAPCUS and the notice parties specified by the *Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses for Professionals and Members of Official Committees* [Docket No. 75], no later than [__________], 2011, which is the date that is 30 days after the Effective Date.

PLEASE TAKE FURTHER NOTICE that the Confirmation Order, the Plan and its provisions are binding on the Debtors, Reorganized NAPCUS, any holder of a Claim or Interest, and such holder's respective successors and assigns, whether or not the Claim or Interest of such holder is Impaired under the Plan and whether or not such holder or Entity voted to accept the Plan.

[Remainder of page intentionally left blank.]

Dated: _______, 2011

/s/

KLEHR HARRISON HARVEY BRANZBURG LLP

Domenic E. Pacitti (DE Bar No. 3989)
Margaret M. Manning (DE Bar No. 4183)
919 Market Street, Suite 1000
Wilmington, Delaware 19801-3062
Telephone: (302) 426-1189
Facsimile: (302) 426-9193

- and -

Morton Branzburg (admitted *pro hac vice*)
1835 Market Street, Suite 1400
Philadelphia, Pennsylvania 19103
Telephone: (215) 569-2700
Facsimile: (215) 568-6603

- and -

KIRKLAND & ELLIS LLP
David R. Seligman, P.C. (admitted *pro hac vice*)
Ryan Blaine Bennett (admitted *pro hac vice*)
Paul Wierbicki (admitted *pro hac vice*)
300 North LaSalle
Chicago, Illinois 60654
Telephone: (312) 862-2000
Facsimile: (312) 862-2200

Counsel to the Debtors and Debtors in Possession

APPENDIX B

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	)	Chapter 11
NORTH AMERICAN PETROLEUM CORPORATION USA, *et al.*,[1]	)	Case No. 10-11707 (CSS)
	)	Jointly Administered
Debtors.	)	

MEMORANDUM OF LAW (I) IN SUPPORT OF THE FIRST AMENDED JOINT CHAPTER 11 PLAN OF NORTH AMERICAN PETROLEUM CORPORATION USA, *ET AL.* AND (II) DESCRIBING RESOLUTION OF OBJECTION THERETO

KLEHR HARRISON HARVEY BRANZBURG LLP
Domenic E. Pacitti (DE Bar No. 3989)
Margaret M. Manning (DE Bar No. 4183)
919 Market Street, Suite 1000
Wilmington, Delaware 19801-3062
Telephone: (302) 426-1189
Facsimile: (302) 426-9193

- and -

Morton Branzburg (admitted *pro hac vice*)
1835 Market Street, Suite 1400
Philadelphia, Pennsylvania 19103
Telephone: (215) 569-2700
Facsimile: (215) 568-6603

KIRKLAND & ELLIS LLP
David R. Seligman, P.C. (admitted *pro hac vice*)
Ryan Blaine Bennett (admitted *pro hac vice*)
Paul Wierbicki (admitted *pro hac vice*)
300 North LaSalle
Chicago, Illinois 60654
Telephone: (312) 862-2000
Facsimile: (312) 862-2200

Attorneys for the Debtors and Debtors in Possession

Dated: September 9, 2011

[1] The Debtors in the above-captioned chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number or Canadian corporation number, include: North American Petroleum Corporation USA (9766); Prize Petroleum LLC (2460); and Petroflow Energy Ltd. (517-5). The location of the Debtors' corporate headquarters and the Debtors' service address is: 525 South Main Street, Suite 1120, Tulsa, Oklahoma 74103, Attn: Louis Schott.

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Statutes

Rules

North American Petroleum Corporation USA ("NAPCUS") and its debtor affiliates, as debtors and debtors in possession (collectively, the "Debtors"), respectfully represent:[2]

INTRODUCTION

The Debtors commenced these cases over fifteen months ago facing potentially value-destructive cash collateral disputes and then adversary proceedings with their prepetition bank lenders and their largest business partner. The Debtors, through diligent effort, ultimately were able to achieve consensual resolution of these disputes and have succeeded in proposing the Plan,[3] which ensures Reorganized NAPCUS (the surviving post-emergence entity) has vital post-emergence liquidity through a new money investment, provides full recovery to unsecured creditors, and ensures a substantial recovery for existing equity holders. The Debtors now seek the Court's confirmation of the Plan. The Debtors believe that the Plan is an extraordinary achievement that facilitates the success of go-forward operations for the benefit of stakeholders and employees, and should be confirmed.

The Plan has been accepted by all voting classes (and, in fact, received no rejecting votes) and is supported by the Debtors' key constituents, the statutory committee of unsecured creditors appointed in the Chapter 11 Cases (the "Creditors' Committee") and the statutory

---

2 The facts and circumstances set forth herein are supported by the *Declaration of Louis G. Schott in Support of Confirmation of the First Amended Joint Chapter 11 Plan of North American Petroleum Corporation USA, et al.* (as attached hereto as **Exhibit A**, the "Schott Declaration") and the *Declaration of Sudhin Roy in Support of Confirmation of the First Amended Joint Chapter 11 Plan of Reorganization of North American Petroleum Corporation USA, et al.* (as attached hereto as **Exhibit B**, the "Roy Declaration").

3 This memorandum of law is submitted in support of confirmation of the *First Amended Joint Plan of Reorganization of North American Petroleum Corporation USA et al.* [Docket No. 970] (as may be modified or amended from time to time in, the "Plan"). Capitalized terms used but not otherwise defined herein shall have the meaning set forth in the Plan. Unless otherwise indicated herein, any reference to or citation of a statute is to title 11 of the United States Code (the "Bankruptcy Code") and any reference to or citation to rules are to either the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") or the Local Rules of Bankruptcy Procedures for the Bankruptcy Court for the District of Delaware (the "Local Rules").

committee of equity holders (the "Equity Committee"). Indeed, the Debtors received only one objection to the Plan, which has been resolved and, as such, there are no outstanding objections to confirmation of the Plan.

The unanimous support of the Plan from each voting class and the Debtors' key constituents testifies to the Debtors' underlying operational and managerial strengths and prospects for future success. The Debtors believe that the Plan is in the best interests of their stakeholders and, as discussed more fully below, satisfies all requirements for confirmation under the Bankruptcy Code, the Bankruptcy Rules and the Local Rules. Accordingly, the Debtors respectfully request that the Court confirm the Plan.

BACKGROUND

1. On May 25, 2010, NAPCUS and Prize Petroleum LLC each filed voluntary petitions under chapter 11 of the Bankruptcy Code. On August 20, 2010, Petroflow Energy Ltd. ("Petroflow") filed a voluntary petition under chapter 11 of the Bankruptcy Code. The Debtors are operating their businesses and managing their property as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. The Debtors' Chapter 11 Cases are consolidated for procedural purposes only and are being jointly administered pursuant to Bankruptcy Rule 1015(b). An official Creditors' Committee and an official Equity Committee have each been appointed by the United States Trustee for the District of Delaware (the "U.S. Trustee") pursuant to section 1102 of the Bankruptcy Code.

2. As noted above, the Debtors entered these Chapter 11 Cases with disputes pending among them and their prepetition bank lenders and Enterra Energy Corp. and certain of its affiliates (now known as Equal Energy Corp.) ("Equal Energy"). On July 15, 2010, the Debtors and their prepetition bank lenders separately commenced adversary proceeding against Equal Energy seeking, among other things, to recharacterize certain leasing obligations as

ownership rights in certain saltwater disposal infrastructure, while also seeking to recover certain prepetition transfers from Equal Energy. Equal Energy also asserted certain administrative expense claims against the Debtors, which the Debtors disputed. Consequently, prior to being in a position to file a confirmable chapter 11 plan, the Debtors first needed to resolve these ongoing disputes. Throughout 2010 and early 2011, unable to reach a consensual resolution, the parties proceeded to trial in the adversary proceedings.

3. On March 4, 2011, the Court issued an order on certain adversary proceeding counts that provided an impetus for the parties to re-engage in negotiations that resulted in a full settlement of all disputes and allowed the Debtors to formulate a viable chapter 11 plan. In April 2011, the Debtors, their prepetition bank lenders and Equal Energy reached a global settlement (the "Global Settlement") under which the Debtors transferred certain assets to Equal Energy and received proceeds that were paid over to the bank lenders to fully resolve their claims. In addition, Equal Energy and the Prepetition Lenders agreed to full and final release and discharge of all claims against the Debtors and the parties mutually agreed to dismiss the pending adversary proceedings. On May 17, 2011, the Court entered an order approving the Global Settlement and on June 1, 2011, the Global Settlement was consummated.

4. Consummation of the Global Settlement was the key threshold issue to be resolved before the Debtors could file a viable plan of reorganization. Accordingly, on June 24, 2011, the Debtors filed the Plan, the Disclosure Statement and a motion seeking the Court's approval of the adequacy of the Disclosure Statement. Subsequently, the Debtors worked with the Equity Committee regarding proposed amendments to the Plan. On July 29, 2011, the Court entered an order approving the adequacy of the Disclosure Statement [Docket No. 966] (the "Disclosure Statement Order"). Shortly thereafter, the Debtors, with Equity Committee and

Creditors' Committee support, filed solicitation versions of the Plan [Docket No. 970] and the Disclosure Statement [Docket No. 971] and commenced solicitation of votes to accept the Plan.

5. On August 23, 2011 the Debtors filed the *Plan Supplement to the First Amended Joint Plan of Reorganization of North American Petroleum Corporation USA, et al.* and the Exhibits thereto [Docket No. 1025] (the "Plan Supplement"). Pursuant to the Disclosure Statement Order, the deadline to vote to accept or reject the Plan was September 2, 2011 at 5:00 p.m. prevailing Eastern Time (the "Voting Deadline").

6. The Plan is the result of good faith negotiations among the Debtors, the Creditors' Committee and the Equity Committee. The Plan enables the Debtors to emerge from these cases as a going concern business with sufficient liquidity and financial resources to effectively implement their post-emergence business plan.

7. Pursuant to the Plan, the Debtors' corporate structure will be consolidated such that Reorganized NAPCUS will be the surviving post-emergence entity through which operations are conducted after the Effective Date. In addition, Confirmation of the Plan will provide the Debtors $3 million in fresh capital in exchange for issuance of certain preferred stock, which, along with cash on hand, will be used to fund distributions under the Plan. Moreover, the proposed Plan provides for payment in full, in either Cash or stock, to holders of General Unsecured Claims. Current equity interests in Petroflow will be cancelled, with holders of Petroflow Interests receiving Reorganized NAPCUS Common Stock or Cash, as further provided in the Plan

8. As reflected in the *Declaration of Jane Sullivan on Behalf of Epiq Bankruptcy Solutions, LLC, Regarding Voting and Tabulation of Ballots Accepting and Rejecting Debtors' First Amended Joint Chapter 11 Plan of North American Petroleum Corporation USA, et al.*,

dated September 6, 2011 [Docket No. 1039] (the "Voting Certification"), the Plan is supported by the two Classes entitled to vote to accept or reject the Plan. Specifically, and as evidenced in the Voting Certification, the voting results are as follows:[4]

		Percentage Voting to Accept the Plan		Percentage Voting to Reject the Plan	
Class	**Claim/Interest**	**Number**	**Amount**	**Number**	**Amount**
3	Petroflow General Unsecured Claims	100%	100%	0%	0%
4	NAPCUS General Unsecured Claims	100%	100%	0%	0%

9. No claim or interest holder has objected to confirmation of the Plan. Indeed, the Debtors received only one objection to the Plan [Docket No. 1036] from the Internal Revenue Service, which, as noted in its objection, is not a claim or interest holder in these cases.[5] As discussed below, the Debtors have resolved this objection and, as a result, there are no outstanding or unresolved objections to confirmation of the Plan.

ARGUMENT

I. THE PLAN SHOULD BE CONFIRMED.

10. To confirm the Plan, the Court must find that the Debtors have satisfied the provisions of section 1129 by a preponderance of the evidence.[6] The Debtors respectfully submit that the Plan complies with all relevant sections of the Bankruptcy Code, the

---

4 See Voting Certification, Ex. A.

5 See Docket No. 1036, ¶ 2.

6 See In re Armstrong World Indus., Inc., 348 B.R. 111, 120 (D. Del. 2006); In re Genesis Health Ventures, Inc., 266 B.R. 591, 606 n.23 (Bankr. D. Del. 2001); see also In re Bally Total Fitness of Greater New York, Inc., 2007 WL 2779438, at *3 (Bankr. S.D.N.Y. Sept. 17, 2007) ("The Debtors, as proponents of the Plan, have the burden of proving the satisfaction of the elements of Sections 1129(a) and (b) of the Bankruptcy Code by a preponderance of the evidence.").

Bankruptcy Rules, the Local Rules and applicable non-bankruptcy law. In particular, the Plan fully complies with the requirements of sections 1122, 1123 and 1129 of the Bankruptcy Code. This memorandum addresses each requirement individually.

A. The Plan Complies with the Applicable Provisions of the Bankruptcy Code (§ 1129(a)(1)).

11. Pursuant to section 1129(a)(1) of the Bankruptcy Code, a plan must "compl[y] with the applicable provisions of [the Bankruptcy Code]."[7] The legislative history of section 1129(a)(1) explains that this provision encompasses the requirements of sections 1122 and 1123 of the Bankruptcy Code, which govern the classification of claims and the contents of a plan of reorganization, respectively.[8] As explained below, and as further described in the Schott Declaration,[9] the Plan complies with the requirements of sections 1122 and 1123, as well as other applicable provisions of the Bankruptcy Code.

i. The Plan Satisfies the Classification Requirements of Section 1122 of the Bankruptcy Code.

12. The Plan separately classifies Claims and Interests into classes based upon differences in the legal nature or priority of such Claims and Interests and compelling business reasons. The Plan's classification scheme is summarized as follows:

---

[7] 11 U.S.C. § 1129(a)(1).

[8] See S. Rep. No. 95-989, 95th Cong., 2d Sess. 126 (1978); H.R. Rep. No. 95-595, 95th Cong., 1st Sess. 412 (1977); In re S&W Enter., 37 B.R. 153, 158 (Bankr. N.D. Ill. 1984) ("An examination of the legislative history of [section 1129(a)(1)] reveals that although its scope is certainly broad, the provisions it was more directly aimed at were sections 1122 and 1123.").

[9] See Schott Declaration ¶ 9.

Class	Claim or Interest	Status	Voting Rights
1	Secured Claims	Unimpaired	Deemed to Accept
2	Other Priority Claims	Unimpaired	Deemed to Accept
3	Petroflow General Unsecured Claims	Impaired	Entitled to Vote
4	NAPCUS General Unsecured Claims	Impaired	Entitled to Vote
5A	Petroflow Emergence Interests	Impaired	Deemed to Reject
5B	Petroflow Other Interests	Impaired	Deemed to Reject

13. The classification requirement of section 1122 provides, in pertinent part, as follows:

> (a) Except as provided in subsection (b) of this section, a plan may place a claim or an interest in a particular class only if such claim or interest is substantially similar to the other claims or interests of such class.[10]

14. For a classification structure to satisfy section 1122 of the Bankruptcy Code, not all substantially similar claims or interests need to be grouped in the same class. Instead, claims or interests designated to a particular class must be substantially similar to each other.[11] Courts in this jurisdiction and others have recognized that plan proponents have significant flexibility in placing similar claims or interests into different classes, provided there is a rational basis to do so.[12] Indeed, "a majority of both cases and commentators have rejected the concept that all creditors [or interest holders] of equal rank must receive equal treatment."[13] Instead, courts generally have recognized that plan proponents can separately classify certain claims or interests

---

[10] 11 U.S.C. § 1122(a).

[11] In re Armstrong World Indus., Inc., 348 B.R. 136, 159 (D. Del. 2006).

[12] Courts have identified various grounds justifying separate classification, including: (a) where members of a class possess different legal rights and (b) where there are good business reasons for separate classification. Frito-Lay, Inc., v. LTV Steel Co., Inc. (In re Chateaugay Corp.), 10 F.3d 944, 956-57 (2d Cir. 1993) (finding separate classification appropriate because classification scheme had a rational basis; separate classification based on bankruptcy court-approved settlement).

[13] See In re Ionosphere Clubs, Inc., 98 B.R. 174, 177 (Bankr. S.D.N.Y. 1989).

provided that the holders of such claims or interests possess different rights ***or*** where good business reasons justify such separate classification.[14]

15. As further described in the Schott Declaration,[15] the Plan's classification of Claims and Interests satisfies the requirements of section 1122 because the Plan places Claims and Interests into six separate Classes, with each Class differing from the Claims and Interests in each other Class in a legal or factual nature or based upon good business justification for separate classification.[16] Moreover, each of the Claims or Interests in a particular Class is substantially similar to the other Claims or Interests in such Class.

16. Specifically, the Plan provides for the separate classification of Claims and Interests into the following six Classes:

- Class 1 provides for the classification of all Secured Claims against each of the Debtors;
- Class 2 provides for the classification of all Other Priority Claims that may exist against each of the Debtors;
- Class 3 provides for the classification of all General Unsecured Claims that may exist against Petroflow;

---

14 See See John Hancock Mut. Life Ins. Co. v. Route 37 Bus. Park Assocs., 987 F.2d 154, 158–59 (3d Cir. 1993) (as long as each class represents a voting interest that is "sufficiently distinct and weighty to merit a separate voice in the decision whether the proposed reorganization should proceed," the classification is proper); In re Jersey City Med. Ctr., 817 F.2d 1055, 1066 (Bankr. D.N.J. 1986) (recognizing that separate classes of claims must be reasonable and allowing a plan proponent to group similar claims in different classes); In re Heritage Org., L.L.C., 375 B.R. 230, 303 (Bankr. N.D. Tex. 2007) ("the only express prohibition on separate classification is that it may not be done to gerrymander an affirmative vote on a reorganization plan"); In re 500 Fifth Ave. Assocs., 148 B.R. 1010, 1018 (Bankr. S.D.N.Y. 1993) (although discretion is not unlimited, "the proponent of a plan of reorganization has considerable discretion to classify claims and interests according to the facts and circumstances of the case"); In re Drexel Burnham Lambert Group, Inc., 138 B.R. 723, 757 (Bankr. S.D.N.Y. 1992) ("Courts have found that the Bankruptcy Code only prohibits the identical classification of dissimilar claims. It does not require that similar claims be grouped together . . . .").

15 See Schott Declaration ¶¶ 12–16.

16 See Plan, Art. III.

- Class 4 provides for the classification of all General Unsecured Claims against NAPCUS;
- Class 5A provides for the classification of all Petroflow Emergence Interests (*i.e.*, all Petroflow Interests that are held by any holder of Petroflow Interests, as of the Distribution Record Date, in an aggregate amount equal to or more than the Petroflow Interests Threshold Amount);[17]
- Class 5B provides for the classification of all Petroflow Other Interests (*i.e.*, all Petroflow Interests that are held by any holder of Petroflow Interests in an aggregate amount less than the Petroflow Interests Threshold Amount);

17. Each Class is composed of substantially similar Claims or Interests, and each instance of separate classification of similar Claims and Interests was based on valid business, factual and legal reasons, as set forth in detail in the Schott Declaration.[18]

18. In particular, under the Plan, Secured Claims are classified separately from Unsecured Claims for each Debtor. Further, the Debtors' Unsecured Claims are divided into two separate Classes (Petroflow General Unsecured Claims and NAPCUS General Unsecured Claims) and subject to different treatment on the basis that holders of NAPCUS General Unsecured Claims hold their Claims against the Debtors' main operating entity, while holders of Petroflow General Unsecured Claims hold their Claims only against the Debtors' Canadian parent entity, which conducts little or no actual business of its own. Accordingly, as the Claims assigned to each of these above-described particular Classes are substantially similar to the other

[17] The Plan provides that the "Petroflow Interests Threshold Amount" is 250,000 shares of Petroflow Energy Ltd. common stock, or such other number of such shares as determined by the Debtors, such that (after giving effect to distributions of Reorganized NAPCUS Common Stock made on, or as soon as practicable after, the Effective Date but prior to the Determination Date) Reorganized NAPCUS has, and determines it will continue to have, no more than 300 record holders holding Reorganized NAPCUS Common Stock (on an as converted basis) and no more than 51 beneficial holders in Canada (with no more than 15 beneficial holders in each of the jurisdictions of Canada) holding Reorganized NAPCUS Common Stock (on an as converted basis).

[18] See Schott Declaration ¶¶ 14–16.

Claims in such Class and the distinctions among these Classes are based on valid business, factual and legal reasons, the Plan satisfies section 1122(a) of the Bankruptcy Code with respect to these Classes.

ii. The Debtors' Separate Classification of Petroflow Emergence Interests and Petroflow Other Interests is Appropriate.

19. Interests in Petroflow are classified separately from Claims and are divided into two separate Classes: Petroflow Emergence Interests (Class 5A) and Petroflow Other Interests (Class 5B).

20. Petroflow Emergence Interests are classified separately from Petroflow Other Interests to ensure that Reorganized NAPCUS is a private company, not subject to U.S. or Canadian reporting obligations, upon emergence. As noted in the Schott Declaration[19] and as noted by the Equity Committee in its statement in support of approval of the Debtors' disclosure statement,[20] Reorganized NAPCUS will be a much smaller company than it was prior to commencement of the Chapter 11 Cases. As a result, costs incurred through reporting requirement compliance likely would materially harm Reorganized NAPCUS' business prospects and jeopardize the Debtors' reorganization goals.[21]

21. Class 5A Interest holders will receive new common stock at the Debtors' emergence from chapter 11. As set forth in the Plan, Class 5B Interest holders will receive new common stock or its cash equivalent upon the occurrence of certain post-emergence events, but

---

[19] See id. ¶ 16.

