

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

----- X  
In re: : Chapter 11  
: :  
EMERGE ENERGY SERVICES LP, *et al.*,<sup>1</sup> : Case No. 19-11563 (KBO)  
: :  
Debtors. : Jointly Administered  
: :  
----- X Re: Docket Nos. 247, 255, 276, 277 & 328

**CERTIFICATION OF COUNSEL REGARDING  
ORDER (I) APPROVING THE DISCLOSURE STATEMENT,  
(II) ESTABLISHING THE VOTING RECORD DATE, VOTING DEADLINE  
AND OTHER DATES, (III) APPROVING PROCEDURES FOR SOLICITING,  
RECEIVING AND TABULATING VOTES ON THE PLAN AND FOR FILING  
OBJECTIONS TO THE PLAN, (IV) APPROVING THE MANNER AND  
FORMS OF NOTICE AND OTHER RELATED DOCUMENTS, (V) APPROVING  
PROCEDURES FOR ASSUMPTION OF CONTRACTS AND LEASES AND FORM AND  
MANNER OF ASSUMPTION NOTICE, AND (VI) GRANTING RELATED RELIEF**

The undersigned hereby certifies as follows:

1. On August 22, 2019, the debtors and debtors in possession in the above-captioned cases (collectively, the “**Debtors**”) filed the *Motion of the Debtors for Entry of an Order (I) Approving the Disclosure Statement, (II) Establishing the Voting Record Date, Voting Deadline and Other Dates, (III) Approving Procedures for Soliciting, Receiving and Tabulating Votes on the Plan and for Filing Objections to the Plan, (IV) Approving the Manner and Forms of Notice and Other Related Documents, and (V) Granting Related Relief* [Docket No. 247] (the “**Motion**”) with the United States Bankruptcy Court for the District of Delaware (the “**Court**”).

2. The Debtors received certain objections (collectively, the “**Objections**”) to the Motion and the *Disclosure Statement with Respect to Joint Plan of Reorganization for Emerge*

<sup>1</sup> The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: Emerge Energy Services LP (2937), Emerge Energy Services GP LLC (4683), Emerge Energy Services Operating LLC (2511), Superior Silica Sands LLC (9889), and Emerge Energy Services Finance Corporation (9875). The Debtors’ address is 5600 Clearfork Main Street, Suite 400, Fort Worth, Texas 76109.



*Services LP and Its Affiliate Debtors Under Chapter 11 of the Bankruptcy Code* (as it may be amended, modified or supplemented from time to time, the “**Disclosure Statement**”) by the Securities and Exchange Commission (the “**SEC**”) [Docket No. 255], Pownall Services, LLC (“**Pownall**”) [Docket No. 276], and the official committee of unsecured creditors (the “**Committee**”) [Docket No. 277]. Additionally, the Debtors received informal comments (the “**Comments**”) from the Office of the United States Trustee for the District of Delaware (the “**U.S. Trustee**”).

3. On September 6, 2019, the Debtors filed a revised proposed form of order granting the relief requested in the Motion [Docket No. 328] (the “**Proposed Order**”).

4. On September 9, 2019, the Court held a hearing (the “**Hearing**”) to consider the Motion. At the Hearing, the Court indicated that it would enter the Proposed Order, subject to certain revisions being made to the Proposed Order to resolve the Comments and to incorporate certain revisions requested by the Court, and such revised order being submitted to the Court under certification of counsel.

5. Additionally, on September 10, 2019, the Debtors filed a revised Disclosure Statement resolving the concerns with the Disclosure Statement raised in the Objection filed by the Committee, consistent with the Court’s ruling and the record made at the Hearing.

6. The Objection filed by Pownall was resolved at the Hearing, subject to certain representations made on the record.

7. Accordingly, the Debtors have prepared a revised version of the Proposed Order, and such revised order is attached hereto as Exhibit A (the “**Revised Order**”). The Revised Order resolves the concerns with the Proposed Order raised by the SEC and the U.S. Trustee consistent with the Court’s ruling and the record made at the Hearing.

8. The Revised Order has been circulated to the U.S. Trustee and the SEC, and the aforementioned parties do not object to the entry of the Revised Order. Other than the Objections and the Comments, the Debtors received no other informal responses to the Motion or the Disclosure Statement, and no other objection or responsive pleading to the Motion or the Disclosure Statement has appeared on the Court's docket in these chapter 11 cases. For the convenience of the Court and all parties in interest, a blackline of the Revised Order against the Proposed Order is attached hereto as Exhibit B.

WHEREFORE, the Debtors respectfully request that the Court enter the Revised Order, attached hereto as Exhibit A, at its earliest convenience.

Dated: September 10, 2019  
Wilmington, Delaware

/s/ Travis J. Cuomo

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*Counsel for Debtors and Debtors-in-Possession*

**EXHIBIT A**

**Revised Order**

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

	X	
In re:	:	Chapter 11
	:	
EMERGE ENERGY SERVICES LP, <i>et al.</i> ,	:	Case No. 19-11563 (KBO)
	:	
Debtors. <sup>1</sup>	:	(Jointly Administered)
	:	
	:	<b>Re: Docket No. 247</b>
	X	

**ORDER (I) APPROVING THE DISCLOSURE STATEMENT, (II) ESTABLISHING THE VOTING RECORD DATE, VOTING DEADLINE AND OTHER DATES, (III) APPROVING PROCEDURES FOR SOLICITING, RECEIVING AND TABULATING VOTES ON THE PLAN AND FOR FILING OBJECTIONS TO THE PLAN, (IV) APPROVING THE MANNER AND FORMS OF NOTICE AND OTHER RELATED DOCUMENTS, (V) APPROVING PROCEDURES FOR ASSUMPTION OF CONTRACTS AND LEASES AND FORM AND MANNER OF ASSUMPTION NOTICE, AND (VI) GRANTING RELATED RELIEF**

Upon the motion (the “**Motion**”)<sup>2</sup> of the above-captioned debtors and debtors in possession (collectively, the “**Debtors**”) for entry of an order, pursuant to 11 U.S.C. §§ 105(a), 1125, and 1126 and Rules 2002, 3003, 3017, 3018, and 3020 of the Federal Rules of Bankruptcy Procedure, (i) approving the Disclosure Statement, (ii) establishing the voting record date, the Voting Deadline and other dates (a summary chart of which is attached hereto as Chart A), (iii) approving procedures for soliciting, receiving and tabulating votes on the Plan and for filing objections to the Plan, (iv) approving the manner and forms of notice and other related documents, (v) approving the Assumption Procedures and the form and manner of the Assumption Notice; and (vi) granting other relief relating thereto as set forth herein; and it

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<sup>1</sup> The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: Emerge Energy Services LP (2937), Emerge Energy Services GP LLC (4683), Emerge Energy Services Operating LCC (2511), Superior Silica Sands LLC (9889), and Emerge Energy Services Finance Corporation (9875). The Debtors’ address is 5600 Clearfork Main Street, Suite 400, Fort Worth, Texas 76109.

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

appearing that the relief requested in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and it appearing that this Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and it appearing that the Motion is a core proceeding pursuant to 28 U.S.C. § 157; and adequate notice of the Motion and opportunity for objection having been given; and it appearing that no other notice need be given; and after due deliberation and sufficient cause therefore:

**IT IS HEREBY FOUND AND DETERMINED THAT:**

A. The Disclosure Statement contains adequate information within the meaning of Bankruptcy Code Section 1125.

B. The notices attached to this Order (collectively, the "**Notices**") contain sufficient information and are appropriate under the circumstances.

C. For solicitation purposes only, the forms of the ballots and opt-out notice attached to this Order (collectively, the "**Ballots**") (i) are sufficiently consistent with Official Form No. 314, (ii) adequately address the particular needs of the Chapter 11 Cases, and (iii) are appropriate for (a) the Classes of Claims entitled under the Plan to vote to accept or reject the Plan and (b) the Classes of Old Equity Interests entitled under the Plan to opt out of the Third Party Release; provided that all parties' rights are reserved with respect to their ability to challenge the Third Party Release at the Confirmation Hearing.

D. The time period set forth below during which the Debtors may solicit votes on the Plan is a reasonable period of time for creditors to make an informed decision as to whether to accept or reject the Plan, and for Holders of Old Equity Interests to decide whether to opt out of the Third Party Release; provided that all parties' rights are reserved with respect to their ability to challenge the Third Party Release at the Confirmation Hearing.

E. The procedures set forth below for the solicitation and tabulation of votes to accept or reject the Plan provide for a fair and equitable voting process and are consistent with Bankruptcy Code Section 1126.

F. The procedures set forth below regarding the Confirmation Hearing Notice and the contents of the Solicitation Package comply with Bankruptcy Rules 2002 and 3017 and constitute sufficient notice to all interested parties.

**IT IS THEREFORE ORDERED THAT:**

1. The Motion is granted as set forth herein.

**A. Approval of the Disclosure Statement**

2. Pursuant to Bankruptcy Rule 3017(b), the Disclosure Statement is approved as containing adequate information within the meaning of Bankruptcy Code Section 1125(a), and the Debtors are authorized to distribute the Disclosure Statement and Solicitation Package in order to solicit votes on, and pursue confirmation of, the Plan.

3. The Disclosure Statement Notice [Docket No. 100] attached hereto as Exhibit 1 is approved pursuant to Bankruptcy Rules 2002 and 3017.

4. The notice and objection procedures provided in connection with the Disclosure Statement Hearing were reasonable and appropriate under the circumstances, and such notice and objection procedures were adequate pursuant to Bankruptcy Rule 3017.

**B. Confirmation Hearing and Objections**

5. Pursuant to Bankruptcy Rule 3020(b)(2), the hearing to consider confirmation of the Plan (the “Confirmation Hearing”) shall be on October 24, 2019 at 1:00 p.m. (prevailing Eastern Time).



6. Pursuant to Bankruptcy Rule 3020(b)(1), the deadline (the “**Confirmation Objection Deadline**”) for filing and serving objections to confirmation of the Plan (“**Confirmation Objections**”) shall be October 11, 2019 at 4:00 p.m. (prevailing Eastern Time).

7. The Confirmation Objections, if any, shall (i) be in writing, (ii) comply with the Bankruptcy Rules and the Local Rules, (iii) set forth the name of the objector and the nature and amount of any Claim or interest asserted by the objector against or in the Debtors, (iv) state with particularity the legal and factual bases for the objection and, if practicable, a proposed modification to the Plan that would resolve such objection, and (v) be filed with the Bankruptcy Court on or before the Confirmation Objection Deadline and served on each of the following parties (the “**Notice Parties**”):

- (i) Counsel to the Debtors, Latham & Watkins LLP, 885 Third Avenue, New York, New York 10022 (Attn: Keith A. Simon, Esq., Hugh K. Murtagh, Esq., and Liza L. Burton, Esq. (emails: keith.simon@lw.com, hugh.murtagh@lw.com, and liza.burton@lw.com)) and Richards, Layton & Finger, P.A., One Rodney Square, 920 North King Street, Wilmington, Delaware 19801 (Attn: John H. Knight, Esq. and Paul N. Heath, Esq. (emails: knight@rlf.com and heath@rlf.com));
- (ii) Counsel to the DIP Agent and the Prepetition Agents, Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, NY 10153-0119 (Attn: Matt S. Barr, Esq., David Griffiths, Esq., and Candace M. Arthur, Esq. (emails: matt.barr@weil.com, david.griffiths@weil.com, and candace.arthur@weil.com)) and Pachulski Stang Ziehl & Jones LLP, 919 North Market Street, Wilmington, Delaware 19801 (Attn: Laura Davis Jones, Esq. (email: ljones@pszjlaw.com));
- (iii) Counsel to the Committee, Kilpatrick Townsend & Stockton LLP, 1114 Avenue of the Americas, New York, New York 10036 (Attn: Todd C. Meyers, Esq., David M. Posner, Esq., and Kelly Moynihan, Esq. (emails: tmeyers@kilpatricktownsend.com, dposner@kilpatricktownsend.com, and kmoynihan@kilpatricktownsend.com)), Kilpatrick Townsend & Stockton LLP, 700 Louisiana Street, Suite 4300, Houston, Texas 77002 (Attn: Lenard M. Parkins, Esq. (email:

lparkins@kilpatricktownsend.com)), and Potter Anderson & Corroon LLP, 1313 North Market Street, Sixth Floor, P.O. Box 951, Wilmington, Delaware 19899 (Attn: Jeremy W. Ryan, Esq., Christopher M. Samis, Esq., and D. Ryan Slaugh, Esq. (emails: jryan@potteranderson.com, csamis@potteranderson.com, and rslaugh@potteranderson.com)); and

- (iv) The Office of the United States Trustee for the District of Delaware, 844 King Street, Suite 2207, Wilmington, Delaware 19801 (Attn: Juliet M. Sarkessian, Esq. (email: Juliet.M.Sarkessian@usdoj.gov)).

**C. Establishment of Voting Record Date and Approving Procedures for Temporary Allowance of Claims that are Subject to an Objection Filed by the Debtors**

8. Pursuant to Bankruptcy Rule 3017(d), September 9, 2019 shall be the voting record date (the “**Voting Record Date**”) with respect to all Claims and Equity Interests. The Debtors shall use the Voting Record Date for determining which Entities are entitled to, as applicable, receive Solicitation Packages, vote to accept or reject the Plan and receive notice of the Confirmation Hearing.

9. Any Holder of a Claim for which an objection is pending on the Voting Record Date, whether such objection relates to the entire Claim or a portion thereof, shall not be entitled to vote on the Plan and shall not be counted in determining whether the requirements of Bankruptcy Code Section 1126(c) have been met with respect to the Plan (except to the extent and in the manner as may be set forth in the objection) unless (i) the Claim has been temporarily allowed for voting purposes pursuant to Bankruptcy Rule 3018(a) and in accordance with this Order, or (ii) on or before the Voting Deadline, the objection to such Claim has been withdrawn or resolved in favor of the creditor asserting the Claim.

10. A recipient of an objection to expunge or disallow its Claim will receive a notice of non-voting status, substantially in the form of Exhibit 2 attached hereto.

11. September 27, 2019 at 4:00 p.m. (prevailing Eastern Time) (the “**Rule 3018(a) Motion Deadline**”) shall be the deadline for the filing and serving of any motion requesting temporary allowance of a Claim for purposes of voting pursuant to Bankruptcy Rule 3018(a) (the “**Rule 3018(a) Motion(s)**”).

12. Rule 3018(a) Motions must be filed with the Court no later than the Rule 3018(a) Motion Deadline and served on the Notice Parties; provided however, that if an objection to a Claim is Filed on or after the date that is fourteen (14) days before the Rule 3018(a) Motion Deadline, then the Rule 3018(a) Motion Deadline shall be extended as to such Claim such that the holder thereof shall have at least fourteen (14) days to file a Rule 3018(a) Motion; provided however, that all objections to Claims for voting purposes must be filed and served no later than September 23, 2019.

13. Any party timely filing and serving a Rule 3018(a) Motion shall be provided a Ballot by no later than three (3) business days after the Rule 3018(a) Motion is filed and be permitted to cast a provisional vote to accept or reject the Plan, if such party is in a Voting Class. If, and to the extent that, the Debtors and such party are unable to resolve the issues raised by the Rule 3018(a) Motion prior to the Voting Deadline, then at the Confirmation Hearing this Court shall determine whether the provisional Ballot should be counted as a vote on the Plan.

14. Nothing in this Order shall affect or limit any party’s rights to object to any Proof of Claim or Rule 3018(a) Motion.

**D. Approval of Solicitation Procedures**

**i. Duties of Voting and Claims Agent**

15. The Voting and Claims Agent shall assist the Debtors in, among other things, (i) mailing Confirmation Hearing Notices to Holders of Claims in Non-Voting Classes and other non-voting parties entitled to notice, (ii) mailing Solicitation Packages, (iii) soliciting votes on

the Plan, (iv) receiving, tabulating, and reporting on Ballots cast for or against the Plan by Holders of Claims against the Debtors, (v) responding to inquiries from creditors and stakeholders relating to the Plan, the Disclosure Statement, the Ballots and matters related thereto, including, without limitation, the procedures and requirements for voting to accept or reject the Plan and objecting to the Plan, and (vi) if necessary, contacting creditors and Equity Interest Holders regarding the Plan and their Ballots.

16. The Voting and Claims Agent is also authorized to accept Ballots via electronic online transmission solely through a customized online balloting portal on the Debtors' case website. The encrypted ballot data and audit trail created by such electronic submission shall become part of the record of any Ballot submitted in this manner and the creditor's electronic signature will be deemed to be immediately legally valid and effective.

**ii. Notices and Ballots**

17. The Notices and Ballots in the forms attached to this Order to be used in connection with the solicitation of votes on, and confirmation of, the Plan (as applicable) are hereby approved in full.

18. Claims in Class 1 (Other Priority Claims), Class 2 (Other Secured Claims), Class 3 (Secured Tax Claims), Class 4 (Prepetition Credit Agreement Claims) and Class 10 (Old Affiliate Equity Interests) are Unimpaired and, thus, the Holders of such Unimpaired Claims and Equity Interests are conclusively presumed to accept the Plan pursuant to Bankruptcy Code Section 1126(f), and the Debtors are not required to solicit their vote with respect to such Unimpaired Claims and Equity Interests.

19. The Debtors shall not be obligated to deliver Solicitation Packages or Ballots to Holders of Unimpaired Claims and Equity Interests. Rather, in lieu thereof and in accordance

with Bankruptcy Rule 3017(d), the Debtors shall mail, by no later than September 13, 2019 (the “**Solicitation and Notice Mailing Date**”), to the Holders of such Unimpaired Claims and Equity Interests a notice, substantially in the form of Exhibit 4 attached hereto (the “**Unimpaired Claims/Equity Notice**”), together with the form of Exhibit 6 attached hereto (the “**Confirmation Hearing Notice**”).

20. Class 7 (Intercompany Claims) do not retain or receive any property under the Plan. However, because the Holders of such Claims are Affiliates of the Debtors, the Holders of such Claims will be conclusively deemed to have accepted the Plan. Therefore, the Debtors shall not be obligated to deliver Solicitation Packages or Ballots to Holders of Intercompany Claims and any requirement to deliver a notice with respect to the Holders of such Claims under Bankruptcy Rule 3017(d) shall be waived.

21. Holders of Equity Interests in Class 8 (Old Emerge GP Equity Interests) do not retain or receive any property under the Plan on account of their Equity Interests. Holders of Equity Interests in Class 9 (Old Emerge LP Equity Interests) (together with Old Emerge GP Equity Interests, “**Old Equity Interests**”) will not retain or receive any property under the Plan on account of their Equity Interests if Class 6 votes to reject the Plan. Therefore, Holders of Old Equity Interests are deemed to reject the Plan pursuant to Bankruptcy Code Section 1126(g), and the Debtors shall not be required to send Solicitation Packages to Holders of Old Equity Interests. Rather, in lieu thereof, and in accordance with Bankruptcy Rule 3017(d), the Debtors shall mail, by the Solicitation and Notice Mailing Date to the Holders of such Old Equity Interests a copy of the Disclosure Statement with attached Plan, Confirmation Hearing Notice and the Opt-Out Form, substantially in the form of Exhibit 3-C attached hereto, that provides (i) notice of the filing of the Plan, (ii) notice that such party has been identified as the Holder of a

non-voting Equity Interest, (iii) instructions regarding the Confirmation Hearing, (iv) detailed directions for filing objections to confirmation of the Plan, and (v) such Holder of Class 8 or 9 Old Equity Interests with the opportunity to opt out of the Third Party Releases.

22. The Debtors shall not be required to deliver Ballots or Solicitation Packages to counterparties to the Debtors' executory contracts and unexpired leases who do not have scheduled Claims or Claims based upon filed Proofs of Claim. Rather, in lieu thereof, and in accordance with Bankruptcy Rule 3017(d), the Debtors shall mail to all the counterparties to the Debtors' executory contracts and unexpired leases, including but not limited to those who do not have scheduled Claims or Claims based upon filed Proofs of claim, a notice, substantially in the form of Exhibit 5 attached hereto (the "**Contract/Lease Notice**"), by no later than the Solicitation and Notice Mailing Date.

**iii. Content and General Transmittal of Solicitation Packages; Notice of Confirmation Hearing**

23. The Debtors are authorized to transmit, or cause to be transmitted, on or before the Solicitation and Notice Mailing Date, to Holders of Class 5 Prepetition Notes Claims and Class 6 General Unsecured Claims, by United States mail, first-class postage prepaid, personal service, or overnight delivery, a solicitation package (the "**Solicitation Package**") containing a printed version, CD-ROM, or flash drive, of the following:

- i. the Confirmation Hearing Notice;
- ii. the Disclosure Statement;
- iii. the Plan (which may be furnished in the Solicitation Package as Exhibit A to the Disclosure Statement);
- iv. the Disclosure Statement Order (without exhibits attached); and
- v. a Ballot in substantially the forms attached to this Order as Exhibit 3-A for Class 5 and Exhibit 3-B for Class 6;

provided however, that the Ballot and the Confirmation Hearing Notice must be in paper format.

24. The Debtors shall file the Plan Supplement with the Court on or before October 4, 2019 (the “**Exhibit Filing Date**”), which filing is without prejudice to the Debtors’ rights to amend or supplement the Plan Supplement.

25. The Plan Supplement shall be made available in accordance with the procedures set forth in paragraphs 24, 26 and 50 of this Order.

26. The Debtors shall serve copies of the Solicitation Package (other than a Ballot), together with this Order, with all attachments, and the Plan Supplement to (i) the Office of the United States Trustee for the District of Delaware; (ii) the United States Attorney for the District of Delaware; (iii) the Securities and Exchange Commission; (iv) the Internal Revenue Service and all state taxing authorities in the states in which the Debtors have tax obligations; (v) any federal and state agencies that regulate any portion of the Debtors’ business; (vi) the creditors listed on the Debtors’ consolidated list of thirty creditors holding the largest unsecured claims; (vii) counsel to the DIP Agent and the Prepetition Agents; (viii) counsel to the Committee; (ix) counsel to Insight Equity; (x) all parties entitled to notice pursuant to Bankruptcy Rule 2002, and (xi) all parties who request in writing a copy of the Plan or Disclosure Statement, on the date of mailing the Solicitation Package or filing the Plan Supplement (as applicable).

27. The Debtors shall also serve the Confirmation Hearing Notice on the following additional parties: (i) all holders of claims or interests, whether in Voting Classes or in the Non-Voting Classes, or unclassified, known to the Debtors, (ii) all persons or entities listed on the Debtors’ creditor matrix, and (iii) all counterparties to the Debtors’ executory contracts and leases.

28. Creditors who have filed duplicate Proofs of Claim shall be entitled to receive only one Solicitation Package and shall be allowed one Ballot for voting that Claim.

29. The Debtors shall mail the Confirmation Hearing Notice to all parties that received the Disclosure Statement Notice (other than parties to whom notice is not required pursuant to paragraph 34 of this Order), and to parties to executory contracts and unexpired leases that are not currently “creditors” as defined in Bankruptcy Code Section 101(10).

30. The Debtors shall publish the Confirmation Hearing Notice on or prior to September 20, 2019 in the national edition of The Wall Street Journal, and shall be authorized (but not required) to publish the Confirmation Hearing Notice in such trade or other local publications of general circulation as the Debtors shall determine.

31. Publication of the Confirmation Hearing Notice as described herein shall constitute sufficient notice of the Confirmation Hearing to persons who do not otherwise receive notice by mail as provided for in this Order.

**iv. Transmittal of Solicitation Packages to Holders of Contingent, Unliquidated, and Disputed Claims that are Not Subject to an Objection Filed by the Debtors**

32. With the exception of the Confirmation Hearing Notice, the Debtors shall not be required to mail any documents or notices to any creditor whose Claim is not scheduled and who fails to timely file a Proof of Claim. The Debtors shall not be required to mail any documents or notices other than the Confirmation Hearing Notice to any creditor whose Claim is scheduled at \$0 or as disputed, contingent or unliquidated and who fails to timely file a Proof of Claim.

33. The Debtors shall distribute to claimants in Voting Classes who have filed timely Proofs of Claim, which, in whole or in part, reflect an unliquidated or contingent claim, and which are not subject to a pending objection, (i) a Solicitation Package that contains a Ballot, (ii)



the Confirmation Hearing Notice, which notice informs such person or entity that its entire Claim has been allowed temporarily for voting purposes only and not for purposes of allowance or distribution, at \$1.00, and (iii) a Notice of Limited Voting Status, substantially in the form of Exhibit 7 attached hereto.

**v. Approval of Certain Transmittal Procedures**

34. In addition to those creditors and parties in interest receiving the Confirmation Notice pursuant to paragraph 27 of this Order, by the Solicitation and Notice Mailing Date, the Debtors shall mail only the Confirmation Hearing Notice on the following creditors and parties in interest:

- i. any creditor whose Claim is based solely on amounts scheduled by the Debtors but whose Claim already has been paid or satisfied in the full scheduled amount; provided, however, that if, and to the extent that, any such creditor would be entitled to receive a Solicitation Package for any reason other than by virtue of the fact that its Claim had been scheduled by the Debtors, then such creditor shall be sent a Solicitation Package in accordance with the procedures set forth herein;
- ii. any creditor who filed a Proof of Claim if the amount asserted in such Proof of Claim is less than or equal to the amount that has already been paid; and
- iii. any Holder of a Claim that was disallowed in full by order of this Court.

35. Notwithstanding anything in this Order to the contrary, the Debtors shall not be required to send Solicitation Packages, Ballots, individual solicitation materials, or other notices to any person or entity to whom the Debtors mailed the Disclosure Statement Notice and had such notice returned by the United States Postal Service marked “undeliverable as addressed,” “moved - left no forwarding address,” “forwarding order expired,” or any similar reason, and as to whom a further reasonable search has failed to disclose an accurate alternate address.

**E. Voting Deadline and Procedures for Vote Tabulation**

36. The last date and time by which Ballots for accepting or rejecting the Plan must

be received by the Voting and Claims Agent in order to be counted is **5:00 p.m. (prevailing Eastern Time) on October 17, 2019** (the “**Voting Deadline**”).

37. Any timely received Ballot that contains sufficient information to permit the identification of the claimant and is cast as an acceptance or rejection of the Plan shall be counted and shall be deemed to be cast as an acceptance or rejection, as the case may be, of the Plan. The foregoing general procedures shall be subject to the following exceptions:

- i. if a Claim is deemed Allowed in accordance with the Plan, such Claim shall be Allowed for voting purposes in the deemed Allowed amount set forth in the Plan;
- ii. if a Claim for which a Proof of Claim has been timely filed, or deemed timely filed by an order of the Court prior to the Voting Deadline, is identified on the Proof of Claim, in whole or in part, as contingent or unliquidated and that is not subject to a pending objection, then such Claim shall be temporarily allowed for voting purposes only, and not for purposes of allowance or distribution, at \$1.00;
- iii. if a Claim has been estimated or otherwise allowed for voting purposes by order of the Court, then such Claim shall be temporarily allowed in the amount so estimated or allowed by the Court for voting purposes only, and not for purposes of allowance or distribution;
- iv. if a Claim is not listed on the Schedules, or is scheduled at zero, in an unknown amount, or, as unliquidated, contingent, or disputed, and a Proof of Claim was not (i) timely filed by the Claims Bar Date, or (ii) deemed timely filed by an order of the Court prior to the Voting Deadline, then such Claim shall be disallowed for voting purposes;
- v. if an objection to a Claim or any portion thereof has been Filed prior to September 23, 2019, then such Claim shall be temporarily disallowed for voting purposes only and not for the purposes of the allowance or distribution, except to the extent and in the manner as may be set forth in the objection or an order granting such claimant’s Rule 3018(a) Motion; and
- vi. any Ballot cast in an amount in excess of the Allowed amount of the relevant Claim will only be counted to the extent of such Allowed Claim;

38. The following Ballots shall not be counted or considered for any purpose in determining whether the Plan has been accepted or rejected:

- i. any Ballot received after the Voting Deadline unless the Debtors shall have granted an extension of the Voting Deadline in writing with respect to such Ballot;
- ii. any Ballot that is illegible or contains insufficient information to permit the identification of the claimant;
- iii. any Ballot cast by a person or entity that does not hold a Claim in a Voting Class;
- iv. any Ballot cast for a claim not listed on the Schedules, or scheduled at zero, in an unknown amount, or, as unliquidated, contingent, or disputed, and for which no Proof of Claim was timely filed or deemed timely filed by an order of the Court prior to the Voting Deadline;
- v. any Ballot that is properly completed, executed and timely filed, but (a) does not indicate an acceptance or rejection of the Plan, (b) indicates both an acceptance and rejection of the Plan, or (c) partially accepts and partially rejects the Plan;
- vi. any Ballot submitted by facsimile, telecopy or electronic mail;
- vii. any unsigned Ballot;
- viii. any Ballot sent to the Debtors, the Debtors' agents/representatives (other than the Voting and Claims Agent), any indenture trustee or agent under the Prepetition Loan Documents, or the Debtors' financial or legal advisors; or
- ix. any Ballot not cast in accordance with the procedures approved in this Order;

39. Any duplicate Ballots will only be counted once.

40. Notwithstanding anything in this Order to the contrary, the Ballot of any creditor who filed a Rule 3018(a) Motion in accordance with the procedures set forth in this Order shall not be counted for voting purposes, unless such creditor's claim is temporarily allowed by the Court after notice and a hearing or agreed to in writing by the Debtors.

41. Notwithstanding Bankruptcy Rule 3018(a), whenever two or more Ballots are cast which attempt to vote the same Claim prior to the Voting Deadline, the last Ballot received by the Voting and Claims Agent prior to the Voting Deadline shall be deemed to reflect the voter's

intent and thus to supersede any prior Ballots, provided, however, that where an ambiguity exists as to which Ballot was the latest mailed, the Voting and Claims Agent reserves the right to contact the creditor and tabulate the vote according to such voter's stated intent. This procedure is without prejudice to the Debtors' rights to object to the validity of the superseding Ballot(s) on any basis permitted by law and, if the objection is sustained, to count the first Ballot for all purposes.

42. Claims splitting is not permitted and creditors who vote must vote all of their Claims within a particular class to either accept or reject the Plan.

**F. Approval of Assumption Procedures and Form and Manner of Assumption Notice**

43. In connection with the assumption of any executory contract or unexpired lease by the Debtors (any such executory contract or unexpired lease, a "**Contract or Lease**" and, collectively, the "**Contracts and Leases**"), the following procedures (the "**Assumption Procedures**") are authorized and approved:

- i. **Notice.** The Debtors shall mail (or cause to be mailed) the notice substantially in the form of Exhibit 8 attached hereto (the "**Assumption Notice**") to all counterparties to the Debtors' Contracts and Leases (the "**Contract Parties**") by no later than September 27, 2019.
- ii. **Content of the Assumption Notice.** The Assumption Notice will include the following information: (i) the title of the Contract or Lease to be assumed; (ii) the name of the counterparty to the Contract or Lease; (iii) applicable default amount (if any) in Cash (the "**Cure Claim Amount**"); (iv) if applicable, the identify the party to which the Executory Contract or Unexpired Lease will be assigned; (v) description of the procedures for filing objections to the assumption of Contracts and Leases; (vi) explanation of the process by which related disputes will be resolved by the Bankruptcy Court, including the date by which any objection to the proposed assumption, or proposed assumption and assignment of the Contracts and Leases must be filed and received by the Debtors.
- iii. **Objections.** Objections to proposed assumption, or proposed assumption and assignment of the Contracts and Leases must: (i) be in writing; (ii) set forth the nature of the objector's claims against or interests in the Debtors' estates and the basis for the objection and the specific grounds therefor;

(iii) comply with the Bankruptcy Rules, Bankruptcy Local Rules, and orders of this Court; and (iv) be filed with the Court by **4:00 p.m. (prevailing Eastern Time) on October 11, 2019** (the “**Cure Objection Deadline**”).

- iv. Effects of Objecting to a Cure Notice. A properly filed objection to the Debtors’ proposed assumption, or proposed assumption and assignment of Contracts and Leases will reserve such objecting party’s rights against the Debtors with respect to the relevant objection (each such objection a “**Cure Objection**”) pending a Court hearing on such objection.
- v. Effects of Not Objecting to a Cure Notice. Any counterparty to a Contract or Lease that fails to object timely to the proposed assumption, or proposed assumption and assignment of the Contracts and Leases will be deemed to have forever released and waived any objection to such proposed assumption, proposed assumption and assignment, proposed adequate assurance of future payment, and Cure Claim Amount. The Cure Claim Amount(s) owed to such Contract Party shall be paid as specified in the order approving such assumption.

44. As set forth above in the Assumption Procedures, if a Contract Party objects to the Cure Claim Amount for its Contract or Lease, then such Contract Party’s rights are reserved. If the Plan is confirmed, then Cure Objections will be resolved in accordance with the provisions of the Plan, including Article VI.B thereof, which provides, in part, that “[i]n the event of a dispute regarding (a) the amount of any cure payment, (b) the ability of any Debtor or assignee to provide “adequate assurance of future performance” (within the meaning of section 365 of the Bankruptcy Code) under the Executory Contract or Unexpired Lease to be assumed, or assumed and assigned or (c) any other matter pertaining to assumption or assignment, the applicable cure payments required by section 365(b)(1) of the Bankruptcy Code shall be made following the entry of a Final Order resolving the dispute and approving such assumption or assumption and assignment; provided, however, that following the resolution of any such dispute, the Debtors or the Reorganized Debtors, as applicable, may elect to reject such Executory Contract or Unexpired Lease in lieu of assuming or assigning it”; provided further that, rejection by the

Debtors of any such Executory Contract or Unexpired Lease shall not take place after the deadline to assume or reject such contracts under section 365 of the Bankruptcy Code.

45. The Assumption Procedures and the Assumption Notice as set forth herein provide Contract Parties sufficient time to review the Assumption Notice and file any objections to Cure Claim Amounts prior to the Confirmation Hearing, and are hereby approved in full.

**G. Miscellaneous**

46. The service of Solicitation Packages and other notices and documents described herein in the time and manner set forth in this Order constitutes adequate and sufficient notice of the Confirmation Hearing and no further notice is necessary.

47. The Debtors are authorized and empowered to take all actions necessary to implement the relief granted in this Order.

48. Notwithstanding any applicable Bankruptcy Rule, the terms and conditions of this Order shall be immediately effective and enforceable upon its entirety.

49. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation of this Order.

50. Copies of the Plan and Disclosure Statement (including after the Exhibit Filing Date, the Plan Supplement) and all pleadings and orders of the Bankruptcy Court are publicly available, for a fee via PACER at: <http://www.deb.uscourts.gov>, or free of charge from the Voting and Claims Agent at <http://www.kccllc.net/emergeenergy>. Such documents and pleadings may also be obtained by: (i) 877-634-7165 (toll-free in US and Canada) or 424-236-7221 (for international callers); and/or (ii) writing to Emerge Energy Claims Processing Center, c/o Kurtzman Carson Consultants LLC, 222 N. Pacific Coast Highway, Suite 300, El Segundo, CA 90245.

