

**ENTERED**

November 28, 2023

Nathan Ochsner, Clerk

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

In re:

)

) Chapter 11

)

ORBITAL INFRASTRUCTURE GROUP, ) Case No. 23-90763 (CML)  
INC., *et al.*,<sup>1</sup> )

) (Jointly Administered)

Debtors. )

)

**FINDINGS OF FACT AND CONCLUSIONS OF LAW REGARDING:  
(I) APPROVAL OF THE DISCLOSURE STATEMENT ON A FINAL BASIS;  
AND (II) CONFIRMATION OF THE SECOND AMENDED COMBINED  
DISCLOSURE STATEMENT AND JOINT CHAPTER 11 PLAN OF  
LIQUIDATION OF ORBITAL INFRASTRUCTURE GROUP, INC., *ET AL.***

On November 28, 2023, the Court held a hearing (the “**Confirmation Hearing**”) to consider confirmation of the *Second Amended Combined Disclosure Statement and Joint Chapter 11 Plan of Liquidation of Orbital Infrastructure Group, Inc., et al.*, dated November 22, 2023 [Docket No. 336] (including all exhibits and schedules thereto or referenced therein and as applicable, the “**Disclosure Statement**,” “**Combined DS and Plan**,” or “**Plan**”),<sup>2</sup> filed by Orbital Infrastructure Group, Inc. and its debtor affiliates (collectively, the “**Debtors**”). As referred to herein, the “Plan” shall be the Plan attached as **Exhibit A** to the *Order Confirming the Second Amended Combined Disclosure Statement and Joint Chapter 11 Plan of Liquidation of Orbital Infrastructure Group, Inc., et al.*, (the “**Confirmation Order**”). After considering the evidence presented, including the *Declaration of James F. O’Neil III in Support of: (I) Final Approval of the Disclosure Statement; and (II) Confirmation of the Second Amended Combined Disclosure*

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Orbital Infrastructure Group, Inc. (3284); Orbital Gas Systems, North America, Inc. (7018); Orbital Power, Inc. (6341); Orbital Solar Services, LLC (1156); and Eclipse Foundation Group, Inc. (5575). The location of the Debtors’ service address is: P.O. Box 174 Tualatin, OR 97062.

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

*Statement and Joint Chapter 11 Plan of Liquidation of Orbital Infrastructure Group, Inc., et al.* [Docket No.340] (the “**O’Neil Declaration**”), the *Declaration of Seth Bullock in Support of Confirmation of the Second Amended Combined Disclosure Statement and Joint Chapter 11 Plan of Liquidation of Orbital Infrastructure Group, Inc., et al.* [Docket No. 339] (the “**Bullock Declaration**”), the *Declaration of John Burlacu Regarding the Solicitation and Tabulation of Votes on the Combined Disclosure Statement and Joint Chapter 11 Plan of Liquidation of Orbital Infrastructure Group, Inc., et al.* [Docket No. 338] (the “**Ballot Certification**”), the arguments of counsel for the Debtors and other parties in interest, and the entire record in the Chapter 11 Cases the Court makes the following Findings of Fact and Conclusions of Law:

1. The findings and conclusions set forth herein and in the record of the Confirmation Hearing constitute the Court’s findings of fact and conclusions of law under rule 52 of the Federal Rules of Civil Procedure, as made applicable by rules 7052 and 9014 of the Federal Rules of Bankruptcy Procedures (the “**Bankruptcy Rules**”). To the extent any of the following conclusions of law constitute findings of fact, or vice versa, they are adopted as such.

### **FINDINGS OF FACT**

#### **A. Jurisdiction and Venue**

2. The Court has jurisdiction over this matter under 28 U.S.C. § 1334. Confirmation of the Plan is a core matter under 28 U.S.C. § 157(b). Venue is proper in the Court under 28 U.S.C. §§ 1408 and 1409.

#### **B. Eligibility for Relief**

3. The Debtors were and continue to be eligible for relief under section 109 of title 11 of the United States Code (the “**Bankruptcy Code**”).

**C. The Chapter 11 Cases**

4. On August 23, 2023 (the “**Petition Date**”) each of the Debtors commenced a voluntary case under chapter 11 of the Bankruptcy Code, thereby commencing the above-captioned jointly administered chapter 11 cases (collectively, the “**Chapter 11 Cases**”).

5. On September 5, 2023, the Office of the United States Trustee for the Southern District of Texas (the “**U.S. Trustee**”) appointed and later reconstituted an Official Committee of Unsecured Creditors (the “**Committee**”) pursuant to section 1102 of the Bankruptcy Code. *See* Docket Nos. 74, 78. No trustee or examiner has been appointed in the Chapter 11 Cases.