[20] See *Statement of the Official Committee of Equity Security Holders* [Docket No. 951].

[21] See id. ¶ 12–13.

in no event later than the second anniversary of the Effective Date.[22] The Debtors worked with the Equity Committee to structure the Plan to distribute as much Reorganized NAPCUS Common Stock as possible on the Effective Date and protect the economic interests of Class 5B holders by ensuring that they receive their recoveries in a timely manner, obtain adequate information of post-emergence events and are able to participate in any post-emergence liquidity events undertaken by Reorganized NAPCUS.

22. Absence of the Plan's separate classification and treatment scheme with respect to Petroflow Interests would cause securities law reporting obligations to apply to Reorganized NAPCUS in light of the over four thousand holders of Petroflow Interests who would otherwise be entitled to receive Reorganized NAPCUS Common Stock at emergence.[23] Failure to preserve Reorganized NAPCUS' non-reporting status would divert critical liquidity and resources from Reorganized NAPCUS' operations to cover the costs of compliance with burdensome reporting requirements.[24] The Debtors currently anticipate that they will emerge from chapter 11 with approximately $4.9 million in working capital, which the Debtors intend to use for operational purposes immediately after emergence to enhance value for all stakeholders. Importantly, as set forth in its statement of support filed on July 22, 2011 [Docket No. 951], the Equity Committee, which has fiduciary obligations to all Petroflow Interest holders, realizes the business need for,

---

[22] See Plan, Secs. 1.1(35) & 3.2(f). Class 5B holders will receive new common stock or its cash equivalent upon the occurrence of certain liquidity events as set forth in section 1.1(35) of the Plan, which also were discussed in paragraph 16 of the statement of support filed by the Equity Committee on July 22, 2011 [Docket No. 951].

[23] See id. ¶ 11; see also Schott Declaration ¶ 14.

[24] In re Piece Goods Shops Co., LP, 188 B.R. 778, 788–89 (Bankr. M.D. N.C. 1995) ("[Debtors' expert] testified that the reason for creating Class 7A was to reduce the number of creditors who receive New Common Stock below 500 so that the stock would not have to be publicly registered. Based upon his experience in working for public companies, [Debtors' expert] knew of the costs involved in being subject to securities regulations, including the filing of 10-K and 10-Q reports, and desired for the reorganized Debtors to avoid those costs.").

and supports, the Plan's separate classification of Petroflow Interests.[25] As the Equity Committee recognizes, and as set forth in the Schott Declaration,[26] compliance with reporting requirements would cause the Debtors to incur administrative costs of approximately $550,000 (*i.e.*, more than 10% of Reorganized NAPCUS' $4.9 million in post-emergence liquidity) to meet reporting obligations. The Debtors' separate classification of Class 5A and Class 5B Interests will ensure that Reorganized NAPCUS remains a private company, not subject to reporting obligations upon emergence from chapter 11, thereby preserving valuable liquidity for Reorganized NAPCUS to apply towards post-emergence operations to maximize value. Accordingly, and as supported by the Schott Declaration,[27] the Debtors believe that the Plan's classification is supported overwhelmingly by adequate business justifications.

23. Moreover, the Debtors have not separately classified Class 5A and Class 5B Interests for reasons inimical to section 1122's classification requirements. Indeed, courts generally state that the sole determinant for compliance with section 1122's classification requirements is that a debtor's proposed scheme is not intended to gerrymander an accepting class.[28] Here, the Debtors clearly are not attempting to gerrymander an accepting class, as

---

[25] See Docket No. 951, ¶ 19.

[26] See Schott Declaration ¶ 15.

[27] See id. ¶ 16.

[28] Phoenix Mutual Life Ins. Co. v. Greystone III Joint Venture (In re Greystone III Joint Venture), 995 F.2d 1274, 1279 (5th Cir.1991) (stating that the primary concern under section 1122 is to prohibit debtors from gerrymandering an accepting class); In re 500 Fifth Ave., 148 B.R. at 1018 ("the rule in the courts of appeal which have reached the issue and in many other lower courts remains the same: '[T]hou shalt not classify similar claims [or interests] differently in order to gerrymander an affirmative vote on a reorganization plan . . . [I]f section 1122 permits classification of substantially similar claims [and interests] in different classes, such classification may only be undertaken for reasons independent of the debtor's motivation to secure the vote of an impaired, assenting class of claims [or interests].'") (citing In re Greystone III Joint Venture, 995 F.2d at 1279).

Classes 5A and 5B were not even entitled to vote on the Plan.[29] The Debtors are therefore not relying on the votes of one or the other of these classes to obtain confirmation. Accordingly, as the Debtors' separate classification of Class 5A Interests from Class 5B Interests is appropriate and reasonable and is based on valid business reasons, the Debtors believe that their proposed classification scheme with respect to these Classes satisfies the requirements of section 1122 of the Bankruptcy Code.

iii. The Plan Satisfies the Seven Mandatory Plan Requirements of Section 1123(a) of the Bankruptcy Code.

24. Section 1123(a) of the Bankruptcy Code sets forth seven criteria that every chapter 11 plan must contain.[30] As discussed below, and as further supported in the Schott Declaration,[31] the Plan contains each of these criteria.

(a) Designation of Classes of Claims and Interests (11 U.S.C. § 1123(a)(1)).

25. As discussed above, Article III of the Plan properly designates classes of Claims and Interests, and thus, satisfies the requirement of section 1123(a)(1) of the Bankruptcy Code.[32]

(b) Specification of Unimpaired Classes (§ 1123(a)(2)).

26. Section 1123(a)(2) requires that the Plan "specify any class of claims or interests that is not impaired under the plan."[33] The Plan meets this requirement by identifying each Class in Article III that is not Impaired.[34]

---

[29] See Plan, Sec. 3.2(e) & (f); see also Disclosure Statement Order, ¶ 16.

[30] 11 U.S.C. § 1123(a).

[31] See Schott Declaration ¶¶ 14–22, 36, 46–52.

[32] Plan, Art. III.

[33] 11 U.S.C. § 1123(a)(2).

(c) Treatment of Impaired Classes (§ 1123(a)(3)).

27. Section 1123(a)(3) requires that the Plan "specify the treatment of any class of claims or interests that is impaired under the plan."[35] The Plan meets this requirement by setting forth the treatment of Impaired Classes in Article III.[36]

(d) Equal Treatment within Classes (§ 1123(a)(4)).

28. Section 1123(a)(4) requires that the Plan "provide the same treatment for each claim or interest of a particular class, unless the holder of a particular claim or interest agrees to a less favorable treatment of such particular claim or interest."[37] The Plan meets this requirement because holders of Allowed Claims and Interests will receive the same rights and treatment as other holders of Allowed Claims and Interests within such holders' respective Class, except to the extent they agree to less favorable treatment.[38]

(e) Means for Implementation (§ 1123(a)(5)).

29. Section 1123(a)(5) requires that the Plan provide "adequate means" for its implementation.[39] The Plan satisfies this requirement because Article IV of the Plan, titled *Provisions for Implementation of the Plan,* as well as various other provisions of the Plan, provide for the means by which the Plan will be implemented.

---

34 Plan, Sec. 3.1.

35 11 U.S.C. § 1123(a)(3).

36 Plan, Sec. 3.2.

37 11 U.S.C. § 1123(a)(4).

38 Plan, Sec. 3.2.

39 11 U.S.C. § 1123(a)(5).

30. Among other things, and as set forth in the Schott Declaration,[40] Article IV of the Plan:[41]

- provides for dissolution Debtors Prize Petroleum LLC and Petroflow Energy Ltd. and creation of a single reorganized Debtor entity, Reorganized NAPCUS;
- provides for the implementation of the Plan, including consummation of the Investment Agreements to provide Reorganized NAPCUS $3 million in fresh capital;
- authorizes Reorganized NAPCUS to take all actions necessary to effectuate the Plan;
- describes the sources of consideration for Plan distributions, including the Investment Commitment;
- provides for issuance and distribution of Reorganized NAPCUS Common Stock and Reorganized NAPCUS Convertible Preferred Stock;
- provides for the Debtors' property to vest in Reorganized NAPCUS after the Effective Date;
- provides for the preservation of certain Causes of Action;
- provides for the cancellation of certain existing securities;
- provides that issuance of new securities will be exempt from the registration requirements under applicable securities laws pursuant to section 1145 of the Bankruptcy Code;
- provides for the implementation of the Management Equity Plan; and
- provides for appointment of the Reorganized NAPCUS Board.

---

40 See Schott Declaration ¶ 19.

41 See Plan, Art. IV.

(f) Issuance of Non-Voting Securities (§ 1123(a)(6)).

31. Section 1123(a)(6) requires that a debtor's corporate constituent documents prohibit the issuance of non-voting equity securities.[42]

32. The Plan complies with this requirement, as also noted in the Schott Declaration.[43] The Reorganized NAPCUS Charter includes a provision prohibiting the issuance of non-voting equity stock.[44] As reflected in the Reorganized NAPCUS Charter, the Plan contemplates a distribution of one class of common stock — the Reorganized NAPCUS Common Stock — and three class of preferred stock — the Reorganized NAPCUS Series A Convertible Preferred Stock (to be issued to the Investors in exchange for their $3 million Investment Commitment), the Reorganized NAPCUS Series B Convertible Preferred Stock (to be issued to NAPCUS General Unsecured Creditors who elect to receive it in lieu of cash) and the Reorganized NAPCUS Series C Convertible Preferred Stock (to be issued to Petroflow General Unsecured Creditors). Each of these securities has certain voting rights as set forth in the Reorganized NAPCUS Charter.

(g) Officers and Directors (§ 1123(a)(7)).

33. Section 1123(a)(7) requires that the Plan's provisions with respect to the manner of selection of any director, officer or trustee, or any other successor thereto, be "consistent with the interests of creditors and equity security holders and with public policy . . . ."[45] The Plan complies with section 1123(a)(7) because the Debtors have identified — as part of the Plan

---

42 11 U.S.C. § 1123(a)(6).

43 See Schott Declaration ¶ 21.

44 See Plan Supplement at Ex. B.

45 11 U.S.C. § 1123(a)(7).

Supplement[46] — the identity and affiliations of all individuals or entities proposed to serve on or after the Effective Date as directors of the Reorganized NAPCUS Board as well as the proposed officers of Reorganized NAPCUS.

34. Based upon the foregoing, the Plan complies fully with each of the requirements of 1123(a) of the Bankruptcy Code.

iv. The Plan Complies with the Permissive Provisions of Section 1123(b) of the Bankruptcy Code.

(a) Overview of Plan's Compliance with Section 1123(b) of the Bankruptcy Code.

35. Section 1123(b) sets forth various permissive provisions that may be incorporated into a chapter 11 plan.[47] Among other things, section 1123(b) provides that a plan may: (a) impair or leave unimpaired any class of claims or interests; (b) provide for the assumption or rejection of executory contracts and unexpired leases; (c) provide for the settlement or adjustment of any claim or interest belonging to the debtor or the estates; and (d) include any other appropriate provision not inconsistent with the applicable provisions of chapter 11.[48]

36. The Plan is consistent with section 1123(b) of the Bankruptcy Code as the Debtors also demonstrate in the Schott Declaration.[49] Specifically, pursuant to Section 3.2 of the Plan, Classes 1 and 2 are rendered not Impaired because the Plan leaves unaltered the legal, equitable and contractual rights of the holders of such Claims.[50] Further, Classes 3 through 5B

---

46 See Plan Supplement at Ex. G.

47 See 11 U.S.C. 1123(b).

48 11 U.S.C. § 1123(b)(1)–(6).

49 See Schott Declaration ¶¶ 23–34.

50 Plan, Sec. 3.2.

are rendered Impaired, as the Plan modifies the rights of the holders of such Claims and Interests as contemplated in section 1123(b)(1) of the Bankruptcy Code.[51] In addition, in accordance with section 1123(b)(2) of the Bankruptcy Code, Article V of the Plan provides for the assumption or rejection of the Debtors' Executory Contracts and Unexpired Leases not previously assumed or rejected under section 365 of the Bankruptcy Code. Indeed, the Plan Supplement includes schedules of Executory Contracts and Unexpired Leases that are to be assumed or rejected pursuant to the Plan and a list of all known Cure amounts associated with Executory Contracts and Unexpired Leases that the Debtors intend to assume pursuant to the Plan.[52]

(b) The Plan's Release, Exculpation and Injunction Provisions Satisfy Section 1123(b) of the Bankruptcy Code.

37. The Plan also includes: (a) the release by the Debtors of certain parties in interest (the "Debtor Release");[53] (b) the release by holders of Claims and Interests of certain parties in interest (the "Third Party Release");[54] (c) an exculpation provision (the "Exculpation");[55] and (d) an injunction provision prohibiting parties from pursuing Claims released under the Plan (the "Injunction").[56]

38. The Debtors believe that these provisions are appropriate and comply with applicable bankruptcy law in this district. In particular, the Debtors believe that the Debtor

51 Id.

52 See Plan Supplement, Ex. D & Ex. E.

53 See Plan, Sec. 8.4.

54 See Plan, Sec. 8.5.

55 See Plan, Sec. 8.6.

56 See Plan, Sec. 8.7.

Release, set forth in Section 8.4 of the Plan, and Third Party Release, set forth in Section 8.5 of the Plan, are appropriate and should be approved. In addition, the Debtors submit that the Exculpation, set forth in Section 8.6 of the Plan, and the Injunction, set forth in Section 8.7 of the Plan, is consistent with applicably precedent and should be approved.

(1) Debtor Release.

39. Generally, Debtors are permitted to release claims and causes of action pursuant to section 1123(b)(3)(A) of the Bankruptcy Code, "if the release is a valid exercise of the debtor's business judgment, is fair, reasonable, and in the best interests of the estate."[57] Courts in the Third Circuit consider the following five-factor test in determining whether to approve a debtor release:

- identity of interest between the debtor and the third party;
- whether the non-debtor has made a substantial contribution to the debtor's reorganization;
- whether the release is essential to the debtor's reorganization;
- agreement by a substantial majority of creditors to support the release; and
- whether a plan provides for payment of all or substantially all of the claims in the class or classes affected by the release.

See In re Zenith Elecs. Corp., 241 B.R. 92, 110 (Bankr. D. Del. 1999) (citing In re Master Mortg. Inv. Fund, Inc., 168 B.R. 930, 937 (Bankr. W.D. Mo. 1994)); see also Spansion, 426 B.R. at 143 n.47; Washington Mutual, 442 B.R. at 346.

40. Not all of the above factors need to be fulfilled to approve a debtor release. See Zenith, 241 B.R. at 110.

---

[57] See In re Spansion, Inc., 426 B.R. 114, 144 (Bankr. D. Del. 2010); In re Washington Mutual, Inc., 442 B.R. 314, 327 (Bankr. D. Del. 2011).

41. As further set forth in the Schott Declaration,[58] the Debtors respectfully submit that, pursuant to the above factors, the Debtor Release is a valid exercise of their business judgment, is fair, reasonable and is in the best interests of the Debtors' estates, and should therefore be approved.

42. ***First***, many of the Released Parties[59] share an identity of interest with the Debtors. In particular, certain of the Released Parties include the Debtors' current and former officers, directors, employees and professionals, each of whom made significant contributions during and prior to these Chapter 11 Cases in preserving value for the Debtors and, ultimately, to formulating and negotiating a confirmable plan. The Debtors maintain insurance policies for their current directors, officers and employees in addition to various indemnification agreements between such parties, such that a judgment against a director, office, employee or professional must, in certain circumstances, be reimbursed by the Debtors. Thus, a claim against any of these entities is effectively a claim against the Debtors. As discussed herein, the members of the Equity and Creditors' Committees likewise have interests identical to the Debtors and likewise made significant contributions to the Debtors' plan confirmation efforts.

43. ***Second***, the Debtors' officers, directors and employees continued to serve in their capacities subsequent to the Petition Date and throughout the Debtors' reorganization. Working in conjunction with the Debtors' professionals, they made and implemented key steps with respect to the Debtors' financial and operational restructuring. In addition, such parties, as well

[58] See Schott Declaration ¶¶ 26–28.

[59] In addition to the Debtors, Reorganized NAPCUS and the Debtors' estates, the "Released Parties" consist of, as more fully set forth in section 1.1(86) of the Plan, the Debtors' and Reorganized NAPCUS' current and former officers, directors, employees, affiliates and advisors as well as the Investors and the Creditors' and Equity Committees (and their members) and their respective affiliates, officers, directors and professionals. See Plan, Sec. 1.1(86)

as the Equity and Creditors' Committees, negotiated and actively participated in critical phases of the Debtors' in-court restructuring, including sale of the Debtors' assets, preparation for and consummation of the Global Settlement, formulation of the Plan and development of a plan confirmation strategy.

44. ***Third***, the Debtors submit that the proposed releases in the Debtor Release are integral to the Plan and transactions contemplated thereunder. The Released Parties worked consensually to achieve a value-maximizing solution to the Debtors' restructuring goals on the basis that they would receive customary exchanges pursuant to the Plan. Without such releases, the Debtors could have had greater difficulty in reaching consensus on key legal issues. The Debtor Release therefore was a key ingredient to formulating a confirmable Plan.

45. ***Fourth***, substantially all parties in interest likely do not oppose, and in fact, likely support the Debtor Release, as indicated by the absence of any challenge to the Debtor Release from any claim or interest holder.

46. ***Finally***, confirmation of the Plan follows months of protracted litigation with certain parties in interest in these cases and negotiations with the Equity and Creditors' Committee regarding the terms of the Plan. Further delay due to refusal by such parties to compromise on key Plan issues likely would further reduce value and threaten the Debtors' post-emergence operations. Accordingly, the Debtors submit that the consideration provided pursuant to the Plan is a fair exchange for the releases received by certain parties in interest.

(2) Third Party Release.

47. Section 8.5 of the Plan provides for a Third Party Release, pursuant to which certain holders of Claims and Interests who vote to accept the Plan release certain Claims and Causes of Action, but only to the extent such parties did not affirmatively choose to opt out of the Third Party Release. The scope of the Third Party Release is based on "fair consideration"

and is appropriately narrow, relating to the Debtors' restructuring and the Plan.[60] Moreover, the releases are consensual, as they have been consented to either in the context of Plan negotiations or by each applicable holder's vote to accept the Plan without choosing to "opt out" of the releases.[61]

(a) Opt Out Provisions.

48. Only those holders of Claims and Interests that affirmatively voted to accept the Plan **and** did not check the box on the applicable Ballot to opt out of providing the release, are bound by the Third Party Release. In soliciting votes on the Plan, the Debtors sent ballots to all holders in the voting Classes, unambiguously stating in capital letters that certain releases were contained in the Plan and should be reviewed carefully.[62] Moreover, the Third Party Release was set forth on the Ballots to ensure that voting creditors were able to fully review the terms of the Third Party Release.[63] The ballots made clear that if holder of a Claim voted to accept the

---

60 See Plan, Sec. 8.5. Indeed, courts in this District regularly approve third party releases similar in scope to that sought by the Debtors in the Plan. See, e.g., In re Appleseed's Intermediate Holdings LLC, Case No. 11-10160 (KG) (Bankr. D. Del. Apr. 14, 2011); In re The Majestic Star Casino, LLC, et al., Case No. 09-14136 (Bankr. D. Del. March 10, 2011); In re Atrium Corp., et. al., Case No. 10-10150 (Bankr. D. Del. April 28, 2010); In re Tropicana Entm't LLC, Case No. 08-10856 (Bankr. D. Del. May 5, 2009); In re Sea Containers Ltd., Case No. 06-11156 (Bankr. D. Del. Nov. 24, 2008); In re Hilex Poly Co. LLC, Case No. 08-10890 (Bankr. D. Del. June 26, 2008); In re Dura Automotive Sy., Inc., Case No. 06-11202 (Bankr. D. Del. May 13, 2008); In re ACG Holdings, Inc., Case No. 08-11467 (Bankr. D. Del. Aug. 6, 2008); In re Remy Worldwide Holdings Inc., Case No. 07-11481 (Bankr. D. Del. Nov. 20, 2007); In re Foamex Int'l Inc., Case No. 05-12685 (Bankr. D. Del. Feb. 1, 2007).

61 See Hrg. Tr. at 12-15, In re Evolve Software, Inc., Case No. 03-10841 (PJW) (Bankr. D. Del. Aug. 11, 2003) (approving plan containing third party releases in favor of postpetition directors and officers where ballot permitting creditors to opt out of the release was served on all creditors); In re WCI Communities, Inc., Case No. 08-11643 (KJC) (Bankr. D. Del. Aug. 26, 2009) (approving plan solicited with opt-out non-debtor releases); In re Foamex Int'l Inc., Case No. 05-12685 (Bankr. D. Del. Feb. 1, 2007) (approving plan with opt-out scheme for third party releases) .

62 See Disclosure Statement Order, Ex. 4.

63 See id.

Plan, the holder still had the option of "opting out" of the Third Party Release.[64] Accordingly, the Debtors submit that, consistent with applicable bankruptcy law, holders of Claims who have voted to accept the Plan and who did not elect to opt out of the Third Party Release on their Ballots have deemed to consent to be bound by the Third Party Release, and that the Court therefore should confirm the Plan in its current form. See In re Washington Mutual, Inc., 442 B.R. 314, 355 (Bankr. D. Del. 2011) ("[T]he Court concludes that any third party release is effective only with respect to those who affirmatively consent to it by voting in favor of the Plan and not opting out of third party releases."); In re Calpine Corp., No. 05-60200 (BRL), 2007 WL 4565223 (Bankr. S.D.N.Y., Dec. 19, 2007) (stating that, where plan and ballot specifically stated that abstention from voting without opting out of release would result in acceptance and assent to such release, decision by holder of claim or interest to abstain from voting and not to opt out of the release would result in the granting of the release); In re Conseco, Inc., 301 B.R. 525, 527-28 (Bankr. N.D. Ill. 2003) (concluding that release provision of plan that applied to creditors that agreed to be bound, either by voting for the plan or by choosing not to opt out of the release, was a purely consensual release); In re Exide Techs., 303 B.R. 48, 74 (Bankr. D. Del. 2003) (noting that since the "releases by holders of claims" provision would bind only those creditors and equity holders that accepted the terms of the plan, such release was consensual and the Court did not need to consider it under the Zenith factors).