51. The Debtors are authorized to make non-material changes to the Disclosure Statement, the Plan, the Ballots, the Confirmation Hearing Notice, the Unimpaired Claims/Equity Notice, the Contract/Lease Notice, and related documents and any other materials in the Solicitation Package without further order of this Court, including, without limitation, changes to correct typographical and grammatical errors and to make conforming changes among the Disclosure Statement, the Plan, the Ballots, the Confirmation Hearing Notice, the Unimpaired Claims/Equity Notice, the Contract/Lease Notice, and related documents and any other materials in the Solicitation Package prior to their distribution.

Dated: \_\_\_\_\_, 2019  
Wilmington, Delaware

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THE HONORABLE KAREN B. OWENS  
UNITED STATES BANKRUPTCY JUDGE

**Chart A****Summary Chart of Approved Dates and Deadlines<sup>1</sup>**

<b><u>Event</u></b>	<b><u>Date/Deadline</u></b>
Voting Record Date	September 9, 2019
Solicitation and Notice Mailing Date	September 13, 2019
Deadline to Publish Notice of Confirmation Hearing	September 20, 2019
Deadline to file Claims Objections for Voting Purposes	September 23, 2019
Mailing of Assumption Notice	September 27, 2019
Rule 3018(a) Motion Deadline	The later of (i) September 27, 2019 4:00 p.m. (prevailing Eastern Time), or (ii) fourteen (14) days after service of the applicable Claims Objection
Exhibit Filing Date (Deadline to File Plan Supplement)	October 4, 2019
Objection Deadline for Confirmation Hearing	October 11, 2019 4:00 p.m. (prevailing Eastern Time)
Cure Objection Deadline	October 11, 2019 4:00 p.m. (prevailing Eastern Time)
Voting Deadline	October 17, 2019 5:00 p.m. (prevailing Eastern Time)
Deadline for Debtors to file Voting Certification, Confirmation Brief and Form of Confirmation Order	October 21, 2019
Confirmation Hearing	October 24, 2019 1:00 p.m. (prevailing Eastern Time)

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<sup>1</sup> To the extent of any conflict between the dates in this chart and those in the Order, the dates in the Order shall control.



**EXHIBIT 1**

**Disclosure Statement Notice**

**[See Docket No. 100]**

**EXHIBIT 2**  
**Notice of Non-Voting Status: Disputed Claims**

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

In re:	X	
	:	Chapter 11
	:	
EMERGE ENERGY SERVICES LP, <i>et al.</i> , <sup>1</sup>	:	Case No. 19-11563 (KBO)
	:	
Debtors.	:	(Jointly Administered)
	:	
	X	

**NOTICE OF NON-VOTING STATUS TO HOLDERS OF CLAIMS  
FOR WHICH AN OBJECTION HAS BEEN FILED BY THE DEBTORS**

PLEASE TAKE NOTICE THAT on [\_\_\_], 2019, Emerge Energy Services LP and its affiliate debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “**Debtors**”) filed their (i) *First Amended Joint Plan of Reorganization for Emerge Energy Services LP and its Affiliate Debtors Under Chapter 11 of the Bankruptcy Code* [Docket No. [●]] (as may be amended from time to time, the “**Plan**”) <sup>2</sup> and (ii) *Disclosure Statement for the First Amended Joint Plan of Reorganization for Emerge Energy Services LP and its Affiliate Debtors Under Chapter 11 of the Bankruptcy Code* [Docket No. [●]] (as may be amended from time to time, the “**Disclosure Statement**”), and by no later than October 4, 2019, the Debtors shall file the Plan Supplement. On [●], 2019, the Bankruptcy Court entered the *Order (I) Approving the Disclosure Statement, (II) Establishing the Voting Record Date, Voting Deadline and Other dates, (III) Approving Procedures for Soliciting, Receiving and Tabulating Votes on the Plan and for Filing objections to the Plan and (IV) Approving the Manner and Forms of Notice and Other Related Documents, (V) Approving Procedures for Assumption of Contracts and Leases and Form and Manner of Assumption Notice, and (VI) Granting Related Relief* [Docket No. [●]] (the “**Disclosure Statement Order**”).

PLEASE TAKE FURTHER NOTICE THAT you are receiving this notice because you are the Holder of a Claim that has filed a proof of claim, which is subject, in whole or in part, to an objection filed by the Debtors. As a result, you are not entitled to vote on the Plan for any purpose and you have not been sent a Solicitation Package or Ballot. Provided that you are the Holder of a Claim in Classes 5 or 6, if you disagree with the Debtors’ classification or status of your Claim, then you **MUST** file with the Bankruptcy Court and serve upon the Notice Parties listed below, on or before 4:00 p.m. (prevailing Eastern Time) on **September 27, 2019** (the “**Rule 3018(a) Motion Deadline**”), a motion requesting temporary allowance of your Claim solely for voting purposes in accordance with Bankruptcy Rule 3018 (such motion, the “**Rule 3018(a) Motion**”). No later than three (3) Business Days after the filing and service of such Rule 3018(a) Motion, the Voting and Claims Agent will send you a Solicitation Package, including the appropriate ballot, and a pre-addressed, postage pre-paid envelope, which you must then return your ballot according to the instructions attached thereto so it is **actually received** by

<sup>1</sup> The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: Emerge Energy Services LP (2937), Emerge Energy Services GP LLC (4683), Emerge Energy Services Operating LLC (2511), Superior Silica Sands LLC (9889), and Emerge Energy Services Finance Corporation (9875). The Debtors’ address is 5600 Clearfork Main Street, Suite 400, Fort Worth, Texas 76109.

<sup>2</sup> Capitalized terms used but not otherwise defined herein will have the meanings set forth in the Plan.

the Voting and Claims Agent on or before **October 17, 2019** (the “**Voting Deadline**”). Please be advised that the Debtors reserve all of their rights and objections regarding any and all Rule 3018(a) Motions that may be filed with the Bankruptcy Court and that the distribution of a Solicitation Package is not and shall not constitute a waiver or release of such rights and objections.

**PLEASE TAKE FURTHER NOTICE THAT** the Confirmation Hearing to consider confirmation of the Plan will commence at **1:00 p.m. (prevailing Eastern Time) on October 24, 2019**, before the Honorable Karen B. Owens, United States Bankruptcy Judge, in the United States Bankruptcy Court for the District of Delaware, located at 824 Market Street, 6th Floor, Courtroom 1, Wilmington, Delaware 19801. The Confirmation Hearing may be continued from time to time by the Bankruptcy Court or the Debtors without further notice other than by such adjournment being announced in open court and/or by a notice of adjournment filed with the Bankruptcy Court and served on such parties as the Bankruptcy Court may order. Moreover, the Plan may be modified or amended, if necessary, pursuant to Bankruptcy Code Section 1127, prior to, during or as a result of the Confirmation Hearing, without further notice to parties in interest.

**PLEASE TAKE FURTHER NOTICE THAT** the deadline for filing objections to the Plan is **October 11, 2019 at 4:00 p.m. (prevailing Eastern Time)** (the “**Plan Objection Deadline**”). Any objection to the Plan must: (i) be in writing; (ii) conform to the Bankruptcy Rules and the Local Rules; (iii) state the name and address of the objecting party and the amount and nature of the Claim of such Entity; (iv) state with particularity the basis and nature of any objection to the Plan and, if practicable, a proposed modification to the Plan that would resolve such objection; and (v) be filed with the Bankruptcy Court no later than the Plan Objection Deadline and served on the following parties listed below (the “**Notice Parties**”), with proof of service filed as required under the Local Rules of the Bankruptcy Court. **CONFIRMATION OBJECTIONS NOT TIMELY FILED AND SERVED IN THE MANNER SET FORTH HEREIN MAY NOT BE CONSIDERED BY THE BANKRUPTCY COURT AND MAY BE OVERRULED WITHOUT FURTHER NOTICE.**

#### **Notice Parties**

- (i) **Counsel to the Debtors**, Latham & Watkins LLP, 885 Third Avenue, New York, New York 10022-4834 (Attn: Keith A. Simon, Esq., Hugh K. Murtagh, Esq., and Liza L. Burton, Esq. (emails: keith.simon@lw.com, hugh.murtagh@lw.com, and liza.burton@lw.com)) and Richards, Layton & Finger, P.A., One Rodney Square, 920 North King Street, Wilmington, Delaware 19801 (Attn: John H. Knight, Esq. and Paul N. Heath, Esq. (emails: knight@rlf.com and heath@rlf.com));
- (ii) **Counsel to the DIP Agent and the Prepetition Agents**, Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, NY 10153-0119 (Attn: Matt S. Barr, Esq., David Griffiths, Esq., and Candace M. Arthur, Esq. (emails: matt.barr@weil.com, david.griffiths@weil.com, and candace.arthur@weil.com)) and Pachulski Stang Ziehl & Jones LLP, 919 North Market Street, Wilmington, Delaware 19801 (Attn: Laura Davis Jones, Esq. (email: ljones@pszjlaw.com)); and
- (iii) **Counsel to the Committee**, Kilpatrick Townsend & Stockton LLP, 1114 Avenue of the Americas, New York, New York 10036 (Attn: Todd C. Meyers, Esq., David M. Posner, Esq., and Kelly Moynihan, Esq. (emails: tmeyers@kilpatricktownsend.com, dposner@kilpatricktownsend.com, and kmoynihan@kilpatricktownsend.com)), Kilpatrick Townsend & Stockton LLP, 700 Louisiana Street, Suite 4300, Houston, Texas 77002 (Attn: Lenard M. Parkins, Esq. (email: lparkins@kilpatricktownsend.com)), and Potter Anderson &

Corroon LLP, 1313 North Market Street, Sixth Floor, P.O. Box 951, Wilmington, Delaware 19899 (Attn: Jeremy W. Ryan, Esq., Christopher M. Samis, Esq., and D. Ryan Slaugh, Esq. (emails: jryan@potteranderson.com, csamis@potteranderson.com, and rslaug@potteranderson.com)); and

- (iv) The Office of the United States Trustee for the District of Delaware, 844 King Street, Suite 2207, Wilmington, Delaware 19801 (Attn: Juliet M. Sarkessian, Esq. (email: Juliet.M.Sarkessian@usdoj.gov)).

**PLEASE TAKE FURTHER NOTICE THAT** if you would like to obtain a Solicitation Package, a copy of the Plan Supplement once filed, or if you have questions regarding the procedures and requirements for objecting to the Plan, you may contact the Debtors' Voting and Claims Agent, Kurtzman Carson Consultants LLC, by: (i) calling the Debtors' restructuring hotline at (888) 830-4659; (ii) visiting the Debtors' restructuring website at: [www.kccllc.net/EmergeEnergy](http://www.kccllc.net/EmergeEnergy) (under Tab "Plan and Disclosure Statement"); and/or (iii) writing to Emerge Energy Claims Processing Center, c/o Kurtzman Carson Consultants LLC, 222 N. Pacific Coast Highway, Suite 300, El Segundo, CA 90245. 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>.

**THIS NOTICE IS BEING SENT TO YOU FOR INFORMATIONAL PURPOSES ONLY. IF YOU HAVE QUESTIONS ABOUT ANYTHING STATED HEREIN OR IF YOU WOULD LIKE TO OBTAIN ADDITIONAL INFORMATION, PLEASE CONTACT THE VOTING AND CLAIMS AGENT AT THE NUMBER OR ADDRESS SPECIFIED ABOVE. PLEASE NOTE THAT THE VOTING AND CLAIMS AGENT CANNOT PROVIDE LEGAL ADVICE.**

Wilmington, Delaware  
[\_\_\_], 2019

**LATHAM & WATKINS LLP**

Attn: George A. Davis  
Attn: Keith A. Simon  
Attn: Hugh K. Murtagh  
Attn: Liza L. Burton  
885 Third Avenue  
New York, New York 10022-4834  
Fax: 212-751-4864

**RICHARDS, LAYTON & FINGER, P.A.**

Attn: John H. Knight  
Attn: Paul N. Heath  
Attn: Zachary I. Shapiro  
Attn: Brett M. Haywood  
One Rodney Square  
920 North King Street  
Wilmington, Delaware 19801  
Fax: 302-651-7701

*Co-Counsel to the Debtors*

**THE PLAN CONTAINS THE FOLLOWING RELEASE, EXCULPATION AND INJUNCTION PROVISIONS.**

**YOU SHOULD REVIEW THESE PROVISIONS CAREFULLY.**

**Release of Claims and Causes of Action**

1. ***Release by the Debtors and their Estates.*** Pursuant to section 1123(b) and any other applicable provisions of the Bankruptcy Code, and except as otherwise expressly provided in the Plan, effective as of the Effective Date, for good and valuable consideration provided by each of the Released Parties, the adequacy and sufficiency of which is thereby confirmed, the Debtors and the Reorganized Debtors, in their respective individual capacities and as debtors-in-possession, and on behalf of themselves and their respective Estates, including, without limitation, any successor to the Debtors or any Estate representative appointed or selected pursuant to section 1123(b)(3) of the Bankruptcy Code (collectively, the “**Debtor Releasing Parties**”) will be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever provided a full discharge, waiver and release to each of the Released Parties (and each such Released Party so released shall be deemed forever released, waived and discharged by the Debtor Releasing Parties) and their respective assets and properties (the “**Debtor Release**”) from any and all claims, Causes of Action, Released and Settled Claims, Litigation Claims and any other debts, obligations, rights, suits, damages, actions, remedies, and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, whether directly or derivatively held, existing as of the Effective Date or thereafter arising, in law, at equity or otherwise, whether for tort, contract, violations of federal or state securities laws, or otherwise, based in whole or in part upon any act or omission, transaction, or other occurrence or circumstances existing or taking place prior to or on the Effective Date arising from or related in any way in whole or in part to any of the Debtors, including, without limitation, (i) the Chapter 11 Cases, the Disclosure Statement, the Plan, the Restructuring Support Agreement and the Restructuring Documents, (ii) the subject matter of, or the transactions or events giving rise to, any Claim or Equity Interest that is treated in the Plan, (iii) the business or contractual arrangements between any Debtor and any Released Parties, (iv) the negotiation, formulation or preparation of the Restructuring Support Agreement, the Plan, the Disclosure Statement, the Plan Supplement, the Restructuring Documents, or related agreements, instruments or other documents, (v) the restructuring of Claims or Equity Interests prior to or during the Chapter 11 Cases, (vi) the purchase, sale, or rescission of the purchase or sale of any Equity Interest of the Debtors or the Reorganized Debtors, and/or (vii) the Confirmation or Consummation of the Plan or the solicitation of votes on the Plan that such Debtor Releasing Party would have been legally entitled to assert (whether individually or collectively) or that any Holder of a Claim or Equity Interest or other Entity would have been legally entitled to assert for, or on behalf or in the name of, any Debtor, its respective Estate or any Reorganized Debtor (whether directly or derivatively) against any of the Released Parties; **provided, however,** that the foregoing provisions of this Debtor Release shall not operate to waive or release: (i) any Causes of Action arising from willful misconduct, actual fraud, or gross negligence of such applicable Released Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction; (ii) any Causes of Action relating to the MSHA Action (other than against a member of the Special Restructuring Committee); and/or (iii) the rights of such Debtor Releasing Party to enforce the Plan and the contracts, instruments, releases, indentures, and other agreements or documents delivered under or in connection with the Plan or assumed pursuant to the Plan or assumed pursuant to Final Order of the Bankruptcy Court. The foregoing release shall be effective as of the Effective Date without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Person and

the Confirmation Order will permanently enjoin the commencement or prosecution by any Person or Entity, whether directly, derivatively or otherwise, of any claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, or liabilities released pursuant to this Debtor Release. Notwithstanding the foregoing, nothing in this Article X.B shall or shall be deemed to (i) prohibit the Debtors or the Reorganized Debtors from asserting and enforcing any claims, obligations, suits, judgments, demands, debts, rights, Causes of Action or liabilities they may have against any Person that is based upon an alleged breach of a confidentiality or non-compete obligation owed to the Debtors or the Reorganized Debtors and/or (ii) operate as a release or waiver of any Intercompany Claims, in each case unless otherwise expressly provided for in the Plan.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the Debtor Release, which includes by reference each of the related provisions and definitions contained under the Plan, and further, shall constitute the Bankruptcy Court's finding that the Debtor Release is: (i) in exchange for the good and valuable consideration provided by the Released Parties; (ii) a good faith settlement and compromise of the claims released by the Debtor Release; (iii) in the best interest of the Debtors and their Estates; (iv) fair, equitable and reasonable; and (v) given and made after due notice and opportunity for hearing.

2. Release By Third Parties. Except as otherwise expressly provided in the Plan, effective as of the Effective Date, to the fullest extent permitted by applicable law, for good and valuable consideration provided by each of the Released Parties, the adequacy and sufficiency of which is thereby confirmed, and without limiting or otherwise modifying the scope of the Debtor Release provided by the Debtor Releasing Parties above, each Non-Debtor Releasing Party (together with the Debtor Releasing Parties, the "Releasing Parties") will be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever provided a full discharge, waiver and release to each of the Released Parties (and each such Released Party so released shall be deemed forever released, waived and discharged by the Non-Debtor Releasing Parties) and their respective assets and properties (the "Third Party Release") from any and all claims, Causes of Action, Released and Settled Claims, Litigation Claims and any other debts, obligations, rights, suits, damages, actions, remedies, and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, whether directly or derivatively held, existing as of the Effective Date or thereafter arising, in law, at equity or otherwise, whether for tort, contract, violations of federal or state securities laws, or otherwise, based in whole or in part upon any act or omission, transaction, or other occurrence or circumstances existing or taking place prior to or on the Effective Date arising from or related in any way in whole or in part to any of the Debtors, including, without limitation, (i) the Chapter 11 Cases, the Disclosure Statement, the Plan, the Restructuring Support Agreement and the Restructuring Documents, (ii) the subject matter of, or the transactions or events giving rise to, any Claim or Equity Interest that is treated in the Plan, (iii) the business or contractual arrangements between any Debtor and any Released Parties, (iv) the negotiation, formulation or preparation of the Restructuring Support Agreement, the Plan, the Disclosure Statement, the Plan Supplement, the Restructuring Documents, or related agreements, instruments or other documents, (v) the restructuring of Claims or Equity Interests prior to or during the Chapter 11 Cases, (vi) the purchase, sale or rescission of the purchase or sale of any Equity Interest of the Debtors or the Reorganized Debtors, and/or (vii) the Confirmation or Consummation of the Plan or the solicitation of votes on the Plan that such Non-Debtor Releasing Party would have been legally entitled to assert (whether individually or collectively) against any of the Released Parties; provided, however, that the foregoing provisions of this Third Party Release shall not operate to waive or release (i) any Causes of Action arising from willful misconduct, actual fraud, or gross negligence of such applicable Released Party as determined by Final Order of the Bankruptcy Court or any other court

of competent jurisdiction; (ii) any Causes of Action relating to the MSHA Action (other than against a member of the Special Restructuring Committee); and/or (iii) the rights of such Non-Debtor Releasing Party to enforce the Plan and the contracts, instruments, releases, indentures, and other agreements and documents delivered under or in connection with the Plan or assumed pursuant to the Plan or Final Order of the Bankruptcy Court. The foregoing release shall be effective as of the Effective Date, without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Person and the Confirmation Order will permanently enjoin the commencement or prosecution by any Person or Entity, whether directly, derivatively or otherwise, of any claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, or liabilities released pursuant to this Third Party Release.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of the Third Party Release, which includes by reference each of the related provisions and definitions contained under the Plan, and further, shall constitute the Bankruptcy Court's finding that the Third Party Release is: (i) in exchange for the good and valuable consideration provided by the Released Parties; (ii) a good faith settlement and compromise of the claims released by the Third Party Release; (iii) in the best interest of the Debtors and all Holders of Claims and Equity Interests; (iv) fair, equitable and reasonable; and (v) given and made after due notice and opportunity for hearing.

### 3. Exculpation

Effective as of the Effective Date, the Exculpated Parties shall neither have nor incur any liability to any Person or Entity for any claims, Causes of Action or Released and Settled Claim arising prior to or on the Effective Date for any act taken or omitted to be taken in connection with, or related to, formulating, negotiating, preparing, disseminating, implementing, administering, confirming or effecting the Confirmation or Consummation of the Plan, the Disclosure Statement, the Restructuring Documents or any contract, instrument, release or other agreement or document created or entered into in connection with the Plan, including the Restructuring Support Agreement, or any other prepetition or postpetition act taken or omitted to be taken in connection with or in contemplation of the restructuring of the Debtors, the approval of the Disclosure Statement or Confirmation or Consummation of the Plan; provided, however, that the foregoing provisions of this exculpation shall not operate to waive or release: (i) any Causes of Action arising from willful misconduct, actual fraud, or gross negligence of such applicable Exculpated Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction; and/or (ii) the rights of any Person or Entity to enforce the Plan and the contracts, instruments, releases, indentures, and other agreements and documents delivered under or in connection with the Plan or assumed pursuant to the Plan or Final Order of the Bankruptcy Court; provided, further, that each Exculpated Party shall be entitled to rely upon the advice of counsel concerning its respective duties pursuant to, or in connection with, the above referenced documents, actions or inactions. The foregoing exculpation shall be effective as of the Effective Date without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Person. Notwithstanding the foregoing, nothing in this Article X.E shall or shall be deemed to prohibit the Debtors or the Reorganized Debtors from asserting and enforcing any claims, obligations, suits, judgments, demands, debts, rights, Causes of Action or liabilities they may have against any Person that is based upon an alleged breach of a confidentiality or non-compete obligation owed to the Debtors or the Reorganized Debtors, in each case unless otherwise expressly provided for in the Plan.



#### 4. Injunction

Except as otherwise expressly provided in the Plan or the Confirmation Order, from and after the Effective Date, all Persons and Entities are, to the fullest extent provided under section 524 and other applicable provisions of the Bankruptcy Code, permanently enjoined from (i) commencing or continuing, in any manner or in any place, any suit, action or other proceeding; (ii) enforcing, attaching, collecting, or recovering in any manner any judgment, award, decree, or order; (iii) creating, perfecting, or enforcing any Lien or encumbrance; (iv) asserting a setoff or right of subrogation of any kind; or (v) commencing or continuing in any manner any action or other proceeding of any kind, in each case on account of or with respect to any Claim, demand, liability, obligation, debt, right, Cause of Action, equity interest, or remedy released or to be released, exculpated or to be exculpated, settled or to be settled or discharged or to be discharged pursuant to the Plan or the Confirmation Order against any Person or Entity so released, discharged, or exculpated (or the property or estate of any Person or Entity so released, discharged, or exculpated). All injunctions or stays provided for in the Chapter 11 Cases under section 105 or section 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect until the Effective Date.

#### Certain Definitions Contains in the Plan Release, Exculpation and Injunction Provisions

“*Causes of Action*” means any claims, causes of action (including Avoidance Actions), demands, actions, suits, obligations, liabilities, cross-claims, counterclaims, offsets, or setoffs of any kind or character whatsoever, in each case whether known or unknown, contingent or non-contingent, matured or unmatured, suspected or unsuspected, foreseen or unforeseen, direct or indirect, choate or inchoate, existing or hereafter arising, under statute, in contract, in tort, in law, or in equity, or pursuant to any other theory of law, federal or state, whether asserted or assertable directly or derivatively in law or equity or otherwise by way of claim, counterclaim, cross-claim, third party action, action for indemnity or contribution or otherwise, based in whole or in part upon any act or omission or other event occurring prior to the Petition Date or during the course of the Chapter 11 Cases, including through the Effective Date.

“*Exculpated Parties*” means, collectively: (a) the Debtors; (b) the Reorganized Debtors; (c) any Committee and the members thereof in their capacity as such; (d) the DIP Credit Agreement Agent; (e) DIP Credit Agreement Lenders; (f) the Prepetition Credit Agreement Agent; (g) the Prepetition Credit Agreement Lenders; (h) the Prepetition Notes Agent; (i) the Prepetition Noteholders; and (j) in each case, the respective Related Persons of each of the foregoing Entities.

“*Litigation Claims*” means the claims, rights of action, suits or proceedings, whether in law or in equity, whether known or unknown, that any Debtor or any Estate may hold against any Person or Entity, including, without limitation, the Causes of Action of the Debtors or their Estates, in each case solely to the extent of the Debtors’ or their Estates’ interest therein. A non-exclusive list of the Litigation Claims held by the Debtors as of the Effective Date is to be Filed with the Plan Supplement, which shall be deemed to include any derivative actions filed against any Debtor as of the Effective Date.

“*New Railcar Lease Agreements*” means those certain railcar lease agreements entered into between the Debtors and the Specified Rail Car Lessors pursuant to the New Railcar Lease Agreements Order.

“*New Railcar Lease Agreements Order*” means the Order Authorizing the Debtors to (I) Reject Certain Railcar Lease Agreements Nunc Pro Tunc to the Petition Date and (II) Enter Into

Proposed New Railcar Lease Agreements Effective as of the Petition Date entered by the Bankruptcy Court in the Chapter 11 Cases (Docket No. 208), as such order may be amended, supplemented, or modified from time to time.

**“Non-Debtor Releasing Parties”** means, collectively: (a) the Committee and the members thereof in their capacity as such; (b) the Prepetition Credit Agreement Agent and the Releasing Prepetition Credit Agreement Lenders; (c) the DIP Credit Agreement Agent and the DIP Credit Agreement Lenders (d) the Prepetition Notes Agent and the Releasing Prepetition Noteholders; (e) the Releasing Old Emerge LP Equity Holders; (f) those Holders of General Unsecured Claims or Old Emerge LP Equity Interests that do not affirmatively opt out of the Third Party Release as provided on their respective Ballots; and (g) each Specified Railcar Lessor (to the extent it is a Released Party).

**“Related Persons”** means, with respect to any Person, such Person’s predecessors, successors, assigns and present and former Affiliates (whether by operation of law or otherwise) and subsidiaries, and each of their respective current and former officers, directors, principals, employees, shareholders, members (including *ex officio* members and managing members), managers, managed accounts or funds, management companies, fund advisors, advisory or subcommittee board members, partners, agents, financial advisors, attorneys, accountants, investment bankers, investment advisors, consultants, representatives, and other professionals, in each case acting in such capacity at any time on or after the date of the Restructuring Support Agreement, and any Person claiming by or through any of them, including such Related Persons’ respective heirs, executors, estates, servants, and nominees; provided, however, that no insurer of any Debtor shall constitute a Related Person.

**“Released and Settled Claims”** means all Claims and Causes of Action made, or which could have been made, on or on behalf of any of the Debtors against the Prepetition Revolver Agent, the Prepetition Revolving Lenders, the Prepetition Note Agent, or the Prepetition Noteholders, or any of their respective affiliates, agents, attorneys, advisors, professionals, officers, directors, and employees, in their respective capacities as such.

**“Released Party”** means, collectively: (a) the Debtors; (b) the Reorganized Debtors; (c) the Committee and the members thereof in their capacity as such; (d) the Prepetition Credit Agreement Agent and the Releasing Prepetition Credit Agreement Lenders; (e) the DIP Credit Agreement Agent and the DIP Credit Agreement Lenders; (f) the Prepetition Notes Agent and the Releasing Prepetition Noteholders; (g) the Releasing Old Emerge LP Equity Holders; and (h) each Specified Railcar Lessor, so long as the applicable New Railcar Lease Agreement(s) between the Debtors and the applicable Specified Railcar Lessor is in full force and effect as of the Effective Date; and in each case the respective Related Persons of each of the foregoing Entities.

**“Specified Railcar Lessors”** means, collectively, (a) Trinity Industries Leasing Company, (b) MUL Railcars Leasing, LLC, and (c) CIT Bank, N.A. and The CIT Group/Equipment Financing, Inc., as an assignee of CIT Rail, LLC.

**EXHIBIT 3-A**

**Ballot for Holders of Class 5 Prepetition Notes Claims**

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

-----	X	
In re:	:	Chapter 11
	:	
EMERGE ENERGY SERVICES LP, <i>et al.</i> , <sup>1</sup>	:	Case No. 19-11563 (KBO)
	:	
Debtors.	:	(Jointly Administered)
	:	
-----	X	

**BALLOT FOR VOTING ON THE ABOVE-CAPTIONED DEBTORS' CHAPTER 11 PLAN**

**Class 5 – Prepetition Notes Claims**

PLEASE READ AND FOLLOW THE ENCLOSED INSTRUCTIONS FOR COMPLETING THIS BALLOT CAREFULLY BEFORE COMPLETING THIS BALLOT.

**THIS BALLOT MUST BE COMPLETED, EXECUTED AND RETURNED SO THAT IT IS ACTUALLY RECEIVED BY THE VOTING AND CLAIMS AGENT (KURTZMAN CARSON CONSULTANTS LLC) ON OR BEFORE 5:00 P.M. PREVAILING EASTERN TIME ON OCTOBER 17, 2019 (THE "VOTING DEADLINE") IN ACCORDANCE WITH THE FOLLOWING:**

The above-captioned debtors and debtors in possession (collectively, the "**Debtors**") are soliciting votes with respect to the *First Amended Joint Plan of Reorganization for Emerge Energy Services LP and its Affiliate Debtors Under Chapter 11 of the Bankruptcy Code* [Docket No. [ ● ]] (as may be amended from time to time, the "**Plan**")<sup>2</sup> as set forth in the Disclosure Statement for the Plan [Docket No. [ ● ]] (as may be amended from time to time, the "**Disclosure Statement**"). The Bankruptcy Court has approved the Disclosure Statement as containing adequate information pursuant to Bankruptcy Code Section 1125, by entry of an order on [ ● ], 2019 [Docket No. [ ● ]] (the "**Disclosure Statement Order**"). Bankruptcy Court approval of the Disclosure Statement does not indicate approval of the Plan by the Bankruptcy Court. Capitalized terms used but not otherwise defined herein shall have the meanings set forth in the Plan.

You are receiving this Ballot because our records indicate that you are a direct Holder of a Class 5 Prepetition Notes Claim, as of the Voting Record Date (the close of business on September 9, 2019). Accordingly, you have a right to (i) vote to accept or reject the Plan as

<sup>1</sup> The Debtors in these cases, along with the last four digits of each Debtor's federal tax identification number, are: Emerge Energy Services LP (2937), Emerge Energy Services GP LLC (4683), Emerge Energy Services Operating LLC (2511), Superior Silica Sands LLC (9889), and Emerge Energy Services Finance Corporation (9875). The Debtors' address is 5600 Clearfork Main Street, Suite 400, Fort Worth, Texas 76109.

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

provided in Item 2 below, and (ii) opt-out of the Third Party Release as provided in Item 2 below.

Your rights are described in the Disclosure Statement, which is included (along with the Plan, Disclosure Statement Order and certain other materials) in the Solicitation Package you are receiving with this Ballot. If you need to obtain additional solicitation materials, you may contact the Debtors' Voting and Claims Agent by: (i) visiting the Debtors' restructuring website at [www.kccllc.net/EmergeEnergy](http://www.kccllc.net/EmergeEnergy) (under Tab "Plan and Disclosure Statement"); (ii) writing to Emerge Energy Claims Processing Center, c/o Kurtzman Carson Consultants LLC, 222 N. Pacific Coast Highway, Suite 300, El Segundo, CA 90245; and/or (iii) calling the Debtors' restructuring hotline at 877-634-7165 (toll-free in US and Canada) or 424-236-7221 (for international callers). You may also obtain these documents and any other pleadings filed in the Debtors' chapter 11 cases (for a fee) via PACER at [www.deb.uscourts.gov](http://www.deb.uscourts.gov) or free of charge at [www.kccllc.net/EmergeEnergy](http://www.kccllc.net/EmergeEnergy).

This Ballot may not be used for any purpose other than (i) for casting votes to accept or reject the Plan, and (ii) opting out of the Third Party Release. If you believe you have received this Ballot in error, or if you believe that you have received the wrong Ballot, please contact the Voting and Claims Agent immediately at the address or telephone number set forth above.

You should review the Disclosure Statement and the Plan before you vote. You may wish to seek legal advice concerning the Plan and the Plan's classification and treatment of your Claim. Your Claim has been placed in Class 5 – Prepetition Notes Claims under the Plan. If you hold Claims in more than one Class, you will receive a Ballot for each Class in which you are entitled to vote.

You should also review the Plan Supplement which shall be filed by the Debtors by no later than October 4, 2019, and which shall be available on the Debtors' restructuring website at [www.kccllc.net/EmergeEnergy](http://www.kccllc.net/EmergeEnergy) (under Tab "Plan and Disclosure Statement"). The Plan Supplement shall contain documents and agreements (and the exhibits, schedules, annexes and supplements thereto) necessary to implement, or entered into in connection with, the Plan, including, but not limited to, the Amended/New Organizational Documents, the Exit Facility Loan Documents, the New Second Lien Notes Documents, the New Warrants Agreement and a non-exclusive list of the Litigation Claims.

The Bankruptcy Court can confirm the Plan and bind you if the Plan is accepted by the holders of at least two-thirds in amount and more than one-half in number of the Claims in each impaired Class who vote on the Plan and if the Plan otherwise satisfies the applicable requirements of section 1129(a) of the Bankruptcy Code. If the requisite acceptances are not obtained, the Bankruptcy Court nonetheless may confirm the Plan if it finds that the Plan (i) provides fair and equitable treatment to, and does not unfairly discriminate against, each Class rejecting the Plan and (ii) otherwise satisfies the requirements of section 1129(b) of the Bankruptcy Code. If the Plan is confirmed by the Bankruptcy Court, it will be binding on you whether or not you vote or affirmatively vote to reject the Plan. To have your vote counted, you must complete, sign and return this Ballot to the Voting and Claims Agent by the Voting Deadline.

**Item 1. Amount of Claim.**

The undersigned hereby certifies that as of the Voting Record Date (the close of business on September 9, 2019), the undersigned was the Holder of Class 5 – Prepetition Notes Claims against the Debtors in the following unpaid amount (insert unpaid amount in box below if not already completed):

\$ \_\_\_\_\_

**Item 2. Vote on Plan.**

The Holder of the Class 5 – Prepetition Notes Claims against the Debtors set forth in Item 1 above votes to (please check one box below):

<input type="checkbox"/> <b><u>ACCEPT</u></b> (vote FOR) the Plan	<input type="checkbox"/> <b><u>REJECT</u></b> (vote AGAINST) the Plan
---	---

THE DEBTORS RECOMMEND THAT YOU VOTE TO ACCEPT THE PLAN.

**IMPORTANT INFORMATION REGARDING THE RELEASE OF CLAIMS BY THIRD PARTIES**

ARTICLE X OF THE PLAN CONTAINS RELEASE, EXCULPATION AND INJUNCTION PROVISIONS, WHICH ARE SET FORTH AT THE END OF THIS BALLOT. YOU SHOULD REVIEW THESE PROVISIONS CAREFULLY.