**D. The Combined DS and Plan, Solicitation Materials and Related Matters**

6. On October 16, 2023, the Debtors filed the *Combined Disclosure Statement and Joint Chapter 11 Plan of Liquidation of Orbital Infrastructure Group, Inc., et al.* [Docket No. 228] (the “**Original Plan**”).

7. On October 16, 2023, the Debtors also filed the *Debtors’ Emergency Motion for Entry of Orders: (A) Approving the Disclosure Statement on a Conditional Basis, (B) Approving the Solicitation and Tabulation Procedures, (C) Approving the Form of Ballot, Solicitation Package, and Notices, (D) Establishing Certain Dates and Deadlines in Connection with the Solicitation and Confirmation of the Plan, (E) Scheduling a Combined Hearing for Final Approval of the Disclosure Statement and Confirmation of the Plan, and (F) Granting Related Relief* [Docket No. 229] (the “**Disclosure Statement Motion**”).

8. On October 20, 2023, the Court entered its *Order (I) Approving the Disclosure Statement on a Conditional Basis, (II) Approving the Solicitation and Tabulation Procedures, (III) Approving the Form of Ballot, Solicitation Package, and Notices, (IV) Establishing Certain Dates and Deadlines in Connection with the Solicitation and Confirmation of the Plan, (V) Scheduling a Combined Hearing for Final Approval of the Disclosure Statement and*

*Confirmation of the Plan, and (VI) Granting Related Relief* [Docket No. 239] (the “**Disclosure Statement Order**”).

9. Pursuant to the Disclosure Statement Order, the Court: (a) conditionally approved the Disclosure Statement as containing adequate information in accordance with section 1125 of the Bankruptcy Code, subject to final approval; (b) established certain solicitation and voting procedures (the “**Solicitation Procedures**”); (c) established notice and objection procedures with respect to the Confirmation Hearing; (d) established November 21, 2023 at 4:00 p.m. prevailing Central Time as both the voting deadline and the deadline to object to confirmation of the Plan (the “**Confirmation Objection Deadline**”); and (e) scheduled the Confirmation Hearing.

10. In accordance with the Disclosure Statement Order, the Debtors commenced solicitation of votes on the Plan and transmitted or caused one or more of the following materials, as applicable, to be transmitted to Holders of Claims or Interests in accordance with the Disclosure Statement Order: (i) the Disclosure Statement Order; (ii) the Combined DS and Plan; (iii) a Ballot; (iv) a notice of the Confirmation Hearing; and (v) a notice of non-voting status (the “**Notice of Non-Voting Status**”) that included, among other things, an opportunity to opt-out of the Third Party Releases (as defined below) in the Plan (collectively (i)–(v), the “**Solicitation Materials**”).

11. On October 20, 2023, the Debtors filed their *Notice of Filing Solicitation Version of the Combined Plan and Disclosure Statement* [Docket No. 244].

12. On October 23, 2023, the Debtors, through their solicitation agent, Donlin, Recano & Company, Inc. (“**Donlin**”), caused some or all of the Solicitation Materials to be transmitted and served in compliance with the Bankruptcy Code, the Bankruptcy Rules, the *Bankruptcy Local Rules for the United States Bankruptcy Court for the Southern District of Texas* (the “**Bankruptcy Local Rules**”), and the Disclosure Statement Order on Holders of Claims or Interests known at

that time, all in accordance with the Solicitation Procedures and as established by the *Affidavit of Donlin Recano and Company, Inc. Regarding Service of Solicitation Packages with Respect to the Combined Disclosure Statement and Joint Chapter 11 Plan of Liquidation of Orbital Infrastructure Group, Inc., et. al.* [Docket No. 283] (the “**Original Solicitation Certification**”).

13. On November 2, 3, 9, and 14, 2023, the Debtors, through Donlin, caused the applicable Solicitation Materials to be transmitted and served in compliance with the Bankruptcy Code, the Bankruptcy Rules, the Bankruptcy Local Rules, and the Disclosure Statement Order on creditors who properly and timely file a proof of claim for a liquidated general unsecured claim amount after the Voting Record Date that purported to have a claim not listed on the Debtors’ schedules or which are listed on the schedules as undetermined, all in accordance with the Solicitation Procedures and as established by the *Supplemental Affidavit of Donlin Recano and Company, Inc. Regarding Service of Solicitation Packages with Respect to the Combined Disclosure Statement and Joint Chapter 11 Plan of Liquidation of Orbital Infrastructure Group, Inc., et. al.* [Docket No. 334] (the “**Supplemental Solicitation Certification**” and together with the Original Solicitation Certification, the “**Solicitation Certifications**”).