64 See id. at 3 ("If you would like to vote to accept the Plan *but* not be subject to the above release provision, please indicate so by checking this box: □") (emphasis in original).

49. In addition, the Debtors submit that all parties received sufficient notice of the Third Party Release and have had ample time to raise any objections, and no claim or interest holder objected to the Third Party Release.[65]

(b) "Fair Consideration."

50. In addition, the Third Circuit has found that in order for a third party release to be permissible, fair consideration must have been given in exchange for the release.[66] Here, both Petroflow General Unsecured Claims and NAPCUS General Unsecured Claims are receiving a recovery equal to 100% of the value of their Claims in cash or preferred stock. Further, those holders receiving preferred stock in Reorganized NAPCUS will be able to participate in increases in value in Reorganized NAPCUS. Moreover, the members of the Equity Committee and Creditors Committee are receiving releases from the Debtors pursuant to the Debtor Release, making their releases in favor of the Debtors mutual and consensual. Moreover, such parties have expressed their support of the Plan, including the releases.

51. In addition, the Released Parties provided substantial contribution and support to the Debtors' restructuring efforts and the Plan and maximized recoveries for claim and interest holders. As such, under these circumstances, it is appropriate to provide a release to the Released Parties.

52. The Debtors therefore believe that the Third Party Release is for fair consideration and should be approved.

---

65 See Disclosure Statement Order, Ex. 3, ¶ 8.

66 United Artists Theatre Co. v. Walton, 315 F.3d 217, 227 (3d Cir. 2000).

(c) Circumstances Warrant Approval.

53. Further, the Debtors believe, as further set forth in the Schott Declaration,[67] that the circumstances of the Chapter 11 Cases warrant the Third Party Release, because it is critical to the success of the Plan and the Debtors' restructuring. The Released Parties supplied integral services which enabled the Debtors to propose a Plan and undertake related transactions during the course of the Chapter 11 Cases. The Chapter 11 Cases progressed efficiently and effectively and the parties worked diligently to reach consensus on key issues.

54. As set forth herein and in the Schott Declaration,[68] each of the Released Parties assisted the Debtors during the reorganization process and, as such, it is appropriate to provide such parties a third party release. The Investors, for example, are providing the Debtors $3 million in new liquidity, which is vital to Reorganized NAPCUS's ability to make the necessary capital and other investments to solidify its go-forward operations and maximize value. Likewise, the Creditors' Committee and Equity Committee negotiated in good faith with the Debtors to develop a plan that achieved the support of each of their constituents as well as the Court's approval. Finally, the Debtors and their employees, agents, affiliates, officers and directors put forth considerable effort over the course of these fifteen-month cases to achieve a consensual resolution of the Debtors' disputes with their prepetition lenders and largest business party that allowed the Debtors to provide a full recovery to their unsecured creditors, a significant recovery to their equity holders and preserve the Debtors' operational feasibility.

---

[67] See Schott Declaration ¶¶ 28–31.

[68] See id. ¶¶ 27–28, 31.

Without their successful efforts, it is possible that stakeholder recoveries could have been minimized or that the Debtors could have fallen into a liquidation proceeding.

55. Accordingly, the Debtors submit that the Third Party Release is warranted under the circumstances and should be approved.

(3) Exculpation.

56. Section 8.6 of the Plan exculpates certain parties critical to the formulation of the Plan for any acts or omissions in connection with the Plan. The Exculpated Parties include the Debtors, Reorganized NAPCUS, all Released Parties benefitting from the Third Party Release, the foregoing parties' successors and assigns, and all of the foregoing parties' affiliates, agents, employees, and professionals. The scope of the Exculpation is targeted and has no effect on liability determined to have constituted gross negligence or willful misconduct.

57. An exculpation provision is not a mandatory release of all liability, but instead only establishes the appropriate standard of liability with respect to the parties benefiting therefrom.[69] Indeed, where a Court makes a finding that a plan was proposed in good faith under section 1129(a)(3) of the Bankruptcy Code and ultimately confirms such plan, it is appropriate to set the standard of liability for those involved in the negotiation and formulation of that plan.[70] Exculpation clauses thereby prevent future collateral attacks against parties that made substantial contributions to a debtor's reorganization. Further, it is well established that the liability of

---

[69] See In re PWS Holding Corp., 228 F.3d 224, 246 (3d Cir. 2000) (reasoning that the exculpation provision "does not affect the liability of third parties, but rather sets forth the appropriate standard of liability."); see also In re Enron Corp., 326 B.R. 497, 501 (S.D.N.Y. 2005) (in finding creditors' appeal of confirmation based on the plan's exculpation provision moot, the court specifically noted that the bankruptcy court addressed the exculpation provision and found it appropriate because it excluded gross negligence and willful misconduct).

[70] PWS Holding, 228 F.3d at 246-47 (observing that creditors providing services to the debtors are entitled to a "limited grant of immunity . . . for actions within the scope of their duties").

statutory committees and their professionals under section 1103 of the Bankruptcy Code is limited to acts of gross negligence and willful misconduct.[71]

58. The Debtors ask that the Court find that the Exculpated Parties (who are the same entities and individuals as the Released Parties) have participated in good faith with respect to formulating and negotiating the Plan and that that they are entitled to protection from lawsuits from disgruntled creditors, shareholders or any other parties in interest. Negotiation and compromise were crucial to formulation of a feasible Plan and could not have occurred without the protection from liability that the Exculpation provides to the Exculpated Parties. Further, the Exculpation, including the carve-out for gross negligence and willful misconduct, is entirely consistent with established practice in this jurisdiction and others.[72] Accordingly, the Debtors submit that the Court should approve the Exculpation and adopt the appropriate standard of liability for the Exculpated Parties with respect to the Chapter 11 Cases.

---

[71] PWS Holding, 228 F.3d at 246-47 (holding that the appropriate standard of liability under section 1103 is "willful misconduct or *ultra vires* acts," and approving an exculpation of the creditors committee and its professionals subject only to liability for willful misconduct or gross negligence).

[72] See, e.g., In re Oneida Ltd., 351 B.R. 79, 94 n.22 (Bankr. S.D.N.Y. 2003) (approving exculpation provision that covered prepetition lenders, DIP lenders, creditor committees and their members, and the respective affiliates of each except in cases of gross negligence, willful misconduct, fraud, or criminal conduct over an objection that was raised but "not pursue[d] at the confirmation hearing" and noting that the language "generally follows the text that has become standard in this district, is sufficiently narrow to be unexceptional"); In re OTC Holdings Corp., Case No. 10-12636 (BLS) (Bankr. D. Del. Dec. 16, 2010) (approving exculpation provision that covered certain releases, the Committee, the second lien agent, the second lien lenders and their representatives, finding that they did not extinguish the liability of third party but "only set a standard of care of willful misconduct or fraud for acts and omissions arising out of the Chapter 11 Cases"); In re Cooper-Standard Holdings, Inc., Case No. 09-12743 (PJW) (approving exculpation provision that excluded gross negligence and willful misconduct and covered prepetition credit facility parties, the present and former prepetition administrative agent, the present and former DIP lenders, the present and former DIP financing agent and DIP original financing agent, the senior note indenture trustee, the senior note holders, senior subordinated noteholders, the creditors' committee, the backstop parties, and their affiliates).

(4) Injunction.

59. The Injunction set forth in Section 8.7 of the Plan is necessary to preserve and enforce the Debtor Release, the Third Party Release and the Exculpation and is narrowly tailed to achieve that purpose. Further, the Injunction is a key component of the Debtors' ultimate reorganization because it seeks to ensure that the restructuring of the Debtors' prepetition obligations is actually enforced. Accordingly, the Debtors respectfully request that the Court approve the Injunction.

v. The Plan Complies with Section 1123(d) of the Bankruptcy Code.

60. Section 1123(d) states that "if it is proposed in a plan to cure a default, the amount necessary to cure the default shall be determined in accordance with the underlying agreement and nonbankruptcy law."[73]

61. Article V of the Plan provides for the satisfaction of any monetary defaults under each Executory Contract and Unexpired Lease to be assumed pursuant to the Plan in accordance with section 365 by payment of the default amount on the Effective Date, subject to the limitations described in Article V of the Plan, or on such other terms as the parties to such Executory Contracts or Unexpired Leases may otherwise agree.[74] The Debtors, in accordance with the Plan, distributed notices of proposed assumption and proposed amounts of Cure claims to the applicable third parties subsequent to filing of the Plan Supplement, in the form attached as **Exhibit 6** to the Disclosure Statement Order. These notices included procedures for objecting to proposed assumptions of Executory Contracts and Unexpired Leases and any Cure claim

---

73 See 11 U.S.C. 1123(d).

74 See Plan, Sec. 5.2.

amounts, as well as a process for resolving any Cure Claim amount disputes by the Court. Accordingly, the Debtors submit that the Plan complies with section 1123(d).

B. The Debtors Have Complied with the Applicable Provisions of the Bankruptcy Code (§ 1129(a)(2)).

62. The Debtors have satisfied section 1129(a)(2), which requires that the proponent of a plan of reorganization comply with the applicable provisions of the Bankruptcy Code.[75] The legislative history to section 1129(a)(2) reflects that this provision is intended to encompass the disclosure and solicitation requirements set forth in sections 1125 and 1126.[76] As discussed below and in the Schott Declaration,[77] the Debtors have complied with sections 1125 and 1126 regarding disclosure and solicitation of the Plan.

i. The Debtors Have Complied with Section 1125 of the Bankruptcy Code.

63. Section 1125 provides, in pertinent part, that:

> (b) An acceptance or rejection of a plan may not be solicited after the commencement of the case under [the Bankruptcy Code] from a holder of a claim or interest with respect to such claim or interest, unless, at the time of or before such solicitation, there is transmitted to such holder the plan or a summary or the plan, and a written disclosure statement approved, after notice and a hearing, by the court as containing adequate information. . . .
>
> (c) The same disclosure statement shall be transmitted to each holder of a claim or interest of a particular class, but there may be

---

75 11 U.S.C. § 1129(a)(2).

76 See In re Lapworth, 1998 WL 767456, at *3 (Bankr. E.D. Pa. Nov. 2, 1998) ("The legislative history of § 1129(a)(2) specifically identifies compliance with the disclosure requirements of § 1125 as a requirement of § 1129(a)(2)."); In re Worldcom, Inc., 2003 WL 23861928, at *49 (Bankr. S.D.N.Y. Oct. 31, 2003) (stating that section 1129(a)(2) requires plan proponents to comply with applicable provisions of the Bankruptcy Code, including "disclosure and solicitation requirements under sections 1125 and 1126 of the Bankruptcy Code"); S. Rep. No. 989, 95th Cong., 2d Sess., at 126 (1978); H.R. Rep. No. 595, 95th Cong., 1st Sess., at 412 (1977).

77 See Schott Declaration ¶¶ 36–44.

> transmitted different disclosure statements, differing in amount, detail, or kind of information, as between classes.[78]

64. After notice and a hearing held on July 29, 2011, the Court entered the Disclosure Statement Order approving the Disclosure Statement pursuant to section 1125 as providing holders of Claims with "adequate information" to make an informed decision as to whether to accept or reject the Plan.[79]

65. The Debtors did not solicit the acceptance or rejection of the Plan from any holder of a Claim or Interest before approval of the Disclosure Statement. Moreover, appropriate materials were distributed to all parties in interest. The affidavit of service, filed on August 5, 2011 [Docket No. 987], relating to service of the Solicitation Packages (the "Affidavit of Service"), demonstrates that the correct materials were sent to the appropriate parties as required by the terms of the Disclosure Statement Order. Specifically, holders of Claims entitled to vote on the Plan received the following materials: (a) the Disclosure Statement, including all of its exhibits; (b) the Plan; (c) the Disclosure Statement Order (with its exhibit 1 only); (d) the Confirmation Hearing Notice; and (e) the appropriate ballot.[80] In addition, holders of Claims and Interests that were not entitled to vote to accept or reject the Plan were provided with certain non-voting materials approved by the Court in the Disclosure Statement Order.[81]

66. Additionally, as reflected in the affidavits of publication (the "Publication Affidavits") filed on August 12, 2011 [Docket Nos. 998-1001], the Debtors caused

---

78 11 U.S.C. § 1125(b), (c).

79 See Disclosure Statement Order, ¶ 2.

80 Id. at ¶ 7.

81 Id. at ¶ 15.

the Confirmation Hearing Notice to be published on August 3, 2011 in the *The Wall Street Journal* (national edition), *The Globe and Mail*, the *Tulsa World*, and the *San Antonio Express-News* in a timely fashion.

67. Based on the foregoing, the Debtors submit that they have satisfied the notice and solicitation requirements of section 1125.

ii. The Debtors Have Complied with Section 1126 of the Bankruptcy Code.

68. Section 1126 specifies the requirements for acceptance of a plan of reorganization.[82] Specifically, under section 1126, only holders of allowed claims and allowed interests in impaired classes of claims or interests that will receive or retain property under a plan on account of such claims or interests may vote to accept or reject such plan. Section 1126 provides, in pertinent part, that:

> (a) The holder of a claim or interest allowed under section 502 of [the Bankruptcy Code] may accept or reject a plan
>
> [. . . .]
>
> (f) Notwithstanding any other provision of this section, a class that is not impaired under a plan, and each holder of a claim or interest of such class, are conclusively presumed to have accepted the plan, and solicitation of acceptances with respect to such class from the holders of claims or interests of such class is not required.
>
> (g) Notwithstanding any other provision of this section, a class is deemed not to have accepted a plan if such plan provides that the claims or interests of such class do not entitle the holders of such claims or interests to receive or retain any property under the plan on account of such claims or interests.[83]

[82] 11 U.S.C. § 1126.

[83] 11 U.S.C. § 1126(a), (f) and (g).

69. As set forth in the Disclosure Statement, in accordance with section 1126, the Debtors solicited acceptances or rejections of the Plan from the holders of Allowed Claims in Classes 3 and 4, which are each a Class of Impaired Claims that is to receive a distribution under the Plan. Classes 1 and 2 are not Impaired under the Plan. As a result, pursuant to section 1126(f), holders of Claims and Interests in these Classes are conclusively presumed to have accepted the Plan.

70. Class 5A, Petroflow Emergence Interests and Class 5B, Petroflow Other Interests are impaired and conclusively deemed to reject the Plan, notwithstanding their recoveries under the Plan. Regardless of the outcome of the vote of Class 5A and Class 5B, the Plan could be "crammed down" over their rejecting vote pursuant to section 1129(b)(2)(C)(ii) of the Bankruptcy Code, as no junior claim or interest is recovering any property under the Plan.[84] Accordingly, to save the Debtors the considerable administrative costs associated with soliciting thousands of shareholders holding over 29 million shares of Petroflow Interests, the Debtors set Classes 5A and 5B as deemed rejecting classes and requested in the motion seeking approval of the Disclosure Statement that the Debtors not be required to solicit these Classes. Pursuant to the Disclosure Statement Order, the Debtors were not required to solicit these Classes of Claims.[85]

---

84 As set forth below, the Debtors have established a record sufficient to satisfy the "cram down" standards with respect to the Deemed Rejecting Classes.

85 See Disclosure Statement Order ¶ 16. The Debtors' non-solicitation of the Deemed Rejecting Classes is consistent with the approach taken in other chapter 11 cases. See In re Chart Industries, Inc., Case No. 03-12114 (JWV) (Bankr. D. Del. July 10 and Sept. 3, 2003) [Docket Nos. 42 & 122] (approving deemed rejection and non-solicitation of existing shareholders, notwithstanding their right to pro rata distribution of certain stock and warrants and confirming plan over their deemed rejection); see also In re WorldCom, Inc., Case No. 02-13533 (AJG), 2003 WL 23861928, at *26 (Bankr. S.D.N.Y. Oct. 31, 2008) (confirming "cram down" plan where debtors did not solicit preferred stock holders, who were "deemed to reject" plan notwithstanding pro rata distribution of $29 million); Hrg. Tr. at 1031:20-25 & 1032:1-6, In re DJK Residential, LLC, Case No. 08-10375 (JMP) (Bankr. S.D.N.Y. May 7, 2008) (confirming "cram down" plan where debtors did not solicit general unsecured creditors notwithstanding distribution to such creditors under plan, where solicitation would have involved considerable administrative costs and effort).

71. As with respect to Classes 3 and 4 (*i.e.*, Impaired Classes entitled to vote to accept or reject the Plan), sections 1126(c) and 1126(d) specify the requirements for acceptance of a plan by classes of claims and interests:

> (c) A class of claims has accepted a plan if such plan has been accepted by creditors, other than any entity designated under subsection (e) of this section, that hold at least two-thirds in amount and more than one-half in number of the allowed claims of such class held by creditors, other than any entity designated under subsection (e) of this section, that have accepted or rejected the plan.
>
> (d) A class of interests has accepted the plan if such plan has been accepted by holders of such interests, other than any entity designated under subsection (e) of this section, that hold at least two-thirds in amount of the allowed interests of such class held by holders of such interests, other than any entity designated under subsection (e) of this section, that have accepted or rejected such plan.[86]

72. Here, the Impaired Classes of Claims voting to accept the Plan (Classes 3 and 4) did so by sufficient amounts, as indicated in the Voting Certification.[87]

73. Based upon the foregoing and the evidence that will be presented at the Confirmation Hearing, the Debtors submit that they have satisfied the requirements of section 1129(a)(2).

iii. The Issuance of the Reorganized NAPCUS Common Stock is Exempt from Securities Law Requirements.

74. The Plan provides for the Debtors to issue the Reorganized NAPCUS Common Stock to the holders of Class 5A and Class 5B Petroflow Interests.[88] In addition, the Plan

---

86 11 U.S.C. § 1126(c), (d).

87 See Voting Certification, Ex. A.

88 See Plan, Secs. 3.2(e) & (f).

provides for issuance of: the Reorganized NAPCUS Series A Convertible Preferred Stock to the Investors on account of the Investment Commitment; the Reorganized NAPCUS Series B Preferred Stock to certain holders of Class 4 NAPCUS General Unsecured Claims; and the Reorganized NAPCUS Series C Preferred Stock to the holders of Class 3 Petroflow General Unsecured Claims.[89]

75. As also described in the Schott Declaration,[90] pursuant to section 1145 of the Bankruptcy Code, the Reorganized NAPCUS Common Stock, Reorganized NAPCUS Series B Preferred Stock, and the Reorganized NAPCUS Series C Preferred Stock will be exempt from the registration requirements generally applicable to the offer and sale of securities pursuant to section 5 of the Securities Act.[91] Section 1145 of the Bankruptcy Code provides that section 5 of the Securities Act and any state law requirements for the offer and sale of a security do not apply to the offer or sale of stock, options, warrants or other securities by a debtor if: (a) the offer or sale occurs under a plan of reorganization; (b) the recipients of the securities hold a claim against, an interest in, or claim for administrative expense against, the debtor's estate; and (c) the securities are issued in exchange for a claim against or interest in a debtor or are issued principally in such exchange and partly for cash and property. All three of these requirements are met here.

76. In addition, pursuant to section 4(2) of the Securities Act, the Reorganized NAPCUS Series A Convertible Preferred Stock is likewise exempt from such registration

89 See Plan, Secs. 3.2 (c) & (d) and 4.4.

90 See Schott Declaration ¶¶ 59–60.

91 See 11 U.S.C. § 1145 (providing that the section 5 registration requirements to not apply to the offer and sale of securities of a chapter 11 debtor under a plan of reorganization to the extent exchanged for claims or interests outstanding prior to the filing date):

requirements. Section 4(2) of the Securities Act provides that the requirements of federal securities law relating to the offer and sale of a security do not apply to transactions not involving a "public offering."[92] The Debtors' offer and sale of the Reorganized NAPCUS Series A Convertible Stock does not constitute a public offering because the Debtors did not make such offering to more than the thirty-five non-accredited investors permitted under section 4(2) of the Securities Act.[93] Indeed, the Debtors made the offering only to the Investors who the Debtors believe are all accredited investors pursuant to section 4(2) of the Securities Act.[94]

C. The Plan Was Proposed in Good Faith (§ 1129(a)(3)).

77. Section 1129(a)(3) requires that a plan of reorganization be "proposed in good faith and not by any means forbidden by law."[95] The good faith standard requires that the plan be "proposed with honesty, good intentions and a basis for expecting that a reorganization can be effected with results consistent with the objectives and purposes of the Bankruptcy Code."[96] The fundamental purpose of chapter 11 is to enable a distressed business to reorganize its affairs and thereby prevent job losses and the adverse economic effects associated with disposing of assets

---

92 See 15 U.S.C. § 77d(2). See also In re Bally Total Fitness of Greater N.Y., Inc., Case No. 07-12395 (BRL) (Bankr. S.D.N.Y. Sept. 17, 2007) (conclusions of law approving plan that used section 4(2) of the Securities Act exemptions to securities registration requirements) [Docket No. 466].