**Check the box below if you elect not to grant the Third Party Release contained in Article X.B.2 of the Plan. If you are not a signatory to the Restructuring Support Agreement, election to withhold consent is at your option. If you submit your Ballot with this box checked, then you will be deemed NOT to consent to the Third Party Release set forth in Article X.B.2 of the Plan. PLEASE BE ADVISED THAT BY NOT CHECKING THE BOX BELOW YOU ELECT TO GRANT THE THIRD-PARTY RELEASE AGAINST THE “RELEASED PARTIES,” AS THAT TERM IS DEFINED IN THE PLAN, IN EACH AND EVERY CAPACITY IN WHICH YOU HOLD A CLAIM AGAINST, OR EQUITY INTEREST IN, ANY OF THE DEBTORS. YOU MUST AFFIRMATIVELY CHECK THE BOX BELOW IN ORDER TO OPT-OUT OF THE THIRD PARTY RELEASE.**

**PLEASE ALSO BE ADVISED THAT THE DEBTOR RELEASE CONTAINED IN ARTICLE X.B.1 OF THE PLAN IS SEPARATE FROM AND INDEPENDENT OF THE THIRD PARTY RELEASE. IF YOU OBJECT TO THE DEBTOR RELEASE, YOU MUST FILE A SEPARATE OBJECTION WITH THE BANKRUPTCY COURT IN ACCORDANCE WITH THE PROCEDURES DESCRIBED IN THE DISCLOSURE STATEMENT ORDER.**

<input type="checkbox"/> <b>OPT-OUT ELECTION:</b> The undersigned elects to opt-out of the Third Party Releases contained in Article X.B.2 of the Plan
--

**Item 3. Certifications.**

By signing this Ballot, the undersigned certifies to the Bankruptcy Court and the Debtors:

- i. that either: (i) the undersigned is the Holder of the Class 5 Claims being voted; or (ii) the undersigned is an authorized signatory for an Entity that is a Holder of the Class 5 Claims being voted, and, in either case, has the full power and authority to vote to accept or reject the Plan with respect to the Claims identified in Item 1 above;
- ii. that the undersigned has received a copy of the Disclosure Statement and the Solicitation Package and acknowledges that the solicitation is being made pursuant to the terms and conditions set forth therein;
- iii. that the undersigned has cast the same vote with respect to all Class 5 Claims in a single Class; and
- iv. that no other Ballots with respect to the amount of the Class 5 Claims identified in Item 1 above have been cast or, if any other Ballots have been cast with respect to such Claims, then any such earlier Ballots are hereby revoked.

Name of Holder:	
	(Print or Type)
Social Security or Federal Tax Identification Number:	
Signature:	
Name of Signatory:	
	(If other than Holder)
Title:	
Address:	
Date Completed:	

If your address or contact information has changed, please note the new information here.

**PLEASE COMPLETE, SIGN AND DATE THIS BALLOT AND RETURN IT IN THE ENVELOPE PROVIDED TO THE FOLLOWING ADDRESS SO THAT IT IS ACTUALLY RECEIVED BY 5:00 P.M. (PREVAILING EASTERN TIME) ON OCTOBER 17, 2019:**

Emerge Energy Services LP Balloting Center  
c/o Kurtzman Carson Consultants LLC  
222 N. Pacific Coast Highway, Suite 300  
El Segundo, California 90245  
Telephone: 877-634-7165 (toll-free in US and Canada)  
or 424-236-7221 (for international callers)

**THIS BALLOT MUST BE ACTUALLY RECEIVED BY THE VOTING AND CLAIMS AGENT ON OR BEFORE:**

**5:00 P.M. PREVAILING EASTERN TIME ON OCTOBER 17, 2019.**

**BALLOTS SENT BY FACSIMILE, TELECOPY OR ELECTRONIC MAIL (OTHER THAN THROUGH THE VOTING AND CLAIMS AGENT'S ONLINE PORTAL IN ACCORDANCE WITH THE BELOW) WILL NOT BE ACCEPTED**

In addition, to submit your Ballot via the Voting and Claims Agent's online portal, please visit [www.kccllc.net/EmergeEnergy](http://www.kccllc.net/EmergeEnergy). Click on the "E-Ballot" section of the website and follow the instructions to submit your Ballot.

**IMPORTANT NOTE:** You will need the following information to retrieve and submit your customized electronic Ballot:

Unique E-Ballot ID#: \_\_\_\_\_

The Voting and Claims Agent's online portal is the sole manner in which Ballots will be accepted via electronic or online transmission. Ballots submitted by facsimile, email or other means of electronic transmission will not be counted.

Each E-Ballot ID# is to be used solely for voting only those Claims described in Item 1 of your electronic Ballot. Please complete and submit an electronic Ballot for each E-Ballot ID# you receive, as applicable.

Creditors who cast a Ballot using the Voting and Claims Agent's online portal should NOT also submit a paper Ballot.



## Class 5 — Prepetition Notes Claims

**INSTRUCTIONS FOR COMPLETING THIS BALLOT**

1. The Debtors are soliciting the votes of Holders of Claims with respect to the Plan attached as Exhibit A to the Disclosure Statement. Capitalized terms used in the Ballot or in these instructions (the “**Ballot Instructions**”) but not otherwise defined therein or herein shall have the meaning set forth in the Plan, a copy of which also accompanies the Ballot.
2. To ensure that your Ballot is counted, you ***must either***: (i) complete and submit this hard copy Ballot, or (ii) vote through the Debtors’ online balloting portal accessible through the Debtors’ case website [www.kccllc.net/EmergeEnergy](http://www.kccllc.net/EmergeEnergy). **Ballots will not be accepted by facsimile or other electronic means (other than the online portal).**
3. **Use of Hard Copy Ballot.** To ensure that your vote is counted, you must complete the Ballot and take the following steps: (i) make sure that the information required by Item 1 above has been inserted (if you do not know the amount of your claim, please contact the Voting and Claims Agent); (ii) clearly indicate your decision either to accept or reject the Plan in the boxes provided in Item 2 above; (iii) provide the information required by Item 3 above and; (iv) sign, date and return an original of your Ballot to the address set forth on the enclosed pre-addressed envelope.
4. **Use of Online Ballot Portal.** To ensure that your electronic Ballot is counted, please follow the instructions of the Debtors’ case administration website at [www.kccllc.net/EmergeEnergy](http://www.kccllc.net/EmergeEnergy). You will need to enter your unique E-Ballot identification number indicated above. The online balloting portal is the sole manner in which Ballots will be accepted via electronic or online transmission. **Ballots will not be accepted by facsimile or electronic means (other than the online portal).**
5. If a Ballot is received after the Voting Deadline, it will not be counted, unless the Debtors have granted an extension of the Voting Deadline in writing with respect to such Ballot. Additionally, the following Ballots will **NOT** be counted:
  - i. any Ballot that is illegible or contains insufficient information to permit the identification of the claimant;
  - ii. any Ballot cast by a person or entity that does not hold a claim in a class that is entitled to vote to accept or reject the Plan;
  - iii. any Ballot cast for a claim that is not listed on the Schedules, or that is scheduled at zero, in an unknown amount, or, in whole or in part, as unliquidated, contingent, or disputed, and for which no proof of claim was timely filed or deemed timely filed by an order of the Court prior to the Voting Deadline;
  - iv. any Ballot that is properly completed, executed and timely filed, but (i) does not indicate an acceptance or rejection of the Plan, (ii) indicates both an acceptance and rejection of the Plan, or (iii) partially accepts and partially rejects the Plan;
  - v. any Ballot submitted by facsimile, telecopy or electronic mail (other than the Voting and Claims Agent’s online portal);

- vi. any unsigned Ballot;
  - vii. any Ballot sent to the Debtors, the Debtors' agents/representatives (other than the Voting and Claims Agent), any indenture trustee, or the Debtors' financial or legal advisors; and/or
  - viii. any Ballot not cast in accordance with the procedures approved in the Disclosure Statement Order.
6. The method of delivery of Ballots to the Voting and Claims Agent is at the election and risk of each Holder of a Claim. Except as otherwise provided herein, such delivery will be deemed made only when the Voting and Claims Agent **actually receives** the originally executed Ballot. Instead of effecting delivery by first-class mail, it is recommended, though not required, that Holders use an overnight or hand delivery service. In all cases, Holders should allow sufficient time to assure timely delivery.
  7. If multiple Ballots are received from the same Holder of a Claim with respect to the same Claim prior to the Voting Deadline, the last Ballot timely received will supersede and revoke any earlier received Ballots.
  8. You must vote all of your Claims within a particular Class either to accept or reject the Plan and may not split your vote. Further, if a Holder has multiple Claims within the same Class, the Debtors may, in their discretion, aggregate the Claims of any particular Holder within a Class for the purpose of counting votes.
  9. The Ballot is not a letter of transmittal and may not be used for any purpose other than to (i) vote to accept or reject the Plan, and (ii) opt-out of the Third Party Release. Accordingly, at this time, Holders of Claims should not surrender certificates or instruments representing or evidencing their Claims, and neither the Debtors nor the Voting and Claims Agent will accept delivery of any such certificates or instruments surrendered together with a Ballot.
  10. This Ballot does not constitute, and shall not be deemed to be, (i) a Proof of Claim or (ii) an assertion or admission of a Claim.
  11. Please be sure to sign and date your Ballot. If you are signing a Ballot in your capacity as a trustee, executor, administrator, guardian, attorney in fact, officer of a corporation or otherwise acting in a fiduciary or representative capacity, you must indicate such capacity when signing and, if required or requested by the Voting and Claims Agent, the Debtors or the Bankruptcy Court, must submit proper evidence to the requesting party to so act on behalf of such Holder. In addition, please provide your name and mailing address if it is different from that set forth on the attached mailing label or if no such mailing label is attached to the Ballot.
  12. If you hold Claims in more than one Class under the Plan you may receive more than one Ballot coded for each different Class. Each Ballot votes only your Claims indicated on that Ballot, so please complete and return each Ballot you received.

**PLEASE MAIL YOUR BALLOT PROMPTLY!**

**IF YOU HAVE ANY QUESTIONS REGARDING THIS BALLOT, THESE VOTING INSTRUCTIONS OR THE PROCEDURES FOR VOTING, PLEASE CALL THE VOTING AND CLAIMS AGENT AT: 877-634-7165 (TOLL-FREE IN US AND CANADA) OR 424-236-7221 (FOR INTERNATIONAL CALLERS). PLEASE NOTE THAT THE VOTING AND CLAIMS AGENT CANNOT PROVIDE LEGAL ADVICE.**

**IF THE VOTING AND CLAIMS AGENT DOES NOT ACTUALLY RECEIVE THIS BALLOT ON OR BEFORE THE VOTING DEADLINE, WHICH IS 5:00 P.M. PREVAILING EASTERN TIME ON OCTOBER 17, 2019, THEN YOUR VOTE TRANSMITTED HEREBY WILL NOT BE COUNTED.**

NO PERSON HAS BEEN AUTHORIZED TO GIVE ANY INFORMATION OR ADVICE, OR TO MAKE ANY REPRESENTATION, REGARDING THE DEBTORS OR THE PLAN, OTHER THAN WHAT IS CONTAINED IN THE SOLICITATION PACKAGE MAILED HEREWITH.

PLEASE SEE THE FOLLOWING IMPORTANT INFORMATION REGARDING THE RELEASES, EXCULPATIONS AND INJUNCTION SET FORTH IN THE PLAN.

**RELEASE, EXCULPATION, AND INJUNCTION PROVISIONS CONTAINED  
IN THE PLAN**

**Release of Claims and Causes of Action**

1. **Release by the Debtors and their Estates.** Pursuant to section 1123(b) and any other applicable provisions of the Bankruptcy Code, and except as otherwise expressly provided in the Plan, effective as of the Effective Date, for good and valuable consideration provided by each of the Released Parties, the adequacy and sufficiency of which is thereby confirmed, the Debtors and the Reorganized Debtors, in their respective individual capacities and as debtors-in-possession, and on behalf of themselves and their respective Estates, including, without limitation, any successor to the Debtors or any Estate representative appointed or selected pursuant to section 1123(b)(3) of the Bankruptcy Code (collectively, the "Debtor Releasing Parties") will be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever provided a full discharge, waiver and release to each of the Released Parties (and each such Released Party so released shall be deemed forever released, waived and discharged by the Debtor Releasing Parties) and their respective assets and properties (the "Debtor Release") from any and all claims, Causes of Action, Released and Settled Claims, Litigation Claims and any other debts, obligations, rights, suits, damages, actions, remedies, and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, whether directly or derivatively held, existing as of the Effective Date or thereafter arising, in law, at equity or otherwise, whether for tort, contract, violations of federal or state securities laws, or otherwise, based in whole or in part upon any act or omission, transaction, or other occurrence or circumstances existing or taking place prior to or on the Effective Date arising from or related in any way in whole or in part to any of the Debtors, including, without limitation, (i) the Chapter 11 Cases, the Disclosure Statement, the Plan, the Restructuring Support Agreement and the Restructuring Documents, (ii) the subject matter of, or the transactions or events giving rise to, any Claim or Equity Interest that is treated in the Plan, (iii) the business or contractual arrangements between any Debtor and any Released Parties, (iv) the

negotiation, formulation or preparation of the Restructuring Support Agreement, the Plan, the Disclosure Statement, the Plan Supplement, the Restructuring Documents, or related agreements, instruments or other documents, (v) the restructuring of Claims or Equity Interests prior to or during the Chapter 11 Cases, (vi) the purchase, sale, or rescission of the purchase or sale of any Equity Interest of the Debtors or the Reorganized Debtors, and/or (vii) the Confirmation or Consummation of the Plan or the solicitation of votes on the Plan that such Debtor Releasing Party would have been legally entitled to assert (whether individually or collectively) or that any Holder of a Claim or Equity Interest or other Entity would have been legally entitled to assert for, or on behalf or in the name of, any Debtor, its respective Estate or any Reorganized Debtor (whether directly or derivatively) against any of the Released Parties; provided, however, that the foregoing provisions of this Debtor Release shall not operate to waive or release: (i) any Causes of Action arising from willful misconduct, actual fraud, or gross negligence of such applicable Released Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction; (ii) any Causes of Action relating to the MSHA Action (other than against a member of the Special Restructuring Committee); and/or (iii) the rights of such Debtor Releasing Party to enforce the Plan and the contracts, instruments, releases, indentures, and other agreements or documents delivered under or in connection with the Plan or assumed pursuant to the Plan or assumed pursuant to Final Order of the Bankruptcy Court. The foregoing release shall be effective as of the Effective Date without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Person and the Confirmation Order will permanently enjoin the commencement or prosecution by any Person or Entity, whether directly, derivatively or otherwise, of any claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, or liabilities released pursuant to this Debtor Release. Notwithstanding the foregoing, nothing in this Article X.B shall or shall be deemed to (i) prohibit the Debtors or the Reorganized Debtors from asserting and enforcing any claims, obligations, suits, judgments, demands, debts, rights, Causes of Action or liabilities they may have against any Person that is based upon an alleged breach of a confidentiality or non-compete obligation owed to the Debtors or the Reorganized Debtors and/or (ii) operate as a release or waiver of any Intercompany Claims, in each case unless otherwise expressly provided for in the Plan.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the Debtor Release, which includes by reference each of the related provisions and definitions contained under the Plan, and further, shall constitute the Bankruptcy Court's finding that the Debtor Release is: (i) in exchange for the good and valuable consideration provided by the Released Parties; (ii) a good faith settlement and compromise of the claims released by the Debtor Release; (iii) in the best interest of the Debtors and their Estates; (iv) fair, equitable and reasonable; and (v) given and made after due notice and opportunity for hearing.

2. Release By Third Parties. Except as otherwise expressly provided in the Plan, effective as of the Effective Date, to the fullest extent permitted by applicable law, for good and valuable consideration provided by each of the Released Parties, the adequacy and sufficiency of which is thereby confirmed, and without limiting or otherwise modifying the scope of the Debtor Release provided by the Debtor Releasing Parties above, each Non-Debtor Releasing Party (together with the Debtor Releasing Parties, the "Releasing Parties") will be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever provided a full discharge, waiver and release to each of the Released Parties (and each such Released Party so released shall be deemed forever released, waived and discharged by the Non-Debtor Releasing Parties) and their respective assets and properties (the "Third Party Release") from any and all claims, Causes of Action, Released and Settled Claims, Litigation Claims and any other debts, obligations, rights, suits, damages,

actions, remedies, and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, whether directly or derivatively held, existing as of the Effective Date or thereafter arising, in law, at equity or otherwise, whether for tort, contract, violations of federal or state securities laws, or otherwise, based in whole or in part upon any act or omission, transaction, or other occurrence or circumstances existing or taking place prior to or on the Effective Date arising from or related in any way in whole or in part to any of the Debtors, including, without limitation, (i) the Chapter 11 Cases, the Disclosure Statement, the Plan, the Restructuring Support Agreement and the Restructuring Documents, (ii) the subject matter of, or the transactions or events giving rise to, any Claim or Equity Interest that is treated in the Plan, (iii) the business or contractual arrangements between any Debtor and any Released Parties, (iv) the negotiation, formulation or preparation of the Restructuring Support Agreement, the Plan, the Disclosure Statement, the Plan Supplement, the Restructuring Documents, or related agreements, instruments or other documents, (v) the restructuring of Claims or Equity Interests prior to or during the Chapter 11 Cases, (vi) the purchase, sale or rescission of the purchase or sale of any Equity Interest of the Debtors or the Reorganized Debtors, and/or (vii) the Confirmation or Consummation of the Plan or the solicitation of votes on the Plan that such Non-Debtor Releasing Party would have been legally entitled to assert (whether individually or collectively) against any of the Released Parties; provided, however, that the foregoing provisions of this Third Party Release shall not operate to waive or release (i) any Causes of Action arising from willful misconduct, actual fraud, or gross negligence of such applicable Released Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction; (ii) any Causes of Action relating to the MSHA Action (other than against a member of the Special Restructuring Committee); and/or (iii) the rights of such Non-Debtor Releasing Party to enforce the Plan and the contracts, instruments, releases, indentures, and other agreements and documents delivered under or in connection with the Plan or assumed pursuant to the Plan or Final Order of the Bankruptcy Court. The foregoing release shall be effective as of the Effective Date, without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Person and the Confirmation Order will permanently enjoin the commencement or prosecution by any Person or Entity, whether directly, derivatively or otherwise, of any claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, or liabilities released pursuant to this Third Party Release.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of the Third Party Release, which includes by reference each of the related provisions and definitions contained under the Plan, and further, shall constitute the Bankruptcy Court's finding that the Third Party Release is: (i) in exchange for the good and valuable consideration provided by the Released Parties; (ii) a good faith settlement and compromise of the claims released by the Third Party Release; (iii) in the best interest of the Debtors and all Holders of Claims and Equity Interests; (iv) fair, equitable and reasonable; and (v) given and made after due notice and opportunity for hearing.

### 3. Exculpation

Effective as of the Effective Date, the Exculpated Parties shall neither have nor incur any liability to any Person or Entity for any claims, Causes of Action or Released and Settled Claim arising prior to or on the Effective Date for any act taken or omitted to be taken in connection with, or related to, formulating, negotiating, preparing, disseminating, implementing, administering, confirming or effecting the Confirmation or Consummation of the Plan, the Disclosure Statement, the Restructuring Documents or any contract, instrument, release or other agreement or document created or entered into in connection with the Plan, including the Restructuring Support Agreement, or any other petition or

postpetition act taken or omitted to be taken in connection with or in contemplation of the restructuring of the Debtors, the approval of the Disclosure Statement or Confirmation or Consummation of the Plan; provided, however, that the foregoing provisions of this exculpation shall not operate to waive or release: (i) any Causes of Action arising from willful misconduct, actual fraud, or gross negligence of such applicable Exculpated Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction; and/or (ii) the rights of any Person or Entity to enforce the Plan and the contracts, instruments, releases, indentures, and other agreements and documents delivered under or in connection with the Plan or assumed pursuant to the Plan or Final Order of the Bankruptcy Court; provided, further, that each Exculpated Party shall be entitled to rely upon the advice of counsel concerning its respective duties pursuant to, or in connection with, the above referenced documents, actions or inactions. The foregoing exculpation shall be effective as of the Effective Date without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Person. Notwithstanding the foregoing, nothing in this Article X.E shall or shall be deemed to prohibit the Debtors or the Reorganized Debtors from asserting and enforcing any claims, obligations, suits, judgments, demands, debts, rights, Causes of Action or liabilities they may have against any Person that is based upon an alleged breach of a confidentiality or non-compete obligation owed to the Debtors or the Reorganized Debtors, in each case unless otherwise expressly provided for in the Plan.

#### 4. Injunction

Except as otherwise expressly provided in the Plan or the Confirmation Order, from and after the Effective Date, all Persons and Entities are, to the fullest extent provided under section 524 and other applicable provisions of the Bankruptcy Code, permanently enjoined from (i) commencing or continuing, in any manner or in any place, any suit, action or other proceeding; (ii) enforcing, attaching, collecting, or recovering in any manner any judgment, award, decree, or order; (iii) creating, perfecting, or enforcing any Lien or encumbrance; (iv) asserting a setoff or right of subrogation of any kind; or (v) commencing or continuing in any manner any action or other proceeding of any kind, in each case on account of or with respect to any Claim, demand, liability, obligation, debt, right, Cause of Action, equity interest, or remedy released or to be released, exculpated or to be exculpated, settled or to be settled or discharged or to be discharged pursuant to the Plan or the Confirmation Order against any Person or Entity so released, discharged, or exculpated (or the property or estate of any Person or Entity so released, discharged, or exculpated). All injunctions or stays provided for in the Chapter 11 Cases under section 105 or section 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect until the Effective Date.

#### Certain Definitions Contains in the Plan Release, Exculpation and Injunction Provisions

“*Causes of Action*” means any claims, causes of action (including Avoidance Actions), demands, actions, suits, obligations, liabilities, cross-claims, counterclaims, offsets, or setoffs of any kind or character whatsoever, in each case whether known or unknown, contingent or non-contingent, matured or unmatured, suspected or unsuspected, foreseen or unforeseen, direct or indirect, choate or inchoate, existing or hereafter arising, under statute, in contract, in tort, in law, or in equity, or pursuant to any other theory of law, federal or state, whether asserted or assertable directly or derivatively in law or equity or otherwise by way of claim, counterclaim, cross-claim, third party action, action for indemnity or contribution or otherwise, based in whole or in part upon any act or omission or other event occurring prior to the Petition Date or during the course of the Chapter 11 Cases, including through the Effective Date.

**“Exculpated Parties”** means, collectively: (a) the Debtors; (b) the Reorganized Debtors; (c) any Committee and the members thereof in their capacity as such; (d) the DIP Credit Agreement Agent; (e) DIP Credit Agreement Lenders; (f) the Prepetition Credit Agreement Agent; (g) the Prepetition Credit Agreement Lenders; (h) the Prepetition Notes Agent; (i) the Prepetition Noteholders; and (j) in each case, the respective Related Persons of each of the foregoing Entities.

**“Litigation Claims”** means the claims, rights of action, suits or proceedings, whether in law or in equity, whether known or unknown, that any Debtor or any Estate may hold against any Person or Entity, including, without limitation, the Causes of Action of the Debtors or their Estates, in each case solely to the extent of the Debtors’ or their Estates’ interest therein. A non-exclusive list of the Litigation Claims held by the Debtors as of the Effective Date is to be Filed with the Plan Supplement, which shall be deemed to include any derivative actions filed against any Debtor as of the Effective Date.

**“New Railcar Lease Agreements”** means those certain railcar lease agreements entered into between the Debtors and the Specified Rail Car Lessors pursuant to the New Railcar Lease Agreements Order.

**“New Railcar Lease Agreements Order”** means the Order Authorizing the Debtors to (I) Reject Certain Railcar Lease Agreements Nunc Pro Tunc to the Petition Date and (II) Enter Into Proposed New Railcar Lease Agreements Effective as of the Petition Date entered by the Bankruptcy Court in the Chapter 11 Cases (Docket No. 208), as such order may be amended, supplemented, or modified from time to time.

**“Non-Debtor Releasing Parties”** means, collectively: (a) the Committee and the members thereof in their capacity as such; (b) the Prepetition Credit Agreement Agent and the Releasing Prepetition Credit Agreement Lenders; (c) the DIP Credit Agreement Agent and the DIP Credit Agreement Lenders (d) the Prepetition Notes Agent and the Releasing Prepetition Noteholders; (e) the Releasing Old Emerge LP Equity Holders; (f) those Holders of General Unsecured Claims or Old Emerge LP Equity Interests that do not affirmatively opt out of the Third Party Release as provided on their respective Ballots; and (g) each Specified Railcar Lessor (to the extent it is a Released Party).

**“Related Persons”** means, with respect to any Person, such Person’s predecessors, successors, assigns and present and former Affiliates (whether by operation of law or otherwise) and subsidiaries, and each of their respective current and former officers, directors, principals, employees, shareholders, members (including *ex officio* members and managing members), managers, managed accounts or funds, management companies, fund advisors, advisory or subcommittee board members, partners, agents, financial advisors, attorneys, accountants, investment bankers, investment advisors, consultants, representatives, and other professionals, in each case acting in such capacity at any time on or after the date of the Restructuring Support Agreement, and any Person claiming by or through any of them, including such Related Persons’ respective heirs, executors, estates, servants, and nominees; provided, however, that no insurer of any Debtor shall constitute a Related Person.

**“Released and Settled Claims”** means all Claims and Causes of Action made, or which could have been made, on or on behalf of any of the Debtors against the Prepetition Revolver Agent, the Prepetition Revolving Lenders, the Prepetition Note Agent, or the Prepetition Noteholders, or any of their respective affiliates, agents, attorneys, advisors, professionals, officers, directors, and employees, in their respective capacities as such.

**“Released Party”** means, collectively: (a) the Debtors; (b) the Reorganized Debtors; (c)

the Committee and the members thereof in their capacity as such; (d) the Prepetition Credit Agreement Agent and the Releasing Prepetition Credit Agreement Lenders; (e) the DIP Credit Agreement Agent and the DIP Credit Agreement Lenders; (f) the Prepetition Notes Agent and the Releasing Prepetition Noteholders; (g) the Releasing Old Emerge LP Equity Holders; and (h) each Specified Railcar Lessor, so long as the applicable New Railcar Lease Agreement(s) between the Debtors and the applicable Specified Railcar Lessor is in full force and effect as of the Effective Date; and in each case the respective Related Persons of each of the foregoing Entities.

***“Specified Railcar Lessors”*** means, collectively, (a) Trinity Industries Leasing Company, (b) MUL Railcars Leasing, LLC, and (c) CIT Bank, N.A. and The CIT Group/Equipment Financing, Inc., as an assignee of CIT Rail, LLC.



**EXHIBIT 3-B**

**Ballot for Holders of Class 6 General Unsecured Claims**

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

In re:	X	
	:	Chapter 11
EMERGE ENERGY SERVICES LP, <i>et al.</i> , <sup>1</sup>	:	Case No. 19-11563 (KBO)
Debtors.	:	(Jointly Administered)
	:	
	:	
	:	
	:	
	:	
	X	

**BALLOT FOR VOTING ON THE ABOVE-CAPTIONED DEBTORS’  
CHAPTER 11 PLAN**

**Class 6 – General Unsecured Claims**

**PLEASE READ AND FOLLOW THE ENCLOSED INSTRUCTIONS FOR  
COMPLETING THIS BALLOT CAREFULLY BEFORE COMPLETING THIS  
BALLOT.**

**THIS BALLOT MUST BE COMPLETED, EXECUTED AND RETURNED SO THAT  
IT IS ACTUALLY RECEIVED BY THE VOTING AND CLAIMS AGENT (KURTZMAN  
CARSON CONSULTANTS LLC) ON OR BEFORE 5:00 P.M. PREVAILING EASTERN  
TIME ON OCTOBER 17, 2019 (THE “VOTING DEADLINE”) IN ACCORDANCE  
WITH THE FOLLOWING:**

The above-captioned debtors and debtors in possession (collectively, the “**Debtors**”) are soliciting votes with respect to the *First Amended Joint Plan of Reorganization for Emerge Energy Services LP and its Affiliate Debtors Under Chapter 11 of the Bankruptcy Code* [Docket No. [ ● ]] (as may be amended from time to time, the “**Plan**”)² as set forth in the Disclosure Statement for the Plan [Docket No. [ ● ]] (as may be amended from time to time, the “**Disclosure Statement**”). The Bankruptcy Court has approved the Disclosure Statement as containing adequate information pursuant to Bankruptcy Code Section 1125, by entry of an order on [ ● ], 2019 [Docket No. [ ● ]] (the “**Disclosure Statement Order**”). Bankruptcy Court approval of the Disclosure Statement does not indicate approval of the Plan by the Bankruptcy Court. Capitalized terms used but not otherwise defined herein shall have the meanings set forth in the Plan.

You are receiving this Ballot because our records indicate that you are a direct Holder of a Class 6 General Unsecured Claim, as of the Voting Record Date (the close of business on

<sup>1</sup> The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: Emerge Energy Services LP (2937), Emerge Energy Services GP LLC (4683), Emerge Energy Services Operating LLC (2511), Superior Silica Sands LLC (9889), and Emerge Energy Services Finance Corporation (9875). The Debtors’ address is 5600 Clearfork Main Street, Suite 400, Fort Worth, Texas 76109.

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

September 9, 2019). Accordingly, you have a right to (i) vote to accept or reject the Plan as provided in Item 2 below, and (ii) opt-out of the Third Party Release as provided in Item 2 below.

Your rights are described in the Disclosure Statement, which is included (along with the Plan, Disclosure Statement Order and certain other materials) in the Solicitation Package you are receiving with this Ballot. If you need to obtain additional solicitation materials, you may contact the Debtors' Voting and Claims Agent by: (i) visiting the Debtors' restructuring website at [www.kccllc.net/EmergeEnergy](http://www.kccllc.net/EmergeEnergy) (under Tab "Plan and Disclosure Statement"); (ii) writing to Emerge Energy Claims Processing Center, c/o Kurtzman Carson Consultants LLC, 222 N. Pacific Coast Highway, Suite 300, El Segundo, CA 90245; and/or (iii) calling the Debtors' restructuring hotline at 877-634-7165 (toll-free in US and Canada) or 424-236-7221 (for international callers). You may also obtain these documents and any other pleadings filed in the Debtors' chapter 11 cases (for a fee) via PACER at [www.deb.uscourts.gov](http://www.deb.uscourts.gov) or free of charge at [www.kccllc.net/EmergeEnergy](http://www.kccllc.net/EmergeEnergy).

This Ballot may not be used for any purpose other than (i) for casting votes to accept or reject the Plan, and (ii) opting out of the Third Party Release. If you believe you have received this Ballot in error, or if you believe that you have received the wrong Ballot, please contact the Voting and Claims Agent immediately at the address or telephone number set forth above.

You should review the Disclosure Statement and the Plan before you vote. You may wish to seek legal advice concerning the Plan and the Plan's classification and treatment of your Claim. Your Claim has been placed in Class 6 – General Unsecured Claims under the Plan. If you hold Claims in more than one Class, you will receive a Ballot for each Class in which you are entitled to vote.

You should also review the Plan Supplement which shall be filed by the Debtors by no later than October 4, 2019, and which shall be available on the Debtors' restructuring website at [www.kccllc.net/EmergeEnergy](http://www.kccllc.net/EmergeEnergy) (under Tab "Plan and Disclosure Statement"). The Plan Supplement shall contain documents and agreements (and the exhibits, schedules, annexes and supplements thereto) necessary to implement, or entered into in connection with, the Plan, including, but not limited to, the Amended/New Organizational Documents, the Exit Facility Loan Documents, the New Second Lien Notes Documents, the New Warrants Agreement and a non-exclusive list of the Litigation Claims.

The Bankruptcy Court can confirm the Plan and bind you if the Plan is accepted by the holders of at least two-thirds in amount and more than one-half in number of the Claims in each impaired Class who vote on the Plan and if the Plan otherwise satisfies the applicable requirements of section 1129(a) of the Bankruptcy Code. If the requisite acceptances are not obtained, the Bankruptcy Court nonetheless may confirm the Plan if it finds that the Plan (i) provides fair and equitable treatment to, and does not unfairly discriminate against, each Class rejecting the Plan and (ii) otherwise satisfies the requirements of section 1129(b) of the Bankruptcy Code. If the Plan is confirmed by the Bankruptcy Court, it will be binding on you whether or not you vote or affirmatively vote to reject the Plan. To have your vote counted, you must complete, sign and return this Ballot to the Voting and Claims Agent by the Voting Deadline.

**IMPORTANT NOTICE REGARDING TREATMENT FOR HOLDERS OF  
CLASS 6 GENERAL UNSECURED CLAIMS**

***Treatment: IF AND ONLY IF CLASS 6 VOTES TO ACCEPT THE PLAN, THEN:***

- Subject to Article VIII of the Plan, on, or as soon as reasonably practicable after, the later of (i) the Initial Distribution Date if such Class 6 Claim is an Allowed Class 6 Claim as of the Effective Date or (ii) the next Subsequent Distribution Date after the date on which such Class 6 Claim becomes an Allowed Class 6 Claim, each Holder of an Allowed Class 6 Claim shall receive, in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Class 6 Claim, its Pro Rata share of (1) 5.0% of the New Limited Partnership Interests issued and outstanding on the Effective Date prior to dilution by the New Management Incentive Plan Equity and any issuances pursuant to the New Warrants and (2) New Warrants representing 10.0% of the New Limited Partnership Interests issued and outstanding on the Effective Date prior to dilution by the New Management Incentive Plan Equity.

***Treatment: IF AND ONLY IF CLASS 6 VOTES TO REJECT THE PLAN, THEN:***

- On the Effective Date, the Class 6 Claims will be discharged without further notice to, approval of or action by any Person or Entity, **and each Holder of a Class 6 Claim shall not receive any distribution or retain any property on account of such Class 6 Claim.**

“**New Limited Partnership Interests**” means the new limited partnership interests in Reorganized Emerge LP to be issued on and as of the Effective Date to the Prepetition Noteholders and, subject to the terms and conditions of the Plan, certain other Holders.

“**New Management Incentive Plan Equity**” means a post-Effective Date equity incentive plan providing for the issuance from time to time, as approved by the New Board, of New Limited Partnership Interests to those individuals involved in day-to-day management of the Reorganized Debtors. The New Board shall determine allocation and other terms of the New Management Incentive Plan.

“**New Warrants**” means the warrants contemplated under the New Warrants Agreement.

“**New Warrants Agreement**” means the warrant agreement Filed with the Plan Supplement, which warrant agreement shall contain terms and conditions consistent in all respects with those set forth on the New Warrants Term Sheet and, to the extent any terms and conditions are not set forth on or contemplated therein, such other terms and conditions as are acceptable to the Special Restructuring Committee, the Majority Noteholders, and the other applicable parties to the Restructuring Support Agreement in the manner set forth therein.