14. On November 14, 2023, the Debtors filed the *Amended Combined Disclosure Statement and Joint Chapter 11 Plan of Liquidation of Orbital Infrastructure Group, Inc., et al.* [Docket No. 301] (the “**First Amended Plan**”), which incorporated certain modifications to the solicitation version of the Plan pursuant to, and in compliance with, section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019 (collectively, the “**Initial Plan Modifications**”). The Initial Plan Modifications are reflected in the changed pages only redline filed by the Debtors on November 14, 2023 [Docket No. 302].

15. On November 22, 2023, the Debtors filed the Plan, which incorporated certain additional modifications to the solicitation version of the Plan and the First Amended Plan pursuant to, and in compliance with, section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019 (collectively, the “**Additional Plan Modifications**” and together with the Initial Plan Modifications, the “**Plan Modifications**”). The Additional Plan Modifications are reflected in the changed pages only redline attached as Exhibit A to the notice filed by the Debtors on November 22, 2023 [Docket No. 337-1]. The Plan Modifications are reflected in the changed pages only redline attached as Exhibit B to the notice filed by the Debtors on November 22, 2023 [Docket No. 337-2].

16. In accordance with Bankruptcy Rule 3019, the Plan Modifications do not: (i) constitute material modifications of the Plan under section 1127 of the Bankruptcy Code; (ii) require additional disclosure under section 1125 of the Bankruptcy Code; (iii) cause the Plan to fail to meet the requirements of sections 1122 or 1123 of the Bankruptcy Code; (iv) materially and adversely change the treatment of any Claims or Interests; (v) require re-solicitation of votes of any Holders of Claims or Interests; or (vi) require that any Holders of Claims be afforded an opportunity to change previously cast acceptances or rejections of the Plan. Under the circumstances, the form and manner of notice of the proposed Plan Modifications are adequate, and no other or further notice of the proposed Plan Modifications is necessary or required.

17. In accordance with section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019, all Holders of Claims who voted to accept the Plan or who are conclusively presumed to have accepted the Plan are deemed to have accepted the Plan as modified by the Plan Modifications. No Holder of a Claim that has voted to accept the Plan shall be permitted to change its acceptance to a rejection as a consequence of the Plan Modifications.

18. The Debtors formulated the Plan in good faith and solicited acceptances thereon pursuant to, and in accordance with, the Disclosure Statement Order and the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, and the Bankruptcy Local Rules. The Plan has been solicited in good faith, and the Debtors are entitled to the full protections afforded under section 1125(e) of the Bankruptcy Code.

19. On November 10, 2023, a notice of the Confirmation Hearing was published in the national edition of the New York Times pursuant to, and in accordance with, the Disclosure Statement Order and the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, and the Bankruptcy Local Rules. *See* Docket No. 304.

20. On November 14, 2023, the Debtors filed a supplement to the Plan [Docket No. 303] (as amended, supplemented, restated, or modified from time to time, the “**Plan Supplement**”). The materials contained in the Plan Supplement comply with the terms of the Plan, and the filing and notice of such documents was good and proper in accordance with the Bankruptcy Code, the Bankruptcy Rules, the Bankruptcy Local Rules, and the Disclosure Statement Order, and no other or further notice is or shall be required. The documents included in the Plan Supplement are integral to, part of, and incorporated by reference into the Plan.

21. The Debtors are conclusively determined to have provided all Holders of Claims and Interests and parties-in-interest, whose names and addresses or email addresses were known to the Debtors, with adequate and sufficient notice of the Combined DS and Plan and the Confirmation Hearing. The notice provided by the Debtors is adequate under the Bankruptcy Code, the Bankruptcy Rules, the Bankruptcy Local Rules, and the Disclosure Statement Order; and such notice did apprise the parties receiving the same of notice of the Combined DS and Plan,

the information and deadlines in the Disclosure Statement Order, the Confirmation Objection Deadline, and the Confirmation Hearing.

**E. Impairment of Claims and Results of Voting on the Plan**

22. Claims in Class 1 (Other Secured Claims) and Class 2 (Other Priority Claims) are Unimpaired under the Plan. Under section 1126(f) of the Bankruptcy Code, Holders of Claims in these Classes are conclusively presumed to have accepted the Plan. Accordingly, Holders of Claims in these Classes are not entitled to vote on the Plan.

23. Pursuant to Article VII. H., any Class of Claims that does not have any Claims as of the date of the Confirmation Hearing shall be deemed eliminated from the Plan for purposes of determining acceptance or rejection of the Plan. There are no Holders of Allowed Claims in Class 4 (Subordinated Claims), therefore, Class 4 is deemed eliminated from the Plan. To the extent that any other Class does not have a Holder of an Allowed Claim or Interest, such Class is deemed eliminated from the Plan.