93 See Schott Declaration ¶ 60; see also Rule 506 of Regulation D of the Securities Act, 17 C.F.R. § 230.501 et. seq. (allowing for exemption where fewer than 35 non-accredited investors are solicited).

94 See Schott Declaration ¶ 60.

95 11 U.S.C. § 1129(a)(3).

96 In re Zenith Elecs. Corp., 241 B.R. 92, 107 (Bankr. D. Del. 1999) (quoting In re Sound Radio, Inc., 93 B.R. 849, 853 (Bankr. D. N.J. 1988), aff'd in part, remanded in part, 103 B.R. 521 (D.N.J. 1989), aff'd, 908 F.2d 964 (3d Cir. 1990)). See also In re SGL Carbon Corp., 200 F.3d 154, 165 (3d Cir. 1999) (finding good faith requires "some relation" between the chapter 11 plan and the "reorganization-related purposes" of chapter 11); In re Century Glove, Inc., 1993 WL 239489, at *4 (D. Del. Feb. 10, 1993) ("[w]here the plan is proposed with the legitimate and honest purpose to reorganize and has a reasonable hope of success, the good faith requirement of section 1129(a)(3) is satisfied").

at liquidation value.[97] Congress has recognized that the continued operation of a debtor's business as a viable entity benefits the national economy through the preservation of jobs and continued access to goods and services. The United States Supreme Court similarly has recognized that "[t]he fundamental purpose of reorganization is to prevent a debtor from going into liquidation, with an attendant loss of jobs and possible misuse of economic resources."[98]

78. As described in the Schott Declaration,[99] the Plan accomplishes these rehabilitative goals by restructuring the Debtors' obligations and providing the means through which the Debtors may continue to operate as a viable enterprise.[100] The Plan provides for the satisfaction and discharge of certain unsecured prepetition indebtedness and ensures Reorganized NAPCUS has vital post-emergence liquidity, enabling it to compete and operate effectively in a dynamic marketplace.

79. As has been the case throughout the Chapter 11 Cases, the Debtors have worked tirelessly to build consensus among the various constituencies. As noted in the Schott

---

[97] See Bank of Am. Nat'l Trust & Sav. Ass'n v. 203 N. LaSalle St. P'ship, 526 U.S. 434, 453 (1999) (basic purposes of chapter 11 are "preserving going concerns" and "maximizing property available to satisfy creditors."); In re Gibson Group, Inc., 66 F.3d 1436, 1442 (6th Cir. 1995) (chapter 11 plan gives a debtor the opportunity to reorganize and provide creditors with going-concern value rather than a "more meager satisfaction through liquidation"); In re B.D. Int'l Disc. Corp., 701 F.2d 1071, 1075 n.8 (2d Cir. 1983) (stating "the two major purposes of bankruptcy [are] achieving equality among creditors and giving the debtor a fresh start").

[98] NLRB v. Bildisco & Bildisco, 465 U.S. 513, 528 (1984); see also Bank of Am. Nat'l Trust & Sav. Ass'n v. 203 N. LaSalle St. P'ship, 526 U.S. 434, 453 (1999) (basic purposes of chapter 11 are "preserving going concerns" and "maximizing property available to satisfy creditors."); In re Gibson Group, Inc., 66 F.3d 1436, 1442 (6th Cir. 1995) (chapter 11 plan gives debtor opportunity to reorganize to provide creditors with going-concern value rather than a "more meager satisfaction through liquidation"); In re B.D. Int'l Disc. Corp., 701 F.2d 1071, 1075 n.8 (2d Cir. 1983) (stating "the two major purposes of bankruptcy [are] achieving equality among creditors and giving the debtor a fresh start").

[99] See Schott Declaration ¶ 45.

[100] See Disclosure Statement, Ex. E – Financial Projections; Disclosure Statement, Art. VII – Valuation Analysis and Financial Projections.

Declaration,[101] the Plan is a result of these efforts and the culmination of negotiations and settlements among the Debtors' key constituents. The support of the Plan by key constituencies with divergent interests reflects their acknowledgment that the Plan is fundamentally fair to all parties in interest. It is indisputable that the Plan promotes the rehabilitative objectives and purposes of the Bankruptcy Code and, therefore, satisfies the requirements of Section 1129(a)(3).

D. The Plan Provides that Payments Made by the Debtors for Professional Fees and Expenses are Subject to Court Approval (§ 1129(a)(4)).

80. Section 1129(a)(4) requires that certain professional fees and expenses paid by the plan proponent, by the debtor or by a person receiving distributions of property under the plan, be subject to approval by the Court as reasonable.[102] Specifically, section 1129(a)(4) requires that:

> Any payment made or to be made by the proponent, by the debtor, or by a person issuing securities or acquiring property under the plan, for services or for costs and expenses in or in connection with the case, or in connection with the plan and incident to the case, has been approved by, or is subject to approval of, the court as reasonable. [103]

Section 1129(a)(4) has been construed to require that all payments of professional fees paid out of estate assets be subject to review and approval by the Court as to their reasonableness.[104]

81. Pursuant to the *Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses for Professionals and Official Committee Members* [Docket No. 75]

---

101 See Schott Declaration ¶ 45.

102 11 U.S.C. § 1129(a)(4).

103 Id.

104 In re Future Energy Corp., 83 B.R. 470, 488 (Bankr. S.D. Ohio 1988); see also In re Chapel Gate Apartments, Ltd., 64 B.R. 569, 573 (Bankr. N.D. Tex. 1986) (noting that before a plan may be confirmed, "there must be a provision for review by the Court of any professional compensation").

(the "Interim Compensation Order"), the Court authorized and approved the payment of certain fees and expenses of professionals retained in the Chapter 11 Cases. All such fees and expenses, as well as all other accrued fees and expenses of professionals through the Confirmation Date, remain subject to final review for reasonableness by the Court under section 330.[105]

82. In addition, all payments to be made in connection with the Effective Date or which relate to the success of the reorganization or which otherwise are required to be disclosed, including any amounts to be paid to the Debtors' financial advisors,[106] have been disclosed previously and are reasonable in light of the efforts provided to achieve confirmation of the Plan.[107]

83. Based upon the foregoing, the Plan complies with the requirements of section 1129(a)(4).

E. The Debtors Have Disclosed All Necessary Information Regarding Directors, Officers and Insiders (§ 1129(a)(5)).

84. Section 1129(a)(5)(A) requires that the proponent of a plan disclose the identity and affiliations of the proposed officers and directors of the reorganized debtors.[108] The Bankruptcy Code further provides that the appointment or continuance of such officers and directors be consistent with the interests of creditors and equity security holders and with public policy. Section 1129(a)(5)(B) also requires a plan proponent to disclose the identity of an

---

[105] 11 U.S.C. § 330.

[106] See Plan, Secs. 1.1(24) and 9.3.

[107] As set forth in paragraph 78 of the proposed Confirmation Order, filed contemporaneously herewith, the Completion Fee shall be paid only after all Allowed NAPCUS General Unsecured Claims of holders who did not elect or agree to a stock recovery are paid in full in Cash.

[108] 11 U.S.C. § 1129(a)(5)(A).

"insider" (as defined by 11 U.S.C. § 101(31)) to be employed or retained by the reorganized debtor and the nature of any compensation for such insider.[109]

85. The Debtors disclosed the persons proposed to serve on the Reorganized NAPCUS Board and as officers of Reorganized NAPCUS as part of the Plan Supplement.[110] The knowledge and experience of persons proposed to serve as officers of Reorganized NAPCUS is important to ensuring the continued viability of the Debtors' businesses. The employment of officers and directors by Reorganized NAPCUS, described above, is consistent with the interests of creditors and public policy and is essential to the ongoing viability of the Debtors' businesses.

86. Based upon the foregoing, the Debtors have satisfied the requirements of section 1129(a)(5).

F. The Plan Does Not Require Governmental Regulatory Approval (§1129(a)(6)).

87. Section 1129(a)(6) of the Bankruptcy Code permits confirmation only if any regulatory commission that will have jurisdiction over the debtor after confirmation has approved any rate change provided for in the plan.[111] There is no regulatory commission that has jurisdiction over the rates of the Debtors or Reorganized NAPCUS. Therefore, section 1129(a)(6) does not apply to the Chapter 11 Cases. Moreover, no party has objected to the Plan's satisfaction of section 1129(a)(6) .

---

[109] Id.

[110] See Plan Supplement, Ex. G.

[111] 11 U.S.C. § 1129(a)(6).

G. The Plan is in the Best Interests of All the Debtors' Creditors (§ 1129(a)(7)).

88. Section 1129(a)(7), commonly known as the "best interests test," provides, in relevant part:

> With respect to each impaired class of claims or interests —
>
> (A) each holder of a claim or interest of such class —
>
> (i) has accepted the plan; or
>
> (ii) will receive or retain under the plan on account of such claim or interest property of a value, as of the effective date of the plan, that is not less than the amount that such holder would so receive or retain if the debtor were liquidated under chapter 7 of this title on such date….[112]

89. The best interests test applies to individual dissenting holders of claims and interests rather than classes, and is generally satisfied through a comparison of the estimated recoveries for a debtor's stakeholders in a hypothetical chapter 7 liquidation of that debtor's estate against the estimated recoveries under that debtor's plan of reorganization.[113] As section 1129(a)(7) makes clear, the best interests test applies only to holders of non-accepting impaired claims or interests.

90. As further set forth in the Roy Declaration,[114] the Plan satisfies these standards. The Plan contemplates a distribution to two impaired classes that have each accepted the Plan (*i.e.*, Classes 3 and 4) and, as discussed in the Roy Declaration and the Disclosure Statement,

---

[112] 11 U.S.C. § 1129(a)(7)(A).

[113] See Bank of Am., 526 U.S. at 441 n.13 ("The 'best interests' test applies to individual creditors holding impaired claims, even if the class as a whole votes to accept the plan."); see also In re Adelphia Commc'ns. Corp., 368 B.R. 140, 251 (Bankr. S.D.N.Y. 2007) (section 1129(a)(7) is satisfied when an impaired holder of claims would receive "no less than such holder would receive in a hypothetical chapter 7 liquidation."); Century Glove, Inc., 1993 WL 239489, at *7.

[114] See Roy Declaration ¶¶ 7–21.

each holder of a Class 3 or Class 4 Claim will not receive a lower recovery under the Plan than in a chapter 7 liquidation scenario.[115] Therefore, section 1129(a)(7) is satisfied with respect to Classes 3 and 4.

91. Classes 5A and 5B are deemed to reject the Plan. As with Classes 3 and 4, to satisfy the best interests test with respect to Classes 5A and 5B, the Debtors must demonstrate that each interest holder in these Classes will receive at least as much under the Plan as that interest holder would receive in a chapter 7 liquidation.[116] Comparing the Plan's projected recoveries with the Debtors' liquidation analysis contained in **Exhibit D** of the Disclosure Statement (the "Liquidation Analysis") demonstrates that the Plan satisfies the best interests test with respect to Classes 5A and 5B.

92. The Liquidation Analysis clearly demonstrates that the value that may be realized by the holders of Petroflow Interests in Classes 5A and 5B in connection with a disposition of the Debtors' assets in a hypothetical chapter 7 liquidation is significantly less than the value of the recoveries to such Classes provided for under the Plan. Specifically, even under the "high case" in the Liquidation Analysis, in a hypothetical chapter 7 liquidation, holders of Petroflow Interests would only receive approximately $0.07 per share recovery on their existing interests, whereas the Plan provides for an approximate recovery to holders of Petroflow Interests of $0.34 per share. Thus, the distributions to Class 5A and 5B holders under the Plan exceed the distributions under a hypothetical chapter 7 liquidation, satisfying the best interests test.

[115] See Voting Certification, Ex. A; see also Roy Declaration ¶¶ 7 & 20–21 and Disclosure Statement, Art. I.C.

[116] See In re Lason, Inc., 300 B.R. 227, 232 (Bankr. D. Del. 2003) ("Section 1129(a)(7)(A) requires a determination whether 'a prompt chapter 7 liquidation would provide a better return to particular creditors or interest holders than a chapter 11 reorganization.'").

93. Based upon the foregoing, the Plan satisfies the requirements of section 1129(a)(7).

H. The Plan Can be Confirmed Notwithstanding the Requirements of Section 1129(a)(8).

94. Section 1129(a)(8) requires that each class of claims or interests must either accept a plan or be unimpaired under a plan.[117]

95. The two Impaired Classes of Claims entitled to vote on the Plan — Classes 3 and 4 — have voted in favor of the Plan. Holders of Claims in Classes 5A and 5B are deemed to have rejected the Plan under section 1126(g).

96. Thus, while the Plan does not satisfy 1129(a)(8) with respect to Classes 5A and 5B, the Plan is confirmable nonetheless because it satisfies sections 1129(a)(10) and 1129(b), as discussed below in section N.

I. The Plan Provides for Payment in Full of All Allowed Priority Claims (§ 1129(a)(9)).

97. Section 1129(a)(9) requires that persons holding claims entitled to priority under section 507(a) receive specified cash payments under the plan.[118] Unless the holder of a particular claim agrees to a different treatment with respect to such claim, section 1129(a)(9) requires the plan to provide as follows:

> (A) with respect to a claim of a kind specified in section 507(a)(1) or 507(a)(2) of [the Bankruptcy Code], on the effective date of the plan, the holder of such claim will receive on account of such claim cash equal to the allowed amount of such claim;

[117] 11 U.S.C. § 1129(a)(8).

[118] 11 U.S.C. §1129(a)(9).

> (B) with respect to a class of claims of a kind specified in section 507(a)(3), 507(a)(4), 507(a)(5), 507(a)(6) or 507(a)(7) of [the Bankruptcy Code], each holder of a claim of such class will receive —
>
> (i) if such class has accepted the plan, deferred cash payments of a value, as of the effective date of the plan, equal to the allowed amount of such claim; or
>
> (ii) if such class has not accepted the plan, cash on the effective date of the plan equal to the allowed amount of such claim; and
>
> (C) with respect to a claim of a kind specified in section 507(a)(8) of [the Bankruptcy Code], the holder of such claim will receive on account of such claim deferred cash payments, over a period not exceeding six years after the date of assessment of such claim, of a value, as of the effective date of the plan, equal to the allowed amount of such claim.[119]

98. In accordance with sections 1129(a)(9), Section 2.1 of the Plan provides as follows:

> Unless otherwise agreed to by the holder of an Allowed Administrative Claim and the Debtors or Reorganized NAPCUS, as applicable, each holder of an Allowed Administrative Claim (other than holders of Fee Claims and Claims for fees and expenses pursuant to section 1930 of chapter 123 of title 28 of the United States Code), will receive in full and final satisfaction of its Administrative Claim an amount of Cash equal to the amount of such Allowed Administrative Claim either: (a) on the Effective Date, or as soon as practicable thereafter; (b) if the Administrative Claim is not Allowed as of the Effective Date, no later than 30 days after the date on which an order Allowing such Administrative Claim becomes a Final Order, or as soon as reasonably practicable thereafter; or (c) if the Allowed Administrative Claim is based on liabilities incurred by the Debtors in the ordinary course of their business after the Petition Date, pursuant to the terms and conditions of the particular transaction giving rise to such Allowed Administrative Claims,

[119] 11 U.S.C. § 1129(a)(9).

> without any further action by the holders of such Allowed Administrative Claims.[120]

99. Moreover, the Plan satisfies the requirements of section 1129(a)(9)(C) with respect to the treatment of Priority Tax Claims under section 507(a)(8). Section 1129(a)(9)(C) permits deferred payments over a period of six years from the date of assessment of the tax so long as the amount so paid has a value, as of the effective date of the plan, equal to the allowed amount of the priority tax claim.[121] Section 2.2 of the Plan provides as follows:

> Each holder of an Allowed Priority Tax Claim due and payable on or before the Effective Date shall receive, at the sole option of the Debtors or Reorganized NAPCUS, as applicable, one of the following treatments on account of such Claim: (a) Cash in an amount equal to the amount of such Allowed Priority Tax Claim; or (b) Cash in the aggregate amount of such Allowed Priority Tax Claim payable in installment payments over a period not more than five years after the Petition Date pursuant to section 1129(a)(9)(C) of the Bankruptcy Code. To the extent any Allowed Priority Tax Claim is not due and owing on the Effective Date, such Claim shall be paid in full in Cash in accordance with the terms of any agreement between the Debtors and the holder of such Claim, or as may be due and payable under applicable non-bankruptcy law or in the ordinary course of business.[122]

100. Based upon the foregoing, the Plan satisfies the requirements of section 1129(a)(9).

J. At Least One Class of Impaired, Non-Insider Claims Will Have Accepted the Plan (§ 1129(a)(10)).

101. Section 1129(a)(10) is an alternative requirement to section 1129(a)(8)'s requirement that each class of claims or interests must either accept the plan or be unimpaired

---

[120] Plan, Sec. 2.1.

[121] See 11 U.S.C. § 1129(a)(9)(C).

[122] Plan, Sec. 2.2.

under the plan.[123] Section 1129(a)(10) provides that to the extent there is an impaired class of claims, at least one impaired class of claims must accept the plan, "without including any acceptance of the plan by any insider."[124]

102. As set forth in the Voting Certification, when excluding accepting votes of insiders, both Class 3 and Class 4 each still had the majorities in amount and number required to approve the Plan.[125] Accordingly, the Plan satisfies the requirements of section 1129(a)(10).

K. The Plan Is Feasible (§ 1129(a)(11)).

103. Section 1129(a)(11) requires that the bankruptcy court find that a plan is feasible as a condition precedent to confirmation. Specifically, the Court must determine that:

> Confirmation of the plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of the debtor or any successor to the debtor under the plan, unless such liquidation or reorganization is proposed in the plan.[126]

104. As described below and in the Roy Declaration,[127] the Plan is feasible within the meaning of this provision. Notably, no party has contested the feasibility of the Plan.

105. To demonstrate that a plan is feasible, it is not necessary that success be guaranteed.[128] Rather, a bankruptcy court must determine whether a plan is workable and has a reasonable likelihood of success.[129]

---

[123] 11 U.S.C. § 1129(a)(10).

[124] 11 U.S.C. § 1129(a)(10); see In re Martin, 66 B.R. 921, 924 (Bankr. D. Mont. 1986) (where three classes of impaired creditors accepted plan, exclusive of insiders, requirement of section 1129(a)(10) was satisfied).

[125] See Voting Certification, Ex. A.

[126] 11 U.S.C. § 1129(a)(11).

[127] See Roy Declaration ¶¶ 22–24.

[128] See U.S. v. Energy Res. Co., Inc., 495 U.S. 545, 549 (1990); Internal Revenue Serv. v. Kaplan (In re Kaplan), 104 F.3d 589, 597 (3d Cir. 1997); see also In re U.S. Truck Co., Inc., 47 B.R. 932, 944 (E.D. Mich. 1985)
(Continued…)

106. The key element of feasibility is whether there exists a reasonable probability that the provisions of the plan can be performed. The purpose of the feasibility test is to protect against visionary or speculative plans. As has been noted by courts:

> The purpose of section 1129(a)(11) is to prevent confirmation of visionary schemes which promise creditors and equity security holders more under a proposed plan than the debtor can possibly attain after confirmation.[130]

However, just as speculative prospects of success cannot sustain feasibility, speculative prospects of failure cannot defeat feasibility. The mere prospect of financial uncertainty cannot defeat confirmation on feasibility grounds.[131]

107. Importantly, "the feasibility inquiry is peculiarly fact intensive and requires a case by case analysis, using as a backdrop the relatively low parameters articulated in the statute . . . . There is a relatively low threshold of proof necessary to satisfy the feasibility requirement."[132] Specifically, in assessing feasibility, courts consider a number of probative factors, including the soundness and adequacy of the capital structure and working capital for the business in which the

("'Feasibility' does not, nor can it, require the certainty that a reorganized company will succeed."), aff'd, 800 F.2d 581 (6th Cir. 1986).

129 See U.S. v. Energy Res., 495 U.S. at 549; In re Kaplan, 104 F.3d at 597; see also Mercury Cap. Corp. v. Milford Conn. Assocs., L.P., 354 B.R. 1, 9 (D. Conn. 2006) (A "'relatively low threshold of proof' will satisfy the feasibility requirement.") (quoting In re Brotby, 303 B.R. 177, 191 (B.A.P. 9th Cir. 2003)).

130 Pizza of Haw., Inc. v. Shakey's, Inc. (In re Pizza of Haw., Inc.), 761 F.2d 1374, 1382 (9th Cir. 1985) (quoting 5 COLLIER ON BANKRUPTCY ¶ 1129.02 at 1129-34 (15th ed. 1984)).

131 See In re U.S. Truck Co., Inc., 47 B.R. 932, 944 (E.D. Mich. 1985).

132 Mercury Cap. Corp. v. Milford Conn. Assocs., L.P., 354 B.R. 1, 9 (D. Conn. 2006), remanded, 2008 WL 687266 (Bankr. D. Conn. Mar. 10, 2008), stay denied, 2008 WL 2003118 (Bankr. D. Conn. May 7, 2008), appeal denied, 2008 WL 2079126 (D. Conn. May 16, 2008) ("[A] 'relatively low threshold of proof' will satisfy the feasibility requirement.") (quoting In re Brotby, 303 B.R. 177, 191–92 (B.A.P. 9th Cir. 2003)); Berkeley Fed. Bank & Trust v. Sea Garden Motel and Apartments (In re Sea Garden Motel and Apartments), 195 B.R. 294, 304–05 (D.N.J. 1996); In re Eddington Thread Mfg. Co., 181 B.R 826, 833 (Bankr. E.D. Pa. 1995) ("[T]he feasibility inquiry is peculiarly fact intensive and requires a case by case analysis, using as a backdrop the relatively broad parameters articulated in the statute.").

debtor will engage post-confirmation, the prospective availability of credit, whether the reorganized debtor will have the ability to meet its requirements for capital expenditures and economic and market conditions.[133]

108. An analysis of these factors in the Chapter 11 Cases indicates that the Plan is feasible. As noted in the Roy Declaration,[134] the Debtors have carefully analyzed their ability to meet their obligations under the Plan post-Confirmation and post-emergence and submit that Confirmation and consummation of the Plan is not likely to be followed by liquidation or the need for further reorganization.