**Item 1. Amount of Claim.**

The undersigned hereby certifies that as of the Voting Record Date (the close of business on September 9, 2019), the undersigned was the Holder of Class 6 – General Unsecured Claims against the Debtors in the following unpaid amount (insert unpaid amount in box below if not already completed):

\$ _____
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**Item 2. Vote on Plan.**

The Holder of the Class 6 – General Unsecured Claims against the Debtors set forth in Item 1 above votes to (please check one box below):

**PRIOR TO VOTING ON THE PLAN, PLEASE REVIEW THE “IMPORTANT NOTICE REGARDING TREATMENT FOR HOLDERS OF CLASS 6 GENERAL UNSECURED CLAIMS” INCLUDED IN THIS DISTRIBUTION.** Please be advised that if and only if Class 6 votes to **REJECT** the Plan then: On the Effective Date, the Class 6 Claims will be discharged without further notice to, approval of or action by any Person or Entity, **and each Holder of a Class 6 Claim shall not receive any distribution or retain any property on account of such Class 6 Claim.**

<input type="checkbox"/> <b><u>ACCEPT</u></b> (vote FOR) the Plan	<input type="checkbox"/> <b><u>REJECT</u></b> (vote AGAINST) the Plan
---	---

THE DEBTORS RECOMMEND THAT YOU VOTE TO ACCEPT THE PLAN.

**IMPORTANT INFORMATION REGARDING THE RELEASE OF CLAIMS BY THIRD PARTIES**

ARTICLE X OF THE PLAN CONTAINS RELEASE, EXCULPATION AND INJUNCTION PROVISIONS, WHICH ARE SET FORTH AT THE END OF THIS BALLOT. YOU SHOULD REVIEW THESE PROVISIONS CAREFULLY.

Check the box below if you elect not to grant the Third Party Release contained in Article X.B.2 of the Plan. If you are not a signatory to the Restructuring Support Agreement, election to withhold consent is at your option. If you submit your Ballot with this box checked, then you will be deemed **NOT** to consent to the Third Party Release set forth in Article X.B.2 of the Plan. **PLEASE BE ADVISED THAT BY NOT CHECKING THE BOX BELOW YOU ELECT TO GRANT THE THIRD-PARTY RELEASE AGAINST THE “RELEASED PARTIES,” AS THAT TERM IS DEFINED IN THE PLAN, IN EACH AND EVERY CAPACITY IN WHICH YOU HOLD A CLAIM AGAINST, OR EQUITY INTEREST IN, ANY OF THE DEBTORS. YOU MUST AFFIRMATIVELY CHECK THE BOX BELOW IN ORDER TO OPT-OUT OF THE THIRD PARTY RELEASE.**

**PLEASE ALSO BE ADVISED THAT THE DEBTOR RELEASE CONTAINED IN ARTICLE X.B.1 OF THE PLAN IS SEPARATE FROM AND INDEPENDENT OF THE THIRD PARTY RELEASE. IF YOU OBJECT TO THE DEBTOR RELEASE, YOU MUST FILE A SEPARATE OBJECTION WITH THE BANKRUPTCY COURT IN ACCORDANCE WITH THE PROCEDURES DESCRIBED IN THE DISCLOSURE STATEMENT ORDER.**

**OPT-OUT ELECTION:** The undersigned elects to opt-out of the Third Party Releases contained in Article X.B.2 of the Plan

**Item 3. Certifications.**

By signing this Ballot, the undersigned certifies to the Bankruptcy Court and the Debtors:

- i. that either: (i) the undersigned is the Holder of the Class 6 Claims being voted; or (ii) the undersigned is an authorized signatory for an Entity that is a Holder of the Class 6 Claims being voted, and, in either case, has the full power and authority to vote to accept or reject the Plan with respect to the Claims identified in Item 1 above;
- ii. that the undersigned has received a copy of the Disclosure Statement and the Solicitation Package and acknowledges that the solicitation is being made pursuant to the terms and conditions set forth therein;
- iii. that the undersigned has cast the same vote with respect to all Class 6 Claims in a single Class; and
- iv. that no other Ballots with respect to the amount of the Class 6 Claims identified in Item 1 above have been cast or, if any other Ballots have been cast with respect to such Claims, then any such earlier Ballots are hereby revoked.

Name of Holder:	
	(Print or Type)
Social Security or Federal Tax Identification Number:	
Signature:	
Name of Signatory:	
	(If other than Holder)
Title:	
Address:	
Date Completed:	

If your address or contact information has changed, please note the new information here.

**PLEASE COMPLETE, SIGN AND DATE THIS BALLOT AND RETURN IT IN THE ENVELOPE PROVIDED TO THE FOLLOWING ADDRESS SO THAT IT IS ACTUALLY RECEIVED BY 5:00 P.M. (PREVAILING EASTERN TIME) ON OCTOBER 17, 2019:**

Emerge Energy Services LP Balloting Center  
c/o Kurtzman Carson Consultants LLC  
N. Pacific Coast Highway, Suite 300,  
El Segundo, California 90245  
Telephone: 877-634-7165 (toll-free in US and Canada)  
or 424-236-7221 (for international callers)

**THIS BALLOT MUST BE ACTUALLY RECEIVED BY THE VOTING AND CLAIMS AGENT ON OR BEFORE:**

**5:00 P.M. PREVAILING EASTERN TIME ON OCTOBER 17, 2019.**

**BALLOTS SENT BY FACSIMILE, TELECOPY OR ELECTRONIC MAIL (OTHER THAN THROUGH THE VOTING AND CLAIMS AGENT'S ONLINE PORTAL IN ACCORDANCE WITH THE BELOW) WILL NOT BE ACCEPTED**

In addition, to submit your Ballot via the Voting and Claims Agent's online portal, please visit <http://www.kccllc.net/EmergeEnergy>. Click on the "E-Ballot" section of the website and follow the instructions to submit your Ballot.

**IMPORTANT NOTE:** You will need the following information to retrieve and submit your customized electronic Ballot:

Unique E-Ballot ID#: \_\_\_\_\_

The Voting and Claims Agent's online portal is the sole manner in which Ballots will be accepted via electronic or online transmission. Ballots submitted by facsimile, email or other means of electronic transmission will not be counted.

Each E-Ballot ID# is to be used solely for voting only those Claims described in Item 1 of your electronic Ballot. Please complete and submit an electronic Ballot for each E-Ballot ID# you receive, as applicable.

Creditors who cast a Ballot using the Voting and Claims Agent's online portal should NOT also submit a paper Ballot.

## Class 6 — General Unsecured Claims

**INSTRUCTIONS FOR COMPLETING THIS BALLOT**

1. The Debtors are soliciting the votes of Holders of Claims with respect to the Plan attached as Exhibit A to the Disclosure Statement. Capitalized terms used in the Ballot or in these instructions (the “**Ballot Instructions**”) but not otherwise defined therein or herein shall have the meaning set forth in the Plan, a copy of which also accompanies the Ballot.
2. To ensure that your Ballot is counted, you ***must either***: (i) complete and submit this hard copy Ballot or (ii) vote through the Debtors’ online balloting portal accessible through the Debtors’ case website <http://www.kccllc.net/EmergeEnergy>. **Ballots will not be accepted by facsimile or other electronic means (other than the online portal)**
3. **Use of Hard Copy Ballot.** To ensure that your vote is counted, you must complete the Ballot and take the following steps: (i) make sure that the information required by Item 1 above has been inserted (if you do not know the amount of your claim, please contact the Voting and Claims Agent); (ii) clearly indicate your decision either to accept or reject the Plan in the boxes provided in Item 2 above; (iii) provide the information required by Item 3 above and; (iv) sign, date and return an original of your Ballot to the address set forth on the enclosed pre-addressed envelope.
4. **Use of Online Ballot Portal.** To ensure that your electronic Ballot is counted, please follow the instructions of the Debtors’ case administration website at <http://www.kccllc.net/EmergeEnergy>. You will need to enter your unique E-Ballot identification number indicated above. The online balloting portal is the sole manner in which Ballots will be accepted via electronic or online transmission. **Ballots will not be accepted by facsimile or electronic means (other than the online portal)**
5. If a Ballot is received after the Voting Deadline, it will not be counted, unless the Debtors have granted an extension of the Voting Deadline in writing with respect to such Ballot. Additionally, the following Ballots will **NOT** be counted:
  - i. any Ballot that is illegible or contains insufficient information to permit the identification of the claimant;
  - ii. any Ballot cast by a person or entity that does not hold a claim in a class that is entitled to vote to accept or reject the Plan;
  - iii. any Ballot cast for a claim that is not listed on the Schedules, or that is scheduled at zero, in an unknown amount, or, in whole or in part, as unliquidated, contingent, or disputed, and for which no proof of claim was timely filed or deemed timely filed by an order of the Court prior to the Voting Deadline;
  - iv. any Ballot that is properly completed, executed and timely filed, but (i) does not indicate an acceptance or rejection of the Plan, (ii) indicates both an acceptance and rejection of the Plan, or (iii) partially accepts and partially rejects the Plan;
  - v. any Ballot submitted by facsimile, telecopy or electronic mail (other than the Voting and Claims Agent’s online portal);



- vi. any unsigned Ballot;
  - vii. any Ballot sent to the Debtors, the Debtors' agents/representatives (other than the Voting and Claims Agent), any indenture trustee, or the Debtors' financial or legal advisors; and/or
  - viii. any Ballot not cast in accordance with the procedures approved in the Disclosure Statement Order.
6. The method of delivery of Ballots to the Voting and Claims Agent is at the election and risk of each Holder of a Claim. Except as otherwise provided herein, such delivery will be deemed made only when the Voting and Claims Agent **actually receives** the originally executed Ballot. Instead of effecting delivery by first-class mail, it is recommended, though not required, that Holders use an overnight or hand delivery service. In all cases, Holders should allow sufficient time to assure timely delivery.
  7. If multiple Ballots are received from the same Holder of a Claim with respect to the same Claim prior to the Voting Deadline, the last Ballot timely received will supersede and revoke any earlier received Ballots.
  8. You must vote all of your Claims within a particular Class either to accept or reject the Plan and may not split your vote. Further, if a Holder has multiple Claims within the same Class, the Debtors may, in their discretion, aggregate the Claims of any particular Holder within a Class for the purpose of counting votes.
  9. The Ballot is not a letter of transmittal and may not be used for any purpose other than to (i) vote to accept or reject the Plan and (ii) opt-out of the Third Party Release. Accordingly, at this time, Holders of Claims should not surrender certificates or instruments representing or evidencing their Claims, and neither the Debtors nor the Voting and Claims Agent will accept delivery of any such certificates or instruments surrendered together with a Ballot.
  10. This Ballot does not constitute, and shall not be deemed to be, (i) a Proof of Claim or (ii) an assertion or admission of a Claim.
  11. **Please be sure to sign and date your Ballot.** If you are signing a Ballot in your capacity as a trustee, executor, administrator, guardian, attorney in fact, officer of a corporation or otherwise acting in a fiduciary or representative capacity, you must indicate such capacity when signing and, if required or requested by the Voting and Claims Agent, the Debtors or the Bankruptcy Court, must submit proper evidence to the requesting party to so act on behalf of such Holder. In addition, please provide your name and mailing address if it is different from that set forth on the attached mailing label or if no such mailing label is attached to the Ballot.
  12. If you hold Claims in more than one Class under the Plan you may receive more than one Ballot coded for each different Class. Each Ballot votes only your Claims indicated on that Ballot, so please complete and return each Ballot you received.

**PLEASE MAIL YOUR BALLOT PROMPTLY!**

**IF YOU HAVE ANY QUESTIONS REGARDING THIS BALLOT, THESE VOTING INSTRUCTIONS OR THE PROCEDURES FOR VOTING, PLEASE CALL THE VOTING AND CLAIMS AGENT AT: 877-634-7165 (TOLL-FREE IN US AND CANADA) OR 424-236-7221 (FOR INTERNATIONAL CALLERS). PLEASE NOTE THAT THE VOTING AND CLAIMS AGENT CANNOT PROVIDE LEGAL ADVICE.**

**IF THE VOTING AND CLAIMS AGENT DOES NOT ACTUALLY RECEIVE THIS BALLOT ON OR BEFORE THE VOTING DEADLINE, WHICH IS 5:00 P.M. PREVAILING EASTERN TIME ON OCTOBER 17, 2019, THEN YOUR VOTE TRANSMITTED HEREBY WILL NOT BE COUNTED.**

NO PERSON HAS BEEN AUTHORIZED TO GIVE ANY INFORMATION OR ADVICE, OR TO MAKE ANY REPRESENTATION, REGARDING THE DEBTORS OR THE PLAN, OTHER THAN WHAT IS CONTAINED IN THE SOLICITATION PACKAGE MAILED HEREWITH.

THE FOLLOWING IS IMPORTANT INFORMATION REGARDING THE RELEASES, EXCULPATIONS AND INJUNCTION SET FORTH IN THE PLAN.

**RELEASE, EXCULPATION, AND INJUNCTION PROVISIONS CONTAINED IN THE PLAN**

**Release of Claims and Causes of Action**

1. **Release by the Debtors and their Estates.** Pursuant to section 1123(b) and any other applicable provisions of the Bankruptcy Code, and except as otherwise expressly provided in the Plan, effective as of the Effective Date, for good and valuable consideration provided by each of the Released Parties, the adequacy and sufficiency of which is thereby confirmed, the Debtors and the Reorganized Debtors, in their respective individual capacities and as debtors-in-possession, and on behalf of themselves and their respective Estates, including, without limitation, any successor to the Debtors or any Estate representative appointed or selected pursuant to section 1123(b)(3) of the Bankruptcy Code (collectively, the "**Debtor Releasing Parties**") will be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever provided a full discharge, waiver and release to each of the Released Parties (and each such Released Party so released shall be deemed forever released, waived and discharged by the Debtor Releasing Parties) and their respective assets and properties (the "**Debtor Release**") from any and all claims, Causes of Action, Released and Settled Claims, Litigation Claims and any other debts, obligations, rights, suits, damages, actions, remedies, and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, whether directly or derivatively held, existing as of the Effective Date or thereafter arising, in law, at equity or otherwise, whether for tort, contract, violations of federal or state securities laws, or otherwise, based in whole or in part upon any act or omission, transaction, or other occurrence or circumstances existing or taking place prior to or on the Effective Date arising from or related in any way in whole or in part to any of the Debtors, including, without limitation, (i) the Chapter 11 Cases, the Disclosure Statement, the Plan, the Restructuring Support Agreement and the Restructuring Documents, (ii) the subject matter of, or the transactions or events giving rise to, any Claim or Equity Interest that is treated in the Plan, (iii) the business or contractual arrangements between any Debtor and any Released Parties, (iv) the negotiation, formulation or preparation of the Restructuring Support Agreement, the Plan, the Disclosure Statement, the Plan Supplement, the Restructuring Documents, or related

agreements, instruments or other documents, (v) the restructuring of Claims or Equity Interests prior to or during the Chapter 11 Cases, (vi) the purchase, sale, or rescission of the purchase or sale of any Equity Interest of the Debtors or the Reorganized Debtors, and/or (vii) the Confirmation or Consummation of the Plan or the solicitation of votes on the Plan that such Debtor Releasing Party would have been legally entitled to assert (whether individually or collectively) or that any Holder of a Claim or Equity Interest or other Entity would have been legally entitled to assert for, or on behalf or in the name of, any Debtor, its respective Estate or any Reorganized Debtor (whether directly or derivatively) against any of the Released Parties; provided, however, that the foregoing provisions of this Debtor Release shall not operate to waive or release: (i) any Causes of Action arising from willful misconduct, actual fraud, or gross negligence of such applicable Released Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction; (ii) any Causes of Action relating to the MSHA Action (other than against a member of the Special Restructuring Committee); and/or (iii) the rights of such Debtor Releasing Party to enforce the Plan and the contracts, instruments, releases, indentures, and other agreements or documents delivered under or in connection with the Plan or assumed pursuant to the Plan or assumed pursuant to Final Order of the Bankruptcy Court. The foregoing release shall be effective as of the Effective Date without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Person and the Confirmation Order will permanently enjoin the commencement or prosecution by any Person or Entity, whether directly, derivatively or otherwise, of any claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, or liabilities released pursuant to this Debtor Release. Notwithstanding the foregoing, nothing in this Article X.B shall or shall be deemed to (i) prohibit the Debtors or the Reorganized Debtors from asserting and enforcing any claims, obligations, suits, judgments, demands, debts, rights, Causes of Action or liabilities they may have against any Person that is based upon an alleged breach of a confidentiality or non-compete obligation owed to the Debtors or the Reorganized Debtors and/or (ii) operate as a release or waiver of any Intercompany Claims, in each case unless otherwise expressly provided for in the Plan.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the Debtor Release, which includes by reference each of the related provisions and definitions contained under the Plan, and further, shall constitute the Bankruptcy Court's finding that the Debtor Release is: (i) in exchange for the good and valuable consideration provided by the Released Parties; (ii) a good faith settlement and compromise of the claims released by the Debtor Release; (iii) in the best interest of the Debtors and their Estates; (iv) fair, equitable and reasonable; and (v) given and made after due notice and opportunity for hearing.

2. Release By Third Parties. Except as otherwise expressly provided in the Plan, effective as of the Effective Date, to the fullest extent permitted by applicable law, for good and valuable consideration provided by each of the Released Parties, the adequacy and sufficiency of which is thereby confirmed, and without limiting or otherwise modifying the scope of the Debtor Release provided by the Debtor Releasing Parties above, each Non-Debtor Releasing Party (together with the Debtor Releasing Parties, the "Releasing Parties") will be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever provided a full discharge, waiver and release to each of the Released Parties (and each such Released Party so released shall be deemed forever released, waived and discharged by the Non-Debtor Releasing Parties) and their respective assets and properties (the "Third Party Release") from any and all claims, Causes of Action, Released and Settled Claims, Litigation Claims and any other debts, obligations, rights, suits, damages, actions, remedies, and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, whether directly or derivatively held, existing as of the Effective Date or

thereafter arising, in law, at equity or otherwise, whether for tort, contract, violations of federal or state securities laws, or otherwise, based in whole or in part upon any act or omission, transaction, or other occurrence or circumstances existing or taking place prior to or on the Effective Date arising from or related in any way in whole or in part to any of the Debtors, including, without limitation, (i) the Chapter 11 Cases, the Disclosure Statement, the Plan, the Restructuring Support Agreement and the Restructuring Documents, (ii) the subject matter of, or the transactions or events giving rise to, any Claim or Equity Interest that is treated in the Plan, (iii) the business or contractual arrangements between any Debtor and any Released Parties, (iv) the negotiation, formulation or preparation of the Restructuring Support Agreement, the Plan, the Disclosure Statement, the Plan Supplement, the Restructuring Documents, or related agreements, instruments or other documents, (v) the restructuring of Claims or Equity Interests prior to or during the Chapter 11 Cases, (vi) the purchase, sale or rescission of the purchase or sale of any Equity Interest of the Debtors or the Reorganized Debtors, and/or (vii) the Confirmation or Consummation of the Plan or the solicitation of votes on the Plan that such Non-Debtor Releasing Party would have been legally entitled to assert (whether individually or collectively) against any of the Released Parties; provided, however, that the foregoing provisions of this Third Party Release shall not operate to waive or release (i) any Causes of Action arising from willful misconduct, actual fraud, or gross negligence of such applicable Released Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction; (ii) any Causes of Action relating to the MSHA Action (other than against a member of the Special Restructuring Committee); and/or (iii) the rights of such Non-Debtor Releasing Party to enforce the Plan and the contracts, instruments, releases, indentures, and other agreements and documents delivered under or in connection with the Plan or assumed pursuant to the Plan or Final Order of the Bankruptcy Court. The foregoing release shall be effective as of the Effective Date, without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Person and the Confirmation Order will permanently enjoin the commencement or prosecution by any Person or Entity, whether directly, derivatively or otherwise, of any claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, or liabilities released pursuant to this Third Party Release.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of the Third Party Release, which includes by reference each of the related provisions and definitions contained under the Plan, and further, shall constitute the Bankruptcy Court's finding that the Third Party Release is: (i) in exchange for the good and valuable consideration provided by the Released Parties; (ii) a good faith settlement and compromise of the claims released by the Third Party Release; (iii) in the best interest of the Debtors and all Holders of Claims and Equity Interests; (iv) fair, equitable and reasonable; and (v) given and made after due notice and opportunity for hearing.

### 3. Exculpation

Effective as of the Effective Date, the Exculpated Parties shall neither have nor incur any liability to any Person or Entity for any claims, Causes of Action or Released and Settled Claim arising prior to or on the Effective Date for any act taken or omitted to be taken in connection with, or related to, formulating, negotiating, preparing, disseminating, implementing, administering, confirming or effecting the Confirmation or Consummation of the Plan, the Disclosure Statement, the Restructuring Documents or any contract, instrument, release or other agreement or document created or entered into in connection with the Plan, including the Restructuring Support Agreement, or any other prepetition or postpetition act taken or omitted to be taken in connection with or in contemplation of the restructuring of the Debtors, the approval of the Disclosure Statement or Confirmation or

Consummation of the Plan; **provided, however**, that the foregoing provisions of this exculpation shall not operate to waive or release: (i) any Causes of Action arising from willful misconduct, actual fraud, or gross negligence of such applicable Exculpated Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction; and/or (ii) the rights of any Person or Entity to enforce the Plan and the contracts, instruments, releases, indentures, and other agreements and documents delivered under or in connection with the Plan or assumed pursuant to the Plan or Final Order of the Bankruptcy Court; **provided, further**, that each Exculpated Party shall be entitled to rely upon the advice of counsel concerning its respective duties pursuant to, or in connection with, the above referenced documents, actions or inactions. The foregoing exculpation shall be effective as of the Effective Date without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Person. Notwithstanding the foregoing, nothing in this **Article X.E** shall or shall be deemed to prohibit the Debtors or the Reorganized Debtors from asserting and enforcing any claims, obligations, suits, judgments, demands, debts, rights, Causes of Action or liabilities they may have against any Person that is based upon an alleged breach of a confidentiality or non-compete obligation owed to the Debtors or the Reorganized Debtors, in each case unless otherwise expressly provided for in the Plan.

#### 4. **Injunction**

Except as otherwise expressly provided in the Plan or the Confirmation Order, from and after the Effective Date, all Persons and Entities are, to the fullest extent provided under section 524 and other applicable provisions of the Bankruptcy Code, permanently enjoined from (i) commencing or continuing, in any manner or in any place, any suit, action or other proceeding; (ii) enforcing, attaching, collecting, or recovering in any manner any judgment, award, decree, or order; (iii) creating, perfecting, or enforcing any Lien or encumbrance; (iv) asserting a setoff or right of subrogation of any kind; or (v) commencing or continuing in any manner any action or other proceeding of any kind, in each case on account of or with respect to any Claim, demand, liability, obligation, debt, right, Cause of Action, equity interest, or remedy released or to be released, exculpated or to be exculpated, settled or to be settled or discharged or to be discharged pursuant to the Plan or the Confirmation Order against any Person or Entity so released, discharged, or exculpated (or the property or estate of any Person or Entity so released, discharged, or exculpated). All injunctions or stays provided for in the Chapter 11 Cases under section 105 or section 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect until the Effective Date.

#### **Certain Definitions Contains in the Plan Release, Exculpation and Injunction Provisions**

***“Causes of Action”*** means any claims, causes of action (including Avoidance Actions), demands, actions, suits, obligations, liabilities, cross-claims, counterclaims, offsets, or setoffs of any kind or character whatsoever, in each case whether known or unknown, contingent or non-contingent, matured or unmatured, suspected or unsuspected, foreseen or unforeseen, direct or indirect, choate or inchoate, existing or hereafter arising, under statute, in contract, in tort, in law, or in equity, or pursuant to any other theory of law, federal or state, whether asserted or assertable directly or derivatively in law or equity or otherwise by way of claim, counterclaim, cross-claim, third party action, action for indemnity or contribution or otherwise, based in whole or in part upon any act or omission or other event occurring prior to the Petition Date or during the course of the Chapter 11 Cases, including through the Effective Date.

***“Exculpated Parties”*** means, collectively: (a) the Debtors; (b) the Reorganized Debtors; (c) any Committee and the members thereof in their capacity as such; (d) the DIP Credit Agreement Agent; (e) DIP Credit Agreement Lenders; (f) the Prepetition Credit Agreement

Agent; (g) the Prepetition Credit Agreement Lenders; (h) the Prepetition Notes Agent; (i) the Prepetition Noteholders; and (j) in each case, the respective Related Persons of each of the foregoing Entities.

**“Litigation Claims”** means the claims, rights of action, suits or proceedings, whether in law or in equity, whether known or unknown, that any Debtor or any Estate may hold against any Person or Entity, including, without limitation, the Causes of Action of the Debtors or their Estates, in each case solely to the extent of the Debtors’ or their Estates’ interest therein. A non-exclusive list of the Litigation Claims held by the Debtors as of the Effective Date is to be Filed with the Plan Supplement, which shall be deemed to include any derivative actions filed against any Debtor as of the Effective Date.

**“New Railcar Lease Agreements”** means those certain railcar lease agreements entered into between the Debtors and the Specified Rail Car Lessors pursuant to the New Railcar Lease Agreements Order.

**“New Railcar Lease Agreements Order”** means the Order Authorizing the Debtors to (I) Reject Certain Railcar Lease Agreements Nunc Pro Tunc to the Petition Date and (II) Enter Into Proposed New Railcar Lease Agreements Effective as of the Petition Date entered by the Bankruptcy Court in the Chapter 11 Cases (Docket No. 208), as such order may be amended, supplemented, or modified from time to time.

**“Non-Debtor Releasing Parties”** means, collectively: (a) the Committee and the members thereof in their capacity as such; (b) the Prepetition Credit Agreement Agent and the Releasing Prepetition Credit Agreement Lenders; (c) the DIP Credit Agreement Agent and the DIP Credit Agreement Lenders (d) the Prepetition Notes Agent and the Releasing Prepetition Noteholders; (e) the Releasing Old Emerge LP Equity Holders; (f) those Holders of General Unsecured Claims or Old Emerge LP Equity Interests that do not affirmatively opt out of the Third Party Release as provided on their respective Ballots; and (g) each Specified Railcar Lessor (to the extent it is a Released Party).

**“Related Persons”** means, with respect to any Person, such Person’s predecessors, successors, assigns and present and former Affiliates (whether by operation of law or otherwise) and subsidiaries, and each of their respective current and former officers, directors, principals, employees, shareholders, members (including *ex officio* members and managing members), managers, managed accounts or funds, management companies, fund advisors, advisory or subcommittee board members, partners, agents, financial advisors, attorneys, accountants, investment bankers, investment advisors, consultants, representatives, and other professionals, in each case acting in such capacity at any time on or after the date of the Restructuring Support Agreement, and any Person claiming by or through any of them, including such Related Persons’ respective heirs, executors, estates, servants, and nominees; provided, however, that no insurer of any Debtor shall constitute a Related Person.

**“Released and Settled Claims”** means all Claims and Causes of Action made, or which could have been made, on or on behalf of any of the Debtors against the Prepetition Revolver Agent, the Prepetition Revolving Lenders, the Prepetition Note Agent, or the Prepetition Noteholders, or any of their respective affiliates, agents, attorneys, advisors, professionals, officers, directors, and employees, in their respective capacities as such.

**“Released Party”** means, collectively: (a) the Debtors; (b) the Reorganized Debtors; (c) the Committee and the members thereof in their capacity as such; (d) the Prepetition Credit Agreement Agent and the Releasing Prepetition Credit Agreement Lenders; (e) the DIP Credit Agreement Agent and the DIP Credit Agreement Lenders; (f) the Prepetition Notes Agent and

the Releasing Prepetition Noteholders; (g) the Releasing Old Emerge LP Equity Holders; and (h) each Specified Railcar Lessor, so long as the applicable New Railcar Lease Agreement(s) between the Debtors and the applicable Specified Railcar Lessor is in full force and effect as of the Effective Date; and in each case the respective Related Persons of each of the foregoing Entities.

***“Specified Railcar Lessors”*** means, collectively, (a) Trinity Industries Leasing Company, (b) MUL Railcars Leasing, LLC, and (c) CIT Bank, N.A. and The CIT Group/Equipment Financing, Inc., as an assignee of CIT Rail, LLC.

**EXHIBIT 3-C**

**Opt-Out Form for Holders of Class 8 and Class 9 Old Equity Interests**



IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

-----	X	
In re:	:	Chapter 11
	:	
EMERGE ENERGY SERVICES LP, <i>et al.</i> , <sup>1</sup>	:	Case No. 19-11563 (KBO)
	:	
Debtors.	:	(Jointly Administered)
	:	
-----	X	

**OPT-OUT FORM REGARDING THE ABOVE-CAPTIONED DEBTORS’  
CHAPTER 11 PLAN**

**Class 8 and 9 – Old Equity Interests**

**THIS OPT-OUT FORM IMPACTS YOUR LEGAL RIGHTS. PLEASE READ THIS  
OPT-OUT FORM CAREFULLY.**

**UNLESS YOU CHECK THE BOX ON PAGE 5 OF THIS OPT-OUT FORM, YOU WILL  
BE HELD TO FOREVER RELEASE CERTAIN PARTIES, INCLUDING, BUT NOT  
LIMITED TO, THE DIRECTORS AND OFFICERS, LENDERS AND EQUITY  
HOLDERS, INCLUDING INSIGHT EQUITY, OF EMERGE ENERGY SERVICES LP  
AND THE OTHER DEBTORS. PLEASE SEE THE DEFINITION OF “RELEASED  
PARTIES” ON PAGE 13 OF THIS OPT-FORM FORM FOR A LIST OF ALL OF THE  
PARTIES YOU WILL BE RELEASING IF YOU DO NOT CHECK THE BOX ON PAGE  
5 OF THIS OPT-OUT FORM**

**IF YOU DO NOT WANT TO GIVE THESE RELEASES, YOU MUST CHECK THE  
BOX ON PAGE 5 OF THIS OPT-OUT FORM, COMPLETE THIS OPT-FORM, SIGN  
IT, AND RETURN IT SO IT IS ACTUALLY RECEIVED BY THE CLAIMS AGENT  
(KURTZMAN CARSON CONSULTANTS LLC) ON OR BEFORE 5:00 P.M.  
PREVAILING EASTERN TIME ON OCTOBER 17, 2019 (THE “DEADLINE”)**

The above-captioned debtors and debtors in possession (collectively, the “**Debtors**”) have filed the *First Amended Joint Plan of Reorganization for Emerge Energy Services LP and its Affiliate Debtors Under Chapter 11 of the Bankruptcy Code* [Docket No. [ ● ]] (as may be amended from time to time, the “**Plan**”)<sup>2</sup> and the Disclosure Statement for the Plan [Docket No. [ ● ]] (as may be amended from time to time, the “**Disclosure Statement**”). The Bankruptcy Court has approved the Disclosure Statement as containing adequate information pursuant to Bankruptcy Code Section 1125, by entry of an order on [ ● ], 2019 [Docket No. [ ● ]] (the “**Disclosure Statement Order**”). Bankruptcy Court approval of the Disclosure Statement does not indicate approval of the Plan by the Bankruptcy Court. Capitalized terms used but not otherwise defined herein shall have the meanings set forth in the Plan.

<sup>1</sup> The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: Emerge Energy Services LP (2937), Emerge Energy Services GP LLC (4683), Emerge Energy Services Operating LLC (2511), Superior Silica Sands LLC (9889), and Emerge Energy Services Finance Corporation (9875). The Debtors’ address is 5600 Clearfork Main Street, Suite 400, Fort Worth, Texas 76109.

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

You are receiving this Opt-Out Form because you are a direct Holder of a Class 8 Old Emerge GP Equity Interests or Class 9 Old Emerge LP Equity Interests, as of the close of business on September 9, 2019. Accordingly, you have a right to opt-out of the Third Party Releases contained in the Plan. **Please be advised that by checking the box to opt-out of the Third Party Release in Item 2 below, you will not receive a release from the Non-Debtor Releasing Parties pursuant to Article X.B.2 of the Plan.**

Your rights are described in the Disclosure Statement, which is included (along with the Plan, Disclosure Statement Order and certain other materials) in the Solicitation Package you are receiving with this Opt-Out Form. If you need to obtain additional solicitation materials, you may contact the Debtors' Claims Agent by: (i) visiting the Debtors' restructuring website at [www.kccllc.net/EmergeEnergy](http://www.kccllc.net/EmergeEnergy) (under Tab "Plan and Disclosure Statement"); (ii) writing to Emerge Energy Claims Processing Center, c/o Kurtzman Carson Consultants LLC, 222 N. Pacific Coast Highway, Suite 300, El Segundo, CA 90245; and/or (iii) calling the Debtors' restructuring hotline at 877-634-7165 (toll-free in US and Canada) or 424-236-7221 (for international callers). You may also obtain these documents and any other pleadings filed in the Debtors' chapter 11 cases (for a fee) via PACER at [www.deb.uscourts.gov](http://www.deb.uscourts.gov).

This Opt-Out Form may not be used for any purpose other than for accepting or electing to opt-out of the Third Party Releases contained in the Plan. If you believe you have received this Opt-Out Form in error, or if you believe that you have received the wrong form, please contact the Claims Agent immediately at the address or telephone number set forth above.

You should review the Disclosure Statement and the Plan before you complete this Opt-Out Form. You may wish to seek legal advice concerning the Plan and the Plan's classification and treatment of your Equity Interest. Your Equity Interest has been placed in Class 8 Old Emerge GP Equity Interests or Class 9 Old Emerge LP Equity Interests under the Plan. If you hold Claims or Equity Interests in more than one Class, you will receive a Ballot for each Class in which you are entitled to vote and/or Opt-Out Form, as applicable.

You should also review the Plan Supplement which shall be filed by the Debtors by no later than October 4, 2019, and which shall be available on the Debtors' restructuring website at [www.kccllc.net/EmergeEnergy](http://www.kccllc.net/EmergeEnergy) (under Tab "Plan and Disclosure Statement"). The Plan Supplement shall contain documents and agreements (and the exhibits, schedules, annexes and supplements thereto) necessary to implement, or entered into in connection with, the Plan, including, but not limited to, the Amended/New Organizational Documents, the Exit Facility Loan Documents, the New Second Lien Notes Documents, the New Warrants Agreement and a non-exclusive list of the Litigation Claims.

The Bankruptcy Court can confirm the Plan and bind you if the Plan is accepted by the holders of at least two-thirds in amount and more than one-half in number of the Claims in each impaired Class who vote on the Plan and if the Plan otherwise satisfies the applicable requirements of section 1129(a) of the Bankruptcy Code. If the requisite acceptances are not obtained, the Bankruptcy Court nonetheless may confirm the Plan if it finds that the Plan (i) provides fair and equitable treatment to, and does not unfairly discriminate against, each Class rejecting the Plan and (ii) otherwise satisfies the requirements of section 1129(b) of the Bankruptcy Code. If the Plan is confirmed by the Bankruptcy Court, it will be binding on you even though you are not entitled to vote on the Plan and are deemed to reject the Plan pursuant to section 1126(g) of the Bankruptcy Code. As described further below, in order to opt-out of the Third Party Releases, you must complete, sign and return this Opt-Out Form to the Claims Agent by the Deadline. Please see the Confirmation Hearing Notice included with this mailing for important information regarding the Confirmation Hearing and the Plan Objection Deadline.