24. Claims or Interests in Class 5 (Intercompany Claims), Class 6 (Intercompany Interests), and Class 7 (Interests in Orbital) are Impaired and Holders of Claims or Interests in these Classes shall neither receive nor retain any property on account of such Claims or Interests, as applicable, under the Plan. Under section 1126(g) of the Bankruptcy Code, Holders of Claims and Interests in these Classes are conclusively presumed to have rejected the Plan and are not entitled to vote on the Plan.

25. Claims in Class 3 (General Unsecured Claims) are Impaired and Holders of Allowed Class 3 Claims are entitled to a distribution under the Plan. Accordingly, Holders of Claims in Class 3 (General Unsecured Claims) are entitled to vote on the Plan.

26. On November 22, 2023, the Ballot Certification was filed. The voting results contained in the Ballot Certification are incorporated herein by reference and are adopted by the



Court as its findings of fact. **75%** in number (*i.e.*, 12 creditors) and **98.47%** in amount (*i.e.*, representing **\$40,596,918.65** in Claims) of voting creditors in Class 3 (General Unsecured Claims) voted to accept the Plan. Accordingly, Class 3 (General Unsecured Claims) has voted to accept the Plan.

27. Donlin examined each Ballot and each opt-out form to determine which parties opted out of the Third Party Releases. The parties listed below affirmatively elected to opt out of the Third Party Release: (i) Bay Shore Systems Inc.; (ii) Jingoli Power LLC; and (iii) Equix Infrastructure, Inc.; (iv) Gian Rivera; (v) Hill Country Staffing Company, LLC d/b/a HC Tradesmen Staffing, LLC; (vi) Moss Adams LLP; (vii) American Wire Group LLC; and (viii) Key Solar LLC.

28. The classification and treatment of Claims and Interests in the Plan comply with the applicable provisions of the Bankruptcy Code and Bankruptcy Rules, including sections 1122, 1123, and 1129 of the Bankruptcy Code, and are reasonable and appropriate.

**F. Informal Comments, Objections to Confirmation of the Plan and Disposition Thereof**

29. No objections to the Plan were filed; however, the Debtors received informal comments to the Plan (collectively, the “**Informal Comments**”) from the following parties: (i) Hill Country Staffing Company, LLC d/b/a HC Tradesmen Staffing, LLC; (ii) the U.S. Trustee; and the United States Securities and Exchange Commission.

30. The Debtors, with the Committee’s consent, negotiated resolutions of the Informal Comments, which were implemented through agreed language in the Confirmation Order or the Plan Modifications.

**G. Executory Contracts and Unexpired Leases**

31. Article IX of the Plan provides that as of and subject to the occurrence of the Effective Date, except as otherwise provided in the Plan, each Executory Contract and Unexpired

Lease not previously rejected, assumed, or assumed and assigned shall be deemed rejected, unless such Executory Contract or Unexpired Lease: (i) is a contract, instrument, release, or other agreement or document entered into in connection with the Plan; (ii) is a D&O Policy or other insurance policy of the Debtors; (iii) is a Purchase Agreement; (iv) is a Specified Employee Benefit Contract to the extent any Specified Employee Benefit Contract is an Executory Contract; or (v) is the subject of a motion filed by a Debtor for assumption or assumption and assignment under section 365 of the Bankruptcy Code that is pending before this Court.

32. The Debtors have exercised reasonable business judgment in determining whether to assume or reject Executory Contracts and Unexpired Leases pursuant to Article IX of the Plan. Each rejection of an Executory Contract or Unexpired Lease pursuant to Article IX of the Plan shall be legal, valid, and binding upon the Debtors or the Liquidating Trust and their successors and assigns and all non-Debtor counterparties and their successors and assigns to such Executory Contract or Unexpired Lease, all to the same extent as if such rejection was effectuated pursuant to an order of the Bankruptcy Court under section 365 of the Bankruptcy Code entered before entry of this Order.

#### **H. Implementation of the Plan**

33. The transactions contemplated in the Plan are appropriate to effectuate the Plan, proposed in good faith, critical to the Plan, and in the best interest of the Debtors, their Estates, and all parties in interest. All of the documents to be executed and delivered in connection with such transactions were negotiated and proposed in good faith, without collusion, and from arm's-length bargaining positions. All of such documents are, or will be, valid, binding, and enforceable agreements, and are not in conflict with any applicable federal or state law.

34. The conditions to the occurrence of the Effective Date in Article XIV.A of the Plan are reasonably likely to be satisfied or waived.

**I. Substantive Consolidation**

35. Article X.C of the Plan provides for the substantive consolidation of the Debtors for all purposes related to the Combined DS and Plan including, among other things, voting, confirmation, and Distributions, which is appropriate under the circumstances of the Chapter 11 Cases.

**J. Liquidating Trustee and Compensation**

36. The identity of, and the terms of the proposed compensation to be paid to, the proposed Liquidating Trustee is consistent with the interests of all parties in interest and with public policy.