109. Indeed, as part of analyzing their ability to fulfill their obligations under the Plan, the Debtors have prepared projections of their future financial results attached to the Disclosure Statement as **Exhibit E** (the "Financial Projections").[135] Based upon information contained in the Financial Projections, and other information set forth in the Disclosure Statement, after making all payments required pursuant to the Plan, Reorganized NAPCUS will be a competitive, viable operating entity, not likely to follow these chapter 11 cases with liquidation or need for further financial reorganization. Accordingly, the Plan satisfies section 1129(a)(11).

L. All Statutory Fees Have Been or Will Be Paid (§ 1129(a)(12)).

110. Section 1129(a)(12) requires the payment of "[a]ll fees payable under section 1930 [of title 28 of the United States Code], as determined by the court at the hearing on

---

133 See, e.g., In re Worldcom, Inc., 2003 WL 23861928, at *58; Teamsters Nat'l Freight Indus. Negotiating Comm. v. U.S. Truck Co. (In re U.S. Truck Co.), 800 F.2d 581, 589 (6th Cir. 1986); In re Repurchase Corp., 332 B.R. 336, 342 (Bankr. N.D. Ill. 2005), aff'd, 2008 WL 4379035 (N.D. Ill, Mar. 24, 2008).

134 See Roy Declaration ¶¶ 22–23.

135 See Disclosure Statement, Ex. E.

confirmation of the plan."[136] Section 507 provides that "any fees and charges assessed against the estate under [section 1930 of] chapter 123 of title 28" are afforded priority as administrative expenses.[137] In accordance with sections 507 and 1129(a)(12), Section 13.2 of the Plan provides that all such fees and charges, to the extent not previously paid, will be paid for until the Chapter 11 Cases are converted, dismissed or closed, whichever occurs first. Thus, the Plan satisfies the requirements of section 1129(a)(12).

M. Sections 1129(a)(13) Through Sections 1129(a)(16) Do Not Apply to the Plan.

111. Section 1129(a)(13) requires that all retiree benefits continue to be paid post-confirmation at any levels established in accordance with section 1114 of the Bankruptcy Code.[138] As set forth in the Plan, on and after the Effective Date, all retiree benefits (as such term is used in section 1114)[139] shall continue to be paid in accordance with applicable law.[140]

112. Section 1129(a)(14) relates to the payment of domestic support obligations.[141] The Debtors are not subject to any domestic support obligations and, therefore, the requirements of section 1129(a)(14) do not apply.

---

[136] 11 U.S.C. § 1129(a)(12).

[137] 11 U.S.C. § 507(a)(1).

[138] 11 U.S.C. § 1129(a)(13).

[139] Under section 1114 "'retiree benefits' means payments to any entity or person for the purpose of providing or reimbursing payments for retired employees and their spouses and dependents, for medical, surgical, or hospital care benefits, or benefits in the event of sickness, accident, disability, or death under any plan, fund, or program (through the purpose of insurance or otherwise) maintained or established in whole or in part by the debtor prior to filing a petition commencing a case under [chapter 11]." 11 U.S.C. § 1114(a).

[140] <u>See</u> Plan, Sec. 4.15.

[141] 11 U.S.C. § 1129(a)(14).

113. Section 1129(a)(15) applies only in cases in which the debtor is an "individual" as defined in the Bankruptcy Code.[142] None of the Debtors are an "individual" and, therefore, the requirements of section 1129(a)(15) do not apply.

N. The Plan Satisfies the "Cram Down" Requirements of Section 1129(b) of the Bankruptcy Code.

114. Section 1129(b) provides that if all applicable requirements of section 1129(a) are met other than section 1129(a)(8), a plan may be confirmed so long as the requirements set forth in section 1129(b) are satisfied.[143] To confirm a plan that has not been accepted by all impaired classes (thereby failing to satisfy section 1129(a)(8)), the plan proponent must show that the plan is "fair and equitable" and "does not discriminate unfairly" with respect to the non-accepting impaired classes.[144]

115. All Classes of Claims are deemed to accept the Plan or have voted to accept the Plan. As a result, the only non-accepting impaired classes under the Plan are Class 5A Petroflow Emergence Interests and Class 5B Petroflow Other Interests, which under the Plan are deemed to have rejected the Plan. As discussed below, the Debtors meet the requirements of section 1129(b) to "cram down" the Plan over the deemed rejection of Classes 5A and 5B.

i. The Plan Is Fair and Equitable (§ 1129(b)(2)(C)(ii)).

116. A plan is "fair and equitable" with respect to an impaired class interests that rejects a plan (or is deemed to reject a plan) if a class junior to the impaired rejecting class of

---

[142] 11 U.S.C. § 1129(a)(15).

[143] See 11 U.S.C. § 1129(b)(1).

[144] See John Hancock Mutual Life Ins. Co. v. Route 37 Bus. Park Assocs., 987 F.2d 154, 157 n.5 (3d Cir. 1993); see also In re Ambanc La Mesa L.P., 115 F.3d 650, 653 (9th Cir. 1997) ("the [p]lan satisfies the 'cramdown' alternative . . . found in 11 U.S.C. § 1129(b), which requires that the [p]lan 'does not discriminate unfairly' and 'is fair and equitable' towards each impaired class that has not accepted the [p]lan.").

interests does not receive any distribution under a plan on account of its junior claim or interest.[145]

117. Here, the Impaired Classes of Interests that are deemed to reject the Plan under the provisions of the Bankruptcy Code are Classes 5A and 5B. Under the Plan, no Classes junior to these Classes will receive any recovery under the Plan. Thus, the Plan is fair and equitable with respect to Classes 5A and 5B as required by section 1129(b)(2)(C)(ii) because no holder of any Claim or Interest that is junior to the Class 5A or 5B Interests will receive or retain any property under the Plan on account of such junior Claim or Interest.

118. Further and notably, as described in greater detail above, holders of Interests in Classes 5A and 5B will receive more under the Plan than they otherwise would in a chapter 7 liquidation (satisfying the Debtors' obligation to comply with the so-called best interests test). Accordingly, the Debtors submit that the Plan is fair and equitable with respect to these Classes.

ii. The Plan Does Not Unfairly Discriminate with Respect to the Impaired Classes that Have Not Voted to Accept the Plan (§ 1129(b)(1)).

119. The Plan does not discriminate unfairly with respect to Classes 5A and 5B. Although the Bankruptcy Code does not provide a standard for determining when "unfair discrimination" exists, courts typically examine the facts and circumstances of the particular case to make the determination.[146] In general, courts have held that a plan unfairly discriminates in

[145] 11 U.S.C. § 1129(b)(2)(C)(ii).

[146] See In re 203 N. LaSalle St. Ltd. P'ship., 190 B.R. 567, 585 (Bankr. N.D. Ill. 1995), rev'd on other grounds, Bank of Am., 526 U.S. 434 (1999) (noting "the lack of any clear standard for determining the fairness of a discrimination in the treatment of classes under a Chapter 11 plan" and that "the limits of fairness in this context have not been established."); see also In re Bowles, 48 B.R. 502, 507 (Bankr. E.D. Va. 1985) ("[W]hether or not a particular plan does so [unfairly] discriminate is to be determined on a case-by-case basis."); see also In re Freymiller Trucking, Inc., 190 B.R. 913, 916 (Bankr. W.D. Okla. 1996) (holding that a determination of (Continued…)

violation of section 1129(b) only if it provides materially different treatment for creditors and interest holders with similar legal rights without compelling justifications for doing so.[147]

120. The Debtors submit, as further set forth in section I.A.ii above, that the different treatment provided to Class 5B holders is more than justified by the benefits to be provided to Reorganized NAPCUS (*i.e.*, maintaining status as non-reporting company and preserving valuable liquidity for operations) subsequent to the Effective Date. Any discrimination as between the holders of Class 5A Interests (*i.e.*, the Petroflow Emergence Interests) and the holders of Class 5B Interests (*i.e.*, the Petroflow Other Interests) is therefore supported by valid business justifications for separate classification of holders of Petroflow Interests.[148]

121. As set forth in the Schott Declaration,[149] the Debtors believe that separate classification of Class 5A Interests from Class 5B Interests is necessary to ensuring Reorganized NAPCUS' ability to function profitably subsequent to emergence and is reasonable under the circumstances and justified by valid and compelling business purposes.[150] Indeed, absent

---

unfair discrimination requires a court to "consider all aspects of the case and the totality of all the circumstances").

[147] See, e.g., re Rubicon U.S. REIT, Inc., 434 B.R. 168, 175 (Bankr. D. Del. 2010) (noting courts generally look to whether "[v]alid business, factual, and legal reasons exist for separately classifying the various Classes of Claims and Equity."); In re Coram Healthcare Corp., 315 B.R. 321 (Bankr. D. Del. 2004) (citing cases and noting that separate classification and treatment of claims is acceptable if the separate classification is justified because such claims are essential to a reorganized debtor's ongoing business); In re Lernout & Hauspie Speech Products, N.V., 301 B.R. 651, 661 (Bankr. D. Del. 2003) (permitting different treatment of two classes of similarly situated creditors upon a determination that the debtors showed a legitimate basis for such discrimination)*;* In re Ambanc, 115 F.3d at 655; In re Aztec Co., 107 B.R. 585, 589-91 (Bankr. M.D. Tenn. 1989); In re Johns-Manville Corp., 68 B.R. 618, 636 (Bankr. S.D.N.Y. 1986).

[148] Rubicon U.S. REIT, 434 B.R. at 175 (noting courts generally look to whether "[v]alid business, factual, and legal reasons exist for separately classifying the various Classes of Claims and Equity.").

[149] See Schott Declaration ¶¶ 55–56.

[150] In re Snyders Drug Stores, Inc., 307 B.R. 889 (Bankr. N.D. Ohio 2004) (stating that need of Debtors to maintain goodwill for future operations is recognized as a legitimate reason for classifying similar claims in separate classes); Aetna &Sur. Co. v. Chateaugay Corp. (In re Chateaugay Corp.), 89 F.3d 942, 949 (2d Cir. 1996)
(Continued…)

limitation on the immediate number of post-emergence holders of Reorganized NAPCUS Common Stock, which the current classification scheme achieves, the Debtors would be subject to, and required to comply with, costly public company reporting requirements under Canadian and U.S. securities laws that, as described more particularly in section I.A.ii above, would divert a significant amount of liquidity from the Debtors' operations and likely materially diminish the distributable value available to creditors and shareholders. To avoid this negative result, maintenance of non-reporting status (as the Debtors will achieve here) generally has been recognized as a valid reason for separate classification of similar claims in bankruptcy courts, including in this district.[151]

122. Thus, the Plan does not discriminate unfairly pursuant to section 1129(b)(1). The Plan's treatment of Claims and Interests is proper because all similarly situated holders of Claims and Interests will either receive substantially similar treatment or will only receive different treatment when justified by a reasonable basis.

123. Further, as discussed in the Schott Declaration,[152] the Debtors worked with the Equity Committee to ensure that the Plan is structured to distribute as much Reorganized NAPCUS Common Stock as possible on the Effective Date and protect the economic interests of

---

(holding debtors generally need only show they have a legitimate business reason to justify separate classification).

151 For example, in In re Constar International Inc., Case No. 11-10109 (CSS) (Bankr. D. Del. May 20, 2011), the court confirmed a plan in which the debtors had created a convenience class for "the purpose of . . . avoid[ing] the trouble and expense of complying with public registration requirements" and to ensure that the debtors would remain "a prviate company," thereby avoiding "the administrative costs of being a reporting company after emergence." See *Memorandum in Support of Confirmation*, at 5–6, Constar, Case No. 11-10109 (CSS) (Bankr. D. Del. May 18, 2011). See also Piece Goods Shops Co., 188 B.R. at 788–89 (approving classification scheme in which two convenience classes were created — one for general unsecured claims less than $200 and one for general unsecured claims above $200 and less than $2,500 — to reduce the number of future stock holders to avoid the costs of public reporting requirements set forth in securities regulations).

152 See Schott Declaration ¶ 56.

Class 5B holders by ensuring that they receive their recoveries in a timely manner, obtain adequate information of post-emergence events and are able to participate in any post-emergence liquidity events undertaken by Reorganized NAPCUS. With these Plan protections in place and recognizing the importance of preserving liquidity for operations in order to maximize stakeholder value, the Equity Committee has supported the Debtors' Petroflow Interests classification scheme as indicated in the statement of support they filed on July 22, 2011.[153]

124. Thus, given that the Plan does not unfairly discriminate with respect to Classes 5A and 5B and, as discussed above, is fair and equitable with respect to these Classes, the Plan may be confirmed notwithstanding the deemed rejection of the Plan by Classes 5A and 5B.

O. The Debtors Have Complied with Section 1129(d) of the Bankruptcy Code.

125. The purpose of the Plan is not to avoid taxes or the application of section 5 of the Securities Act of 1933. Moreover, no governmental unit or any other party has requested that the Court decline to confirm the Plan on such grounds. Accordingly, the Plan satisfies the requirements of section 1129(d).

II. THERE ARE NO OUTSTANDING OBJECTIONS TO CONFIRMATION OF THE PLAN.

126. The Debtors received only one objection to the Plan. As described below, the Debtors have resolved this objection and, therefore, there are no outstanding or unresolved objections to confirmation of the Plan.

[153] See Docket No. 951.

A. Resolved Objection of the Internal Revenue Service (the "IRS") [Docket No. 1036].

127. The IRS filed an objection to the Plan; (a) asserting that its rights should not be enjoined or impaired on account of the Plan's discharge, release and injunction provisions, that its setoff and recoupment rights should be preserved and that it should not be subject to the administrative claims bar date proposed in the Plan; and (b) objecting to the treatment of any priority claim the IRS may hold and the application of the automatic stay as set forth in the Plan to the extent it extends beyond the period provided for by section 362 of the Bankruptcy Code [Docket No. 1036].

128. The Debtors and the IRS reached a consensual resolution, and the Debtors included language in paragraph 108 of the proposed Confirmation Order, filed contemporaneously herewith, that the IRS agreed has resolved its objection.

WAIVER OF BANKRUPTCY RULES REGARDING STAY OF ORDER

129. To ensure they are able to consummate the Investment Agreements and receive the Investment Commitment proceeds in a timely manner and promptly distribute stakeholder recoveries, the Debtors seek to implement the Plan as expeditiously as possible. Accordingly, the Debtors seek a waiver of any stay of an order granting the relief requested herein pursuant to Bankruptcy Rule 6004(h), 7062, 9014 or otherwise.

CONCLUSION

130. Based on the foregoing, the Debtors respectfully submit that the Plan complies with and satisfies all of the requirements of section 1129 of the Bankruptcy Code, and therefore, should be confirmed.

[Remainder of page intentionally left blank.]

Dated: September 9, 2011

/s/ Domenic E. Pacitti

KLEHR HARRISON HARVEY BRANZBURG LLP
Domenic E. Pacitti (DE Bar No. 3989)
Margaret M. Manning (DE Bar No. 4183)
919 Market Street, Suite 1000
Wilmington, Delaware 19801-3062
Telephone: (302) 426-1189
Facsimile: (302) 426-9193

- and -

Morton Branzburg (admitted *pro hac vice*)
1835 Market Street, Suite 1400
Philadelphia, Pennsylvania 19103
Telephone: (215) 569-2700
Facsimile: (215) 568-6603

- and -

KIRKLAND & ELLIS LLP
David R. Seligman, P.C. (admitted *pro hac vice*)
Ryan Blaine Bennett (admitted *pro hac vice*)
Paul Wierbicki (admitted *pro hac vice*)
300 North LaSalle
Chicago, Illinois 60654
Telephone: (312) 862-2000
Facsimile: (312) 862-2200

Counsel to the Debtors and Debtors in Possession

EXHIBIT A

Schott Declaration

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	)	Chapter 11
NORTH AMERICAN PETROLEUM CORPORATION USA, *et al.*,[1]	)	Case No. 10-11707 (CSS)
Debtors.	)	Jointly Administered

DECLARATION OF LOUIS G. SCHOTT IN SUPPORT OF CONFIRMATION OF THE FIRST AMENDED JOINT CHAPTER 11 PLAN OF NORTH AMERICAN PETROLEUM CORPORATION USA, *ET AL*.

I, Louis G. Schott, being duly sworn, state the following under penalty of perjury.

1. I am in-house counsel and a corporate officer for North American Petroleum Corporation USA, one of the above-captioned debtors and debtors in possession (collectively, the "Debtors"). I have held this position since November 2005, and have been employed by the Debtors in various capacities since June 2005. I received a Bachelor of Business Administration in Management from Loyola University New Orleans in 1987. I then received Juris Doctor and Master of Business Administration degrees from Tulane University in 1992.

2. Based on my employment with the Debtors and in connection with my service as in-house counsel, I am intimately familiar with the businesses of the Debtors as well as their current operations and financial performance and their projected future operations and financial performance.

[1] The Debtors in the above-captioned chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number or Canadian corporation number, include: North American Petroleum Corporation USA ("NAPCUS") (9766); Prize Petroleum LLC (2460); and Petroflow Energy Ltd. ("Petroflow") (517-5). The location of the Debtors' corporate headquarters and the Debtors' service address is: 525 South Main Street, Suite 1120, Tulsa, Oklahoma 74103, Attn.: Louis G. Schott.

3. In my role as in-house counsel, I am responsible generally for the management and oversight of all aspects of the restructuring of the Debtors. I am generally familiar with the Debtors' day-to-day operations, businesses, affairs and books and records, and I have played an active role in the formulation of the Debtors' business plan and plan of reorganization. Accordingly, I am familiar with the terms of the Debtors' plan of reorganization and the negotiation and development thereof.

4. I submit this declaration in support of confirmation of the *First Amended Joint Chapter 11 Plan of North American Petroleum Corporation USA, et al.* [Docket No. 970] (as may be modified or amended from time to time, the "Plan") and as part of the *Memorandum of Law (I) in Support of the First Amended Joint Chapter 11 Plan of North American Petroleum Corporation USA, et al. and (II) Describing Resolution of Objection Thereto*, filed contemporaneously herewith. All matters set forth in this declaration are based on: (a) my personal knowledge or information relayed to me by personnel of the Debtors who report to me; (b) my review of relevant documents; (c) my view, based upon my experience and knowledge of the Debtors' business and financial condition; or (d) as to matters involving United States bankruptcy law or rules or other applicable laws, my reliance on the advice of counsel to the Debtors. If I were called upon to testify, I could and would testify competently to the facts set forth herein.

I. Background to Developing the Plan.

5. The Debtors commenced these cases over fifteen months ago in the midst of disputes pending among them, their prepetition bank lenders and Enterra Energy Corp. and certain of its affiliates (now known as Equal Energy Corp.) ("Equal Energy"), their largest business partner. Two months into the cases, in July 2010, the Debtors and their prepetition bank lenders separately commenced adversary proceedings against Equal Energy seeking,

among other things, to recharacterize certain leasing obligations as ownership rights in certain saltwater disposal infrastructure, while also seeking to recover certain prepetition transfers from Equal Energy. Throughout 2010 and early 2011, unable to reach a consensual resolution, the parties proceeded to trial in the adversary proceedings.

6. On March 4, 2011, the Court issued an order on certain adversary proceeding counts that provided an impetus for the parties to re-engage in negotiations that resulted in a full settlement of all disputes and allowed the Debtors to formulate a viable chapter 11 plan. The Debtors, their prepetition bank lenders and Equal Energy were able to reach a global settlement (the "Global Settlement") in April 2011 under which the Debtors transferred certain assets to Equal Energy, received proceeds that were paid to the bank lenders to fully resolve their claims. In return, Equal Energy and the prepetition lenders agreed to full and final release and discharge of all claims against the Debtors and the parties mutually agreed to dismiss the pending adversary proceedings. Consummation of the Global Settlement in June 2011 was the final hurdle to filing a confirmable plan. Shortly thereafter, the Debtors filed the Plan and Disclosure Statement.

7. The Plan is the result of good faith negotiations among the Debtors, the Creditors' Committee and the Equity Committee. The Plan enables the Debtors to emerge from these cases as a going concern business with sufficient liquidity and financial resources to effectively implement their post-emergence business plan.

8. Among other things, confirmation of the Plan will provide the Debtors $3 million in new capital in exchange for issuance of certain preferred stock, which, along with Cash on hand, will be used to fund distributions under the Plan. Moreover, the proposed Plan provides for payment in full, in either Cash or preferred stock, to holders of General Unsecured Claims.

Current equity interests in Petroflow will be cancelled, with holders of Petroflow Interests receiving Reorganized NAPCUS Common Stock or Cash, as further provided in the Plan. In light of these benefits, I believe confirmation and consummation of the Plan is in the best interests of the Debtors and their estates and stakeholders, which, I believe is affirmed by the lack of any objections to confirmation of the Plan from any claim or interest holder.

II. The Plan Satisfies and Complies with Section 1129 of the Bankruptcy Code.

A. The Plan Complies with the Applicable Provisions of the Bankruptcy Code as Required by Section 1129(a)(1) of the Bankruptcy Code.