**IMPORTANT NOTICE REGARDING TREATMENT OF HOLDERS OF CLASS 8 OLD EMERGE GP EQUITY INTERESTS**

**Treatment:** On the Effective Date, the Old Emerge GP Equity Interests will be cancelled without further notice to, approval of or action by any Person or Entity, and each Holder of an Old Emerge GP Equity Interest shall not receive any distribution or retain any property on account of such Old Emerge GP Equity Interests.

Class 8 is an Impaired Class, and the Holders of Equity Interests in Class 8 will be conclusively deemed to have rejected this Plan pursuant to section 1126(g) of the Bankruptcy Code. Therefore, Holders of Equity Interests in Class 8 will not be entitled to vote to accept or reject the Plan.

**IMPORTANT NOTICE REGARDING TREATMENT OF HOLDERS OF CLASS 9 OLD EMERGE LP EQUITY INTERESTS**

**Treatment: IF AND ONLY IF CLASS 6 VOTES TO ACCEPT THE PLAN, THEN:**

- Subject to Article VIII of the Plan, on, or as soon as reasonably practicable after, the later of (i) the Initial Distribution Date if such Class 9 Equity Interest is an Allowed Class 9 Equity Interest as of the Effective Date or (ii) the next Subsequent Distribution Date after the date on which such Class 9 Equity Interest becomes an Allowed Class 9 Equity Interest, each Holder of an Allowed Class 9 Equity Interest shall receive, in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Class 9 Equity Interest, its Pro Rata share of New Warrants representing 5.0% of the New Limited Partnership Interests issued and outstanding on the Effective Date prior to dilution by the New Management Incentive Plan Equity.

**Please be advised that the above described treatment – including distribution to Holders of Allowed Class 9 Old Emerge LP Equity Interests of their Pro Rata share of New Warrants representing 5.0% of the New Limited Partnership Interests – may be reduced or eliminated in its entirety in connection with Confirmation of the Plan. The Debtors can provide no assurances that Holders of Allowed Class 9 Old Emerge LP Equity Interests will receive the above described treatment even in the event that Class 6 votes to accept the Plan.**

**Treatment: IF AND ONLY IF CLASS 6 VOTES TO REJECT THE PLAN, THEN:**

- On the Effective Date, the Old Emerge LP Equity Interests will be cancelled without further notice to, approval of or action by any Person or Entity, and each Holder of an Old Emerge LP Equity Interest shall not receive any distribution or retain any property on account of such Old Emerge LP Equity Interests.

Class 9 is an Impaired Class and, if the Class of General Unsecured Claims in Class 6 votes to reject the Plan, the Holders of Equity Interests in this Class 9 shall receive no distribution under the Plan on account of such Equity Interests. Therefore, the Holders of Equity Interests in this Class 9 are deemed to have rejected this Plan pursuant to section 1126(g) of the Bankruptcy Code and are not entitled to vote to accept or reject this Plan.

“**New Limited Partnership Interests**” means the new limited partnership interests in Reorganized Emerge LP to be issued on and as of the Effective Date to the Prepetition Noteholders and, subject to the terms and conditions of the Plan, certain other Holders.

“**New Management Incentive Plan Equity**” means a post-Effective Date equity incentive plan providing for the issuance from time to time, as approved by the New Board, of New Limited Partnership Interests to those individuals involved in day-to-day management of the Reorganized Debtors. The New Board shall determine allocation and other terms of the New Management Incentive Plan.

**“New Warrants”** means the warrants contemplated under the New Warrants Agreement.

**“New Warrants Agreement”** means the warrant agreement Filed with the Plan Supplement, which warrant agreement shall contain terms and conditions consistent in all respects with those set forth on the New Warrants Term Sheet and, to the extent any terms and conditions are not set forth on or contemplated therein, such other terms and conditions as are acceptable to the Special Restructuring Committee, the Majority Noteholders, and the other applicable parties to the Restructuring Support Agreement in the manner set forth therein.

**Item 1. Amount of Equity Interest.**

The undersigned hereby certifies that as the close of business on September 9, 2019, the undersigned was a Holder of Class 8 or 9 – Old Equity Interests.

**Item 2. Opt-Out of Third Party Release.**

**IMPORTANT INFORMATION REGARDING THE RELEASE OF CLAIMS BY THIRD PARTIES**

ARTICLE X OF THE PLAN CONTAINS RELEASE, EXCULPATION AND INJUNCTION PROVISIONS, WHICH ARE SET FORTH AT THE END OF THIS OPT-OUT FORM. YOU SHOULD REVIEW THESE PROVISIONS CAREFULLY.

Check the box below if you elect not to grant the Third Party Release contained in Article X.B.2 of the Plan. If you are not a signatory to the Plan Support Agreement, election to withhold consent is at your option. If you submit your Opt-Out Form with this box checked, then you will be deemed **NOT** to consent to the Third Party Release set forth in Article X.B.2 of the Plan.

PLEASE BE ADVISED THAT BY NOT CHECKING THE BOX BELOW YOU ELECT TO GRANT THE THIRD-PARTY RELEASE AGAINST THE “RELEASED PARTIES” AS THAT TERM IS DEFINED IN THE PLAN, IN EACH AND EVERY CAPACITY IN WHICH YOU HOLD A CLAIM AGAINST, OR EQUITY INTEREST IN, ANY OF THE DEBTORS. PLEASE ALSO BE ADVISED THAT BY CHECKING THE BOX, YOU WILL **NOT** RECEIVE A RELEASE FROM THE NON-DEBTOR RELEASING PARTIES PURSUANT TO ARTICLE X.B.2 OF THE PLAN. YOU MUST AFFIRMATIVELY CHECK THE BOX BELOW IN ORDER TO OPT-OUT OF THE THIRD PARTY RELEASE.

PLEASE ALSO BE ADVISED THAT IF YOU **DO NOT** CHECK THE BOX BELOW AND YOU ELECT TO GRANT THE THIRD PARTY RELEASE IN ARTICLE X.B.2 OF THE PLAN, THEN, AS FURTHER PROVIDED IN THIRD PARTY RELEASE PROVISIONS IN THE PLAN WHICH ARE ATTACHED TO THIS OPT-OUT FORM, YOU WILL BE DEEMED TO HAVE CONCLUSIVELY, ABSOLUTELY, UNCONDITIONALLY, IRREVOCABLY, AND FOREVER PROVIDED A FULL DISCHARGE, WAIVER AND RELEASE TO EACH OF THE RELEASED PARTIES FROM ANY AND ALL CLAIMS, CAUSES OF ACTION, RELEASED AND SETTLED CLAIMS, LITIGATION CLAIMS AND ANY OTHER DEBTS, OBLIGATIONS, RIGHTS, SUITS, DAMAGES, ACTIONS, REMEDIES, AND LIABILITIES WHATSOEVER, WHETHER KNOWN OR UNKNOWN, FORESEEN OR UNFORESEEN, WHETHER DIRECTLY OR DERIVATIVELY HELD, EXISTING AS OF THE EFFECTIVE DATE OR THEREAFTER ARISING, IN LAW, AT EQUITY OR OTHERWISE, WHETHER FOR TORT, CONTRACT, VIOLATIONS OF FEDERAL OR

STATE SECURITIES LAWS, OR OTHERWISE, BASED IN WHOLE OR IN PART UPON ANY ACT OR OMISSION, TRANSACTION, OR OTHER OCCURRENCE OR CIRCUMSTANCES EXISTING OR TAKING PLACE PRIOR TO OR ON THE EFFECTIVE DATE ARISING FROM OR RELATED IN ANY WAY IN WHOLE OR IN PART TO ANY OF THE DEBTORS.

PLEASE ALSO BE ADVISED THAT THE DEBTOR RELEASE CONTAINED IN ARTICLE X.B.1 OF THE PLAN IS SEPARATE FROM AND INDEPENDENT OF THE THIRD PARTY RELEASE. IF YOU OBJECT TO THE DEBTOR RELEASE, YOU MUST FILE A SEPARATE OBJECTION WITH THE BANKRUPTCY COURT IN ACCORDANCE WITH THE PROCEDURES DESCRIBED IN THE DISCLOSURE STATEMENT ORDER.

OPT-OUT ELECTION: The undersigned elects to opt-out of the Third Party Releases contained in Article X.B.2 of the Plan.

**Item 3. Certifications.**

By signing this Opt-Out Form, the undersigned certifies to the Bankruptcy Court and the Debtors:

- i. that either: (i) the undersigned is the Holder of the Class 8 or 9 Old Equity Interests; or (ii) the undersigned is an authorized signatory for an Entity that is a Holder of the Class 8 or 9 Old Equity Interests, and, in either case, has the full power and authority to elect to opt-out of the Third Party Releases;
- ii. that the undersigned has received a copy of the Disclosure Statement and the Solicitation Package and acknowledges that the solicitation is being made pursuant to the terms and conditions set forth therein;
- iii. that the undersigned has made the same election with respect to all Class 8 or 9 Old Equity Interests in a single Class; and
- iv. that no other Opt-Out Forms with respect to your Class 8 or 9 Old Equity Interests have been cast or, if any other Opt-Out Forms have been cast with respect to such Equity Interest, then any such earlier Opt-Out Forms are hereby revoked.

Name of Holder:	
	(Print or Type)
Social Security or Federal Tax Identification Number:	
Signature:	
Name of Signatory:	
	(If other than Holder)
Title:	
Address:	
Date Completed:	

If your address or contact information has changed, please note the new information here.

**PLEASE COMPLETE, SIGN AND DATE THIS OPT-OUT FORM AND RETURN IT TO THE FOLLOWING ADDRESS SO THAT IT IS ACTUALLY RECEIVED BY 5:00 P.M. (PREVAILING EASTERN TIME) ON OCTOBER 17, 2019:**

Emerge Energy Services LP Balloting Center  
c/o Kurtzman Carson Consultants LLC  
222 N. Pacific Coast Highway, Suite 300  
El Segundo, California 90245  
Telephone: 877-634-7165 (toll-free in US and Canada)  
or 424-236-7221 (for international callers)

**THIS OPT-OUT FORM MUST BE ACTUALLY RECEIVED BY THE CLAIMS AGENT ON OR BEFORE:**

**5:00 P.M. PREVAILING EASTERN TIME ON OCTOBER 17, 2019.**

**OPT-OUT FORMS SENT BY FACSIMILE, TELECOPY OR ELECTRONIC MAIL WILL NOT BE ACCEPTED**

**To submit your Opt-Out Form via the Claims Agent's online portal, please visit <http://www.kccllc.net/EmergeEnergy>. Click on the "Opt-Out Form" section of the website and follow the instructions to submit your Opt-Out Form.**

**Equity Interest Holders who fill out an Opt-Out Form using the Claims Agent's online portal should NOT also submit a paper Opt-Out Form.**

**Class 8 and 9 — Old Equity Interests**

**INSTRUCTIONS FOR COMPLETING THIS OPT-OUT FORM**

1. The Debtors are providing Holders of Class 8 and 9 Equity Interests with the opportunity to elect to opt-out of the Third Party Releases contained in the Plan attached as Exhibit A to the Disclosure Statement. Capitalized terms used in the Opt-Out Form or in these instructions (the "**Opt-Out Form Instructions**") but not otherwise defined therein or herein shall have the meaning set forth in the Plan, a copy of which also accompanies the Opt-Out Form.
2. To ensure that your Opt-Out Form is counted, you must either: (i) complete and submit this hard copy Opt-Out Form or (ii) opt-out of the Third Party Releases through the Debtors' online opt-out portal accessible through the Debtors' case website <http://www.kccllc.net/EmergeEnergy>. **Opt-Out Forms will not be accepted by facsimile or other electronic means (other than the online portal).**
3. **Use of Hard Copy Opt-Out Form.** To ensure that your election is counted, you must complete the Opt-Out Form and take the following steps: (i) clearly indicate your decision to opt-out of the Third Party Release if you wish to do so by checking the box provided in Item 2 above; (ii) provide the information required by Item 3 above and; (iii) sign, date and return an original of your Opt-Out Form to the following address:

Emerge Energy Services LP Balloting Center  
c/o Kurtzman Carson Consultants LLC  
222 N. Pacific Coast Highway, Suite 300  
El Segundo, California 90245

4. **Use of Online Opt-Out Portal.** To ensure that your electronic Opt-Out Form is counted, please follow the instructions of the Debtors' case administration website at <http://www.kccllc.net/EmergeEnergy>. The online opt-out form portal is the sole manner in which Opt-Out Forms will be accepted via electronic or online transmission.
5. If you do not wish to opt-out of the Third Party Releases, you may either (i) return the Opt-Out Form without checking the box provided in Item 2 above, or (ii) not return the Opt-Out Form to the Claims Agent by the Deadline.
6. If an Opt-Out Form is received after the Deadline, it will not be counted, unless the Debtors have granted an extension of the Deadline in writing with respect to such Opt-Out Form. Additionally, the following Opt-Out Form will **NOT** be counted:
  - i. any Opt-Out Form that is illegible or contains insufficient information to permit the identification of the claimant;
  - ii. any Opt-Out Form submitted by facsimile, telecopy or electronic mail;
  - iii. any unsigned Opt-Out Form;
  - iv. any Opt-Out Form sent to the Debtors, the Debtors' agents/representatives (other than the Claims Agent), any indenture trustee, or the Debtors' financial or legal advisors; and/or
  - v. any Opt-Out Form not cast in accordance with the procedures approved in the Disclosure Statement Order.
7. The method of delivery of Opt-Out Forms to the Claims Agent is at the election and risk of each Holder of an Equity Interest. Except as otherwise provided herein, such delivery will be deemed made only when the Claims Agent **actually receives** the originally executed Opt-Out Form. Instead of effecting delivery by first-class mail, it is recommended, though not required, that Holders use an overnight or hand delivery service. In all cases, Holders should allow sufficient time to assure timely delivery.
8. If multiple Opt-Out Forms are received from the same Holder of an Equity Interest with respect to the same Equity Interest prior to the Deadline, the last Opt-Out Form timely received will supersede and revoke any earlier received Opt-Out Forms.
9. You must make the same election for all of your Equity Interests within a particular Class either to accept or opt-out of the Third Party Releases and may not split your election.
10. The Opt-Out Form is not a letter of transmittal and may not be used for any purpose other than to elect to accept or opt-out of the Third Party Releases contained in the Plan. Accordingly, at this time, Holders of Equity Interests should not surrender certificates or instruments representing or evidencing their Equity Interests, and neither the Debtors nor the Claims Agent will accept delivery of any such certificates or instruments surrendered together with an Opt-Out Form.

11. This Opt-Out Form does not constitute, and shall not be deemed to be, (i) a proof of interest, or (ii) an assertion or admission that you hold an Equity Interest.
12. Please be sure to sign and date your Opt-Out Form. If you are signing an Opt-Out Form in your capacity as a trustee, executor, administrator, guardian, attorney in fact, officer of a corporation or otherwise acting in a fiduciary or representative capacity, you must indicate such capacity when signing and, if required or requested by the Claims Agent, the Debtors or the Bankruptcy Court, must submit proper evidence to the requesting party to so act on behalf of such Holder. In addition, please provide your name and mailing address if it is different from that set forth on the attached mailing label or if no such mailing label is attached to the Opt-Out Form.
13. If you hold Claims in more than one Class under the Plan you may receive more than one Ballot/Opt-Out Form coded for each different Class. Each Ballot/Opt-Out Form votes only your Claims or Equity Interests indicated on that Ballot/Opt-Out Form, so please complete and return each Ballot/Opt-Out Form you received.

**PLEASE MAIL YOUR OPT-OUT FORM PROMPTLY!**

**IF YOU HAVE ANY QUESTIONS REGARDING THIS OPT-OUT FORM, THESE INSTRUCTIONS OR THE PROCEDURES FOR MAKING AN ELECTION, PLEASE CALL THE CLAIMS AGENT AT: 877-634-7165 (TOLL-FREE IN US AND CANADA) OR 424-236-7221 (FOR INTERNATIONAL CALLERS).**

**PLEASE NOTE THAT THE CLAIMS AGENT CANNOT PROVIDE LEGAL ADVICE.**

**IF THE CLAIMS AGENT DOES NOT ACTUALLY RECEIVE THIS OPT-OUT FORM ON OR BEFORE THE DEADLINE, WHICH IS 5:00 P.M. PREVAILING EASTERN TIME ON OCTOBER 17, 2019, THEN YOUR ELECTION TRANSMITTED HEREBY WILL NOT BE COUNTED.**

NO PERSON HAS BEEN AUTHORIZED TO GIVE ANY INFORMATION OR ADVICE, OR TO MAKE ANY REPRESENTATION, REGARDING THE DEBTORS OR THE PLAN, OTHER THAN WHAT IS CONTAINED IN THE SOLICITATION PACKAGE MAILED HEREWITH.

PLEASE SEE THE FOLLOWING FOR IMPORTANT INFORMATION REGARDING THE RELEASES, EXCULPATIONS AND INJUNCTIONS SET FORTH IN THE PLAN.

**RELEASE, EXCULPATION, AND INJUNCTION PROVISIONS CONTAINED IN THE PLAN**

**Release of Claims and Causes of Action**

1. **Release by the Debtors and their Estates.** Pursuant to section 1123(b) and any other applicable provisions of the Bankruptcy Code, and except as otherwise expressly provided in the Plan, effective as of the Effective Date, for good and valuable consideration provided by each of the Released Parties, the adequacy and sufficiency of which is thereby confirmed, the Debtors and the Reorganized Debtors, in their respective individual capacities and as debtors-in-possession, and on behalf of themselves and their respective Estates, including, without limitation, any successor to the Debtors or any Estate



representative appointed or selected pursuant to section 1123(b)(3) of the Bankruptcy Code (collectively, the “Debtor Releasing Parties”) will be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever provided a full discharge, waiver and release to each of the Released Parties (and each such Released Party so released shall be deemed forever released, waived and discharged by the Debtor Releasing Parties) and their respective assets and properties (the “Debtor Release”) from any and all claims, Causes of Action, Released and Settled Claims, Litigation Claims and any other debts, obligations, rights, suits, damages, actions, remedies, and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, whether directly or derivatively held, existing as of the Effective Date or thereafter arising, in law, at equity or otherwise, whether for tort, contract, violations of federal or state securities laws, or otherwise, based in whole or in part upon any act or omission, transaction, or other occurrence or circumstances existing or taking place prior to or on the Effective Date arising from or related in any way in whole or in part to any of the Debtors, including, without limitation, (i) the Chapter 11 Cases, the Disclosure Statement, the Plan, the Restructuring Support Agreement and the Restructuring Documents, (ii) the subject matter of, or the transactions or events giving rise to, any Claim or Equity Interest that is treated in the Plan, (iii) the business or contractual arrangements between any Debtor and any Released Parties, (iv) the negotiation, formulation or preparation of the Restructuring Support Agreement, the Plan, the Disclosure Statement, the Plan Supplement, the Restructuring Documents, or related agreements, instruments or other documents, (v) the restructuring of Claims or Equity Interests prior to or during the Chapter 11 Cases, (vi) the purchase, sale, or rescission of the purchase or sale of any Equity Interest of the Debtors or the Reorganized Debtors, and/or (vii) the Confirmation or Consummation of the Plan or the solicitation of votes on the Plan that such Debtor Releasing Party would have been legally entitled to assert (whether individually or collectively) or that any Holder of a Claim or Equity Interest or other Entity would have been legally entitled to assert for, or on behalf or in the name of, any Debtor, its respective Estate or any Reorganized Debtor (whether directly or derivatively) against any of the Released Parties; provided, however, that the foregoing provisions of this Debtor Release shall not operate to waive or release: (i) any Causes of Action arising from willful misconduct, actual fraud, or gross negligence of such applicable Released Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction; (ii) any Causes of Action relating to the MSHA Action (other than against a member of the Special Restructuring Committee); and/or (iii) the rights of such Debtor Releasing Party to enforce the Plan and the contracts, instruments, releases, indentures, and other agreements or documents delivered under or in connection with the Plan or assumed pursuant to the Plan or assumed pursuant to Final Order of the Bankruptcy Court. The foregoing release shall be effective as of the Effective Date without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Person and the Confirmation Order will permanently enjoin the commencement or prosecution by any Person or Entity, whether directly, derivatively or otherwise, of any claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, or liabilities released pursuant to this Debtor Release. Notwithstanding the foregoing, nothing in this Article X.B shall or shall be deemed to (i) prohibit the Debtors or the Reorganized Debtors from asserting and enforcing any claims, obligations, suits, judgments, demands, debts, rights, Causes of Action or liabilities they may have against any Person that is based upon an alleged breach of a confidentiality or non-compete obligation owed to the Debtors or the Reorganized Debtors and/or (ii) operate as a release or waiver of any Intercompany Claims, in each case unless otherwise expressly provided for in the Plan.

Entry of the Confirmation Order shall constitute the Bankruptcy Court’s approval, pursuant to Bankruptcy Rule 9019, of the Debtor Release, which includes by reference each of the related provisions and definitions contained under the Plan, and further, shall

constitute the Bankruptcy Court's finding that the Debtor Release is: (i) in exchange for the good and valuable consideration provided by the Released Parties; (ii) a good faith settlement and compromise of the claims released by the Debtor Release; (iii) in the best interest of the Debtors and their Estates; (iv) fair, equitable and reasonable; and (v) given and made after due notice and opportunity for hearing.

2. **Release By Third Parties.** Except as otherwise expressly provided in the Plan, effective as of the Effective Date, to the fullest extent permitted by applicable law, for good and valuable consideration provided by each of the Released Parties, the adequacy and sufficiency of which is thereby confirmed, and without limiting or otherwise modifying the scope of the Debtor Release provided by the Debtor Releasing Parties above, each Non-Debtor Releasing Party (together with the Debtor Releasing Parties, the "**Releasing Parties**") will be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever provided a full discharge, waiver and release to each of the Released Parties (and each such Released Party so released shall be deemed forever released, waived and discharged by the Non-Debtor Releasing Parties) and their respective assets and properties (the "**Third Party Release**") from any and all claims, Causes of Action, Released and Settled Claims, Litigation Claims and any other debts, obligations, rights, suits, damages, actions, remedies, and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, whether directly or derivatively held, existing as of the Effective Date or thereafter arising, in law, at equity or otherwise, whether for tort, contract, violations of federal or state securities laws, or otherwise, based in whole or in part upon any act or omission, transaction, or other occurrence or circumstances existing or taking place prior to or on the Effective Date arising from or related in any way in whole or in part to any of the Debtors, including, without limitation, (i) the Chapter 11 Cases, the Disclosure Statement, the Plan, the Restructuring Support Agreement and the Restructuring Documents, (ii) the subject matter of, or the transactions or events giving rise to, any Claim or Equity Interest that is treated in the Plan, (iii) the business or contractual arrangements between any Debtor and any Released Parties, (iv) the negotiation, formulation or preparation of the Restructuring Support Agreement, the Plan, the Disclosure Statement, the Plan Supplement, the Restructuring Documents, or related agreements, instruments or other documents, (v) the restructuring of Claims or Equity Interests prior to or during the Chapter 11 Cases, (vi) the purchase, sale or rescission of the purchase or sale of any Equity Interest of the Debtors or the Reorganized Debtors, and/or (vii) the Confirmation or Consummation of the Plan or the solicitation of votes on the Plan that such Non-Debtor Releasing Party would have been legally entitled to assert (whether individually or collectively) against any of the Released Parties; **provided, however,** that the foregoing provisions of this Third Party Release shall not operate to waive or release (i) any Causes of Action arising from willful misconduct, actual fraud, or gross negligence of such applicable Released Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction; (ii) any Causes of Action relating to the MSHA Action (other than against a member of the Special Restructuring Committee); and/or (iii) the rights of such Non-Debtor Releasing Party to enforce the Plan and the contracts, instruments, releases, indentures, and other agreements and documents delivered under or in connection with the Plan or assumed pursuant to the Plan or Final Order of the Bankruptcy Court. The foregoing release shall be effective as of the Effective Date, without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Person and the Confirmation Order will permanently enjoin the commencement or prosecution by any Person or Entity, whether directly, derivatively or otherwise, of any claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, or liabilities released pursuant to this Third Party Release.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of the Third Party Release, which includes by reference each of the related provisions and

definitions contained under the Plan, and further, shall constitute the Bankruptcy Court's finding that the Third Party Release is: (i) in exchange for the good and valuable consideration provided by the Released Parties; (ii) a good faith settlement and compromise of the claims released by the Third Party Release; (iii) in the best interest of the Debtors and all Holders of Claims and Equity Interests; (iv) fair, equitable and reasonable; and (v) given and made after due notice and opportunity for hearing.

### 3. Exculpation

Effective as of the Effective Date, the Exculpated Parties shall neither have nor incur any liability to any Person or Entity for any claims, Causes of Action or Released and Settled Claim arising prior to or on the Effective Date for any act taken or omitted to be taken in connection with, or related to, formulating, negotiating, preparing, disseminating, implementing, administering, confirming or effecting the Confirmation or Consummation of the Plan, the Disclosure Statement, the Restructuring Documents or any contract, instrument, release or other agreement or document created or entered into in connection with the Plan, including the Restructuring Support Agreement, or any other prepetition or postpetition act taken or omitted to be taken in connection with or in contemplation of the restructuring of the Debtors, the approval of the Disclosure Statement or Confirmation or Consummation of the Plan; provided, however, that the foregoing provisions of this exculpation shall not operate to waive or release: (i) any Causes of Action arising from willful misconduct, actual fraud, or gross negligence of such applicable Exculpated Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction; and/or (ii) the rights of any Person or Entity to enforce the Plan and the contracts, instruments, releases, indentures, and other agreements and documents delivered under or in connection with the Plan or assumed pursuant to the Plan or Final Order of the Bankruptcy Court; provided, further, that each Exculpated Party shall be entitled to rely upon the advice of counsel concerning its respective duties pursuant to, or in connection with, the above referenced documents, actions or inactions. The foregoing exculpation shall be effective as of the Effective Date without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Person. Notwithstanding the foregoing, nothing in this Article X.E shall or shall be deemed to prohibit the Debtors or the Reorganized Debtors from asserting and enforcing any claims, obligations, suits, judgments, demands, debts, rights, Causes of Action or liabilities they may have against any Person that is based upon an alleged breach of a confidentiality or non-compete obligation owed to the Debtors or the Reorganized Debtors, in each case unless otherwise expressly provided for in the Plan.

### 4. Injunction

Except as otherwise expressly provided in the Plan or the Confirmation Order, from and after the Effective Date, all Persons and Entities are, to the fullest extent provided under section 524 and other applicable provisions of the Bankruptcy Code, permanently enjoined from (i) commencing or continuing, in any manner or in any place, any suit, action or other proceeding; (ii) enforcing, attaching, collecting, or recovering in any manner any judgment, award, decree, or order; (iii) creating, perfecting, or enforcing any Lien or encumbrance; (iv) asserting a setoff or right of subrogation of any kind; or (v) commencing or continuing in any manner any action or other proceeding of any kind, in each case on account of or with respect to any Claim, demand, liability, obligation, debt, right, Cause of Action, equity interest, or remedy released or to be released, exculpated or to be exculpated, settled or to be settled or discharged or to be discharged pursuant to the Plan or the Confirmation Order against any Person or Entity so released, discharged, or exculpated (or the property or estate of any Person or Entity so released, discharged, or

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

**Certain Definitions Contains in the Plan Release, Exculpation and Injunction Provisions**

**“Causes of Action”** means any claims, causes of action (including Avoidance Actions), demands, actions, suits, obligations, liabilities, cross-claims, counterclaims, offsets, or setoffs of any kind or character whatsoever, in each case whether known or unknown, contingent or non-contingent, matured or unmatured, suspected or unsuspected, foreseen or unforeseen, direct or indirect, choate or inchoate, existing or hereafter arising, under statute, in contract, in tort, in law, or in equity, or pursuant to any other theory of law, federal or state, whether asserted or assertable directly or derivatively in law or equity or otherwise by way of claim, counterclaim, cross-claim, third party action, action for indemnity or contribution or otherwise, based in whole or in part upon any act or omission or other event occurring prior to the Petition Date or during the course of the Chapter 11 Cases, including through the Effective Date.

**“Exculpated Parties”** means, collectively: (a) the Debtors; (b) the Reorganized Debtors; (c) any Committee and the members thereof in their capacity as such; (d) the DIP Credit Agreement Agent; (e) DIP Credit Agreement Lenders; (f) the Prepetition Credit Agreement Agent; (g) the Prepetition Credit Agreement Lenders; (h) the Prepetition Notes Agent; (i) the Prepetition Noteholders; and (j) in each case, the respective Related Persons of each of the foregoing Entities.

**“Litigation Claims”** means the claims, rights of action, suits or proceedings, whether in law or in equity, whether known or unknown, that any Debtor or any Estate may hold against any Person or Entity, including, without limitation, the Causes of Action of the Debtors or their Estates, in each case solely to the extent of the Debtors’ or their Estates’ interest therein. A non-exclusive list of the Litigation Claims held by the Debtors as of the Effective Date is to be Filed with the Plan Supplement, which shall be deemed to include any derivative actions filed against any Debtor as of the Effective Date.

**“New Railcar Lease Agreements”** means those certain railcar lease agreements entered into between the Debtors and the Specified Rail Car Lessors pursuant to the New Railcar Lease Agreements Order.

**“New Railcar Lease Agreements Order”** means the Order Authorizing the Debtors to (I) Reject Certain Railcar Lease Agreements Nunc Pro Tunc to the Petition Date and (II) Enter Into Proposed New Railcar Lease Agreements Effective as of the Petition Date entered by the Bankruptcy Court in the Chapter 11 Cases (Docket No. 208), as such order may be amended, supplemented, or modified from time to time.

**“Non-Debtor Releasing Parties”** means, collectively: (a) the Committee and the members thereof in their capacity as such; (b) the Prepetition Credit Agreement Agent and the Releasing Prepetition Credit Agreement Lenders; (c) the DIP Credit Agreement Agent and the DIP Credit Agreement Lenders (d) the Prepetition Notes Agent and the Releasing Prepetition Noteholders; (e) the Releasing Old Emerge LP Equity Holders; (f) those Holders of General Unsecured Claims or Old Emerge LP Equity Interests that do not affirmatively opt out of the Third Party Release as provided on their respective Ballots; and (g) each Specified Railcar Lessor (to the extent it is a Released Party).

**“Related Persons”** means, with respect to any Person, such Person’s predecessors, successors, assigns and present and former Affiliates (whether by operation of law or otherwise)

and subsidiaries, and each of their respective current and former officers, directors, principals, employees, shareholders, members (including *ex officio* members and managing members), managers, managed accounts or funds, management companies, fund advisors, advisory or subcommittee board members, partners, agents, financial advisors, attorneys, accountants, investment bankers, investment advisors, consultants, representatives, and other professionals, in each case acting in such capacity at any time on or after the date of the Restructuring Support Agreement, and any Person claiming by or through any of them, including such Related Persons' respective heirs, executors, estates, servants, and nominees; provided, however, that no insurer of any Debtor shall constitute a Related Person.

**“Released and Settled Claims”** means all Claims and Causes of Action made, or which could have been made, on or on behalf of any of the Debtors against the Prepetition Revolver Agent, the Prepetition Revolving Lenders, the Prepetition Note Agent, or the Prepetition Noteholders, or any of their respective affiliates, agents, attorneys, advisors, professionals, officers, directors, and employees, in their respective capacities as such.

**“Released Party”** means, collectively: (a) the Debtors; (b) the Reorganized Debtors; (c) the Committee and the members thereof in their capacity as such; (d) the Prepetition Credit Agreement Agent and the Releasing Prepetition Credit Agreement Lenders; (e) the DIP Credit Agreement Agent and the DIP Credit Agreement Lenders; (f) the Prepetition Notes Agent and the Releasing Prepetition Noteholders; (g) the Releasing Old Emerge LP Equity Holders; and (h) each Specified Railcar Lessor, so long as the applicable New Railcar Lease Agreement(s) between the Debtors and the applicable Specified Railcar Lessor is in full force and effect as of the Effective Date; and in each case the respective Related Persons of each of the foregoing Entities.

**“Specified Railcar Lessors”** means, collectively, (a) Trinity Industries Leasing Company, (b) MUL Railcars Leasing, LLC, and (c) CIT Bank, N.A. and The CIT Group/Equipment Financing, Inc., as an assignee of CIT Rail, LLC.

**EXHIBIT 4**  
**Unimpaired Claims/Equity Notice**

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

In re:	X	
	:	Chapter 11
	:	
EMERGE ENERGY SERVICES LP, <i>et al.</i> , <sup>1</sup>	:	Case No. 19-11563 (KBO)
	:	
Debtors.	:	(Jointly Administered)
	:	
	X	

**NOTICE OF NON-VOTING STATUS TO HOLDERS OF UNCLASSIFIED CLAIMS  
AND HOLDERS OF UNIMPAIRED CLAIMS DEEMED TO ACCEPT THE PLAN**

**PLEASE TAKE NOTICE THAT** on [\_\_\_], 2019, Emerge Energy Services LP and its affiliate debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “**Debtors**”) filed their (i) *First Amended Joint Plan of Reorganization for Emerge Energy Services LP and its Affiliate Debtors Under Chapter 11 of the Bankruptcy Code* [Docket No. [●]] (as may be amended from time to time, the “**Plan**”) and (ii) *First Amended Disclosure Statement for the Joint Plan of Reorganization for Emerge Energy Services LP and its Affiliate Debtors Under Chapter 11 of the Bankruptcy Code* [Docket No. [●]] (as may be amended from time to time, the “**Disclosure Statement**”),<sup>2</sup> and by no later than October 4, 2019, the Debtors shall file the Plan Supplement. On [●], 2019, the Bankruptcy Court entered the *Order (I) Approving the Disclosure Statement, (II) Establishing the Voting Record Date, Voting Deadline and Other dates, (III) Approving Procedures for Soliciting, Receiving and Tabulating Votes on the Plan and for Filing objections to the Plan and (IV) Approving the Manner and Forms of Notice and Other Related Documents, (V) Approving Procedures for Assumption of Contracts and Leases and Form and Manner of Assumption Notice, and (VI) Granting Related Relief* [Docket No. [●]] (the “**Disclosure Statement Order**”).

**PLEASE TAKE FURTHER NOTICE THAT** because of the nature and treatment of your Claim under the Plan, you are not entitled to vote on the Plan. Specifically, you are not entitled to vote on the Plan because you have been identified as a Holder of a Claim that (as currently asserted against one or more of the Debtors) is either (i) an unclassified, non-voting claim pursuant to Bankruptcy Code Section 1123(a)(1), or (ii) unimpaired and therefore deemed to have accepted the Plan pursuant to Bankruptcy Code Section 1126(f).