**K. Release and Exculpation**

37. The Plan contemplates various releases and exculpations for the Released Parties and Exculpated Parties, respectively. The releases and exculpations are essential and integral components of the Plan and the compromises and settlements contained therein.

38. The Debtors' management, as well as the Debtors' attorneys, advisors, and other professionals have played an integral role in, and have provided a tangible benefit to, the Chapter 11 Cases. These parties have worked diligently (both before and after the Petition Date) in connection with the Chapter 11 Cases. The Debtors' management, with the assistance of the Debtors' attorneys, advisors and other professionals: (a) assisted in efforts to prepare for the Chapter 11 Cases; (b) assisted in the negotiation and formulation of the Combined DS and Plan; and (c) responded to various issues that arose during the Chapter 11 Cases. The Committee, its members, and the Committee's attorneys and other advisors have also played an integral role in, and have provided a tangible benefit to, the Chapter 11 Cases.

39. Each of the parties receiving a release or exculpation under the Plan has participated in the Chapter 11 Cases in good faith and has acted in compliance with all provisions of the

Bankruptcy Code, including in connection with the negotiation, preparation, and pursuit of confirmation of the Plan.

40. The Court has jurisdiction under section 1334 of title 28 of the United States Code and authority under section 105 of the Bankruptcy Code to approve the injunctions, releases, and exculpations set forth in Article XII of the Plan. As has been established based on the record in the Chapter 11 Cases and the evidence presented at the Confirmation Hearing, such provisions (i) are the product of extensive good faith, arm's length negotiations, (ii) are an essential and integral component of the terms of the Plan, and (iii) are supported by the Debtors and their key stakeholders, including the Committee.

41. The release provision in Article XII.B.1 of the Plan (Releases by the Debtors) is appropriate, as it represents a valid exercise of the Debtors' business judgment. The release provisions in Articles XII.B.2 of the Plan (Releases by Holders of Claims and Interests) (the "**Third Party Releases**") are appropriate, as the releases contained therein are consensual and supported by the record in the Chapter 11 Cases and the evidence presented at the Confirmation Hearing. The Third Party Releases: (a) are supported by good and valuable consideration provided by the Released Parties; (b) represent a good-faith settlement and compromise of the various claims and contested issues raised by the Chapter 11 Cases; (c) materially beneficial to, and in the best interests of, the Debtors, their Estates, and their stakeholders, and important to the overall objectives of the Plan to finally resolve certain disputed issues among or against certain parties in interest in the Chapter 11 Cases; (d) are fair, equitable, and reasonable; (e) are given and made after due notice and opportunity for hearing; and (f) are consistent with the Bankruptcy Code. The Third Party Releases are an essential and integral part of the Plan and were a core negotiation point in developing the Plan that maximized value for all of the Debtors' stakeholders. The Third Party

Releases were conspicuously disclosed in boldface type in the Combined DS and Plan, the Ballots, and the Notice of Non-Voting Status, which provided parties in interest with sufficient notice of the Third Party Releases. The exculpation provided in Article XII.C of the Plan is appropriate under applicable law, was proposed in good faith, is an integral component of the Plan, and is appropriately limited in scope.

42. The record of the Confirmation Hearing and the Chapter 11 Cases is sufficient to support the injunctions, releases, and exculpations provided for in the Plan. Accordingly, based upon the record of the Chapter 11 Cases, the representations of the parties, and the evidence proffered, adduced, and/or presented at the Confirmation Hearing, the injunctions, exculpation, and releases set forth in Article XII of the Plan are consistent with the Bankruptcy Code and applicable law and are approved.

**L. Miscellaneous**

43. The Court has taken judicial notice of all papers filed and all orders entered in the Debtors' Chapter 11 Cases.

44. The Court's oral findings of fact including, among other things, any resolution or disposition of objections explained or otherwise ruled upon by the Court on the record at the Confirmation Hearing are incorporated herein by reference. All parties have had a full and fair opportunity to be heard on all issues raised by any party in interest at or before the Confirmation Hearing. To the extent any objection to the adequacy of the Disclosure Statement or Confirmation of the Plan has not been withdrawn or otherwise resolved in the Confirmation Order, it is overruled. Any withdrawn objections are deemed withdrawn with prejudice.

### **CONCLUSIONS OF LAW**

A. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2). This matter arises under title 11, and jurisdiction is vested in this Court to enter a final order by virtue of 28 U.S.C. § 1334.

#### **Final Approval of the Disclosure Statement**

B. The Disclosure Statement is hereby approved on a final basis as providing Holders of Claims entitled to vote on the Plan with adequate information to make an informed decision as to whether to vote to accept or reject the Plan in accordance with section 1125(a)(1) of the Bankruptcy Code.