9. I believe, based on knowledge and advice, that the Plan complies with all applicable provisions of the Bankruptcy Code as required by section 1129(a)(1) of the Bankruptcy Code, including sections 1122 and 1123(a)(1) of the Bankruptcy Code.

10. Further, based on my understanding, knowledge and advice received from the Debtors' professionals, I believe that Articles III and IV and various other provisions of the Plan satisfy the six other mandatory requirements of section 1123(a) of the Bankruptcy Code (*i.e.*, section 1123(a)(2)-(7) of the Bankruptcy Code).

11. Finally, based on knowledge and advice provided by the Debtors' professionals, I believe that Article VIII and other discretionary provisions of the Plan are consistent with section 1123(b) of the Bankruptcy Code.

1. The Plan Properly Classifies Claims and Equity Interests As Required by Section 1122 and Section 1123(a)(1) of the Bankruptcy Code.

12. The Plan's classification scheme is as provided in the chart below. Based on the advice and guidance provided to me by the Debtors' advisors, I believe that this classification scheme satisfies sections 1122 and 1123(a)(1) of the Bankruptcy Code.

Class	Claim or Interest	Status	Voting Rights
1	Secured Claims	Unimpaired	Deemed to Accept
2	Other Priority Claims	Unimpaired	Deemed to Accept
3	Petroflow General Unsecured Claims	Impaired	Entitled to Vote
4	NAPCUS General Unsecured Claims	Impaired	Entitled to Vote
5A	Petroflow Emergence Interests	Impaired	Deemed to Reject
5B	Petroflow Other Interests	Impaired	Deemed to Reject

13. I believe that the methodology of Claims classification employed in the Plan satisfies the classification requirements of section 1122 of the Bankruptcy Code because each Class differs from each other Class in legal or factual nature or based on other relevant criteria. In part, the Plan's classification scheme follows the Debtors' capital structure: debt and equity are classified separately and secured debt (Class 1) is classified separately from unsecured debt (Classes 3 and 4). Other aspects of the classification scheme are reasonably related to the different legal or factual nature of each Class. For example, Priority Claims (Class 2) are classified separately due to their required treatment under the Bankruptcy Code. Further, the Debtors' Unsecured Claims are divided into two separate Classes (Classes 3 and 4) and subject to different treatment on the basis that holders of NAPCUS General Unsecured Claims hold their Claims against the Debtors' main operating entity (*i.e.*, NAPCUS), while holders of Petroflow General Unsecured Claims hold their Claims only against the Debtors' Canadian parent entity, Petroflow. Finally, as discussed more fully below, Class 5A and Class 5B are reasonably and properly classified separately for legitimate business reasons.

2. The Plan's Separate Classification of Class 5A and Class 5B Interests is Reasonable Under the Circumstances and Has a Rational Basis as Required by Section 1122 and Section 1123(a)(1) of the Bankruptcy Code.

14. The Debtors have separately classified Petroflow Interests into two classes, Class 5A and Class 5B, to ensure that Reorganized NAPCUS is a private company not subject to

public reporting obligations imposed by U.S. or Canadian securities laws upon chapter 11 emergence. The Debtors believe this separate classification is necessary to preserve valuable liquidity for operations. Absent separate classification of the Petroflow Interests, Reorganized NAPCUS would be immediately subject to public reporting obligations upon emergence given that it would have over 29 million outstanding common shares and more than 4,000 common shareholders.

15. The Debtors estimate it would cost Reorganized NAPCUS approximately $550,000 to be able to comply with public company reporting requirements in the U.S. and Canada upon emergence from chapter 11. This amount represents more than ten percent of Reorganized NAPCUS's estimated $4.9 million of initial post-emergence working capital. Diverting that much liquidity from operations likely would impair Reorganized NAPCUS's ability to effectively implement its post-emergence business plan and maintain competitive value-maximizing operations. To avoid this negative result, the Debtors separately classified Petroflow Interests into two classes to ensure that Reorganized NAPCUS remained a private company, not subject to public reporting obligations, upon emergence from chapter 11.

16. I understand that the Equity Committee supports the separate classification of Petroflow Interests set forth in the Plan. As indicated in its statement in support of approval of the Debtors' disclosure statement, the Equity Committee recognized that the costs Reorganized NAPCUS would have to incur to comply with public reporting obligations likely would materially harm its business prospects and jeopardize its ability to maximize value. The Debtors worked with the Equity Committee to structure the Plan to distribute as much Reorganized NAPCUS Common Stock as possible on the Effective Date and protect the economic interests of Class 5B holders by ensuring that they receive their recoveries in a timely manner, obtain

adequate information of post-emergence events and are able to participate in any post-emergence liquidity events undertaken by Reorganized NAPCUS. Accordingly, I believe that the Plan's separate classification of Class 5A Interests and Class 5B Interests is reasonable and supported by compelling business justification.

3. The Plan Specifies Unimpaired and Impaired Classes as Required by Section 1123(a)(2) and (3) of the Bankruptcy Code.

17. By designating Classes of Claims and Interests, specifying the Classes of Claims that are Unimpaired under the Plan and specifying the treatment of each Class of Claims and Interests that is Impaired, I believe, based on knowledge and the advice of the Debtors' professionals, that the Plan satisfies section 1123(a)(2) and (3) of the Bankruptcy Code.

4. The Plan Provides the Same Treatment to Each Holder in a Particular Class as Required by Section 1123(a)(4) of the Bankruptcy Code.

18. I further understand that Article III of the Plan, in compliance with section 1123(a)(4) of the Bankruptcy Code, treats each Claim or Interest within each Class the same as each other Claim or Interest in that Class, unless the holder of a particular Claim or Interest has agreed to a less favorable treatment with respect to such Claim or Interest.

5. The Plan Provides for Adequate Means of Implementation as Required by Section 1123(a)(5) of the Bankruptcy Code.

19. I believe that Article IV of the Plan provides adequate means for the Plan's implementation, thus satisfying section 1123(a)(5) of the Bankruptcy Code, relating to, among other things: (a) dissolution of Debtors Prize Petroleum LLC and Petroflow with Reorganized NAPCUS as the sole surviving reorganized Debtor; (b) consummation of the Investment Agreements under which Reorganized NAPCUS will obtain new capital; (c) allowance of all corporate action necessary to effectuate the Plan; (d) description of consideration for Plan distributions, including the Investment Commitment; (e) issuance and

distribution of Reorganized NAPCUS Common Stock and Reorganized NAPCUS Convertible Preferred Stock; (f) vesting of all of the Debtors' property in Reorganized NAPCUS upon the Effective Date; (g) preservation of certain Causes of Action; (h) cancellation of certain existing securities; (i) exemption of the issuance of new securities from registration requirements under applicable securities laws pursuant to section 1145 of the Bankruptcy Code; (j) adoption of the Reorganized NAPCUS Charter and Reorganized NAPCUS Bylaws; (k) appointment of the Reorganized NAPCUS Board; and (l) implementation of the Management Equity Plan. The Debtors have published in their Plan Supplement many of the documents necessary to implement the Plan.

20. Moreover, in light of available cash on hand and proceeds from the Investment Commitment, I believe that Reorganized NAPCUS will have, immediately upon the Effective Date, sufficient Cash to make all payments required to be made on the Effective Date pursuant to the terms of the Plan.

6. The Plan Prohibits the Issuance of Non-Voting Securities in Reorganized NAPCUS as Required by Section 1123(a)(6) of the Bankruptcy Code.

21. It is my understanding that the Reorganized NAPCUS Charter, which was attached as an exhibit to the Debtors' Plan Supplement, prohibits the issuance of non-voting equity stock, thus satisfying the requirements of section 1123(a)(6) of the Bankruptcy Code. As reflected in the Reorganized NAPCUS Charter, the Plan contemplates distribution of one class of common stock—the Reorganized NAPCUS Common Stock—and three class of preferred stock—the Reorganized NAPCUS Series A Convertible Preferred Stock, the Reorganized NAPCUS Series B Convertible Preferred Stock and the Reorganized NAPCUS Series C Convertible Preferred Stock. Each of these securities has certain voting rights as set forth in the Reorganized NAPCUS Charter.

7. The Plan Provides for the Selection of Directors and Officers as Required by Sections 1123(a)(7) and 1129(a)(5) of the Bankruptcy Code.

22. It is my further understanding that the Plan fulfills the requirement of section 1123(a)(7) of the Bankruptcy Code that a plan of reorganization "contain only provisions that are consistent with the interests of creditors and equity security holders and with public policy with respect to the manner of selection of any officer, director, or trustee." I likewise believe that the Plan comports with the requirements of section 1129(a)(5) of the Bankruptcy Code, which, as I understand it, directs a court to scrutinize the methods by which the management of the reorganized company is to be chosen. The documents contained in the Plan Supplement provide for a method for appointing the Reorganized NAPCUS Board, as well as the officers of Reorganized NAPCUS, that comports with sections 1123(a)(7) and 1129(a)(5) of the Bankruptcy Code. Additionally, Reorganized NAPCUS's initial board of directors and officers are each set forth in the Plan Supplement. Each director and officer shall serve from and after the Effective Date pursuant to applicable law, the terms of the Reorganized NAPCUS Charter and the Reorganized NAPCUS Bylaws and any other applicable organizational documents.

8. The Plan Contains Certain Discretionary Provisions Consistent with Section 1123(b) of the Bankruptcy Code.

23. I have been advised that each provision of the Plan is consistent with section 1123(b) of the Bankruptcy Code, which identifies various discretionary provisions that a plan of reorganization may, but need not, include.

24. I understand that the Plan provides that its provisions shall constitute a good faith compromise of all Claims, Interests and controversies relating to the contractual, legal and subordination rights that a holder of a Claim or Interest may have with respect to any

Allowed Claim or Interest, or any distribution to be made on account of such Allowed Claim or Interest. Based on the advice of the Debtors' professionals, I believe that such compromise or settlement is in the best interests of the Debtors, their Estates and holders of Claims and Interests and is fair, equitable and reasonable.

25. I also understand that the Plan is consistent with section 1123(b) of the Bankruptcy Code. Specifically, pursuant to Article III of the Plan, Classes 1 and 2 are rendered Unimpaired because the Plan leaves unaltered the legal, equitable and contractual rights of such holders and such Claims. Further, Classes 3 through 5B are Impaired, as the Plan modifies the rights of the holders of such Claims and Interests as contemplated in section 1123(b)(1) of the Bankruptcy Code.

26. It is my further understanding that the releases provided by the Debtors under Article VIII of the Plan are consistent with section 1123(b)(3)(A) of the Bankruptcy Code. I have been advised that the Debtors simply propose to release those parties that have participated in good-faith negotiations and helped implement the comprehensive restructuring Plan through, among other things, resolution of their outstanding Claims or formulation of the Plan.

27. Certain of the Released Parties include the Debtors' current and former officers, directors, employees and professionals, each of whom made significant contributions during and prior to the Chapter 11 Cases in preserving value for the Debtors and, ultimately, to formulating and negotiating a confirmable plan. The Debtors maintain insurance policies for their current directors, officers and employees in addition to various indemnification agreements between such parties, such that a judgment against a director, officer, employee or professional must, in certain circumstances, be reimbursed by the Debtors. Thus, a claim against any of these entities is effectively a claim against the Debtors.

28. The Released Parties, which also include the Equity Committee and Creditors' Committee members, worked consensually to achieve a value-maximizing solution to the Debtors' restructuring goals, in part, on the basis that they would receive customary exchanges pursuant to the Plan. I believe that further delay to plan confirmation due to refusal by such parties to compromise on key Plan issues likely would reduce value and threaten the Debtors' post-emergence operations. I therefore believe that the Plan's release provisions constitute an important component to the consensus reached in Plan negotiations.

29. It is also my understanding that the exculpation, third-party release and injunction provisions contained in Article VIII of the Plan are consistent with section 1123(b)(3) of the Bankruptcy Code. I believe that such provisions are particularly appropriate because they are a product of extensive negotiations among the Debtors and their advisors, the Debtors' major constituencies and their respective advisors.

30. I also believe that the exculpation provision is appropriate and vital under the circumstances because it provides protection to those interested parties who were essential to the Debtors' restructuring and who exercised good faith in negotiating and implementing the restructuring. I further believe that the exculpation provision is necessary to protect parties who have made substantial contributions to the Debtors' reorganization from collateral attacks related to actions taken in good faith in connection with the Debtors' restructuring.

31. It is my further believe that the third-party release provision in Article VIII of the Plan is fair and necessary to the Debtors' overall reorganization efforts. I believe that those affected by the third-party release provisions were given reasonable consideration in exchange for the releases in form of cash or stock recovery under the Plan and were given the opportunity to "opt out" of the third-party release in negotiations with the Debtors or through their ballots on

the Plan (and I understand that only one creditor elected to opt out of providing the third party release on its ballot). It is my belief, as discussed above, that the Released Parties provided substantial contribution and support to the Debtors' restructuring efforts and the Plan and maximized recoveries for claim and interest holders. As such, under these circumstances, it is appropriate to provide a release to the Released Parties.

32. I also believe that the Plan's injunction provision is necessary to preserve and enforce the release and exculpation provisions contained in the Plan and is narrowly tailored to achieve that purpose. I further believe that the injunction provision is a key component of the Debtors' ultimate reorganization because it seeks to ensure that the restructuring of the Debtors' prepetition obligations is actually enforced.

33. In addition, and in accordance with section 1123(b)(2) of the Bankruptcy Code, Article V of the Plan provides for the assumption or rejection of the Debtors' Executory Contracts and Unexpired Leases not previously assumed or rejected under section 365 of the Bankruptcy Code. Additionally, the Plan Supplement includes schedules of Executory Contracts and Unexpired Leases that are to be assumed or rejected pursuant to the Plan and a list of all known Cure claims associated with Executory Contracts and Unexpired Leases that the Debtors intend to assume pursuant to the Plan.

34. Finally, it is my understanding that **Exhibit C** to the Plan Supplement relating to preservation of Causes of Action is appropriate and necessary to carry out the Plan and is in accordance with section 1123(b)(3)(B) of the Bankruptcy Code.

B. The Plan Complies with Section 1123(d) of the Bankruptcy Code.

35. I believe Article V of the Plan provides for the satisfaction of any monetary defaults under each Executory Contract and Unexpired Lease to be assumed pursuant to the Plan in accordance with section 365 of the Bankruptcy Code by payment of the default amount on the

Effective Date, subject to the limitations described in Article V of the Plan, or on such other terms as the parties to such Executory Contracts or Unexpired Leases may otherwise agree. The Debtors, in accordance with the Plan, distributed notices of proposed assumption and proposed amounts of Cure claims to the applicable third parties in connection with filing of the Plan Supplement. These notices included procedures for objecting to proposed assumptions of Executory Contracts and Unexpired Leases and any Cure Claims amounts, as well as a process for resolving any Cure claim amount disputes by the Court. Accordingly, I believe that the Plan complies with section 1123(d).

C. The Debtors Have Complied with the Applicable Provisions of Section 1129(a)(2) of the Bankruptcy Code.

36. I believe the Debtors have satisfied section 1129(a)(2) of the Bankruptcy Code which, as I understand it, requires that the proponent of a plan of reorganization comply with the applicable provisions of the Bankruptcy Code. I further believe that the Debtors have complied with sections 1125 and 1126 of the Bankruptcy Code regarding disclosure and solicitation of the Plan and section 1127 regarding modification of the Plan prior to the Confirmation Hearing.

1. The Debtors Have Complied with Section 1125 of the Bankruptcy Code.

37. I understand that section 1125 of the Bankruptcy Code prohibits solicitation of acceptance or rejection of a Plan prior to approval of a disclosure statement. On July 29, 2011, the Court entered the Disclosure Statement Order approving the Disclosure Statement as providing holders of Claims with adequate information to make an informed decision as to whether to accept or reject the Plan.

38. The Debtors did not solicit the acceptance or rejection of the Plan from any holder of a Claim or Interest before the Court's approval of the Disclosure Statement. Moreover, I understand that after the Disclosure Statement Order was entered, solicitation or other

appropriate materials were distributed to all parties in interest. I believe that correct materials were sent to the appropriate parties as required by the terms of the Disclosure Statement Order. Specifically, holders of Claims entitled to vote on the Plan received the following materials: (a) the Disclosure Statement, including all exhibits; (b) the Plan; (c) the Disclosure Statement Order (with the Solicitation Procedures attached as an exhibit thereto and excluding all other exhibits thereto); (d) the Confirmation Hearing Notice; (e) the appropriate ballot; and (f) letter from the Debtors in support of the Plan to all voting creditors. In addition, holders of Claims and Interests that were not entitled to vote to accept or reject the Plan were provided with certain non-voting materials approved by the Court in the Disclosure Statement Order.

39. Additionally, the Debtors caused the Confirmation Hearing Notice to be published on August 3, 2011 in *The Wall Street Journal* (national edition), *The Globe and Mail*, the *Tulsa World* and the *San Antonio Express-News* in a timely fashion.

40. Based on the foregoing, I believe that the Debtors satisfied the notice and solicitation requirements of section 1125.

2. The Debtors Have Complied with Section 1126 of the Bankruptcy Code.

41. I understand that section 1126 of the Bankruptcy Code specifies the requirements for acceptance of a plan of reorganization. As set forth in the Disclosure Statement, in accordance with section 1126, the Debtors solicited acceptances or rejections of the Plan from the holders of Allowed Claims in each Class of Impaired Claims that is to receive a distribution under the Plan. Classes 3 and 4 are Impaired Classes of Claims entitled to receive distributions under the Plan and, as such, holders of Claims in each of these Classes were entitled to vote to accept or reject the Plan. The Impaired Classes of Claims voting to accept the Plan (Classes 3

and 4) did so by sufficient amounts and in sufficient number as indicated in the Voting Certification.

42. Classes 1 and 2 are Unimpaired under the Plan. As a result, I understand that holders of Claims and Interests in these Classes are conclusively presumed to have accepted the Plan.

43. Class 5A, Petroflow Emergence Interests and Class 5B, Petroflow Other Interests are Impaired and conclusively deemed to reject the Plan, notwithstanding their recoveries under the Plan. As I understand it, regardless of the outcome of the vote of Class 5A and Class 5B, the Plan could be "crammed down" over their rejecting vote pursuant to section 1129(b)(2)(C) of the Bankruptcy Code, as no junior Claim or Interest is recovering any property under the Plan. Accordingly, to save the Debtors the considerable administrative costs associated with soliciting thousands of shareholders holding over 29 million shares of Petroflow Interests, the Debtors set Classes 5A and 5B as deemed rejecting classes and requested in the motion seeking approval of the Disclosure Statement that the Debtors not be required to solicit these Classes. The Equity Committee supported the non-solicitation of Class 5A and 5B. Pursuant to the Disclosure Statement Order, the Debtors were not required to solicit Classes 5A and 5B. It is my understanding, based on analysis and extensive discussions with the Debtors' advisors that the Debtors were able to save up to $180,000 by not soliciting these Classes, which I believe will preserve available liquidity to apply towards post-emergence operations to maximize value for the benefit of all of the Debtors' stakeholders.

44. Based on the foregoing, I believe that the Debtors have satisfied the requirements of section 1129(a)(2) of the Bankruptcy Code.

D. The Plan was Proposed in Good Faith, as Required by Section 1129(a)(3) of the Bankruptcy Code.

45. Based on knowledge and advice provided to me by the Debtors' professionals, I believe that the Plan has been proposed in good faith and not by any means forbidden by law, as required by section 1129(a)(3) of the Bankruptcy Code. I believe that the Debtors have proposed the Plan in good faith, with the legitimate and honest purposes of reorganizing the Debtors' ongoing business and maximizing the value of the Debtors' assets and recoveries to creditors and other stakeholders. I believe that the Plan promotes the rehabilitative objectives and purposes of the Bankruptcy Code by enhancing Reorganized NAPCUS's available liquidity upon emergence and solidifying its go-forward operations. Additionally, the Plan is a result of extensive negotiation and settlement efforts by the Debtors to achieve consensus with their major creditor groups. I believe the support of the Plan by these key constituencies with divergent interests reflects their acknowledgement that the Plan is fundamentally fair to all parties in interest.

E. The Plan Provides for Court Approval for Payments Made by the Debtors for Professional Fees and Expenses as Required by Section 1129(a)(4) of the Bankruptcy Code.

46. I understand that section 1129(a)(4) requires that certain professional fees and expenses paid by the plan proponent, by the debtor or by a person receiving distributions of property under the plan, to be subject to approval by the Court as reasonable.

47. I understand that pursuant to the *Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses for Professionals and Official Committee Members* [Docket No. 75], the Court authorized and approved the payment of certain fees and expenses of professionals retained in the Chapter 11 Cases. I also understand that all such fees and expenses, as well as all other accrued fees and expenses of professionals through the Confirmation Date, remain subject to final review for reasonableness by the Court.

48. Further, I believe all payments to be made in connection with the Effective Date or which relate to the success of the reorganization or which otherwise are required to be disclosed, including any amounts to be paid to the Debtors' financial advisors, have been disclosed previously and are reasonable in light of the efforts provided to achieve a viable and confirmation chapter 11 plan. Therefore, I believe that the Plan complies with the requirements of section 1129(a)(4) of the Bankruptcy Code.

F. The Plan Provides for Disclosure of Officers and Directors as Required by Section 1129(a)(5) of the Bankruptcy Code.

49. It is my understanding that the Debtors have complied with all the elements of section 1129(a)(5) of the Bankruptcy Code (in addition to compliance with the related provisions of section 1123(a)(7) of the Bankruptcy Code) by disclosing the identity, affiliations, and nature of compensation of the proposed directors and officers of Reorganized NAPCUS. The Debtors disclosed the persons proposed to serve on the Reorganized NAPCUS Board in **Exhibit G** of the Plan Supplement. The knowledge and experience of persons proposed to serve as directors and officers of Reorganized NAPCUS is important to ensuring the continued viability of the Debtors' businesses. The employment of officers and directors by Reorganized NAPCUS, described above, is consistent with the interests of creditors and public policy and is essential to the ongoing viability of the Debtors' businesses.