**PLEASE TAKE FURTHER NOTICE THAT** the Confirmation Hearing to consider confirmation of the Plan will commence at **1:00 p.m. (prevailing Eastern Time) on October 24, 2019**, before the Honorable Karen B. Owens, United States Bankruptcy Judge, in the United States Bankruptcy Court for the District of Delaware, located at 824 Market Street, 6th Floor, Courtroom 1, Wilmington, Delaware 19801. The Confirmation Hearing may be continued from time to time by the Bankruptcy Court or the Debtors without further notice other than by such adjournment being announced in open court and/or by a notice of adjournment filed with the

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<sup>1</sup> The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: Emerge Energy Services LP (2937), Emerge Energy Services GP LLC (4683), Emerge Energy Services Operating LLC (2511), Superior Silica Sands LLC (9889), and Emerge Energy Services Finance Corporation (9875). The Debtors’ address is 5600 Clearfork Main Street, Suite 400, Fort Worth, Texas 76109.

<sup>2</sup> Capitalized terms used but not otherwise defined herein will have the meanings set forth in the Plan.

Bankruptcy Court and served on such parties as the Bankruptcy Court may order. Moreover, the Plan may be modified or amended, if necessary, pursuant to Bankruptcy Code Section 1127, prior to, during or as a result of the Confirmation Hearing, without further notice to parties in interest.

**PLEASE TAKE FURTHER NOTICE THAT** the deadline for filing objections to the Plan is **October 11, 2019 at 4:00 p.m. (prevailing Eastern Time)** (the “**Plan Objection Deadline**”). Any objection to the Plan must: (i) be in writing; (ii) conform to the Bankruptcy Rules and the Local Rules; (iii) state the name and address of the objecting party and the amount and nature of the Claim of such Entity; (iv) state with particularity the basis and nature of any objection to the Plan and, if practicable, a proposed modification to the Plan that would resolve such objection; and (v) be filed with the United States Bankruptcy Court District of Delaware, 824 North Market Street, 3rd Floor, Wilmington, DE 19801, no later than the Plan Objection Deadline and served on the following parties listed below (the “**Notice Parties**”), with proof of service filed as and when required by the Local Rules of the Bankruptcy Court. **CONFIRMATION OBJECTIONS NOT TIMELY FILED AND SERVED IN THE MANNER SET FORTH HEREIN MAY NOT BE CONSIDERED BY THE BANKRUPTCY COURT AND MAY BE OVERRULED WITHOUT FURTHER NOTICE.**

**Notice Parties**

- (i) Counsel to the Debtors, Latham & Watkins LLP, 885 Third Avenue, New York, New York 10022-4834 (Attn: Keith A. Simon, Esq., Hugh K. Murtagh, Esq., and Liza L. Burton, Esq. (emails: keith.simon@lw.com, hugh.murtagh@lw.com, and liza.burton@lw.com)) and Richards, Layton & Finger, P.A., One Rodney Square, 920 North King Street, Wilmington, Delaware 19801 (Attn: John H. Knight, Esq. and Paul N. Heath, Esq. (emails: knight@rlf.com and heath@rlf.com));
- (ii) Counsel to the DIP Agent and the Prepetition Agents, Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, NY 10153-0119 (Attn: David N. Griffiths) and Pachulski Stang Ziehl & Jones LLP, 919 North Market Street, Wilmington, Delaware 19801 (Attn: Laura Davis Jones, Esq. (email: ljones@pszjlaw.com); and
- (iii) Counsel to the Committee, Kilpatrick Townsend & Stockton LLP, 1114 Avenue of the Americas, New York, New York 10036 (Attn: Todd C. Meyers, Esq., David M. Posner, Esq., and Kelly Moynihan, Esq. (emails: tmeyers@kilpatricktownsend.com, dposner@kilpatricktownsend.com, and kmoynihan@kilpatricktownsend.com)), Kilpatrick Townsend & Stockton LLP, 700 Louisiana Street, Suite 4300, Houston, Texas 77002 (Attn: Lenard M. Parkins, Esq. (email: lparkins@kilpatricktownsend.com)), and Potter Anderson & Corroon LLP, 1313 North Market Street, Sixth Floor, P.O. Box 951, Wilmington, Delaware 19899 (Attn: Jeremy W. Ryan, Esq., Christopher M. Samis, Esq., and D. Ryan Slauch, Esq. (emails: jryan@potteranderson.com, csamis@potteranderson.com, and rslauch@potteranderson.com)); and
- (iv) The Office of the United States Trustee for the District of Delaware, 844 King Street, Suite 2207, Wilmington, Delaware 19801 (Attn: Juliet M. Sarkessian, Esq. (email: Juliet.M.Sarkessian@usdoj.gov)).

**PLEASE TAKE FURTHER NOTICE THAT** if you would like to obtain a Solicitation Package, a copy of the Plan Supplement once filed, or if you have questions regarding the procedures and requirements for objecting to the Plan, you may contact the Debtors’ Voting and Claims Agent, Kurtzman Carson Consultants LLC, by: (i) calling the Debtors’ restructuring



hotline at 877-634-7165 (toll-free in US and Canada) or 424-236-7221 (for international callers); (ii) visiting the Debtors' restructuring website at: <http://www.kccllc.net/EmergeEnergy> (please see "Plan and Disclosure Statement" Tab); and/or (iii) writing to Emerge Energy Claims Processing Center, c/o Kurtzman Carson Consultants LLC, 222 N. Pacific Coast Highway, Suite 300, El Segundo, CA 90245. 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>.

THE PLAN CONTAINS RELEASE, EXCULPATION AND INJUNCTION PROVISIONS. THE PROVISIONS ARE SET FORTH AT THE END OF THIS NOTICE. YOU SHOULD REVIEW THESE PROVISIONS CAREFULLY.

**THIS NOTICE IS BEING SENT TO YOU FOR INFORMATIONAL PURPOSES ONLY. IF YOU HAVE QUESTIONS ABOUT ANYTHING STATED HEREIN OR IF YOU WOULD LIKE TO OBTAIN ADDITIONAL INFORMATION, PLEASE CONTACT THE VOTING AND CLAIMS AGENT AT THE NUMBER OR ADDRESS SPECIFIED ABOVE.**

Wilmington, Delaware  
[\_\_\_\_], 2019

**LATHAM & WATKINS LLP**

Attn: George A. Davis  
Attn: Keith A. Simon  
Attn: Hugh K. Murtagh  
Attn: Liza L. Burton  
885 Third Avenue  
New York, New York 10022-4834  
Fax: 212-751-4864

**RICHARDS, LAYTON & FINGER, P.A.**

Attn: John H. Knight  
Attn: Paul N. Heath  
Attn: Zachary I. Shapiro  
Attn: Brett M. Haywood  
One Rodney Square  
920 North King Street  
Wilmington, Delaware 19801  
Fax: 302-651-7701

*Co-Counsel to the Debtors*

**RELEASE, EXCULPATION, AND INJUNCTION PROVISIONS CONTAINED  
IN THE PLAN**

**Release of Claims and Causes of Action**

1. **Release by the Debtors and their Estates.** Pursuant to section 1123(b) and any other applicable provisions of the Bankruptcy Code, and except as otherwise expressly provided in the Plan, effective as of the Effective Date, for good and valuable consideration provided by each of the Released Parties, the adequacy and sufficiency of which is thereby confirmed, the Debtors and the Reorganized Debtors, in their respective individual capacities and as debtors-in-possession, and on behalf of themselves and their respective Estates, including, without limitation, any successor to the Debtors or any Estate representative appointed or selected pursuant to section 1123(b)(3) of the Bankruptcy Code (collectively, the "**Debtor Releasing Parties**") will be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever provided a full discharge, waiver and release to each of the Released Parties (and each such Released Party so released shall be deemed forever released, waived and discharged by the Debtor Releasing Parties) and their respective assets and properties (the "**Debtor Release**") from any and all claims, Causes of Action, Released and Settled Claims, Litigation Claims and any other debts, obligations, rights, suits, damages, actions, remedies, and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, whether directly or derivatively held, existing as of the Effective Date or thereafter arising, in law, at equity or otherwise, whether for tort,

contract, violations of federal or state securities laws, or otherwise, based in whole or in part upon any act or omission, transaction, or other occurrence or circumstances existing or taking place prior to or on the Effective Date arising from or related in any way in whole or in part to any of the Debtors, including, without limitation, (i) the Chapter 11 Cases, the Disclosure Statement, the Plan, the Restructuring Support Agreement and the Restructuring Documents, (ii) the subject matter of, or the transactions or events giving rise to, any Claim or Equity Interest that is treated in the Plan, (iii) the business or contractual arrangements between any Debtor and any Released Parties, (iv) the negotiation, formulation or preparation of the Restructuring Support Agreement, the Plan, the Disclosure Statement, the Plan Supplement, the Restructuring Documents, or related agreements, instruments or other documents, (v) the restructuring of Claims or Equity Interests prior to or during the Chapter 11 Cases, (vi) the purchase, sale, or rescission of the purchase or sale of any Equity Interest of the Debtors or the Reorganized Debtors, and/or (vii) the Confirmation or Consummation of the Plan or the solicitation of votes on the Plan that such Debtor Releasing Party would have been legally entitled to assert (whether individually or collectively) or that any Holder of a Claim or Equity Interest or other Entity would have been legally entitled to assert for, or on behalf or in the name of, any Debtor, its respective Estate or any Reorganized Debtor (whether directly or derivatively) against any of the Released Parties; provided, however, that the foregoing provisions of this Debtor Release shall not operate to waive or release: (i) any Causes of Action arising from willful misconduct, actual fraud, or gross negligence of such applicable Released Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction; (ii) any Causes of Action relating to the MSHA Action (other than against a member of the Special Restructuring Committee); and/or (iii) the rights of such Debtor Releasing Party to enforce the Plan and the contracts, instruments, releases, indentures, and other agreements or documents delivered under or in connection with the Plan or assumed pursuant to the Plan or assumed pursuant to Final Order of the Bankruptcy Court. The foregoing release shall be effective as of the Effective Date without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Person and the Confirmation Order will permanently enjoin the commencement or prosecution by any Person or Entity, whether directly, derivatively or otherwise, of any claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, or liabilities released pursuant to this Debtor Release. Notwithstanding the foregoing, nothing in this Article X.B shall or shall be deemed to (i) prohibit the Debtors or the Reorganized Debtors from asserting and enforcing any claims, obligations, suits, judgments, demands, debts, rights, Causes of Action or liabilities they may have against any Person that is based upon an alleged breach of a confidentiality or non-compete obligation owed to the Debtors or the Reorganized Debtors and/or (ii) operate as a release or waiver of any Intercompany Claims, in each case unless otherwise expressly provided for in the Plan.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the Debtor Release, which includes by reference each of the related provisions and definitions contained under the Plan, and further, shall constitute the Bankruptcy Court's finding that the Debtor Release is: (i) in exchange for the good and valuable consideration provided by the Released Parties; (ii) a good faith settlement and compromise of the claims released by the Debtor Release; (iii) in the best interest of the Debtors and their Estates; (iv) fair, equitable and reasonable; and (v) given and made after due notice and opportunity for hearing.

2. Release By Third Parties. Except as otherwise expressly provided in the Plan, effective as of the Effective Date, to the fullest extent permitted by applicable law, for good and valuable consideration provided by each of the Released Parties, the adequacy and sufficiency of which is thereby confirmed, and without limiting or otherwise modifying the

scope of the Debtor Release provided by the Debtor Releasing Parties above, each Non-Debtor Releasing Party (together with the Debtor Releasing Parties, the “Releasing Parties”) will be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever provided a full discharge, waiver and release to each of the Released Parties (and each such Released Party so released shall be deemed forever released, waived and discharged by the Non-Debtor Releasing Parties) and their respective assets and properties (the “Third Party Release”) from any and all claims, Causes of Action, Released and Settled Claims, Litigation Claims and any other debts, obligations, rights, suits, damages, actions, remedies, and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, whether directly or derivatively held, existing as of the Effective Date or thereafter arising, in law, at equity or otherwise, whether for tort, contract, violations of federal or state securities laws, or otherwise, based in whole or in part upon any act or omission, transaction, or other occurrence or circumstances existing or taking place prior to or on the Effective Date arising from or related in any way in whole or in part to any of the Debtors, including, without limitation, (i) the Chapter 11 Cases, the Disclosure Statement, the Plan, the Restructuring Support Agreement and the Restructuring Documents, (ii) the subject matter of, or the transactions or events giving rise to, any Claim or Equity Interest that is treated in the Plan, (iii) the business or contractual arrangements between any Debtor and any Released Parties, (iv) the negotiation, formulation or preparation of the Restructuring Support Agreement, the Plan, the Disclosure Statement, the Plan Supplement, the Restructuring Documents, or related agreements, instruments or other documents, (v) the restructuring of Claims or Equity Interests prior to or during the Chapter 11 Cases, (vi) the purchase, sale or rescission of the purchase or sale of any Equity Interest of the Debtors or the Reorganized Debtors, and/or (vii) the Confirmation or Consummation of the Plan or the solicitation of votes on the Plan that such Non-Debtor Releasing Party would have been legally entitled to assert (whether individually or collectively) against any of the Released Parties; provided, however, that the foregoing provisions of this Third Party Release shall not operate to waive or release (i) any Causes of Action arising from willful misconduct, actual fraud, or gross negligence of such applicable Released Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction; (ii) any Causes of Action relating to the MSHA Action (other than against a member of the Special Restructuring Committee); and/or (iii) the rights of such Non-Debtor Releasing Party to enforce the Plan and the contracts, instruments, releases, indentures, and other agreements and documents delivered under or in connection with the Plan or assumed pursuant to the Plan or Final Order of the Bankruptcy Court. The foregoing release shall be effective as of the Effective Date, without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Person and the Confirmation Order will permanently enjoin the commencement or prosecution by any Person or Entity, whether directly, derivatively or otherwise, of any claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, or liabilities released pursuant to this Third Party Release.

Entry of the Confirmation Order shall constitute the Bankruptcy Court’s approval of the Third Party Release, which includes by reference each of the related provisions and definitions contained under the Plan, and further, shall constitute the Bankruptcy Court’s finding that the Third Party Release is: (i) in exchange for the good and valuable consideration provided by the Released Parties; (ii) a good faith settlement and compromise of the claims released by the Third Party Release; (iii) in the best interest of the Debtors and all Holders of Claims and Equity Interests; (iv) fair, equitable and reasonable; and (v) given and made after due notice and opportunity for hearing.

### 3. Exculpation

Effective as of the Effective Date, the Exculpated Parties shall neither have nor incur any liability to any Person or Entity for any claims, Causes of Action or Released and Settled Claim arising prior to or on the Effective Date for any act taken or omitted to be taken in connection with, or related to, formulating, negotiating, preparing, disseminating, implementing, administering, confirming or effecting the Confirmation or Consummation of the Plan, the Disclosure Statement, the Restructuring Documents or any contract, instrument, release or other agreement or document created or entered into in connection with the Plan, including the Restructuring Support Agreement, or any other prepetition or postpetition act taken or omitted to be taken in connection with or in contemplation of the restructuring of the Debtors, the approval of the Disclosure Statement or Confirmation or Consummation of the Plan; provided, however, that the foregoing provisions of this exculpation shall not operate to waive or release: (i) any Causes of Action arising from willful misconduct, actual fraud, or gross negligence of such applicable Exculpated Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction; and/or (ii) the rights of any Person or Entity to enforce the Plan and the contracts, instruments, releases, indentures, and other agreements and documents delivered under or in connection with the Plan or assumed pursuant to the Plan or Final Order of the Bankruptcy Court; provided, further, that each Exculpated Party shall be entitled to rely upon the advice of counsel concerning its respective duties pursuant to, or in connection with, the above referenced documents, actions or inactions. The foregoing exculpation shall be effective as of the Effective Date without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Person. Notwithstanding the foregoing, nothing in this Article X.E shall or shall be deemed to prohibit the Debtors or the Reorganized Debtors from asserting and enforcing any claims, obligations, suits, judgments, demands, debts, rights, Causes of Action or liabilities they may have against any Person that is based upon an alleged breach of a confidentiality or non-compete obligation owed to the Debtors or the Reorganized Debtors, in each case unless otherwise expressly provided for in the Plan.

#### 4. Injunction

Except as otherwise expressly provided in the Plan or the Confirmation Order, from and after the Effective Date, all Persons and Entities are, to the fullest extent provided under section 524 and other applicable provisions of the Bankruptcy Code, permanently enjoined from (i) commencing or continuing, in any manner or in any place, any suit, action or other proceeding; (ii) enforcing, attaching, collecting, or recovering in any manner any judgment, award, decree, or order; (iii) creating, perfecting, or enforcing any Lien or encumbrance; (iv) asserting a setoff or right of subrogation of any kind; or (v) commencing or continuing in any manner any action or other proceeding of any kind, in each case on account of or with respect to any Claim, demand, liability, obligation, debt, right, Cause of Action, equity interest, or remedy released or to be released, exculpated or to be exculpated, settled or to be settled or discharged or to be discharged pursuant to the Plan or the Confirmation Order against any Person or Entity so released, discharged, or exculpated (or the property or estate of any Person or Entity so released, discharged, or exculpated). All injunctions or stays provided for in the Chapter 11 Cases under section 105 or section 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect until the Effective Date.

#### Certain Definitions Contains in the Plan Release, Exculpation and Injunction Provisions

“*Causes of Action*” means any claims, causes of action (including Avoidance Actions), demands, actions, suits, obligations, liabilities, cross-claims, counterclaims, offsets, or setoffs of any kind or character whatsoever, in each case whether known or unknown, contingent or non-

contingent, matured or unmatured, suspected or unsuspected, foreseen or unforeseen, direct or indirect, choate or inchoate, existing or hereafter arising, under statute, in contract, in tort, in law, or in equity, or pursuant to any other theory of law, federal or state, whether asserted or assertable directly or derivatively in law or equity or otherwise by way of claim, counterclaim, cross-claim, third party action, action for indemnity or contribution or otherwise, based in whole or in part upon any act or omission or other event occurring prior to the Petition Date or during the course of the Chapter 11 Cases, including through the Effective Date.

**“Exculpated Parties”** means, collectively: (a) the Debtors; (b) the Reorganized Debtors; (c) any Committee and the members thereof in their capacity as such; (d) the DIP Credit Agreement Agent; (e) DIP Credit Agreement Lenders; (f) the Prepetition Credit Agreement Agent; (g) the Prepetition Credit Agreement Lenders; (h) the Prepetition Notes Agent; (i) the Prepetition Noteholders; and (j) in each case, the respective Related Persons of each of the foregoing Entities.

**“Litigation Claims”** means the claims, rights of action, suits or proceedings, whether in law or in equity, whether known or unknown, that any Debtor or any Estate may hold against any Person or Entity, including, without limitation, the Causes of Action of the Debtors or their Estates, in each case solely to the extent of the Debtors’ or their Estates’ interest therein. A non-exclusive list of the Litigation Claims held by the Debtors as of the Effective Date is to be Filed with the Plan Supplement, which shall be deemed to include any derivative actions filed against any Debtor as of the Effective Date.

**“New Railcar Lease Agreements”** means those certain railcar lease agreements entered into between the Debtors and the Specified Rail Car Lessors pursuant to the New Railcar Lease Agreements Order.

**“New Railcar Lease Agreements Order”** means the Order Authorizing the Debtors to (I) Reject Certain Railcar Lease Agreements Nunc Pro Tunc to the Petition Date and (II) Enter Into Proposed New Railcar Lease Agreements Effective as of the Petition Date entered by the Bankruptcy Court in the Chapter 11 Cases (Docket No. 208), as such order may be amended, supplemented, or modified from time to time.

**“Non-Debtor Releasing Parties”** means, collectively: (a) the Committee and the members thereof in their capacity as such; (b) the Prepetition Credit Agreement Agent and the Releasing Prepetition Credit Agreement Lenders; (c) the DIP Credit Agreement Agent and the DIP Credit Agreement Lenders (d) the Prepetition Notes Agent and the Releasing Prepetition Noteholders; (e) the Releasing Old Emerge LP Equity Holders; (f) those Holders of General Unsecured Claims or Old Emerge LP Equity Interests that do not affirmatively opt out of the Third Party Release as provided on their respective Ballots; and (g) each Specified Railcar Lessor (to the extent it is a Released Party).

**“Related Persons”** means, with respect to any Person, such Person’s predecessors, successors, assigns and present and former Affiliates (whether by operation of law or otherwise) and subsidiaries, and each of their respective current and former officers, directors, principals, employees, shareholders, members (including *ex officio* members and managing members), managers, managed accounts or funds, management companies, fund advisors, advisory or subcommittee board members, partners, agents, financial advisors, attorneys, accountants, investment bankers, investment advisors, consultants, representatives, and other professionals, in each case acting in such capacity at any time on or after the date of the Restructuring Support Agreement, and any Person claiming by or through any of them, including such Related Persons’ respective heirs, executors, estates, servants, and nominees; provided, however, that no insurer of any Debtor shall constitute a Related Person.

**“Released and Settled Claims”** means all Claims and Causes of Action made, or which could have been made, on or on behalf of any of the Debtors against the Prepetition Revolver Agent, the Prepetition Revolving Lenders, the Prepetition Note Agent, or the Prepetition Noteholders, or any of their respective affiliates, agents, attorneys, advisors, professionals, officers, directors, and employees, in their respective capacities as such.

**“Released Party”** means, collectively: (a) the Debtors; (b) the Reorganized Debtors; (c) the Committee and the members thereof in their capacity as such; (d) the Prepetition Credit Agreement Agent and the Releasing Prepetition Credit Agreement Lenders; (e) the DIP Credit Agreement Agent and the DIP Credit Agreement Lenders; (f) the Prepetition Notes Agent and the Releasing Prepetition Noteholders; (g) the Releasing Old Emerge LP Equity Holders; and (h) each Specified Railcar Lessor, so long as the applicable New Railcar Lease Agreement(s) between the Debtors and the applicable Specified Railcar Lessor is in full force and effect as of the Effective Date; and in each case the respective Related Persons of each of the foregoing Entities.

**“Specified Railcar Lessors”** means, collectively, (a) Trinity Industries Leasing Company, (b) MUL Railcars Leasing, LLC, and (c) CIT Bank, N.A. and The CIT Group/Equipment Financing, Inc., as an assignee of CIT Rail, LLC.

**EXHIBIT 5**

**Contract/Lease Notice**

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

In re:	X	
	:	Chapter 11
EMERGE ENERGY SERVICES LP, <i>et al.</i> , <sup>1</sup>	:	Case No. 19-11563 (KBO)
Debtors.	:	(Jointly Administered)
	:	
	:	
	X	

**NOTICE TO CONTRACT AND LEASE COUNTERPARTIES**

**PLEASE TAKE NOTICE THAT** on [\_\_\_], 2019, EmERGE Energy Services LP and its affiliate debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “**Debtors**”) filed their (i) *First Amended Joint Plan of Reorganization for EmERGE Energy Services LP and its Affiliate Debtors Under Chapter 11 of the Bankruptcy Code* [Docket No. [●]] (as may be amended from time to time, the “**Plan**”) and (ii) *Disclosure Statement for the First Amended Joint Plan of Reorganization for EmERGE Energy Services LP and its Affiliate Debtors Under Chapter 11 of the Bankruptcy Code* [Docket No. [●]] (as may be amended from time to time, the “**Disclosure Statement**”),<sup>2</sup> and by no later than October 4, 2019 the Debtors shall file the Plan Supplement. On [●], 2019, the Bankruptcy Court entered the *Order (I) Approving the Disclosure Statement, (II) Establishing the Voting Record Date, Voting Deadline and Other dates, (III) Approving Procedures for Soliciting, Receiving and Tabulating Votes on the Plan and for Filing objections to the Plan and (IV) Approving the Manner and Forms of Notice and Other Related Documents, (V) Approving Procedures for Assumption of Contracts and Leases and Form and Manner of Assumption Notice, and (VI) Granting Related Relief* [Docket No. [●]] (the “**Disclosure Statement Order**”).

**PLEASE TAKE FURTHER NOTICE THAT** you are receiving this notice because you or one of your affiliates is a counterparty to an executory contract or unexpired lease with one or more of the Debtors that has not been assumed or rejected as of the Voting Record Date (September 9, 2019).

**PLEASE TAKE FURTHER NOTICE THAT** the Confirmation Hearing to consider confirmation of the Plan will commence at **1:00 p.m. (prevailing Eastern Time) on October 24, 2019**, before the Honorable Karen B. Owens, United States Bankruptcy Judge, in the United States Bankruptcy Court for the District of Delaware, located at 824 Market Street, 6th Floor, Courtroom 2, Wilmington, Delaware 19801. The Confirmation Hearing may be continued from time to time by the Bankruptcy Court or the Debtors without further notice other than by such adjournment being announced in open court or by a notice of adjournment filed with the Bankruptcy Court and served on such parties as the Bankruptcy Court may order. Moreover, the Plan may be modified or amended, if necessary, pursuant to Bankruptcy Code Section 1127,

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<sup>1</sup> The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: EmERGE Energy Services LP (2937), EmERGE Energy Services GP LLC (4683), EmERGE Energy Services Operating LLC (2511), Superior Silica Sands LLC (9889), and EmERGE Energy Services Finance Corporation (9875). The Debtors’ address is 5600 Clearfork Main Street, Suite 400, Fort Worth, Texas 76109.

<sup>2</sup> Capitalized terms used but not otherwise defined herein will have the meanings set forth in the Plan.



prior to, during or as a result of the Confirmation Hearing, without further notice to parties in interest.

**PLEASE TAKE FURTHER NOTICE THAT**, notwithstanding that you are not entitled to vote on the Plan, you are nevertheless a party in interest in the Debtors' Chapter 11 Cases and you are entitled to participate in the Debtors' chapter 11 cases, including by filing objections to confirmation of the Plan. The deadline for filing objections to the Plan is **October 11, 2019 at 4:00 p.m. (prevailing Eastern Time)** (the "**Plan Objection Deadline**"). Any objection to the Plan must: (i) be in writing; (ii) conform to the Bankruptcy Rules and the Local Rules; (iii) state the name and address of the objecting party and the amount and nature of the Claim of such Entity; (iv) state with particularity the basis and nature of any objection to the Plan and, if practicable, a proposed modification to the Plan that would resolve such objection; and (v) be filed with the United States Bankruptcy Court District of Delaware, 824 North Market Street, 3rd Floor, Wilmington, DE 19801 no later than the Plan Objection Deadline and served on the following parties listed below (the "**Notice Parties**"), with proof of service filed as and when required by the Local Rules of the Bankruptcy Court.

CONFIRMATION OBJECTIONS NOT TIMELY FILED AND SERVED IN THE MANNER SET FORTH HEREIN MAY NOT BE CONSIDERED BY THE BANKRUPTCY COURT AND MAY BE OVERRULED WITHOUT FURTHER NOTICE.

#### Notice Parties

- (i) Counsel to the Debtors, Latham & Watkins LLP, 885 Third Avenue, New York, New York 10022-4834 (Attn: Keith A. Simon, Esq., Hugh K. Murtagh, Esq., and Liza L. Burton, Esq. (emails: keith.simon@lw.com, hugh.murtagh@lw.com, and liza.burton@lw.com)) and Richards, Layton & Finger, P.A., One Rodney Square, 920 North King Street, Wilmington, Delaware 19801 (Attn: John H. Knight, Esq. and Paul N. Heath, Esq. (emails: knight@rlf.com and heath@rlf.com));
- (ii) Counsel to the DIP Agent and the Prepetition Agents, Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, NY 10153-0119 (Attn: Matt S. Barr, Esq., David Griffiths, Esq., and Candace M. Arthur, Esq. (emails: matt.barr@weil.com, david.griffiths@weil.com, and candace.arthur@weil.com)) and Pachulski Stang Ziehl & Jones LLP, 919 North Market Street, Wilmington, Delaware 19801 (Attn: Laura Davis Jones, Esq. (email: ljones@pszjlaw.com)); and
- (iii) Counsel to the Committee, Kilpatrick Townsend & Stockton LLP, 1114 Avenue of the Americas, New York, New York 10036 (Attn: Todd C. Meyers, Esq., David M. Posner, Esq., and Kelly Moynihan, Esq. (emails: tmeyers@kilpatricktownsend.com, dposner@kilpatricktownsend.com, and kmoynihan@kilpatricktownsend.com)), Kilpatrick Townsend & Stockton LLP, 700 Louisiana Street, Suite 4300, Houston, Texas 77002 (Attn: Lenard M. Parkins, Esq. (email: lparkins@kilpatricktownsend.com)), and Potter Anderson & Corroon LLP, 1313 North Market Street, Sixth Floor, P.O. Box 951, Wilmington, Delaware 19899 (Attn: Jeremy W. Ryan, Esq., Christopher M. Samis, Esq., and D. Ryan Slauch, Esq. (emails: jryan@potteranderson.com, csamis@potteranderson.com, and rslauch@potteranderson.com)); and
- (iv) The Office of the United States Trustee for the District of Delaware, 844 King Street, Suite 2207, Wilmington, Delaware 19801 (Attn: Juliet M. Sarkessian, Esq. (email: Juliet.M.Sarkessian@usdoj.gov)).

**PLEASE TAKE FURTHER NOTICE THAT** if you would like to obtain a Solicitation Package, a copy of the Plan Supplement once filed, or if you have questions regarding the procedures and requirements for objecting to the Plan, you may contact the Debtors' Voting and Claims Agent, Kurtzman Carson Consultants LLC, by: (i) calling the Debtors' restructuring hotline at 877-634-7165 (toll-free in US and Canada) or 424-236-7221 (for international callers); (ii) visiting the Debtors' restructuring website at: <http://www.kccllc.net/EmergeEnergy> (please see "Plan and Disclosure Statement" Tab); and/or (iii) writing to Emerge Energy Claims Processing Center, c/o Kurtzman Carson Consultants LLC, 222 N. Pacific Coast Highway, Suite 300, El Segundo, CA 90245. 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>.

THE PLAN CONTAINS RELEASE, EXCULPATION AND INJUNCTION PROVISIONS. THE PROVISIONS ARE SET FORTH AT THE END OF THIS NOTICE. YOU SHOULD REVIEW THESE PROVISIONS CAREFULLY.

**THIS NOTICE IS BEING SENT TO YOU FOR INFORMATIONAL PURPOSES ONLY. IF YOU HAVE QUESTIONS ABOUT ANYTHING STATED HEREIN OR IF YOU WOULD LIKE TO OBTAIN ADDITIONAL INFORMATION, PLEASE CONTACT THE VOTING AND CLAIMS AGENT AT THE NUMBER OR ADDRESS SPECIFIED ABOVE.**

Wilmington, Delaware  
[\_\_\_\_], 2019

**LATHAM & WATKINS LLP**

Attn: George A. Davis  
Attn: Keith A. Simon  
Attn: Hugh K. Murtagh  
Attn: Liza L. Burton  
885 Third Avenue  
New York, New York 10022-4834  
Fax: 212-751-4864

**RICHARDS, LAYTON & FINGER, P.A.**

Attn: John H. Knight  
Attn: Paul N. Heath  
Attn: Zachary I. Shapiro  
Attn: Brett M. Haywood  
One Rodney Square  
920 North King Street  
Wilmington, Delaware 19801  
Fax: 302-651-7701

*Co-Counsel to the Debtors*

**RELEASE, EXCULPATION, AND INJUNCTION PROVISIONS CONTAINED  
IN THE PLAN**

**Release of Claims and Causes of Action**

1. **Release by the Debtors and their Estates.** Pursuant to section 1123(b) and any other applicable provisions of the Bankruptcy Code, and except as otherwise expressly provided in the Plan, effective as of the Effective Date, for good and valuable consideration provided by each of the Released Parties, the adequacy and sufficiency of which is thereby confirmed, the Debtors and the Reorganized Debtors, in their respective individual capacities and as debtors-in-possession, and on behalf of themselves and their respective Estates, including, without limitation, any successor to the Debtors or any Estate representative appointed or selected pursuant to section 1123(b)(3) of the Bankruptcy Code (collectively, the "**Debtor Releasing Parties**") will be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever provided a full discharge, waiver and release to each of the Released Parties (and each such Released Party so released shall be

deemed forever released, waived and discharged by the Debtor Releasing Parties) and their respective assets and properties (the “Debtor Release”) from any and all claims, Causes of Action, Released and Settled Claims, Litigation Claims and any other debts, obligations, rights, suits, damages, actions, remedies, and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, whether directly or derivatively held, existing as of the Effective Date or thereafter arising, in law, at equity or otherwise, whether for tort, contract, violations of federal or state securities laws, or otherwise, based in whole or in part upon any act or omission, transaction, or other occurrence or circumstances existing or taking place prior to or on the Effective Date arising from or related in any way in whole or in part to any of the Debtors, including, without limitation, (i) the Chapter 11 Cases, the Disclosure Statement, the Plan, the Restructuring Support Agreement and the Restructuring Documents, (ii) the subject matter of, or the transactions or events giving rise to, any Claim or Equity Interest that is treated in the Plan, (iii) the business or contractual arrangements between any Debtor and any Released Parties, (iv) the negotiation, formulation or preparation of the Restructuring Support Agreement, the Plan, the Disclosure Statement, the Plan Supplement, the Restructuring Documents, or related agreements, instruments or other documents, (v) the restructuring of Claims or Equity Interests prior to or during the Chapter 11 Cases, (vi) the purchase, sale, or rescission of the purchase or sale of any Equity Interest of the Debtors or the Reorganized Debtors, and/or (vii) the Confirmation or Consummation of the Plan or the solicitation of votes on the Plan that such Debtor Releasing Party would have been legally entitled to assert (whether individually or collectively) or that any Holder of a Claim or Equity Interest or other Entity would have been legally entitled to assert for, or on behalf or in the name of, any Debtor, its respective Estate or any Reorganized Debtor (whether directly or derivatively) against any of the Released Parties; provided, however, that the foregoing provisions of this Debtor Release shall not operate to waive or release: (i) any Causes of Action arising from willful misconduct, actual fraud, or gross negligence of such applicable Released Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction; (ii) any Causes of Action relating to the MSHA Action (other than against a member of the Special Restructuring Committee); and/or (iii) the rights of such Debtor Releasing Party to enforce the Plan and the contracts, instruments, releases, indentures, and other agreements or documents delivered under or in connection with the Plan or assumed pursuant to the Plan or assumed pursuant to Final Order of the Bankruptcy Court. The foregoing release shall be effective as of the Effective Date without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Person and the Confirmation Order will permanently enjoin the commencement or prosecution by any Person or Entity, whether directly, derivatively or otherwise, of any claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, or liabilities released pursuant to this Debtor Release. Notwithstanding the foregoing, nothing in this Article X.B shall or shall be deemed to (i) prohibit the Debtors or the Reorganized Debtors from asserting and enforcing any claims, obligations, suits, judgments, demands, debts, rights, Causes of Action or liabilities they may have against any Person that is based upon an alleged breach of a confidentiality or non-compete obligation owed to the Debtors or the Reorganized Debtors and/or (ii) operate as a release or waiver of any Intercompany Claims, in each case unless otherwise expressly provided for in the Plan.

Entry of the Confirmation Order shall constitute the Bankruptcy Court’s approval, pursuant to Bankruptcy Rule 9019, of the Debtor Release, which includes by reference each of the related provisions and definitions contained under the Plan, and further, shall constitute the Bankruptcy Court’s finding that the Debtor Release is: (i) in exchange for the good and valuable consideration provided by the Released Parties; (ii) a good faith settlement and compromise of the claims released by the Debtor Release; (iii) in the best

interest of the Debtors and their Estates; (iv) fair, equitable and reasonable; and (v) given and made after due notice and opportunity for hearing.