C. The Disclosure Statement (including all applicable exhibits thereto) provides Holders of Claims with sufficient notice of the injunction, exculpation, and release provisions contained in Article XII of the Plan, in satisfaction of the requirements of Bankruptcy Rules 2002(c)(3) and, to the extent applicable, 3016.

#### **Confirmation Requirements Concerning the Plan**

##### **11 U.S.C. § 1129(a)(1) and (a)(2): Compliance with Title 11**

D. The classification of Claims and Interests described in the Plan satisfies the standards of section 1122 of the Bankruptcy Code. The Plan complies with the applicable provisions of the Bankruptcy Code, including section 1123 of the Bankruptcy Code. The requirements of section 1129(a)(1) of the Bankruptcy Code are therefore satisfied.

E. Specifically, the Plan, as required by section 1123 of the Bankruptcy Code:

- designates, subject to section 1122, Classes of Claims, other than Claims of a kind specified in sections 507(a)(1), 507(a)(2) or 507(a)(8), and Classes of Interests;
- specifies every Class of Claims or Interests that is not impaired under the Plan;

- specifies the treatment of any Class of Claims or Interests that is impaired under the Plan;
- provides 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;
- provides adequate means for the Plan's implementation;
- prohibits the issuance of non-voting equity securities pursuant to and only to the extent required by section 1123(a)(6) of the Bankruptcy Code by providing for the dissolution of the Debtors upon the Effective Date; and
- contains 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 under the Plan and any successor to such officer, director, or trustee.

F. The Debtors have complied with the terms of the Disclosure Statement Order, the Bankruptcy Rules, the Bankruptcy Local Rules, and the Bankruptcy Code. The requirements of section 1129(a)(2) of the Bankruptcy Code are therefore satisfied.

**11 U.S.C. § 1129(a)(3): Plan Proposed in Good Faith**

G. 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. The Debtors have proposed the Plan with the legitimate and honest purpose of liquidating and making distributions to their creditors. The Plan fairly achieves a result consistent with the objectives and purposes of the Bankruptcy Code. The Plan is the result of good faith, arm's-length negotiations among the Debtors, the Committee, and other parties in interest. Accordingly, the Debtors are entitled to the protections afforded under section 1125(e) of the Bankruptcy Code.

**11 U.S.C. § 1129(a)(4): Disclosure and Approval of Payments**

H. Any payment made or to be made by the Debtors, for services or for costs and expenses in or in connection with the Chapter 11 Cases, or in connection with the Plan and incident

to the Chapter 11 Cases, has been approved by, or is subject to the approval of the Bankruptcy Court as reasonable, as required by section 1129(a)(4) of the Bankruptcy Code.

**11 U.S.C. § 1129(a)(5): Disclosure of Management and Payments to Insiders**

I. The Debtors have disclosed the identity and compensation of the Liquidating Trustee, the representative of the Liquidating Trust, which is the successor to the Debtors under the Plan. Consequently, the Debtors have provided sufficient disclosure required by section 1129(a)(5) of the Bankruptcy Code.

J. The appointment and terms of compensation of the Liquidating Trustee are reasonable and approved in all respects. The Liquidating Trustee shall have such rights, powers, and duties and shall receive such compensation as is provided for in the Plan, the Confirmation Order, and the Plan Supplement.

**11 U.S.C. § 1129(a)(6): Regulatory Rate Approval**

K. The Plan does not provide for a “rate change” as contemplated by section 1129(a)(6) of the Bankruptcy Code, therefore, section 1129(a)(6) does not apply to the Plan.

**11 U.S.C. § 1129(a)(7): Best Interest of Creditors Test**

L. The Debtors prepared a liquidation analysis (the “**Liquidation Analysis**”) with respect to a hypothetical liquidation of the Debtors’ assets under chapter 7 of the Bankruptcy Code. The Liquidation Analysis is attached as Exhibit 1 to the Combined DS and Plan. The Court accepts the results of the Liquidation Analysis. Based on the Liquidation Analysis, with respect to each impaired Class of Claims or Interests, (a) each Holder of a Claim or Interest of such Class has either accepted the Plan or (b) will receive or retain 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 that the Holder would so receive or retain if the Debtors were liquidated under chapter 7 of the Bankruptcy Code. The requirements of 11 U.S.C. § 1129(a)(7) are therefore satisfied.



**11 U.S.C. § 1129(a)(8): Acceptance of Plan by All Classes**

M. Section 1129(a)(8) of the Bankruptcy Code requires that, with respect to each class of claims or interests, such class has either accepted the plan or is not impaired under the plan. Claims in Classes 1 and 2 are not impaired and section 1129(a)(8) is satisfied with respect to those Classes. The sole voting Class (Class 3) voted overwhelmingly in favor of the Plan and section 1129(a)(8) is satisfied with respect to Class 3. Class 4 (Subordinated Claims) is deemed eliminated from the Plan because it does not have a Holder of an Allowed Claim.