G. The Plan Can be Confirmed Notwithstanding the Requirements of Section 1129(a)(8) of the Bankruptcy Code.

50. I understand that section 1129(a)(8) of the Bankruptcy Code requires each class of claims or interests must either accept a plan or be unimpaired under a plan. The two Impaired Classes of Claims entitled to vote on the Plan—Classes 3 and 4—have voted in favor of the Plan. Holders of Claims in Classes 5A and 5B are deemed to have rejected the Plan under section 1126(g) of the Bankruptcy Code. While the Plan does not satisfy the requirements of section

1129(a)(8) of the Bankruptcy Code with respect to Classes 5A and 5B, I believe the Plan is confirmable because it satisfies sections 1129(a)(10) and 1129(b) of the Bankruptcy Code, as described below.

H. At Least One Impaired Class of Claims has Accepted the Plan, Excluding the Acceptances of Insiders, as Required by Section 1129(a)(10) of the Bankruptcy Code.

51. I understand that the Debtors have complied with section 1129(a)(10) of the Bankruptcy Code, an alternative to the requirement in section 1129(a)(8) of the Bankruptcy Code that each Class of Claims or Interests must either accept the Plan or be unimpaired under the Plan, because two Impaired Classes, Classes 3 and 4 each have voted to accept the Plan (determined without including the Plan acceptance votes of any "insider" (as defined under section 101(31) of the Bankruptcy Code)).

I. All Statutory Fees Have Been or Will Be Paid as Required by Section 1129(a)(12) of the Bankruptcy Code.

52. Section 13.2 of the Plan provide that all such fees and charges, to the extent not previously paid, will be paid for until the Chapter 11 Cases are converted, dismissed or closed, whichever occurs first. Therefore, I believe the Plan satisfies the requirements of section 1129(a)(12) of the Bankruptcy Code.

J. The Plan Satisfies the "Cram Down" Requirements of Section 1129(b) of the Bankruptcy Code.

53. Based upon information and advice provided to me, I believe that the Debtors meet the requirements of section 1129(b) of the Bankruptcy Code to "cram down" the Plan on the holders of Classes 5A and 5B Interests because the Plan is fair and equitable and does not unfairly discriminate with respect to these rejecting Classes. Further, it is my understanding that the Debtors are not required to meet the requirements of section 1129(b) of the Bankruptcy Code

as to any other Class of Claims or Interests under the Plan because those Classes either voted to accept or were deemed to accept the Plan.

54. I believe the Plan is fair and equitable with respect to Classes 5A and 5B as required by section 1129(b)(2)(C)(ii) because no holder of any Claim or Interest that is junior to Class 5A or 5B Interests will receive or retain any property under the Plan on account of such junior Claim or Interest.

55. I further believe that the Plan does not discriminate unfairly with respect to holders of Class 5A and Class 5B Interests. I believe that separate classification and treatment of Class 5A Interests from Class 5B Interests is necessary to ensuring Reorganized NAPCUS' ability to function profitably subsequent to emergence and is reasonable under the circumstances and justified by valid and compelling business purposes. Absent limitation on the number of post-emergence holders of Reorganized NAPCUS Common Stock, which the current classification scheme achieves, the Debtors would be subject to, and required to comply with, costly public company reporting requirements under Canadian and U.S. securities laws that, as described more particularly in section II.A.2 above, would divert a significant amount of liquidity from the Debtors' operations and likely materially diminish the distributable value available to creditors and shareholders. I understand that maintenance of non-reporting status generally has been recognized as a valid reason for separate classification of similar claims in bankruptcy courts, including at least one court in this district.

56. Further, the Debtors worked with the Equity Committee to ensure that the Plan is structured to distribute as much Reorganized NAPCUS Common Stock as possible on the Effective Date and protect the economic interests of Class 5B holders by ensuring that they receive their recoveries in a timely manner, obtain adequate information of post-emergence

events and are able to participate in any post-emergence liquidity events undertaken by Reorganized NAPCUS. With these Plan protections in place and recognizing the importance of preserving liquidity for operations in order to maximize stakeholder value, I understand that the Equity Committee has supported the Debtors' Petroflow Interests classification scheme as indicated in the statement of support they filed on July 22, 2011.

57. In light of the foregoing, I believe the Plan may be confirmed notwithstanding the deemed rejection of the Plan by Classes 5A and 5B.

K. The Plan Complies with the Requirements of Section 1129(d) of the Bankruptcy Code.

58. The Plan's purpose is not the avoidance of taxes or the application of section 5 of the Securities Act of 1933. Moreover, no party that is a governmental unit, or any other entity, has requested that the Court decline to confirm the Plan on the grounds that the principal purpose of the Plan is the avoidance of taxes or the avoidance of the application of section 5 of the Securities Act of 1933. Accordingly, I believe the Plan satisfies the requirements of section 1129(d) of the Bankruptcy Code.

L. The Securities Issues Under the Plan are Exempt from the Securities Act Registration Requirements.

59. It is my understanding that the Reorganized NAPCUS Common Stock issued to the Holders of Class 5A and Class 5B Petroflow Interests; the Reorganized NAPCUS Series A Convertible Preferred Stock issued to the Investors on account of the Investment Commitment; the Reorganized NAPCUS Series B Preferred Stock issued to certain Holders of Class 4 NAPCUS General Unsecured Claims; and the Reorganized NAPCUS Series C Preferred Stock issued to the Holders of Class 3 Petroflow General Unsecured Claims will be exempt from the registration requirements generally applicable to the offer and sale of securities pursuant to section 5 of the Securities Act.

60. Upon consultation with counsel, I understand that the Reorganized NAPCUS Common Stock, Reorganized NAPCUS Series B Preferred Stock, and the Reorganized NAPCUS Series C Preferred Stock are securities issued by a chapter 11 debtor under a plan of reorganization in exchange for prepetition claims or interests and, therefore, are exempt from the Securities Act. Further, I understand that, pursuant to section 4(2) of the Securities Act, the Reorganized NAPCUS Series A Convertible Preferred Stock is likewise exempt from such registration requirements because the Debtors believe they made such offering only to "accredited investors" and, therefore, did not make such offering to more than the thirty-five non-accredited investors permitted under section 4(2) of the Securities Act.

III. The Debtors have Provided for Adequate Means of Implementation of the Plan in Canada.

61. In connection with the filing of its chapter 11 petition, Petroflow sought entry of a recognition order in the Court of Queen's Bench of Alberta, Canada (the "Canadian Court"). On September 10, 2010, the Canadian Court entered an order recognizing the Chapter 11 Cases as a "foreign proceeding." Petroflow will seek recognition of any order confirming the Plan, entered in the Chapter 11 Cases, in the Canadian Court. As the Debtors believe that the treatment and classification of all Debtor entities in accordance with the Plan is prudent and in the best interest of stakeholders, the Debtors submit that the Plan's treatment and classification of Petroflow's creditors and equity holders, as recognized by any recognition order in the Canadian Court likewise will be appropriate.

[Remainder of page intentionally left blank.]

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

Dated: September 9, 2011

/s/ Louis G. Schott
Louis G. Schott
In-House Counsel
North American Petroleum Corporation USA (on behalf of all Debtors)

EXHIBIT B

Roy Declaration

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	)	Chapter 11
NORTH AMERICAN PETROLEUM CORPORATION USA, *et al.*,[1]	)	Case No. 10-11707 (CSS)
	)	Jointly Administered
Debtors.	)	

DECLARATION OF SUDHIN ROY IN SUPPORT OF CONFIRMATION OF THE FIRST AMENDED JOINT CHAPTER 11 PLAN OF NORTH AMERICAN PETROLEUM CORPORATION USA, *ET AL.*

I, Sudhin Roy, being duly sworn, state the following under penalty of perjury.

1. I am the Senior Managing Director of Kinetic Advisors, LLC ("Kinetic"), the Debtors' financial advisors, which has offices at 805 Third Avenue, Floor 14, New York, New York 10022.

2. I submit this declaration in support of confirmation of the Debtors' *First Amended Joint Plan of Reorganization of North American Petroleum Corporation USA, et al.* [Docket No. 970] (as may be modified or amended from time to time, the "Plan") and as part of the *Debtors' Memorandum of Law (I) in Support of the First Amended Joint Chapter 11 Plan of North American Petroleum Corporation USA, et al. and (II) Describing Resolution of Objection*

[1] The Debtors in the above-captioned chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number or Canadian corporation number, include: North American Petroleum Corporation USA (9766); Prize Petroleum LLC (2460); and Petroflow Energy Ltd. (517-5). The location of the Debtors' corporate headquarters and the Debtors' service address is: 525 South Main Street, Suite 1120, Tulsa, Oklahoma 74103, Attn: Louis G. Schott.

Thereto, filed contemporaneously herewith.[2] All matters set forth in this declaration are based on: (a) my personal knowledge; (b) my review of relevant documents; (c) my view, based upon my experience and knowledge of the Debtors' business and financial condition; and (d) as to matters involving United States bankruptcy law or rules or other applicable laws, my reliance on the advice of counsel to the Debtors. I am intimately familiar with the terms of the Plan and the facts and developments surrounding the Debtors' negotiation and development of the Plan. Except as otherwise noted, I have personal knowledge of the matters set forth herein. If I were called upon to testify, I could, and would, testify competently to the facts set forth herein.

I. Personal Background.

3. Since 2009, I have served as the Senior Managing Director of Kinetic, a financial advisory services firm focused on distressed restructuring matters, mergers and acquisitions, and financing. Prior to joining Kinetic, I worked for three years in the private equity business and also served as president of PWC Securities (the broker dealer owned by PricewaterhouseCoopers) and as a partner in the restructuring group of PricewaterhouseCoopers. I received my bachelor's degree in Chemical Engineering at the Indian Institute of Technology in Mumbai, India, as well as a Masters in Business Administration from the University of Texas in Austin, Texas.

4. I have worked in the restructuring field for approximately 17 years, serving over 50 different clients in various distressed scenarios, including debtor in possession financings, valuations, feasibility determinations, asset sales and other bankruptcy related matters. In

[2] Unless otherwise noted, capitalized terms not defined herein shall have the meanings ascribed to them in the Plan.

addition to working with the Debtors, my financial advisory engagements in chapter 11 bankruptcy proceedings include those relating to the following companies:

- Fruehauf Trailer Corp.;
- Reliance Acceptance Corp.;
- Jitney Jungle Stores of America;
- Sylvania Lighting International Inc.;
- Outboard Marine Corp.; and
- Roney Palace.

5. In these and in other chapter 11 proceedings, I have provided testimony with respect to valuation, feasibility of business plans, feasibility of plans of reorganization and various other restructuring matters. My training and experience qualifies me to perform valuation analyses and testify as an expert thereon. Moreover, through my role as a financial advisor to the Debtors, I am familiar with the Debtors' financial affairs and operating performance. Additionally, I am familiar with the terms and conditions of the anticipated $3 million in Investment Commitments to be provided pursuant to the Investment Agreement. I also am familiar with the valuation analysis and financial projections included in the Debtors' Disclosure Statement as Article VII and **Exhibit E**, respectively. I believe that the valuation analysis is accurate as of its date.

6. Management of the Debtors informed Kinetic that the financial projections in the Debtors' Disclosure Statement reflect management's best estimate as of the date of Kinetic's valuation of the projected operating performance of Reorganized NAPCUS. Kinetic assumed that the financial projections prepared by the Debtors' management were reasonably prepared in good faith. The liquidation analysis set forth in **Exhibit D** of the Disclosure Statement, entitled "Liquidation Analysis," was prepared by the Debtors' management with Kinetic's assistance in

accordance with standard and customary valuation principles and practices, and represents an estimate of the Debtors' liquidation value under a hypothetical chapter 7 case.

II. The Plan is In the Best Interests of Creditors and Interest Holders.

7. I believe, based on my review of Article VII, **Exhibit D** and **Exhibit E** of the Disclosure Statement, that the Plan is in the best interests of creditors and interest holders because each Class of Claims and Interests will receive more or at least as much under the Plan as that Class would receive in a hypothetical chapter 7 liquidation. It is my understanding that the best interest of creditors test does not apply to holders of Class 1 (Secured Claims) and Class 2 (Other Priority Claims), because these holders are unimpaired under the Plan. It is my further understanding that the Plan contemplates a distribution to two impaired classes that have voted to accept the Plan (*i.e.*, Classes 3 and 4). As demonstrated below and in the Disclosure Statement, each holder of a Class 3 or Class 4 Claim will not receive a lower recovery under the Plan than in a chapter 7 liquidation scenario and, as a result, section 1129(a)(7) is satisfied with respect to these Classes.

A. Assumptions Made in Liquidation Analysis.

8. Kinetic based its valuation analysis on information the Debtors supplied to Kinetic, including the analysis (the "Forrest Garb Report") of the Debtors' oil and gas reserves prepared by Forrest A. Garb & Associates, Inc. ("Forrest Garb"), a geological and petroleum engineering consulting firm, prior to the date of Kinetic's valuation analysis, all of which Kinetic assumed to be accurate and complete, but which Kinetic did not verify independently. The Forrest Garb report evaluates the Debtors' remaining oil and gas assets subsequent to the June 1, 2011 consummation of that certain settlement agreement (the "Global Settlement") between the Debtors and Enterra Energy Corp. and certain of its affiliates (now known as Equal Energy Corp.) ("Equal Energy"), pursuant to which the Debtors transferred substantially all its assets to

Equal Energy for proceeds which it transferred, along with certain cash on hand, to the Debtors' prepetition bank lenders in full and final satisfaction of all their claims.

9. Kinetic's valuation analysis reflects a number of assumptions, including, without limitation, a successful reorganization of the Debtors' business and finances in a timely manner, achieving the forecasts reflected in the financial projections, the amount of available cash, market conditions, and the Plan becoming effective with the Investment Commitments in accordance with the terms of the Investment Agreements on a basis consistent with the estimates and other assumptions discussed herein.

10. In addition, Kinetic has made certain additional assumptions for purposes of evaluating available value distributable to stakeholders in a hypothetical chapter 7 liquidation scenario. In particular, Kinetic's analysis of the Debtors' liquidation value assumes conversion of the Debtors' chapter 11 cases to cases under chapter 7 of the Bankruptcy Code on September 30, 2011, immediate cessation of operations and termination of substantially all employees, with the subsequent wind-down of the estate to be conducted in a controlled manner over a four- to six-month period under the direction of a chapter 7 trustee. It is further assumed that no litigation would remain outstanding as of the date of conversion and that any incremental professional fees would be *de minimis* in the absence of any material issues to be resolved.

11. Further, Kinetic's analysis assumes that the only available cash in a chapter 7 liquidation likely would be the cash in the Debtors' bank accounts after payment of all administrative costs (including chapter 7 trustee fees, other professional fees and employee expenses and other wind-down expenses).

12. Moreover, no readily available market exists for the Debtors' assets. Accordingly, Kinetic made several assumptions regarding the value that could be achieved in a

sale of certain of the Debtors' current assets. In particular, Kinetic's analysis accounts for the Debtors' potential inability to dispose of their assets by discounting the Debtors' remaining drillable acreage and other oil and gas properties. For example, Kinetic discounted the Debtors' oil and gas properties by as much as 50% in a low case scenario, in light of the Debtors' receipt of only one firm offer for certain of the property, notwithstanding marketing efforts, and uncertainty regarding timing considerations and viability regarding any offer. In addition, the actual price obtainable for the Debtors' drillable acreage in a liquidation scenario would be negatively impacted to the extent the acreage were to be sold in undeveloped condition, as is currently the case.

13. Finally, Kinetic has assumed, based on discussions with Debtors' management, that any recoveries from a chapter 7 trustee's pursuit of any avoidance actions would be highly speculative. Accordingly, Kinetic's valuation does not reflect any recoveries that might be realized from any current or future potential litigation initiated by the Debtors or a chapter 7 trustee.

B. Development of Plan Valuation for Liquidation Analysis Purposes.

14. Kinetic relied on the Forrest Garb Report to arrive at its estimation of Reorganized NAPCUS' post-emergence value. It is my understanding that the valuation methodology utilized by Forrest Garb is the standard valuation methodology used in the oil and gas industry. The Forrest Garb Report is based on a reserves, net present value and fair market valuation analysis of the Debtors' interests in the land retained subsequent to the June 1, 2011 consummation of the Global Settlement.

15. In addition to the Forrest Garb Report, in estimating Reorganized NAPCUS' value, Kinetic reviewed, among other things: (a) certain historical financial information of the Debtors; (b) certain internal financial and operating data of the Debtors including the financial

projections developed by management relating to their business and prospects; (c) discussions with certain members of senior management of the Debtors in which the Debtors' operations and future prospects were discussed; (e) financial projections as prepared by the Debtors; (f) certain economic and industry information relevant to the Debtors' operating businesses; (g) other analyses as Kinetic deemed appropriate.

16. Further, as described in the Plan Supplement, while the Debtors currently are targeting obtaining certain drillable leases in the Red Fork resource play (or other comparable replacements leases) in an effort to maintain and enhance its existing asset base, the estimated value of these replacement leases has effectively been factored into the Debtors' valuation analysis set forth in the Disclosure Statement. If, as the Debtors expect, these leases are capable of being acquired at the currently projected cost of $400,000, I believe that the valuation and financial projections presented in the Disclosure Statement and discussed herein would remain essentially unchanged.

17. Taking into consideration the factors and assumptions set forth in the Disclosure Statement, the Plan Supplement and herein, Reorganized NAPCUS' value (assuming consummation of the Plan) is estimated to be approximately $19.1 million prior to distributions to NAPCUS and Petroflow creditors.

18. The estimates of value represent hypothetical values of Reorganized NAPCUS as the operator of the business and assets of the Debtors, and do not purport to reflect or constitute appraisals, liquidation values, or estimates of the actual market value that may be realized through the sale of any securities to be issued pursuant to the Plan, which may be significantly different than the amounts set forth herein. Such estimates were developed solely on behalf of the Debtors' board of directors for purposes of formulation and negotiation of the Plan and

analysis of implied relative recoveries to creditors thereunder. Although Kinetic conducted a review and analysis of the Debtors' business operating assets and liabilities, and business plans, Kinetic relied on the accuracy and completeness of all financial and other information furnished to it by the Debtors, including the financial projections and the Forrest Garb Report. Kinetic neither sought nor conducted independent evaluations or appraisals of the Debtors' assets in connection therewith.

C. Liquidation Analysis Results.

19. Unlike in a chapter 11 plan scenario, where, as discussed above, Kinetic estimates Reorganized NAPCUS' value prior to distributions to creditors to be approximately $19.1 million, in a hypothetical chapter 7 liquidation, the net proceeds available for distribution to stakeholders, subsequent to disposition of the Debtors' available assets, would range from $6.474 million to $7.079 million, in light of the discounts to the Debtors' assets described above.

20. Kinetic's valuation assumes that after liquidation of all assets, any available distribution proceeds will be distributed first to NAPCUS creditors and then, by way of Petroflow's 100% interest in NAPCUS, would flow to Petroflow's creditors and equity holders. Debtor Prize Petroleum LLC is accounted for on a consolidated basis with NAPCUS and, therefore, no specific distributions are allocated with respect to Prize Petroleum LLC. Proceeds from assets sales and cash on hand therefore would be used to pay in full all chapter 11 administrative claims, general unsecured claims held against NAPCUS and general unsecured claims held against Petroflow, leaving between $1.595 million and $2.2 million available for distribution to Petroflow Interest holders. I believe that Holders of Class 5A and 5B Petroflow Interests would therefore receive between $0.05 and $0.07 per share.

in $ 000s	Liquidation Scenario Allowed Claims	Liquidation Scenario Estimated Recovery Low Case	Liquidation Scenario Estimated Recovery High Case	Plan Scenario Allowed Claims	Plan Scenario Estimated Recovery
Net Proceeds / Value Returned to Creditors		**$ 6,474**	**$ 7,079**		**$ 19,080**
Distributions to NAPCUS Creditors					
Secured Claims	$ -	-	-	$ -	$ -
Chapter 11 Administrative Claims	1,678	1,678	1,678	2,678	2,678
Priority Unsecured Claims	-	-	-	-	-
General Unsecured Claims	1,576	1,576	1,576	1,016	1,016
New Investors	-	-	-	3,000	3,000
Management Bonus	-	-	-	600	600
Proceeds Available for Distribution to Petroflow Creditors		$ 3,220	$ 3,825		$ 11,786
Distributions to Petroflow Creditors					
Secured Claims	$ -	-	-	$ -	$ -
Administrative Claims	-	-	-	-	-
Priority Unsecured Claims	425	425	425	425	425
General Unsecured Claims	1,200	1,200	1,200	1,200	1,200
Existing Petroflow Interests		1,595	2,200		10,161
Distribution / Value per share		*$0.05*	*$0.07*		*$0.344*

21. As set forth in the above table, each holder of an impaired claim or interest will not receive a lower recovery under the Plan than in a chapter 7 liquidation scenario and, therefore, the requirements of section 1129(a)(7) are satisfied.