2. ***Release By Third Parties.*** Except as otherwise expressly provided in the Plan, effective as of the Effective Date, to the fullest extent permitted by applicable law, for good and valuable consideration provided by each of the Released Parties, the adequacy and sufficiency of which is thereby confirmed, and without limiting or otherwise modifying the scope of the Debtor Release provided by the Debtor Releasing Parties above, each Non-Debtor Releasing Party (together with the Debtor Releasing Parties, the “**Releasing Parties**”) will be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever provided a full discharge, waiver and release to each of the Released Parties (and each such Released Party so released shall be deemed forever released, waived and discharged by the Non-Debtor Releasing Parties) and their respective assets and properties (the “**Third Party Release**”) from any and all claims, Causes of Action, Released and Settled Claims, Litigation Claims and any other debts, obligations, rights, suits, damages, actions, remedies, and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, whether directly or derivatively held, existing as of the Effective Date or thereafter arising, in law, at equity or otherwise, whether for tort, contract, violations of federal or state securities laws, or otherwise, based in whole or in part upon any act or omission, transaction, or other occurrence or circumstances existing or taking place prior to or on the Effective Date arising from or related in any way in whole or in part to any of the Debtors, including, without limitation, (i) the Chapter 11 Cases, the Disclosure Statement, the Plan, the Restructuring Support Agreement and the Restructuring Documents, (ii) the subject matter of, or the transactions or events giving rise to, any Claim or Equity Interest that is treated in the Plan, (iii) the business or contractual arrangements between any Debtor and any Released Parties, (iv) the negotiation, formulation or preparation of the Restructuring Support Agreement, the Plan, the Disclosure Statement, the Plan Supplement, the Restructuring Documents, or related agreements, instruments or other documents, (v) the restructuring of Claims or Equity Interests prior to or during the Chapter 11 Cases, (vi) the purchase, sale or rescission of the purchase or sale of any Equity Interest of the Debtors or the Reorganized Debtors, and/or (vii) the Confirmation or Consummation of the Plan or the solicitation of votes on the Plan that such Non-Debtor Releasing Party would have been legally entitled to assert (whether individually or collectively) against any of the Released Parties; **provided, however**, that the foregoing provisions of this Third Party Release shall not operate to waive or release (i) any Causes of Action arising from willful misconduct, actual fraud, or gross negligence of such applicable Released Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction; (ii) any Causes of Action relating to the MSHA Action (other than against a member of the Special Restructuring Committee); and/or (iii) the rights of such Non-Debtor Releasing Party to enforce the Plan and the contracts, instruments, releases, indentures, and other agreements and documents delivered under or in connection with the Plan or assumed pursuant to the Plan or Final Order of the Bankruptcy Court. The foregoing release shall be effective as of the Effective Date, without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Person and the Confirmation Order will permanently enjoin the commencement or prosecution by any Person or Entity, whether directly, derivatively or otherwise, of any claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, or liabilities released pursuant to this Third Party Release.

Entry of the Confirmation Order shall constitute the Bankruptcy Court’s approval of the Third Party Release, which includes by reference each of the related provisions and definitions contained under the Plan, and further, shall constitute the Bankruptcy Court’s finding that the Third Party Release is: (i) in exchange for the good and valuable

consideration provided by the Released Parties; (ii) a good faith settlement and compromise of the claims released by the Third Party Release; (iii) in the best interest of the Debtors and all Holders of Claims and Equity Interests; (iv) fair, equitable and reasonable; and (v) given and made after due notice and opportunity for hearing.

3. **Exculpation**

Effective as of the Effective Date, the Exculpated Parties shall neither have nor incur any liability to any Person or Entity for any claims, Causes of Action or Released and Settled Claim arising prior to or on the Effective Date for any act taken or omitted to be taken in connection with, or related to, formulating, negotiating, preparing, disseminating, implementing, administering, confirming or effecting the Confirmation or Consummation of the Plan, the Disclosure Statement, the Restructuring Documents or any contract, instrument, release or other agreement or document created or entered into in connection with the Plan, including the Restructuring Support Agreement, or any other prepetition or postpetition act taken or omitted to be taken in connection with or in contemplation of the restructuring of the Debtors, the approval of the Disclosure Statement or Confirmation or Consummation of the Plan; provided, however, that the foregoing provisions of this exculpation shall not operate to waive or release: (i) any Causes of Action arising from willful misconduct, actual fraud, or gross negligence of such applicable Exculpated Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction; and/or (ii) the rights of any Person or Entity to enforce the Plan and the contracts, instruments, releases, indentures, and other agreements and documents delivered under or in connection with the Plan or assumed pursuant to the Plan or Final Order of the Bankruptcy Court; provided, further, that each Exculpated Party shall be entitled to rely upon the advice of counsel concerning its respective duties pursuant to, or in connection with, the above referenced documents, actions or inactions. The foregoing exculpation shall be effective as of the Effective Date without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Person. Notwithstanding the foregoing, nothing in this Article X.E shall or shall be deemed to prohibit the Debtors or the Reorganized Debtors from asserting and enforcing any claims, obligations, suits, judgments, demands, debts, rights, Causes of Action or liabilities they may have against any Person that is based upon an alleged breach of a confidentiality or non-compete obligation owed to the Debtors or the Reorganized Debtors, in each case unless otherwise expressly provided for in the Plan.

4. **Injunction**

Except as otherwise expressly provided in the Plan or the Confirmation Order, from and after the Effective Date, all Persons and Entities are, to the fullest extent provided under section 524 and other applicable provisions of the Bankruptcy Code, permanently enjoined from (i) commencing or continuing, in any manner or in any place, any suit, action or other proceeding; (ii) enforcing, attaching, collecting, or recovering in any manner any judgment, award, decree, or order; (iii) creating, perfecting, or enforcing any Lien or encumbrance; (iv) asserting a setoff or right of subrogation of any kind; or (v) commencing or continuing in any manner any action or other proceeding of any kind, in each case on account of or with respect to any Claim, demand, liability, obligation, debt, right, Cause of Action, equity interest, or remedy released or to be released, exculpated or to be exculpated, settled or to be settled or discharged or to be discharged pursuant to the Plan or the Confirmation Order against any Person or Entity so released, discharged, or exculpated (or the property or estate of any Person or Entity so released, discharged, or exculpated). All injunctions or stays provided for in the Chapter 11 Cases under section

**105 or section 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect until the Effective Date.**

**Certain Definitions Contains in the Plan Release, Exculpation and Injunction Provisions**

**“Causes of Action”** means any claims, causes of action (including Avoidance Actions), demands, actions, suits, obligations, liabilities, cross-claims, counterclaims, offsets, or setoffs of any kind or character whatsoever, in each case whether known or unknown, contingent or non-contingent, matured or unmatured, suspected or unsuspected, foreseen or unforeseen, direct or indirect, choate or inchoate, existing or hereafter arising, under statute, in contract, in tort, in law, or in equity, or pursuant to any other theory of law, federal or state, whether asserted or assertable directly or derivatively in law or equity or otherwise by way of claim, counterclaim, cross-claim, third party action, action for indemnity or contribution or otherwise, based in whole or in part upon any act or omission or other event occurring prior to the Petition Date or during the course of the Chapter 11 Cases, including through the Effective Date.

**“Exculpated Parties”** means, collectively: (a) the Debtors; (b) the Reorganized Debtors; (c) any Committee and the members thereof in their capacity as such; (d) the DIP Credit Agreement Agent; (e) DIP Credit Agreement Lenders; (f) the Prepetition Credit Agreement Agent; (g) the Prepetition Credit Agreement Lenders; (h) the Prepetition Notes Agent; (i) the Prepetition Noteholders; and (j) in each case, the respective Related Persons of each of the foregoing Entities.

**“Litigation Claims”** means the claims, rights of action, suits or proceedings, whether in law or in equity, whether known or unknown, that any Debtor or any Estate may hold against any Person or Entity, including, without limitation, the Causes of Action of the Debtors or their Estates, in each case solely to the extent of the Debtors’ or their Estates’ interest therein. A non-exclusive list of the Litigation Claims held by the Debtors as of the Effective Date is to be Filed with the Plan Supplement, which shall be deemed to include any derivative actions filed against any Debtor as of the Effective Date.

**“New Railcar Lease Agreements”** means those certain railcar lease agreements entered into between the Debtors and the Specified Rail Car Lessors pursuant to the New Railcar Lease Agreements Order.

**“New Railcar Lease Agreements Order”** means the Order Authorizing the Debtors to (I) Reject Certain Railcar Lease Agreements Nunc Pro Tunc to the Petition Date and (II) Enter Into Proposed New Railcar Lease Agreements Effective as of the Petition Date entered by the Bankruptcy Court in the Chapter 11 Cases (Docket No. 208), as such order may be amended, supplemented, or modified from time to time.

**“Non-Debtor Releasing Parties”** means, collectively: (a) the Committee and the members thereof in their capacity as such; (b) the Prepetition Credit Agreement Agent and the Releasing Prepetition Credit Agreement Lenders; (c) the DIP Credit Agreement Agent and the DIP Credit Agreement Lenders (d) the Prepetition Notes Agent and the Releasing Prepetition Noteholders; (e) the Releasing Old EmERGE LP Equity Holders; (f) those Holders of General Unsecured Claims or Old EmERGE LP Equity Interests that do not affirmatively opt out of the Third Party Release as provided on their respective Ballots; and (g) each Specified Railcar Lessor (to the extent it is a Released Party).

**“Related Persons”** means, with respect to any Person, such Person’s predecessors, successors, assigns and present and former Affiliates (whether by operation of law or otherwise) and subsidiaries, and each of their respective current and former officers, directors, principals,

employees, shareholders, members (including *ex officio* members and managing members), managers, managed accounts or funds, management companies, fund advisors, advisory or subcommittee board members, partners, agents, financial advisors, attorneys, accountants, investment bankers, investment advisors, consultants, representatives, and other professionals, in each case acting in such capacity at any time on or after the date of the Restructuring Support Agreement, and any Person claiming by or through any of them, including such Related Persons' respective heirs, executors, estates, servants, and nominees; *provided, however*, that no insurer of any Debtor shall constitute a Related Person.

**“Released and Settled Claims”** means all Claims and Causes of Action made, or which could have been made, on or on behalf of any of the Debtors against the Prepetition Revolver Agent, the Prepetition Revolving Lenders, the Prepetition Note Agent, or the Prepetition Noteholders, or any of their respective affiliates, agents, attorneys, advisors, professionals, officers, directors, and employees, in their respective capacities as such.

**“Released Party”** means, collectively: (a) the Debtors; (b) the Reorganized Debtors; (c) the Committee and the members thereof in their capacity as such; (d) the Prepetition Credit Agreement Agent and the Releasing Prepetition Credit Agreement Lenders; (e) the DIP Credit Agreement Agent and the DIP Credit Agreement Lenders; (f) the Prepetition Notes Agent and the Releasing Prepetition Noteholders; (g) the Releasing Old Emerge LP Equity Holders; and (h) each Specified Railcar Lessor, so long as the applicable New Railcar Lease Agreement(s) between the Debtors and the applicable Specified Railcar Lessor is in full force and effect as of the Effective Date; and in each case the respective Related Persons of each of the foregoing Entities.

**“Specified Railcar Lessors”** means, collectively, (a) Trinity Industries Leasing Company, (b) MUL Railcars Leasing, LLC, and (c) CIT Bank, N.A. and The CIT Group/Equipment Financing, Inc., as an assignee of CIT Rail, LLC.

**EXHIBIT 6**

**Confirmation Hearing Notice**



IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

-----	X	
In re:	:	Chapter 11
	:	
EMERGE ENERGY SERVICES LP, <i>et al.</i> , <sup>1</sup>	:	Case No. 19-11563 (KBO)
	:	
Debtors.	:	(Jointly Administered)
	:	
-----	X	

**NOTICE OF (I) PLAN CONFIRMATION HEARING, (II) OBJECTION AND VOTING DEADLINES AND (C) SOLICITATION AND VOTING PROCEDURES**

**YOU ARE RECEIVING THIS NOTICE BECAUSE YOU MAY BE ENTITLED TO VOTE ON THE PLAN OR MAY HAVE YOUR RIGHTS AFFECTED BY THE PLAN. THEREFORE, YOU SHOULD READ THIS NOTICE CAREFULLY AND DISCUSS IT WITH YOUR ATTORNEY. IF YOU DO NOT HAVE AN ATTORNEY, YOU MAY WISH TO CONSULT ONE.**

**TO: ALL HOLDERS OF CLAIMS AGAINST, AND HOLDERS OF EQUITY INTERESTS IN, EMERGE ENERGY SERVICES LP AND ITS AFFILIATE DEBTORS AND DEBTORS IN POSSESSION AND ALL OTHER PARTIES IN INTEREST IN THE ABOVE-CAPTIONED CHAPTER 11 CASES.**

**PLEASE TAKE NOTICE THAT** on [\_\_\_], 2019, Emerge Energy Services LP and its affiliate debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “**Debtors**”) filed their (i) *First Amended Joint Plan of Reorganization for Emerge Energy Services LP and its Affiliate Debtors Under Chapter 11 of the Bankruptcy Code* [Docket No. [●]] (as may be amended from time to time, the “**Plan**”) and (ii) *Disclosure Statement for the First Amended Joint Plan of Reorganization for Emerge Energy Services LP and its Affiliate Debtors Under Chapter 11 of the Bankruptcy Code* [Docket No. [●]] (as may be amended from time to time, the “**Disclosure Statement**”),<sup>2</sup> and by no later than October 4, 2019, the Debtors shall file the Plan Supplement. On [●], 2019, the Bankruptcy Court entered the *Order (I) Approving the Disclosure Statement, (II) Establishing the Voting Record Date, Voting Deadline and Other dates, (III) Approving Procedures for Soliciting, Receiving and Tabulating Votes on the Plan and for Filing objections to the Plan and (IV) Approving the Manner and Forms of Notice and Other Related Documents, (V) Approving Procedures for Assumption of Contracts and Leases and Form and Manner of Assumption Notice, and (VI) Granting Related Relief* [Docket No. [●]] (the “**Disclosure Statement Order**”).

**PLEASE TAKE FURTHER NOTICE THAT** the Debtors are soliciting acceptances of the Plan from Holders of Claims who are entitled to vote on the Plan. The Bankruptcy Court can

<sup>1</sup> The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: Emerge Energy Services LP (2937), Emerge Energy Services GP LLC (4683), Emerge Energy Services Operating LLC (2511), Superior Silica Sands LLC (9889), and Emerge Energy Services Finance Corporation (9875). The Debtors’ address is 5600 Clearfork Main Street, Suite 400, Fort Worth, Texas 76109.

<sup>2</sup> Capitalized terms used but not otherwise defined herein will have the meanings set forth in the Plan.

confirm the Plan and bind all Holders of Claims and Equity Interests if it is accepted by the holders of at least two-thirds in amount and more than one-half in number of the Claims in each Impaired Class who vote on the Plan and if the Plan otherwise satisfies the applicable requirements of Bankruptcy Code Section 1129(a). If the requisite acceptances are not obtained, the Bankruptcy Court nonetheless may confirm the Plan if it finds that the Plan (i) provides fair and equitable treatment to, and does not unfairly discriminate against, each Class rejecting the Plan and (ii) otherwise satisfies the requirements of Bankruptcy Code Section 1129(b). If the Plan is confirmed by the Bankruptcy Court, it will be binding on all Holders of Claims and Equity Interests whether or not a particular Holder voted or affirmatively voted to reject the Plan, or whether you had the right to vote on the Plan.

**PLEASE TAKE FURTHER NOTICE THAT** the Confirmation Hearing to consider confirmation of the Plan will commence at **1:00 p.m. (prevailing Eastern Time) on October 24, 2019**, before the Honorable Karen B. Owens, United States Bankruptcy Judge, in the United States Bankruptcy Court for the District of Delaware, located at 824 Market Street, 6th Floor, Courtroom 1, Wilmington, Delaware 19801. The Confirmation Hearing may be continued from time to time by the Bankruptcy Court or the Debtors without further notice other than by such adjournment being announced in open court and/or by a notice of adjournment filed with the Bankruptcy Court and served on such parties as the Bankruptcy Court may order. Moreover, the Plan may be modified or amended, if necessary, pursuant to Bankruptcy Code Section 1127, prior to, during or as a result of the Confirmation Hearing, without further notice to parties in interest.

### **CRITICAL INFORMATION REGARDING VOTING ON THE PLAN**

1. In accordance with Bankruptcy Code Sections 1122 and 1123, the Plan contemplates classifying Holders of Claims and Equity Interests into various Classes for all purposes, including with respect to voting on the Plan, as follows:

<b>SUMMARY OF STATUS AND VOTING RIGHTS</b>			
<b><u>Class</u></b>	<b><u>Claim/Equity Interest</u></b>	<b><u>Status</u></b>	<b><u>Voting Rights</u></b>
1.	Other Priority Claims	Unimpaired	Deemed to Accept
2.	Other Secured Claims	Unimpaired	Deemed to Accept
3.	Secured Tax Claims	Unimpaired	Deemed to Accept
4.	Prepetition Credit Agreement Claims	Unimpaired	Deemed to Accept
5.	Prepetition Notes Claims	Impaired	<b><i>Entitled to Vote</i></b>
6.	General Unsecured Claims	Impaired	<b><i>Entitled to Vote</i></b>
7.	Intercompany Claims	Unimpaired	Deemed to Accept
8.	Old Emerge GP Equity Interests	Impaired	Deemed to Reject
9.	Old Emerge LP Equity Interests	Impaired	Deemed to Reject
10.	Old Affiliate Equity Interests	Unimpaired	Deemed to Accept

2. **Voting Record Date.** The Voting Record Date is **September 9, 2019**. The Voting Record Date is the date by which it will be determined which Holders of Claims in Classes 5 and 6, are entitled to vote on the Plan.

3. Every holder of Claims in Class 5 and Class 6 shall receive a Solicitation Package with this mailing, which package shall include a Ballot, the Plan, and Disclosure Statement. If

you have not received a Solicitation Package, including a Ballot, and are entitled to vote on the Plan, you may request a Ballot and voting instructions appropriate for your Claim from the Debtors' Voting and Claims Agent, Kurtzman Carson Consultants LLC, whose contact information is in paragraph 8 below.

4. **Voting Deadline.** The deadline for voting on the Plan is **5:00 p.m. (prevailing Eastern Time) on October 17, 2019** (the "**Voting Deadline**"). If you hold a Claim against one or more of the Debtors as of the Voting Record Date and are entitled to vote to accept or reject the Plan, you should have received a Ballot and corresponding voting instructions. For your vote to be counted, you **must**: (i) follow such voting instructions carefully, (ii) complete **all** the required information on the Ballot,; **and** (iii) sign, date and return your completed Ballot, so that it is **actually received** by the Voting and Claims Agent according to and as set forth in detail in the voting instructions on or before the Voting Deadline. *A failure to follow such instructions may disqualify your vote.*

5. **Temporary Allowance of Claims for Voting Purposes.** Any Holder of a Claim in Class 5 and Class 6 against the Debtors for which such Holder has filed a proof of claim, which, in whole or in part, reflects an unliquidated or contingent claim, and which is not subject to an objection filed by the Debtors, shall have its entire claim temporarily allowed for voting purposes only, and not for purposes of allowance or distribution, at \$1.00. Any Holder of a Claim in Class 5 and Class 6 against the Debtors for which the Debtors have filed an objection on or before **September 9, 2019**, whether such objection related to the entire claim or a portion thereof, shall not be entitled to vote on the Plan and shall not be counted in determining whether the requirements of Bankruptcy Code Section 1126(c) have been met with respect to the Plan, unless such Holder files and serves upon the Notice Parties listed below a motion requesting temporary allowance of its Claim solely for voting purposes in accordance with Bankruptcy Rule 3018 (such motion, the "**Rule 3018(a) Motion**") by **4:00 p.m. (prevailing Eastern Time) on September 27, 2019** (the "**Rule 3018(a) Motion Deadline**"); **provided however**, that if the Debtors file an objection to a Claim on or after the date that is fourteen (14) days before the Rule 3018(a) Motion Deadline, then Rule 3018(a) Motion Deadline shall be extended as to such Claim such that the Holder thereof shall have at least fourteen (14) days to file a Rule 3018(a) Motion; **provided further however**, that all objections to Claims for voting purposes shall be filed and served by the Debtors no later than September 23, 2019. No later than three (3) Business Days after the filing and service of a Rule 3018(a) Motion, the Voting and Claims Agent will send such Holder a Solicitation Package, including the appropriate Ballot, and a pre-addressed, postage pre-paid envelope, which such Holder must then return its Ballot according to the instructions attached thereto so it is **actually received** by the Voting and Claims Agent on or before the Voting Deadline. Please be advised that the Debtors reserve all of their rights and objections regarding any and all Rule 3018(a) Motions that may be filed with the Bankruptcy Court and that the distribution of a Solicitation Package is not and shall not constitute a waiver or release of such rights and objections.

### **CRITICAL INFORMATION REGARDING OBJECTING TO THE PLAN**

**ARTICLE X OF THE PLAN CONTAINS RELEASE, EXCULPATION AND INJUNCTION PROVISIONS. THUS, YOU ARE ADVISED TO REVIEW AND CONSIDER THE PLAN CAREFULLY BECAUSE YOUR RIGHTS MIGHT BE AFFECTED THEREUNDER.**

6. **Plan Objection Deadline.** The deadline for filing objections to the Plan is **October 11, 2019 at 4:00 p.m. (prevailing Eastern Time)** (the "**Plan Objection Deadline**").

7. Objections to the Plan. Any objection to the Plan must: (i) be in writing; (ii) conform to the Bankruptcy Rules and the Local Rules; (iii) state the name and address of the objecting party and the amount and nature of the Claim of such Entity; (iv) state with particularity the basis and nature of any objection to the Plan and, if practicable, a proposed modification to the Plan that would resolve such objection; and (v) be filed with the United States Bankruptcy Court for the District of Delaware, 824 North Market Street, 3rd Floor, Wilmington, DE 19801, no later than the Plan Objection Deadline and served on the parties listed below (the “**Notice Parties**”), with proof of service filed as and when required by the Local Rules of the Bankruptcy Court. CONFIRMATION OBJECTIONS NOT TIMELY FILED AND SERVED IN THE MANNER SET FORTH HEREIN MAY NOT BE CONSIDERED BY THE BANKRUPTCY COURT AND MAY BE OVERRULED WITHOUT FURTHER NOTICE.

### Notice Parties

- (i) Counsel to the Debtors, Latham & Watkins LLP, 885 Third Avenue, New York, New York 10022-4834 (Attn: Keith A. Simon, Esq., Hugh K. Murtagh, Esq., and Liza L. Burton, Esq. (emails: keith.simon@lw.com, hugh.murtagh@lw.com, and liza.burton@lw.com)) and Richards, Layton & Finger, P.A., One Rodney Square, 920 North King Street, Wilmington, Delaware 19801 (Attn: John H. Knight, Esq. and Paul N. Heath, Esq. (emails: knight@rlf.com and heath@rlf.com));
- (ii) Counsel to the DIP Agent and the Prepetition Agents, Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, NY 10153-0119 (Attn: Matt S. Barr, Esq., David Griffiths, Esq., and Candace M. Arthur, Esq. (emails: matt.barr@weil.com, david.griffiths@weil.com, and candace.arthur@weil.com)) and Pachulski Stang Ziehl & Jones LLP, 919 North Market Street, Wilmington, Delaware 19801 (Attn: Laura Davis Jones, Esq. (email: ljones@pszjlaw.com)); and
- (iii) Counsel to the Committee, Kilpatrick Townsend & Stockton LLP, 1114 Avenue of the Americas, New York, New York 10036 (Attn: Todd C. Meyers, Esq., David M. Posner, Esq., and Kelly Moynihan, Esq. (emails: tmeyers@kilpatricktownsend.com, dposner@kilpatricktownsend.com, and kmoynihan@kilpatricktownsend.com)), Kilpatrick Townsend & Stockton LLP, 700 Louisiana Street, Suite 4300, Houston, Texas 77002 (Attn: Lenard M. Parkins, Esq. (email: lparkins@kilpatricktownsend.com)), and Potter Anderson & Corroon LLP, 1313 North Market Street, Sixth Floor, P.O. Box 951, Wilmington, Delaware 19899 (Attn: Jeremy W. Ryan, Esq., Christopher M. Samis, Esq., and D. Ryan Slauch, Esq. (emails: jryan@potteranderson.com, csamis@potteranderson.com, and rslauch@potteranderson.com)); and
- (iv) The Office of the United States Trustee for the District of Delaware, 844 King Street, Suite 2207, Wilmington, Delaware 19801 (Attn: Juliet M. Sarkessian, Esq. (email: Juliet.M.Sarkessian@usdoj.gov)).

### ADDITIONAL INFORMATION

8. Obtaining Solicitation Materials. If you would like to obtain a Solicitation Package, a copy of the Plan Supplement once filed, or if you have questions regarding the procedures and requirements for objecting to the Plan, you may contact the Debtors’ Voting and Claims Agent, Kurtzman Carson Consultants LLC, by: (i) calling the Debtors’ restructuring hotline at 877-634-7165 (toll-free in US and Canada) or 424-236-7221 (for international callers); (ii) visiting the Debtors’ restructuring website at: <http://www.kccllc.net/EmergeEnergy> (see Tab for Plan and Disclosure Statement); and/or (iii) writing to Emerge Energy Claims Processing

Center, c/o Kurtzman Carson Consultants LLC, 222 N. Pacific Coast Highway, Suite 300, El Segundo, CA 90245. 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> or free of charge at <http://www.kccllc.net/EmergeEnergy>. Please be advised that the Voting and Claims Agent is authorized to answer questions and provide additional copies of solicitation materials but may not advise you as to whether you should vote to accept or reject the Plan.

9. Filing the Plan Supplement. The Debtors shall file the Plan Supplement by no later than October 4, 2019, and will serve the Plan Supplement on all parties that have filed requests for notice in these Chapter 11 Cases pursuant to Bankruptcy Rule 2002 as of such filing date and on such parties directed by the Court pursuant to the Disclosure Statement Order. Copies of the Plan Supplement may be obtained in the manner set forth in paragraph 8 above, once it is filed.

10. **THE PLAN CONTAINS RELEASE, EXCULPATION AND INJUNCTION PROVISIONS. THE PROVISIONS ARE SET FORTH AT THE END OF THIS NOTICE. YOU SHOULD REVIEW THESE PROVISIONS CAREFULLY.**

Wilmington, Delaware  
[\_\_\_\_], 2019

<b>LATHAM &amp; WATKINS LLP</b> Attn: George A. Davis Attn: Keith A. Simon Attn: Hugh K. Murtagh Attn: Liza L. Burton 885 Third Avenue New York, New York 10022-4834 Fax: 212-751-4864	<b>RICHARDS, LAYTON &amp; FINGER, P.A.</b> Attn: John H. Knight Attn: Paul N. Heath Attn: Zachary I. Shapiro Attn: Brett M. Haywood One Rodney Square 920 North King Street Wilmington, Delaware 19801 Fax: 302-651-7701
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*Co-Counsel to the Debtors*

**RELEASE, EXCULPATION, AND INJUNCTION PROVISIONS CONTAINED  
IN THE PLAN**

**Release of Claims and Causes of Action**

1. Release by the Debtors and their Estates. Pursuant to section 1123(b) and any other applicable provisions of the Bankruptcy Code, and except as otherwise expressly provided in the Plan, effective as of the Effective Date, for good and valuable consideration provided by each of the Released Parties, the adequacy and sufficiency of which is thereby confirmed, the Debtors and the Reorganized Debtors, in their respective individual capacities and as debtors-in-possession, and on behalf of themselves and their respective Estates, including, without limitation, any successor to the Debtors or any Estate representative appointed or selected pursuant to section 1123(b)(3) of the Bankruptcy Code (collectively, the "Debtor Releasing Parties") will be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever provided a full discharge, waiver and release to each of the Released Parties (and each such Released Party so released shall be deemed forever released, waived and discharged by the Debtor Releasing Parties) and their respective assets and properties (the "Debtor Release") from any and all claims, Causes of Action, Released and Settled Claims, Litigation Claims and any other debts, obligations, rights, suits, damages, actions, remedies, and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, whether directly or derivatively held, existing as of the

Effective Date or thereafter arising, in law, at equity or otherwise, whether for tort, contract, violations of federal or state securities laws, or otherwise, based in whole or in part upon any act or omission, transaction, or other occurrence or circumstances existing or taking place prior to or on the Effective Date arising from or related in any way in whole or in part to any of the Debtors, including, without limitation, (i) the Chapter 11 Cases, the Disclosure Statement, the Plan, the Restructuring Support Agreement and the Restructuring Documents, (ii) the subject matter of, or the transactions or events giving rise to, any Claim or Equity Interest that is treated in the Plan, (iii) the business or contractual arrangements between any Debtor and any Released Parties, (iv) the negotiation, formulation or preparation of the Restructuring Support Agreement, the Plan, the Disclosure Statement, the Plan Supplement, the Restructuring Documents, or related agreements, instruments or other documents, (v) the restructuring of Claims or Equity Interests prior to or during the Chapter 11 Cases, (vi) the purchase, sale, or rescission of the purchase or sale of any Equity Interest of the Debtors or the Reorganized Debtors, and/or (vii) the Confirmation or Consummation of the Plan or the solicitation of votes on the Plan that such Debtor Releasing Party would have been legally entitled to assert (whether individually or collectively) or that any Holder of a Claim or Equity Interest or other Entity would have been legally entitled to assert for, or on behalf or in the name of, any Debtor, its respective Estate or any Reorganized Debtor (whether directly or derivatively) against any of the Released Parties; provided, however, that the foregoing provisions of this Debtor Release shall not operate to waive or release: (i) any Causes of Action arising from willful misconduct, actual fraud, or gross negligence of such applicable Released Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction; (ii) any Causes of Action relating to the MSHA Action (other than against a member of the Special Restructuring Committee); and/or (iii) the rights of such Debtor Releasing Party to enforce the Plan and the contracts, instruments, releases, indentures, and other agreements or documents delivered under or in connection with the Plan or assumed pursuant to the Plan or assumed pursuant to Final Order of the Bankruptcy Court. The foregoing release shall be effective as of the Effective Date without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Person and the Confirmation Order will permanently enjoin the commencement or prosecution by any Person or Entity, whether directly, derivatively or otherwise, of any claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, or liabilities released pursuant to this Debtor Release. Notwithstanding the foregoing, nothing in this Article X.B shall or shall be deemed to (i) prohibit the Debtors or the Reorganized Debtors from asserting and enforcing any claims, obligations, suits, judgments, demands, debts, rights, Causes of Action or liabilities they may have against any Person that is based upon an alleged breach of a confidentiality or non-compete obligation owed to the Debtors or the Reorganized Debtors and/or (ii) operate as a release or waiver of any Intercompany Claims, in each case unless otherwise expressly provided for in the Plan.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the Debtor Release, which includes by reference each of the related provisions and definitions contained under the Plan, and further, shall constitute the Bankruptcy Court's finding that the Debtor Release is: (i) in exchange for the good and valuable consideration provided by the Released Parties; (ii) a good faith settlement and compromise of the claims released by the Debtor Release; (iii) in the best interest of the Debtors and their Estates; (iv) fair, equitable and reasonable; and (v) given and made after due notice and opportunity for hearing.

2. Release By Third Parties. Except as otherwise expressly provided in the Plan, effective as of the Effective Date, to the fullest extent permitted by applicable law, for good and valuable consideration provided by each of the Released Parties, the adequacy and

sufficiency of which is thereby confirmed, and without limiting or otherwise modifying the scope of the Debtor Release provided by the Debtor Releasing Parties above, each Non-Debtor Releasing Party (together with the Debtor Releasing Parties, the “Releasing Parties”) will be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever provided a full discharge, waiver and release to each of the Released Parties (and each such Released Party so released shall be deemed forever released, waived and discharged by the Non-Debtor Releasing Parties) and their respective assets and properties (the “Third Party Release”) from any and all claims, Causes of Action, Released and Settled Claims, Litigation Claims and any other debts, obligations, rights, suits, damages, actions, remedies, and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, whether directly or derivatively held, existing as of the Effective Date or thereafter arising, in law, at equity or otherwise, whether for tort, contract, violations of federal or state securities laws, or otherwise, based in whole or in part upon any act or omission, transaction, or other occurrence or circumstances existing or taking place prior to or on the Effective Date arising from or related in any way in whole or in part to any of the Debtors, including, without limitation, (i) the Chapter 11 Cases, the Disclosure Statement, the Plan, the Restructuring Support Agreement and the Restructuring Documents, (ii) the subject matter of, or the transactions or events giving rise to, any Claim or Equity Interest that is treated in the Plan, (iii) the business or contractual arrangements between any Debtor and any Released Parties, (iv) the negotiation, formulation or preparation of the Restructuring Support Agreement, the Plan, the Disclosure Statement, the Plan Supplement, the Restructuring Documents, or related agreements, instruments or other documents, (v) the restructuring of Claims or Equity Interests prior to or during the Chapter 11 Cases, (vi) the purchase, sale or rescission of the purchase or sale of any Equity Interest of the Debtors or the Reorganized Debtors, and/or (vii) the Confirmation or Consummation of the Plan or the solicitation of votes on the Plan that such Non-Debtor Releasing Party would have been legally entitled to assert (whether individually or collectively) against any of the Released Parties; provided, however, that the foregoing provisions of this Third Party Release shall not operate to waive or release (i) any Causes of Action arising from willful misconduct, actual fraud, or gross negligence of such applicable Released Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction; (ii) any Causes of Action relating to the MSHA Action (other than against a member of the Special Restructuring Committee); and/or (iii) the rights of such Non-Debtor Releasing Party to enforce the Plan and the contracts, instruments, releases, indentures, and other agreements and documents delivered under or in connection with the Plan or assumed pursuant to the Plan or Final Order of the Bankruptcy Court. The foregoing release shall be effective as of the Effective Date, without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Person and the Confirmation Order will permanently enjoin the commencement or prosecution by any Person or Entity, whether directly, derivatively or otherwise, of any claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, or liabilities released pursuant to this Third Party Release.

Entry of the Confirmation Order shall constitute the Bankruptcy Court’s approval of the Third Party Release, which includes by reference each of the related provisions and definitions contained under the Plan, and further, shall constitute the Bankruptcy Court’s finding that the Third Party Release is: (i) in exchange for the good and valuable consideration provided by the Released Parties; (ii) a good faith settlement and compromise of the claims released by the Third Party Release; (iii) in the best interest of the Debtors and all Holders of Claims and Equity Interests; (iv) fair, equitable and reasonable; and (v) given and made after due notice and opportunity for hearing.