N. Holders of Claims and Interests in Class 5 (Intercompany Claims), Class 6 (Intercompany Interests), and Class 7 (Interests in Orbital) are conclusively presumed to have rejected the Plan and were not entitled to vote on the Plan; therefore, the requirements of section 1129(a)(8) of the Bankruptcy Code are not satisfied with respect to these Classes; however, the Plan meets the cramdown requirements of section 1129(b) of the Bankruptcy Code with respect to these Classes because, as described further below, the Plan does not discriminate unfairly and is fair and equitable with respect to these Classes. Accordingly, the Plan can be confirmed without complying with section 1129(a)(8).

**11 U.S.C. § 1129(a)(9): Payment of Priority Claims**

O. Section 1129(a)(9) of the Bankruptcy Code provides for the treatment of claims entitled to priority under sections 507(a)(1)-(8) of the Bankruptcy Code. Under section 1129(a)(9)(A) of the Bankruptcy Code, holders of section 507(a)(2) and (a)(3) claims must receive cash equal to the allowed amount of such claim. Section 1129(a)(9)(B) provides that, except to the extent the holder of a claim has otherwise agreed to a different treatment, holders of section 507(a)(1) and (a)(4)-(a)(7) claims must receive deferred cash payments of a value equal to the allowed amount of such claims if the class has accepted the Plan or, if not, cash equal to the allowed amount of such claim. Under Section VII.A of the Plan, Holders of Allowed Administrative

Claims shall be paid an amount of Cash equal to the amount of their Allowed Administrative Claims, except as otherwise agreed to by the Holder of an Allowed Administrative Claim, as applicable. Under Section VII.C of the Plan, Holders of Other Priority Claims will be paid in full in Cash or such other treatment as is consistent with the requirements of section 1129(a)(9) of the Bankruptcy Code, except to the extent that a Holder of an Allowed Other Priority Unsecured Claim agrees to less favorable treatment. No Holder of an Administrative Claim or Other Priority Claim objected to this treatment proposed by the Plan. Accordingly, the Plan meets the requirements of sections 1129(a)(9)(A) and 1129(a)(9)(B) of the Bankruptcy Code.

P. Under section 1129(a)(9)(C) of the Bankruptcy Code, holders of claims under section 507(a)(8) or secured tax claims must receive regular installment payments in cash, (a) of a total value, as of the effective date of the plan, equal to the allowed amount of such claim; (b) over a period ending not later than 5 years after the date of the order for relief under sections 301, 302 or 303; and (iii) in a manner not less favorable than the most favored nonpriority unsecured claim provided for by the Plan. Section VII.A.2 of the Plan provides that Allowed Priority Tax Claims shall be treated in accordance with section 1129(a)(9)(C) of the Bankruptcy Code. Accordingly, the Plan meets the requirements of section 1129(a)(9)(C) of the Bankruptcy Code.

**11 U.S.C. § 1129(a)(10): At Least One Impaired Class Has Accepted the Plan**

Q. Section 1129(a)(10) of the Bankruptcy Code provides that if one or more classes of claims is impaired under a plan, at least one class must have accepted the plan, without including any votes of insiders. Class 3 is comprised of General Unsecured Claims. Without including any acceptance of the Plan by any insider, Class 3 voted to accept the Plan. The Plan therefore satisfies the requirements of section 1129(a)(10) of the Bankruptcy Code.

**11 U.S.C. § 1129(a)(11): Feasibility**

R. The Plan complies with section 1129(a)(11) of the Bankruptcy Code because the Plan is a plan of liquidation, therefore, no further liquidation beyond what the Plan provides or reorganization will be required.

**11 U.S.C. § 1129(a)(12): Payment of Fees**

S. Article VII.A.3 of the Plan provides that, until the Chapter 11 Cases are closed, all fees payable pursuant to 28 U.S.C. § 1930(a) will be paid by each Debtor or the Liquidating Trust, as applicable. Accordingly, the Plan complies with the requirements of section 1129(a)(12) of the Bankruptcy Code.

**11 U.S.C. § 1129(a)(13): Retiree Benefits**

T. The Debtors have no retiree benefit obligations, and therefore section 1129(a)(14) of the Bankruptcy Code is inapplicable.

**11 U.S.C. § 1129(a)(14): Domestic Support Obligations**

U. The Debtors are not required to pay a domestic support obligation, either under a judicial or administrative order or by statute, and therefore section 1129(a)(14) of the Bankruptcy Code is inapplicable.