III. Feasibility of the Plan.

22. I believe, based on **Exhibit E** of the Disclosure Statement, that the Plan is feasible and is not likely to be followed by the liquidation, or the need for further financial reorganization in the foreseeable future, of the Debtors under the Plan. I believe that the Plan provides more than a reasonable assurance of success in this regard. It is my understanding that, for purposes of determining whether the Plan satisfies the feasibility requirement, the Debtors thoroughly analyzed their ability post-confirmation and post-emergence to meet their obligations under the Plan. I believe that the Debtors' financial projections indicate that the Debtors will have sufficient cash flow to meet their obligations under the Plan and that the transactions contemplated under the Plan will facilitate the Debtors maintaining their go-forward operations.

23. In formulating the Plan, the Debtors, Kinetic and the Debtors' other advisors sought to ensure that the Plan would provide sufficient funding to allow the Debtors to continue to operate their business successfully after emergence and to satisfy all of their obligations under the Plan assuming Reorganized NAPCUS achieves at or near its financial projections. In addition to cash on-hand and from operations, the anticipated Investment Commitment provided for in the Plan, when consummated, will enhance Reorganized NAPCUS' liquidity and assure that it has sufficient cash to fund the distributions contemplated by the Plan and maintain working capital sufficient to support its business operations, and will enable the Debtors, on the Effective Date, to pay all Claims, costs and expenses contemplated by the Plan.

24. I believe that, by consummating the Plan (and the transactions contemplated therein), Reorganized NAPCUS will be able to generate free cash flow to reinvest in its business and create value for holders of Reorganized NAPCUS Common Stock and Reorganized NAPCUS Convertible Preferred Stock. I also believe that, because, during the Chapter 11 Cases, the Debtors continued to satisfy their obligations to trade vendors they used in the ordinary course, Reorganized NAPCUS will not have to make significant cash distributions to these trade vendors on the Effective Date. Thus, I believe that the Plan provides for a workable plan of reorganization, with more than a reasonable likelihood of success, satisfying section 1129(a)(11) of the Bankruptcy Code.

[Remainder of the page intentionally left blank.]

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

Date: September 9, 2011

Respectfully submitted,

/s/ Sudhin Roy
Sudhin Roy
Senior Managing Director
Kinetic Advisors, LLC

APPENDIX C

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	)	Chapter 11
NORTH AMERICAN PETROLEUM CORPORATION USA, *et al.*,[1]	)	Case No.: 10-11707 (CSS)
	)	Jointly Administered
Debtors.	)	**Re: Docket No. 897**
	)	**Hearing Date and Time: July 29, 2011 at 10:00 a.m. (ET)**

STATEMENT OF THE OFFICIAL COMMITTEE OF EQUITY SECURITY HOLDERS IN SUPPORT OF MOTION FOR ENTRY OF AN ORDER (A) APPROVING THE ADEQUACY OF THE DEBTORS' DISCLOSURE STATEMENT; (B) APPROVING SOLICITATION AND NOTICE PROCEDURES WITH RESPECT TO CONFIRMATION OF THE DEBTORS' PROPOSED PLAN OF REORGANIZATION; (C) APPROVING THE FORM OF VARIOUS BALLOTS AND NOTICES IN CONNECTION THEREWITH; AND (D) SCHEDULING CERTAIN DATES WITH RESPECT THERETO, AND RESERVATION OF RIGHTS WITH RESPECT THERETO

The Official Committee of Equity Security Holders (the "Equity Committee") of the debtors and debtors in possession (collectively, the "Debtors") in the above-captioned chapter 11 cases (collectively, the "Chapter 11 Cases"), by and through its undersigned counsel, hereby files this statement in support (the "Statement in Support") of the Debtors' *Motion for Entry of an Order (A) Approving the Adequacy of the Debtors' Disclosure Statement; (B) Approving Solicitation and Notice Procedures with Respect to Confirmation of the Debtors' Proposed Plan of Reorganization; (C) Approving the Form of Various Ballots and Notices in Connection Therewith; and (D) Scheduling Certain Dates with Respect Thereto* [Docket No. 897] (the "Motion"). In support of the Motion, the Equity Committee respectfully states as follows:

[1] The Debtors in the above-captioned chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number or Canadian corporation number, include: North American Petroleum Corporation USA (9766); Prize Petroleum LLC (2460); and Petroflow Energy Ltd. (517-5). The location of the Debtors' corporate headquarters and the Debtors' service address is: 525 South Main Street, Suite 1120, Tulsa, Oklahoma 74103, Att: Louis G. Schott.

Background

1. On May 25, 2010, North American Petroleum Corporation USA and Prize Petroleum LLC each filed a voluntary petition with the Court under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code"). On August 20, 2010, Petroflow Energy Ltd. ("Petroflow") filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. The cases are jointly administered, and the Debtors are operating their businesses as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

2. As the Bankruptcy Court is aware, a group of equity holders formed an ad hoc equity committee in early March 2011 (the "Ad Hoc Equity Committee"). In part due to the efforts of the Ad Hoc Equity Committee, on May 4, 2011, pursuant to section 1102 of the Bankruptcy Code, the United States Trustee for the District of Delaware appointed the Equity Committee in the Chapter 11 Cases to represent the interests of the Petroflow equity holders [Docket No. 800].

3. On May 6, 2011, the Equity Committee retained Curtis, Mallet-Prevost, Colt & Mosle LLP as its primary bankruptcy counsel and Young Conaway Stargatt & Taylor, LLP as its Delaware bankruptcy counsel in the Chapter 11 Cases.

4. Since that time, the Equity Committee has been actively participating in the Chapter 11 Cases to protect the interests of the equity holders of Petroflow, and to maximize any recovery with respect thereto.

The Solicitation Materials

5. On June 24, 2011, the Debtors filed the *Disclosure Statement for the Joint Chapter 11 Plan of North American Petroleum Corporation USA, et al.* (as amended, the "Disclosure Statement") in support of the *Joint Chapter 11 Plan of North American Petroleum*

Corporation USA, et al. (as amended, the "Plan") and the solicitation and notice procedures with respect to confirmation of the Plan (collectively, the "Solicitation Materials," and together with the Plan and Disclosure Statement, collectively, the "Plan Documents").

6. Under the Plan, the Petroflow shareholders will be divided into two separate sub-classes under Class 5 based upon the total number of Petroflow shares held. Class 5A will consist of all equity holders who hold 250,000 or more shares of Petroflow common stock (the "Class 5A Petroflow Shareholders"). Class 5B will consist of the remaining holders of Petroflow common stock (the "Class 5B Petroflow Shareholders"). Pursuant to the Plan, the Class 5A Petroflow Shareholders will receive upon the effective date of the Plan (the "Effective Date"), or shortly thereafter, common stock ("Reorganized NAPCUS Common Stock") of the emergent entity created by the Plan ("Reorganized NAPCUS"). The Class 5B Petroflow Shareholders, on the other hand, will be paid Reorganized NAPCUS Common Stock or the cash equal to the then fair market value thereof upon the occurrence of certain events but no later than the second anniversary of the Effective Date (the "Determination Date").

7. The Debtors' Motion seeks approval of the Disclosure Statement and the Solicitation Materials. The objection deadline to the Motion was established for July 22, 2011 at 4:00 p.m. (ET) (the "Objection Deadline") and a hearing on the Motion is scheduled for July 29, 2011 at 10:00 a.m. (ET) (the "Hearing").

Statement in Support

8. Since its formation, the Equity Committee has invested considerable time and effort on, initially, the Debtors' settlement with Equal Energy Corp. (the "Settlement") and the value of the Debtors' estates resulting therefrom, and thereafter, the Plan, the Disclosure Statement and the other Plan Documents. Through these efforts, the Equity Committee has

developed an in-depth understanding of the Debtors and the Debtors' estates and, more germane to the constituents whom the Equity Committee represents, the prospects of recovery to Petroflow equity holders in either a liquidation or reorganization scenario.

9. As a result, the Equity Committee is acutely aware that only a *de minimis* (if any) recovery for equity will be possible if the Debtors do not emerge from bankruptcy as a reorganized entity, and emerge as soon as possible. For this reason, it is undoubtedly in the best interests of equity for the Debtors to promptly emerge from chapter 11. Emergence will relieve the estates from the administrative expense of bankruptcy, which expenses are senior in priority to equity. Emergence will also preserve the going-concern value of the Debtors' assets remaining after the Settlement, which is far in excess of the liquidation value of such assets. Last, by emerging as an operating company with the new funding contemplated under the Plan, Reorganized NAPCUS will be well positioned to take advantage of new opportunities to maximize enterprise value as they arise. All of these factors militate in favor of a quick emergence for the Debtors.

10. For these reasons alone, the Equity Committee has little doubt that the Plan, as originally filed, was confirmable by the Court. Nonetheless, the Equity Committee has proactively negotiated with the Debtors regarding certain changes to the Plan and the Plan Documents that not only afford equity holders additional protection under the Plan, but that also make the case for confirmation of the Plan most compelling.

11. As previously noted, the Plan, both as originally submitted and as amended and filed on July 22, 2011, calls for differing treatment for the holders of equity in Petroflow common stock. As stated in the Disclosure Statement, the different classification scheme for the holders of Petroflow interests is necessary to enable Reorganized NAPCUS to emerge as a

private company not subject to public reporting obligations imposed by United States or Canadian securities laws. In the absence of the different classification scheme and the resulting treatment, these reporting obligations would apply to Reorganized NAPCUS given the large number of holders of Petroflow common stock who would otherwise be entitled to receive Reorganized NAPCUS Common Stock at emergence.

12. Reorganized NAPCUS will be a much smaller company at emergence than it was prior to the Chapter 11 Cases being commenced. If Reorganized NAPCUS were to be subject to the aforementioned reporting requirements, the resulting cost, in and of itself, would materially harm the business prospects of the reorganized entity and seriously jeopardize or impact the reorganization. Such a result would negate the very benefit to equity that the Debtors are seeking to obtain through the Plan.

13. For that reason, the Equity Committee has come to understand the need for the Class 5 treatment under the Plan. Nonetheless, in considering, evaluating and negotiating the proposed structure and classification scheme under the Plan, the Equity Committee has concentrated on ensuring that: (i) all members of Class 5 have full access to the Plan Documents and disclosure as to their treatment under the Plan; (ii) the time period which distributions to Class 5B are deferred is minimized as much as practicable; (iii) Class 5B is given an opportunity to participate in liquidity events available to holders of Reorganized NAPCUS Common Stock and its economic interests are not unfairly prejudiced; and (iv) Class 5B holders receive adequate information after the Effective Date to permit them to monitor the timing of the Determination Date and, if necessary, enforce the terms of the Plan.

14. As a result of the ongoing dialogue and negotiations between the Debtors and the Equity Committee, the Debtors have amended the Plan Documents, in the manner set forth below, to address the concerns of the Equity Committee.

15. Specifically, to ensure that all members of Class 5 have full access to the Plan Documents and disclosure as to their treatment under the Plan, the Debtors have:

- amended the notices contained in the Solicitation Materials to inform the Petroflow shareholders of the proposed treatment of the equity holders under the Plan;
- amended the notices contained in the Solicitation Materials to include additional avenues by which the equity holders may obtain information, including by providing the contact information of the Equity Committee's counsel and a direct link to the claims agent website; and
- revised the claims agent website for the Debtors, to provide an additional layer of disclosure and easier access to the Plan Documents for the Petroflow shareholders.

16. To ensure that the time period which distributions to Class 5B are deferred is minimized as much as practicable, the Debtors have:

- amended the Plan to require that the distribution to Class 5B be made no later than two years after emergence (whereas the outside date could have been extended by the Reorganized NAPCUS board in compliance with its fiduciary duties under the original version of the Plan);
- amended the Plan to provide additional triggering events which accelerate the occurrence of the Determination Date, including (i) the payment of any cash dividends or cash distributions to the common stock and (ii) the occurrence of an "Acquisition Event," which is defined under the Plan, in part, to include any merger, consolidation or acquisition which results in a change in ownership of a majority of the Reorganized NAPCUS Common Stock, a sale or transfer of all or substantially all of the assets of Reorganized NAPCUS or any liquidation or dissolution of Reorganized NAPCUS (an "Acquisition Event"); and
- amended the Plan to require the Reorganized NAPCUS board to formally meet every six months to determine whether to continue to defer the distribution to Class 5B, and in making this determination, to consider the legitimate interests of the Class 5B holders in receiving a tangible distribution under the Plan.

17. To ensure that, Class 5B is given an opportunity to participate in liquidity events available to holders of Reorganized NAPCUS Common Stock and its economic interests are not unfairly prejudiced, the Debtors have:

- amended the Plan to provide for the distribution to Class 5B in conjunction with an Acquisition Event;
- amended the Plan to provide for the distribution to Class 5B in conjunction with the payment of any type of cash dividend or cash distribution to the holders of Reorganized NAPCUS Common Stock; and
- amended the Plan to provide that the distribution to Class 5B will be appropriately and equitably adjusted to reflect fully the effect of any stock dividend, stock split, reverse stock split, reclassification, recapitalization, consolidation, exchange or similar changes with respect to the Reorganized NAPCUS Common Stock that occurred prior to the Determination Date.

18. To ensure that Class 5B holders receive adequate information after the Effective Date and are in a position to monitor the timing of the Determination Date, the Debtors have:

- amended the Plan to require the Reorganized NAPCUS board to provide notice after each formal meeting described above *via* either the website of Reorganized NAPCUS or similar means.

19. The Equity Committee strongly believes that the Plan represents the Debtors' best chance of successfully emerging from chapter 11 as a going concern and, absent confirmation of the Plan, there may not be another chapter 11 plan that is confirmable which provides for any recovery for equity. The Equity Committee also strongly believes that the protections provided in the Plan Documents are the best protections available for Class 5 as a whole and are a reasonable compromise to the issues and concerns of the Equity Committee.

Conclusion

20. For the reasons set forth above, the Equity Committee is supportive of the relief requested by the Debtors in the Motion. There remain, of course, issues with respect to the Plan that are as yet unresolved. For example, the parties have yet to agree on the composition of the

board of Reorganized NAPCUS, and continue to negotiate the specific terms of the management incentive plan. For these reasons, the Equity Committee hereby reserves all of its rights with respect to the Plan, the Plan Documents and any other ancillary documents (including as to further revisions to the existing Plan Documents).

WHEREFORE, the Equity Committee respectfully requests that the Court (a)(i) grant the relief requested in the Motion or (ii) in the event the Plan Documents are modified in any manner, hear the concerns and/or objections of the Equity Committee at the Hearing; and (b) grant such other and further relief as the Court deems just and proper.

Dated: Wilmington, Delaware
July 22, 2011

YOUNG CONAWAY STARGATT & TAYLOR, LLP

By: */s/ Jaime N. Luton*
David R. Hurst (Bar No. 3743)
Jamie N. Luton (Bar No. 4936)
1000 West Street, 17th Floor
Wilmington, Delaware 19801
Tel.: (302) 571-6600
Fax: (302) 571-1253
E-mail: dhurst@ycst.com
jluton@ycst.com

-and-

CURTIS, MALLET-PREVOST, COLT & MOSLE LLP

Steven J. Reisman (admitted *pro hac vice*)
Timothy A. Barnes (admitted *pro hac vice*)
101 Park Avenue
New York, New York 10178-0061
Tel.: (212) 696-6000
Fax: (212) 697-1559
E-mail: sreisman@curtis.com
tbarnes@curtis.com

Counsel to the Official Committee of Equity Security Holders

APPENDIX D

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	)	Chapter 11
NORTH AMERICAN PETROLEUM CORPORATION USA, *et al.*,[1]	)	Case No. 10-11707 (CSS)
	)	Jointly Administered
Debtors.	)	

DECLARATION OF JANE SULLIVAN ON BEHALF OF EPIQ BANKRUPTCY SOLUTIONS, LLC, REGARDING VOTING AND TABULATION OF BALLOTS ACCEPTING AND REJECTING DEBTORS' FIRST AMENDED JOINT CHAPTER 11 PLAN OF NORTH AMERICAN PETROLEUM CORPORATION USA, ET AL.

I, Jane Sullivan, declare, under penalty of perjury:

1. I am the Executive Vice President, Director of Restructuring Services of Epiq Bankruptcy Solutions, LLC ("Epiq") located at 757 Third Avenue, New York, New York 10017. I am over the age of 18 years. I do not have a direct interest in these chapter 11 cases and therefore should be considered an impartial party.

2. I submit this declaration with respect to the *First Amended Joint Chapter 11 Plan of North American Petroleum Corporation USA, et al.*, dated July 29, 2011 [Docket No. 970] (as amended, supplemented, or modified from time to time, the "Plan").[2] Except as otherwise indicated herein, all facts set forth herein are based upon my personal

1 The Debtors in the above-captioned chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number or Canadian corporation number, include: North American Petroleum Corporation USA (9766); Prize Petroleum LLC (2460); and Petroflow Energy Ltd. (517-5). The location of the Debtors' corporate headquarters and the Debtors' service address is: 525 South Main Street, Suite 1120, Tulsa, Oklahoma 74103, Attn.: Louis G. Schott.

2. Unless otherwise defined herein, all capitalized terms shall have the meanings ascribed to them in the Plan or the Disclosure Statement Order (as defined below).

knowledge or my review of relevant documents. If I were called upon to testify, I could and would testify competently as to the facts set forth herein.

3. In accordance with the (a) *Order Authorizing the Employment and Retention of Epiq Bankruptcy Solutions, LLC as Notice, Claims, and Balloting Agent*, dated May 28, 2010 [Docket No. 26] and (b) *Order (A) Approving the Adequacy of the Debtors' Disclosure Statement; (B) Approving Solicitation and Notice Procedures with Respect to Confirmation of the Debtors' Proposed Plan of Reorganization; (C) Approving the Form of Various Ballots and Notices in Connection Therewith; and (D) Scheduling Certain Dates with Respect Thereto*, dated July 29, 2011 [Docket No. 966] (the "Disclosure Statement Order"), Epiq was appointed to assist the Debtors in connection with, *inter alia*, soliciting, receiving, and tabulating Ballots accepting or rejecting the Plan.

4. Pursuant to the Plan, only holders of Claims in the following Classes (collectively, the "Voting Classes") were entitled to vote to accept or reject the Plan:

Class	Description
Class 3	Petroflow General Unsecured Claims
Class 4	NAPCUS General Unsecured Claims

5. The procedures for the solicitation and tabulation of votes on the Plan are outlined in the Disclosure Statement Order. Epiq was instructed to solicit, review, determine the validity of, and tabulate Ballots submitted to vote to accept or reject the Plan by the holders of Claims in the Voting Classes.

6. As specified in the Disclosure Statement Order, July 29, 2011 was established as the record date for determining the holders of Claims in the Voting Classes entitled to vote on the Plan (the "Voting Record Date").

7. In accordance with the Disclosure Statement Order, Epiq solicited the holders of Claims in the Voting Classes as of the Voting Record Date. Epiq's *Affidavit of Service of Solicitation Materials* was filed with this Court on August 5, 2011 [Docket No. 987].

8. Ballots returned by mail, hand delivery, or overnight courier were received by personnel of Epiq at the offices of Epiq in New York, New York. All ballots received by Epiq were date stamped upon receipt and were processed in accordance with the procedures set forth in the Disclosure Statement Order.

9. For a ballot to be counted as valid, the ballot must have been properly completed in accordance with the procedures set forth in the Disclosure Statement Order and executed by the relevant holder, or such holder's authorized representative, and must have been received by Epiq by the Voting Deadline of 5:00 p.m. prevailing Eastern Time on September 2, 2011. All validly executed ballots cast by holders of Claims in Voting Classes received by Epiq on or before the Voting Deadline were tabulated as outlined in the Disclosure Statement Order. I declare that the results of the voting by holders of Claims in the Voting Classes are as set forth in **Exhibit A** hereto, which is a true and correct copy of the final tabulation of votes cast by timely and properly executed ballots received by Epiq.

10. I understand that section 1129(a)(10) of the Bankruptcy Code requires acceptance of the Plan by at least one impaired class, determined without including any acceptance of the Plan by any insider (as defined in the Bankruptcy Code). On information

and belief, Epiq believes that three accepting votes in Class 3 and one accepting vote in Class 4 were cast by insiders. Epiq received four accepting votes that were cast by: Donald Rowden, Richard Menchaca, and Louis A. Schott in Class 3 and Richard Menchaca in Class 4. I understand that, under applicable bankruptcy law, each of these entities is an insider. Exhibit A includes both the tabulation of votes including accepting insider votes and the tabulation of votes excluding accepting insider votes.

[*Remainder of page intentionally left blank.*]

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

DATED: New York, New York
September 6, 2011

Jane Sullivan
Executive Vice President
Director of Restructuring Services
Epiq Bankruptcy Solutions, LLC

Exhibit A

TABULATION SUMMARY

NORTH AMERICAN PETROLEUM CORPORATION USA, et al.				
VOTING CLASS	ACCEPT[1]		REJECT	
	AMOUNT	NUMBER	AMOUNT	NUMBER
Class 3 (Petroflow General Unsecured Claims)	$1,016,155.72 **100%**	6 **100%**	$0.00 **0.00%**	0 **0.00%**
Class 4 (NAPCUS General Unsecured Claims)	$783,441.22 **100%**	13 **100%**	$0.00 **0.00%**	0 **0.00%**

[1] Tabulation of accepting Votes, excluding insiders, is as follows:

VOTING CLASS	ACCEPT[1]		REJECT	
	AMOUNT	NUMBER	AMOUNT	NUMBER
Class 3 (Petroflow General Unsecured Claims)	$691,579.88 **100%**	3 **100%**	$0.00 **0.00%**	0 **0.00%**
Class 4 (NAPCUS General Unsecured Claims)	$706,882.89 **100%**	12 **100%**	$0.00 **0.00%**	0 **0.00%**