**11 U.S.C. § 1129(a)(15): Objection to Plan Confirmation by a Holder of an Unsecured Claim**

V. The Debtors are not individuals, and therefore section 1129(a)(15) of the Bankruptcy Code is inapplicable.

**11 U.S.C. § 1129(a)(16): Restrictions on Transfers of Property by Nonprofit Entities**

W. The Debtors are a moneyed, business, or commercial corporation or trust, and therefore section 1129(a)(16) of the Bankruptcy Code is inapplicable to transfers of property under the Plan by the Debtors on the Effective Date.

**11 U.S.C. § 1129(b)**

X. Under section 1129(b) of the Bankruptcy Code, the court “shall confirm the plan notwithstanding the requirements of [section 1129(a)(8)] . . . if the plan does not discriminate unfairly, and it is fair and equitable, with respect to each class of claims or interest that is impaired under, and has not accepted, the plan.” For purposes of section 1129(b) of the Bankruptcy Code, the Plan is fair and equitable to the extent that the Holder of any Claim or Interest that is junior to the Claims of such Class will not receive or retain under the plan on account of such junior claim or interest any property. *See* 11 U.S.C. § 1129(b)(2)(B)(ii), (C)(ii).

Y. To the extent any Classes are similarly situated, the Plan does not discriminate unfairly against any such Classes. Accordingly, the Plan satisfies section 1129(b)(1) of the Bankruptcy Code.

Z. There are no Claims or Interests that are junior to the Claims or Interests of any Impaired Class that has not accepted the Plan that would receive a distribution or retain property under the Plan. Accordingly, the Plan satisfies the absolute priority rule of section 1129(b)(2) of the Bankruptcy Code and is “fair and equitable” in all respects.

**11 U.S.C. § 1129(c)**

AA. Section 1129(c) of the Bankruptcy Code is satisfied because the Plan is the only plan filed in the Chapter 11 Cases.

**11 U.S.C. § 1129(d)**

BB. The primary purpose of the Plan is not avoidance of taxes or avoidance of the requirements of Section 5 of the Securities Act. Therefore, the Plan complies with section 1129(d) of the Bankruptcy Code.

**11 U.S.C. § 1129(e)**

CC. The Chapter 11 Cases are not small business cases; therefore, section 1129(e) of the Bankruptcy Code does not apply to the Chapter 11 Cases.

**Satisfaction of Confirmation Requirements**

DD. Based upon the foregoing and all other pleadings and evidence proffered or adduced at or prior to the Confirmation Hearing, the Debtors have satisfied their burden of proving by a preponderance of evidence that the Plan and the Debtors, as applicable, satisfy all the requirements for Confirmation set forth in section 1129 of the Bankruptcy Code. Any objections to confirmation of the Plan that have not been withdrawn or otherwise resolved in the Confirmation Order are overruled.

**Other Provisions**

EE. Based on the record of the Chapter 11 Cases, the acceptance of the Plan by the Class of Claims entitled to vote on the Plan, and the absence of any objections by parties impacted by the substantive consolidation of the Debtors, such substantive consolidation of the Debtors and their Estates is justified and appropriate in the Chapter 11 Cases for all purposes related to the Combined DS and Plan. Accordingly, the substantive consolidation of the Debtors for all purposes related to the Combined DS and Plan is approved pursuant to sections 105(a), 541, 1123, and 1129 of the Bankruptcy Code.

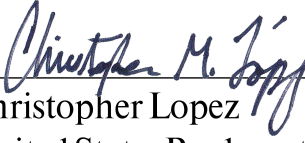
FF. The Plan provides that all Retained Causes of Action shall be preserved and shall vest in the Liquidating Trust. The Plan and the Plan Supplement, including the Retained Causes of Action Schedule, provide adequate disclosure with respect to the Retained Causes of Action that the Liquidating Trust shall retain. The Plan and Plan Supplement, including the descriptions of Retained Causes of Action as contained in the Plan and the Retained Causes of Action Schedule and potential defendants therein, are specific and unequivocal with respect to Causes of Action to

be preserved and retained by the Liquidating Trust and comply with the standards set forth in *Dynasty Oil & Gas, LLC v. Citizens Bank (In re United Operating, LLC)*, 540 F.3d 351, 355 (5th Cir. 2008) and its progeny. All parties in interest received adequate notice with respect to such Retained Causes of Action. The provisions regarding Retained Causes of Action in the Plan are appropriate and in the best interests of the Debtors, their respective Estates, and Holders of Claims and Interests.

GG. The Court's oral conclusions of law including, among other things, any resolution or disposition of objections explained or otherwise ruled upon by the Court on the record at the Confirmation Hearing are incorporated herein by reference.

HH. The record of the Confirmation Hearing is closed.

Signed: November 28, 2023

  
\_\_\_\_\_  
Christopher Lopez  
United States Bankruptcy Judge