### 3. Exculpation

Effective as of the Effective Date, the Exculpated Parties shall neither have nor incur any liability to any Person or Entity for any claims, Causes of Action or Released and Settled Claim arising prior to or on the Effective Date for any act taken or omitted to be taken in connection with, or related to, formulating, negotiating, preparing, disseminating, implementing, administering, confirming or effecting the Confirmation or Consummation of the Plan, the Disclosure Statement, the Restructuring Documents or any contract, instrument, release or other agreement or document created or entered into in connection with the Plan, including the Restructuring Support Agreement, or any other prepetition or postpetition act taken or omitted to be taken in connection with or in contemplation of the restructuring of the Debtors, the approval of the Disclosure Statement or Confirmation or Consummation of the Plan; provided, however, that the foregoing provisions of this exculpation shall not operate to waive or release: (i) any Causes of Action arising from willful misconduct, actual fraud, or gross negligence of such applicable Exculpated Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction; and/or (ii) the rights of any Person or Entity to enforce the Plan and the contracts, instruments, releases, indentures, and other agreements and documents delivered under or in connection with the Plan or assumed pursuant to the Plan or Final Order of the Bankruptcy Court; provided, further, that each Exculpated Party shall be entitled to rely upon the advice of counsel concerning its respective duties pursuant to, or in connection with, the above referenced documents, actions or inactions. The foregoing exculpation shall be effective as of the Effective Date without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Person. Notwithstanding the foregoing, nothing in this Article X.E shall or shall be deemed to prohibit the Debtors or the Reorganized Debtors from asserting and enforcing any claims, obligations, suits, judgments, demands, debts, rights, Causes of Action or liabilities they may have against any Person that is based upon an alleged breach of a confidentiality or non-compete obligation owed to the Debtors or the Reorganized Debtors, in each case unless otherwise expressly provided for in the Plan.

#### 4. Injunction

Except as otherwise expressly provided in the Plan or the Confirmation Order, from and after the Effective Date, all Persons and Entities are, to the fullest extent provided under section 524 and other applicable provisions of the Bankruptcy Code, permanently enjoined from (i) commencing or continuing, in any manner or in any place, any suit, action or other proceeding; (ii) enforcing, attaching, collecting, or recovering in any manner any judgment, award, decree, or order; (iii) creating, perfecting, or enforcing any Lien or encumbrance; (iv) asserting a setoff or right of subrogation of any kind; or (v) commencing or continuing in any manner any action or other proceeding of any kind, in each case on account of or with respect to any Claim, demand, liability, obligation, debt, right, Cause of Action, equity interest, or remedy released or to be released, exculpated or to be exculpated, settled or to be settled or discharged or to be discharged pursuant to the Plan or the Confirmation Order against any Person or Entity so released, discharged, or exculpated (or the property or estate of any Person or Entity so released, discharged, or exculpated). All injunctions or stays provided for in the Chapter 11 Cases under section 105 or section 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect until the Effective Date.

#### Certain Definitions Contains in the Plan Release, Exculpation and Injunction Provisions

“*Causes of Action*” means any claims, causes of action (including Avoidance Actions), demands, actions, suits, obligations, liabilities, cross-claims, counterclaims, offsets, or setoffs of



any kind or character whatsoever, in each case whether known or unknown, contingent or non-contingent, matured or unmatured, suspected or unsuspected, foreseen or unforeseen, direct or indirect, choate or inchoate, existing or hereafter arising, under statute, in contract, in tort, in law, or in equity, or pursuant to any other theory of law, federal or state, whether asserted or assertable directly or derivatively in law or equity or otherwise by way of claim, counterclaim, cross-claim, third party action, action for indemnity or contribution or otherwise, based in whole or in part upon any act or omission or other event occurring prior to the Petition Date or during the course of the Chapter 11 Cases, including through the Effective Date.

**“Exculpated Parties”** means, collectively: (a) the Debtors; (b) the Reorganized Debtors; (c) any Committee and the members thereof in their capacity as such; (d) the DIP Credit Agreement Agent; (e) DIP Credit Agreement Lenders; (f) the Prepetition Credit Agreement Agent; (g) the Prepetition Credit Agreement Lenders; (h) the Prepetition Notes Agent; (i) the Prepetition Noteholders; and (j) in each case, the respective Related Persons of each of the foregoing Entities.

**“Litigation Claims”** means the claims, rights of action, suits or proceedings, whether in law or in equity, whether known or unknown, that any Debtor or any Estate may hold against any Person or Entity, including, without limitation, the Causes of Action of the Debtors or their Estates, in each case solely to the extent of the Debtors’ or their Estates’ interest therein. A non-exclusive list of the Litigation Claims held by the Debtors as of the Effective Date is to be Filed with the Plan Supplement, which shall be deemed to include any derivative actions filed against any Debtor as of the Effective Date.

**“New Railcar Lease Agreements”** means those certain railcar lease agreements entered into between the Debtors and the Specified Rail Car Lessors pursuant to the New Railcar Lease Agreements Order.

**“New Railcar Lease Agreements Order”** means the Order Authorizing the Debtors to (I) Reject Certain Railcar Lease Agreements Nunc Pro Tunc to the Petition Date and (II) Enter Into Proposed New Railcar Lease Agreements Effective as of the Petition Date entered by the Bankruptcy Court in the Chapter 11 Cases (Docket No. 208), as such order may be amended, supplemented, or modified from time to time.

**“Non-Debtor Releasing Parties”** means, collectively: (a) the Committee and the members thereof in their capacity as such; (b) the Prepetition Credit Agreement Agent and the Releasing Prepetition Credit Agreement Lenders; (c) the DIP Credit Agreement Agent and the DIP Credit Agreement Lenders (d) the Prepetition Notes Agent and the Releasing Prepetition Noteholders; (e) the Releasing Old Emerge LP Equity Holders; (f) those Holders of General Unsecured Claims or Old Emerge LP Equity Interests that do not affirmatively opt out of the Third Party Release as provided on their respective Ballots; and (g) each Specified Railcar Lessor (to the extent it is a Released Party).

**“Related Persons”** means, with respect to any Person, such Person’s predecessors, successors, assigns and present and former Affiliates (whether by operation of law or otherwise) and subsidiaries, and each of their respective current and former officers, directors, principals, employees, shareholders, members (including *ex officio* members and managing members), managers, managed accounts or funds, management companies, fund advisors, advisory or subcommittee board members, partners, agents, financial advisors, attorneys, accountants, investment bankers, investment advisors, consultants, representatives, and other professionals, in each case acting in such capacity at any time on or after the date of the Restructuring Support Agreement, and any Person claiming by or through any of them, including such Related Persons’

respective heirs, executors, estates, servants, and nominees; *provided, however*, that no insurer of any Debtor shall constitute a Related Person.

**“Released and Settled Claims”** means all Claims and Causes of Action made, or which could have been made, on or on behalf of any of the Debtors against the Prepetition Revolver Agent, the Prepetition Revolving Lenders, the Prepetition Note Agent, or the Prepetition Noteholders, or any of their respective affiliates, agents, attorneys, advisors, professionals, officers, directors, and employees, in their respective capacities as such.

**“Released Party”** means, collectively: (a) the Debtors; (b) the Reorganized Debtors; (c) the Committee and the members thereof in their capacity as such; (d) the Prepetition Credit Agreement Agent and the Releasing Prepetition Credit Agreement Lenders; (e) the DIP Credit Agreement Agent and the DIP Credit Agreement Lenders; (f) the Prepetition Notes Agent and the Releasing Prepetition Noteholders; (g) the Releasing Old Emerge LP Equity Holders; and (h) each Specified Railcar Lessor, so long as the applicable New Railcar Lease Agreement(s) between the Debtors and the applicable Specified Railcar Lessor is in full force and effect as of the Effective Date; and in each case the respective Related Persons of each of the foregoing Entities.

**“Specified Railcar Lessors”** means, collectively, (a) Trinity Industries Leasing Company, (b) MUL Railcars Leasing, LLC, and (c) CIT Bank, N.A. and The CIT Group/Equipment Financing, Inc., as an assignee of CIT Rail, LLC.

**EXHIBIT 7**

**Notice of Limited Voting Status:  
Contingent or Unliquidated Claims for which No Objection has Been Filed by the Debtors**

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

In re:	X	
	:	Chapter 11
	:	
EMERGE ENERGY SERVICES LP, <i>et al.</i> , <sup>1</sup>	:	Case No. 19-11563 (KBO)
	:	
Debtors.	:	(Jointly Administered)
	:	
	:	
	X	

**NOTICE OF LIMITED VOTING STATUS TO HOLDERS OF CONTINGENT OR UNLIQUIDATED CLAIMS FOR WHICH NO OBJECTION HAS BEEN FILED**

PLEASE TAKE NOTICE THAT on [\_\_\_], 2019, Emerge Energy Services LP and its affiliate debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “**Debtors**”) filed their (i) *First Amended Joint Plan of Reorganization for Emerge Energy Services LP and its Affiliate Debtors Under Chapter 11 of the Bankruptcy Code* [Docket No. [●]] (as may be amended from time to time, the “**Plan**”) and (ii) *Disclosure Statement for the First Amended Joint Plan of Reorganization for Emerge Energy Services LP and its Affiliate Debtors Under Chapter 11 of the Bankruptcy Code* [Docket No. [●]] (as may be amended from time to time, the “**Disclosure Statement**”),<sup>2</sup> and by no later than October 4, 2019, the Debtors shall file the Plan Supplement. On [●], 2019, the Bankruptcy Court entered *Order (I) Approving the Disclosure Statement, (II) Establishing the Voting Record Date, Voting Deadline and Other dates, (III) Approving Procedures for Soliciting, Receiving and Tabulating Votes on the Plan and for Filing objections to the Plan and (IV) Approving the Manner and Forms of Notice and Other Related Documents, (V) Approving Procedures for Assumption of Contracts and Leases and Form and Manner of Assumption Notice, and (VI) Granting Related Relief* [Docket No. [●]] (the “**Disclosure Statement Order**”).

PLEASE TAKE FURTHER NOTICE THAT you are receiving this notice because you are the Holder of a Claim that has filed a proof of claim, which, in whole or in part, reflects an unliquidated or contingent claim, but which is not subject to an objection filed by the Debtors. As a result, your vote will be counted for numerosity purposes and allowed in the amount of \$1.00 for voting purposes only. If you disagree with the Debtors’ classification or status of your Claim, then you **MUST** file with the Bankruptcy Court and serve upon the Notice Parties listed below, on or before **4:00 p.m. prevailing Eastern Time on September 27, 2019**(the “**Rule 3018(a) Motion Deadline**”), a motion requesting temporary allowance of your Claim solely for voting purposes in accordance with Bankruptcy Rule 3018 (such motion, the “**Rule 3018(a) Motion**”). Provided that you are the Holder of a Claim in a voting class, no later than three (3) Business Days after the filing and service of such Rule 3018(a) Motion, the Voting and Claims Agent will send you a Solicitation Package, including the appropriate ballot, and a pre-addressed, postage pre-paid envelope, which you must then return your ballot according to the instructions

<sup>1</sup> The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: Emerge Energy Services LP (2937), Emerge Energy Services GP LLC (4683), Emerge Energy Services Operating LLC (2511), Superior Silica Sands LLC (9889), and Emerge Energy Services Finance Corporation (9875). The Debtors’ address is 5600 Clearfork Main Street, Suite 400, Fort Worth, Texas 76109.

<sup>2</sup> Capitalized terms used but not otherwise defined herein will have the meanings set forth in the Plan.

attached thereto so it is **actually received** by the Voting and Claims Agent on or before **October 11, 2019** (the “**Voting Deadline**”). Please be advised that the Debtors reserve all of their rights and objections regarding any and all Rule 3018(a) Motions that may be filed with the Bankruptcy Court and that the distribution of a Solicitation Package is not and shall not constitute a waiver or release of such rights and objections.

**PLEASE TAKE FURTHER NOTICE THAT** the Confirmation Hearing to consider confirmation of the Plan will commence at **1:00 p.m. (prevailing Eastern Time) on October 24, 2019**, before the Honorable Karen B. Owens, United States Bankruptcy Judge, in the United States Bankruptcy Court for the District of Delaware, located at 824 Market Street, 6th Floor, Courtroom 1, Wilmington, Delaware 19801. The Confirmation Hearing may be continued from time to time by the Bankruptcy Court or the Debtors without further notice other than by such adjournment being announced in open court and/or by a notice of adjournment filed with the Bankruptcy Court and served on such parties as the Bankruptcy Court may order. Moreover, the Plan may be modified or amended, if necessary, pursuant to Bankruptcy Code Section 1127, prior to, during or as a result of the Confirmation Hearing, without further notice to parties in interest.

**PLEASE TAKE FURTHER NOTICE THAT** the deadline for filing objections to the Plan is **October 11, 2019 at 4:00 p.m. prevailing Eastern Time** (the “**Plan Objection Deadline**”). Any objection to the Plan must: (i) be in writing; (ii) conform to the Bankruptcy Rules and the Local Rules; (iii) state the name and address of the objecting party and the amount and nature of the Claim of such Entity; (iv) state with particularity the basis and nature of any objection to the Plan and, if practicable, a proposed modification to the Plan that would resolve such objection; and (v) be filed, with the United States Bankruptcy Court for the District of Delaware, 824 North Market Street, 3rd Floor, Wilmington, DE 19801 no later than the Plan Objection Deadline and served on the parties listed below (the “**Notice Parties**”), with proof of service filed as and when required by the Local Rules of the Bankruptcy Court. CONFIRMATION OBJECTIONS NOT TIMELY FILED AND SERVED IN THE MANNER SET FORTH HEREIN MAY NOT BE CONSIDERED BY THE BANKRUPTCY COURT AND MAY BE OVERRULED WITHOUT FURTHER NOTICE.

#### Notice Parties

- (i) Counsel to the Debtors, Latham & Watkins LLP, 885 Third Avenue, New York, New York 10022-4834 (Attn: Keith A. Simon, Esq., Hugh K. Murtagh, Esq., and Liza L. Burton, Esq. (emails: keith.simon@lw.com, hugh.murtagh@lw.com, and liza.burton@lw.com)) and Richards, Layton & Finger, P.A., One Rodney Square, 920 North King Street, Wilmington, Delaware 19801 (Attn: John H. Knight, Esq. and Paul N. Heath, Esq. (emails: knight@rlf.com and heath@rlf.com));
- (ii) Counsel to the DIP Agent and the Prepetition Agents, Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, NY 10153-0119 (Attn: Matt S. Barr, Esq., David Griffiths, Esq., and Candace M. Arthur, Esq. (emails: matt.barr@weil.com, david.griffiths@weil.com, and candace.arthur@weil.com)) and Pachulski Stang Ziehl & Jones LLP, 919 North Market Street, Wilmington, Delaware 19801 (Attn: Laura Davis Jones, Esq. (email: ljones@pszjlaw.com)); and
- (iii) Counsel to the Committee, Kilpatrick Townsend & Stockton LLP, 1114 Avenue of the Americas, New York, New York 10036 (Attn: Todd C. Meyers, Esq., David M. Posner, Esq., and Kelly Moynihan, Esq. (emails: tmeyers@kilpatricktownsend.com, dposner@kilpatricktownsend.com, and kmoynihan@kilpatricktownsend.com)), Kilpatrick Townsend & Stockton LLP, 700 Louisiana Street, Suite 4300, Houston, Texas 77002 (Attn: Lenard M.

Parkins, Esq. (email: lparkins@kilpatricktownsend.com)), and Potter Anderson & Corroon LLP, 1313 North Market Street, Sixth Floor, P.O. Box 951, Wilmington, Delaware 19899 (Attn: Jeremy W. Ryan, Esq., Christopher M. Samis, Esq., and D. Ryan Slaugh, Esq. (emails: jryan@potteranderson.com, csamis@potteranderson.com, and rslaug@potteranderson.com)); and

- (iv) The Office of the United States Trustee for the District of Delaware, 844 King Street, Suite 2207, Wilmington, Delaware 19801 (Attn: Juliet M. Sarkessian, Esq. (email: Juliet.M.Sarkessian@usdoj.gov)).

**PLEASE TAKE FURTHER NOTICE THAT** if you would like to obtain a Solicitation Package, a copy of the Plan Supplement once filed, or if you have questions regarding the procedures and requirements for objecting to the Plan, you may contact the Debtors' Voting and Claims Agent, Kurtzman Carson Consultants LLC, by: (i) calling the Debtors' restructuring hotline at 877-634-7165 (toll-free in US and Canada) or 424-236-7221 (for international callers); (ii) visiting the Debtors' restructuring website at: <http://www.kccllc.net/EmergeEnergy> (Please see Tab "Plan and Disclosure Statement"); and/or (iii) writing to Emerge Energy Claims Processing Center, c/o Kurtzman Carson Consultants LLC, 222 N. Pacific Coast Highway, Suite 300, El Segundo, CA 90245. 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> or free of charge at <http://www.kccllc.net/EmergeEnergy>.

**THE PLAN CONTAINS RELEASE, EXCULPATION AND INJUNCTION PROVISIONS. THE PROVISIONS ARE SET FORTH AT THE END OF THIS NOTICE. YOU SHOULD REVIEW THESE PROVISIONS CAREFULLY.**

**THIS NOTICE IS BEING SENT TO YOU FOR INFORMATIONAL PURPOSES ONLY. IF YOU HAVE QUESTIONS ABOUT ANYTHING STATED HEREIN OR IF YOU WOULD LIKE TO OBTAIN ADDITIONAL INFORMATION, PLEASE CONTACT THE VOTING AND CLAIMS AGENT AT THE NUMBER OR ADDRESS SPECIFIED ABOVE.**

Wilmington, Delaware  
[\_\_\_\_], 2019

**LATHAM & WATKINS LLP**

Attn: George A. Davis  
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**RICHARDS, LAYTON & FINGER, P.A.**

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*Co-Counsel to the Debtors*

**ARTICLE X OF THE PLAN CONTAINS THE FOLLOWING RELEASE,  
EXCULPATION AND INJUNCTION PROVISIONS.**

**YOU SHOULD REVIEW THESE PROVISIONS CAREFULLY.**

**Release of Claims and Causes of Action**

1. ***Release by the Debtors and their Estates.*** Pursuant to section 1123(b) and any other applicable provisions of the Bankruptcy Code, and except as otherwise expressly provided in the Plan, effective as of the Effective Date, for good and valuable consideration provided by each of the Released Parties, the adequacy and sufficiency of which is thereby confirmed, the Debtors and the Reorganized Debtors, in their respective individual capacities and as debtors-in-possession, and on behalf of themselves and their respective Estates, including, without limitation, any successor to the Debtors or any Estate representative appointed or selected pursuant to section 1123(b)(3) of the Bankruptcy Code (collectively, the “**Debtor Releasing Parties**”) will be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever provided a full discharge, waiver and release to each of the Released Parties (and each such Released Party so released shall be deemed forever released, waived and discharged by the Debtor Releasing Parties) and their respective assets and properties (the “**Debtor Release**”) from any and all claims, Causes of Action, Released and Settled Claims, Litigation Claims and any other debts, obligations, rights, suits, damages, actions, remedies, and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, whether directly or derivatively held, existing as of the Effective Date or thereafter arising, in law, at equity or otherwise, whether for tort, contract, violations of federal or state securities laws, or otherwise, based in whole or in part upon any act or omission, transaction, or other occurrence or circumstances existing or taking place prior to or on the Effective Date arising from or related in any way in whole or in part to any of the Debtors, including, without limitation, (i) the Chapter 11 Cases, the Disclosure Statement, the Plan, the Restructuring Support Agreement and the Restructuring Documents, (ii) the subject matter of, or the transactions or events giving rise to, any Claim or Equity Interest that is treated in the Plan, (iii) the business or contractual arrangements between any Debtor and any Released Parties, (iv) the negotiation, formulation or preparation of the Restructuring Support Agreement, the Plan, the Disclosure Statement, the Plan Supplement, the Restructuring Documents, or related agreements, instruments or other documents, (v) the restructuring of Claims or Equity Interests prior to or during the Chapter 11 Cases, (vi) the purchase, sale, or rescission of the purchase or sale of any Equity Interest of the Debtors or the Reorganized Debtors, and/or (vii) the Confirmation or Consummation of the Plan or the solicitation of votes on the Plan that such Debtor Releasing Party would have been legally entitled to assert (whether individually or collectively) or that any Holder of a Claim or Equity Interest or other Entity would have been legally entitled to assert for, or on behalf or in the name of, any Debtor, its respective Estate or any Reorganized Debtor (whether directly or derivatively) against any of the Released Parties; **provided, however,** that the foregoing provisions of this Debtor Release shall not operate to waive or release: (i) any Causes of Action arising from willful misconduct, actual fraud, or gross negligence of such applicable Released Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction; (ii) any Causes of Action relating to the MSHA Action (other than against a member of the Special Restructuring Committee); and/or (iii) the rights of such Debtor Releasing Party to enforce the Plan and the contracts, instruments, releases, indentures, and other agreements or documents delivered under or in connection with the Plan or assumed pursuant to the Plan or assumed pursuant to Final Order of the Bankruptcy Court. The foregoing release shall be effective as of the Effective Date without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Person and

the Confirmation Order will permanently enjoin the commencement or prosecution by any Person or Entity, whether directly, derivatively or otherwise, of any claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, or liabilities released pursuant to this Debtor Release. Notwithstanding the foregoing, nothing in this Article X.B shall or shall be deemed to (i) prohibit the Debtors or the Reorganized Debtors from asserting and enforcing any claims, obligations, suits, judgments, demands, debts, rights, Causes of Action or liabilities they may have against any Person that is based upon an alleged breach of a confidentiality or non-compete obligation owed to the Debtors or the Reorganized Debtors and/or (ii) operate as a release or waiver of any Intercompany Claims, in each case unless otherwise expressly provided for in the Plan.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the Debtor Release, which includes by reference each of the related provisions and definitions contained under the Plan, and further, shall constitute the Bankruptcy Court's finding that the Debtor Release is: (i) in exchange for the good and valuable consideration provided by the Released Parties; (ii) a good faith settlement and compromise of the claims released by the Debtor Release; (iii) in the best interest of the Debtors and their Estates; (iv) fair, equitable and reasonable; and (v) given and made after due notice and opportunity for hearing.

2. Release By Third Parties. Except as otherwise expressly provided in the Plan, effective as of the Effective Date, to the fullest extent permitted by applicable law, for good and valuable consideration provided by each of the Released Parties, the adequacy and sufficiency of which is thereby confirmed, and without limiting or otherwise modifying the scope of the Debtor Release provided by the Debtor Releasing Parties above, each Non-Debtor Releasing Party (together with the Debtor Releasing Parties, the "Releasing Parties") will be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever provided a full discharge, waiver and release to each of the Released Parties (and each such Released Party so released shall be deemed forever released, waived and discharged by the Non-Debtor Releasing Parties) and their respective assets and properties (the "Third Party Release") from any and all claims, Causes of Action, Released and Settled Claims, Litigation Claims and any other debts, obligations, rights, suits, damages, actions, remedies, and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, whether directly or derivatively held, existing as of the Effective Date or thereafter arising, in law, at equity or otherwise, whether for tort, contract, violations of federal or state securities laws, or otherwise, based in whole or in part upon any act or omission, transaction, or other occurrence or circumstances existing or taking place prior to or on the Effective Date arising from or related in any way in whole or in part to any of the Debtors, including, without limitation, (i) the Chapter 11 Cases, the Disclosure Statement, the Plan, the Restructuring Support Agreement and the Restructuring Documents, (ii) the subject matter of, or the transactions or events giving rise to, any Claim or Equity Interest that is treated in the Plan, (iii) the business or contractual arrangements between any Debtor and any Released Parties, (iv) the negotiation, formulation or preparation of the Restructuring Support Agreement, the Plan, the Disclosure Statement, the Plan Supplement, the Restructuring Documents, or related agreements, instruments or other documents, (v) the restructuring of Claims or Equity Interests prior to or during the Chapter 11 Cases, (vi) the purchase, sale or rescission of the purchase or sale of any Equity Interest of the Debtors or the Reorganized Debtors, and/or (vii) the Confirmation or Consummation of the Plan or the solicitation of votes on the Plan that such Non-Debtor Releasing Party would have been legally entitled to assert (whether individually or collectively) against any of the Released Parties; provided, however, that the foregoing provisions of this Third Party Release shall not operate to waive or release (i) any Causes of Action arising from willful misconduct, actual fraud, or gross negligence of such applicable Released Party as determined by Final Order of the Bankruptcy Court or any other court



of competent jurisdiction; (ii) any Causes of Action relating to the MSHA Action (other than against a member of the Special Restructuring Committee); and/or (iii) the rights of such Non-Debtor Releasing Party to enforce the Plan and the contracts, instruments, releases, indentures, and other agreements and documents delivered under or in connection with the Plan or assumed pursuant to the Plan or Final Order of the Bankruptcy Court. The foregoing release shall be effective as of the Effective Date, without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Person and the Confirmation Order will permanently enjoin the commencement or prosecution by any Person or Entity, whether directly, derivatively or otherwise, of any claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, or liabilities released pursuant to this Third Party Release.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of the Third Party Release, which includes by reference each of the related provisions and definitions contained under the Plan, and further, shall constitute the Bankruptcy Court's finding that the Third Party Release is: (i) in exchange for the good and valuable consideration provided by the Released Parties; (ii) a good faith settlement and compromise of the claims released by the Third Party Release; (iii) in the best interest of the Debtors and all Holders of Claims and Equity Interests; (iv) fair, equitable and reasonable; and (v) given and made after due notice and opportunity for hearing.

### 3. Exculpation

Effective as of the Effective Date, the Exculpated Parties shall neither have nor incur any liability to any Person or Entity for any claims, Causes of Action or Released and Settled Claim arising prior to or on the Effective Date for any act taken or omitted to be taken in connection with, or related to, formulating, negotiating, preparing, disseminating, implementing, administering, confirming or effecting the Confirmation or Consummation of the Plan, the Disclosure Statement, the Restructuring Documents or any contract, instrument, release or other agreement or document created or entered into in connection with the Plan, including the Restructuring Support Agreement, or any other prepetition or postpetition act taken or omitted to be taken in connection with or in contemplation of the restructuring of the Debtors, the approval of the Disclosure Statement or Confirmation or Consummation of the Plan; provided, however, that the foregoing provisions of this exculpation shall not operate to waive or release: (i) any Causes of Action arising from willful misconduct, actual fraud, or gross negligence of such applicable Exculpated Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction; and/or (ii) the rights of any Person or Entity to enforce the Plan and the contracts, instruments, releases, indentures, and other agreements and documents delivered under or in connection with the Plan or assumed pursuant to the Plan or Final Order of the Bankruptcy Court; provided, further, that each Exculpated Party shall be entitled to rely upon the advice of counsel concerning its respective duties pursuant to, or in connection with, the above referenced documents, actions or inactions. The foregoing exculpation shall be effective as of the Effective Date without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Person. Notwithstanding the foregoing, nothing in this Article X.E shall or shall be deemed to prohibit the Debtors or the Reorganized Debtors from asserting and enforcing any claims, obligations, suits, judgments, demands, debts, rights, Causes of Action or liabilities they may have against any Person that is based upon an alleged breach of a confidentiality or non-compete obligation owed to the Debtors or the Reorganized Debtors, in each case unless otherwise expressly provided for in the Plan.

#### 4. Injunction

Except as otherwise expressly provided in the Plan or the Confirmation Order, from and after the Effective Date, all Persons and Entities are, to the fullest extent provided under section 524 and other applicable provisions of the Bankruptcy Code, permanently enjoined from (i) commencing or continuing, in any manner or in any place, any suit, action or other proceeding; (ii) enforcing, attaching, collecting, or recovering in any manner any judgment, award, decree, or order; (iii) creating, perfecting, or enforcing any Lien or encumbrance; (iv) asserting a setoff or right of subrogation of any kind; or (v) commencing or continuing in any manner any action or other proceeding of any kind, in each case on account of or with respect to any Claim, demand, liability, obligation, debt, right, Cause of Action, equity interest, or remedy released or to be released, exculpated or to be exculpated, settled or to be settled or discharged or to be discharged pursuant to the Plan or the Confirmation Order against any Person or Entity so released, discharged, or exculpated (or the property or estate of any Person or Entity so released, discharged, or exculpated). All injunctions or stays provided for in the Chapter 11 Cases under section 105 or section 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect until the Effective Date.

#### Certain Definitions Contains in the Plan Release, Exculpation and Injunction Provisions

“*Causes of Action*” means any claims, causes of action (including Avoidance Actions), demands, actions, suits, obligations, liabilities, cross-claims, counterclaims, offsets, or setoffs of any kind or character whatsoever, in each case whether known or unknown, contingent or non-contingent, matured or unmatured, suspected or unsuspected, foreseen or unforeseen, direct or indirect, choate or inchoate, existing or hereafter arising, under statute, in contract, in tort, in law, or in equity, or pursuant to any other theory of law, federal or state, whether asserted or assertable directly or derivatively in law or equity or otherwise by way of claim, counterclaim, cross-claim, third party action, action for indemnity or contribution or otherwise, based in whole or in part upon any act or omission or other event occurring prior to the Petition Date or during the course of the Chapter 11 Cases, including through the Effective Date.

“*Exculpated Parties*” means, collectively: (a) the Debtors; (b) the Reorganized Debtors; (c) any Committee and the members thereof in their capacity as such; (d) the DIP Credit Agreement Agent; (e) DIP Credit Agreement Lenders; (f) the Prepetition Credit Agreement Agent; (g) the Prepetition Credit Agreement Lenders; (h) the Prepetition Notes Agent; (i) the Prepetition Noteholders; and (j) in each case, the respective Related Persons of each of the foregoing Entities.

“*Litigation Claims*” means the claims, rights of action, suits or proceedings, whether in law or in equity, whether known or unknown, that any Debtor or any Estate may hold against any Person or Entity, including, without limitation, the Causes of Action of the Debtors or their Estates, in each case solely to the extent of the Debtors’ or their Estates’ interest therein. A non-exclusive list of the Litigation Claims held by the Debtors as of the Effective Date is to be Filed with the Plan Supplement, which shall be deemed to include any derivative actions filed against any Debtor as of the Effective Date.

“*New Railcar Lease Agreements*” means those certain railcar lease agreements entered into between the Debtors and the Specified Rail Car Lessors pursuant to the New Railcar Lease Agreements Order.

“*New Railcar Lease Agreements Order*” means the Order Authorizing the Debtors to (I) Reject Certain Railcar Lease Agreements Nunc Pro Tunc to the Petition Date and (II) Enter Into

Proposed New Railcar Lease Agreements Effective as of the Petition Date entered by the Bankruptcy Court in the Chapter 11 Cases (Docket No. 208), as such order may be amended, supplemented, or modified from time to time.

**“Non-Debtor Releasing Parties”** means, collectively: (a) the Committee and the members thereof in their capacity as such; (b) the Prepetition Credit Agreement Agent and the Releasing Prepetition Credit Agreement Lenders; (c) the DIP Credit Agreement Agent and the DIP Credit Agreement Lenders (d) the Prepetition Notes Agent and the Releasing Prepetition Noteholders; (e) the Releasing Old Emerge LP Equity Holders; (f) those Holders of General Unsecured Claims or Old Emerge LP Equity Interests that do not affirmatively opt out of the Third Party Release as provided on their respective Ballots; and (g) each Specified Railcar Lessor (to the extent it is a Released Party).

**“Related Persons”** means, with respect to any Person, such Person’s predecessors, successors, assigns and present and former Affiliates (whether by operation of law or otherwise) and subsidiaries, and each of their respective current and former officers, directors, principals, employees, shareholders, members (including *ex officio* members and managing members), managers, managed accounts or funds, management companies, fund advisors, advisory or subcommittee board members, partners, agents, financial advisors, attorneys, accountants, investment bankers, investment advisors, consultants, representatives, and other professionals, in each case acting in such capacity at any time on or after the date of the Restructuring Support Agreement, and any Person claiming by or through any of them, including such Related Persons’ respective heirs, executors, estates, servants, and nominees; *provided, however*, that no insurer of any Debtor shall constitute a Related Person.

**“Released and Settled Claims”** means all Claims and Causes of Action made, or which could have been made, on or on behalf of any of the Debtors against the Prepetition Revolver Agent, the Prepetition Revolving Lenders, the Prepetition Note Agent, or the Prepetition Noteholders, or any of their respective affiliates, agents, attorneys, advisors, professionals, officers, directors, and employees, in their respective capacities as such.

**“Released Party”** means, collectively: (a) the Debtors; (b) the Reorganized Debtors; (c) the Committee and the members thereof in their capacity as such; (d) the Prepetition Credit Agreement Agent and the Releasing Prepetition Credit Agreement Lenders; (e) the DIP Credit Agreement Agent and the DIP Credit Agreement Lenders; (f) the Prepetition Notes Agent and the Releasing Prepetition Noteholders; (g) the Releasing Old Emerge LP Equity Holders; and (h) each Specified Railcar Lessor, so long as the applicable New Railcar Lease Agreement(s) between the Debtors and the applicable Specified Railcar Lessor is in full force and effect as of the Effective Date; and in each case the respective Related Persons of each of the foregoing Entities.

**“Specified Railcar Lessors”** means, collectively, (a) Trinity Industries Leasing Company, (b) MUL Railcars Leasing, LLC, and (c) CIT Bank, N.A. and The CIT Group/Equipment Financing, Inc., as an assignee of CIT Rail, LLC.

**EXHIBIT 8**

**Form of Assumption Notice**

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

-----	X	
In re:	:	Chapter 11
	:	
EMERGE ENERGY SERVICES LP, <i>et al.</i> , <sup>1</sup>	:	Case No. 19-11563 (KBO)
	:	
Debtors.	:	(Jointly Administered)
	:	
-----	X	

**NOTICE OF CURE AMOUNTS IN CONNECTION WITH CONTRACTS AND LEASES**

**TO: ALL NON-DEBTOR COUNTERPARTIES TO THE DEBTORS’ CONTRACTS AND LEASES LISTED ON THE CONTRACT SCHEDULE ATTACHED HERETO**

**PLEASE TAKE NOTICE OF THE FOLLOWING:**

1. Pursuant to the *First Amended Joint Plan of Reorganization for Emerge Energy Services LP and its Affiliate Debtors Under Chapter 11 of the Bankruptcy Code* [Docket No. [ ● ]] (the “**Plan**”)<sup>2</sup> filed with the United States Bankruptcy Court for the District of Delaware (the “**Court**”) on [ ● ], 2019, the above-captioned debtors and debtors in possession (each a “**Debtor**,” and, collectively, the “**Debtors**”) hereby provide notice (this “**Assumption Notice**”) that they are party to the contracts and leases (each, a “**Specified Contract**,” and, collectively, the “**Specified Contracts**”) listed on Exhibit 1 attached hereto (the “**Contract Schedule**”).

2. You have been identified as a party to one or more of the Specified Contracts listed on the Contract Schedule.

3. For each Specified Contract listed on the Contract Schedule, the Contract Schedule sets forth the amount the Debtors’ records reflect is owing to cure any and all defaults under such Specified Contract as of the date of this Assumption Notice (the “**Cure Amount**”) pursuant to Section 365 of the Bankruptcy Code.

4. If the Contract Schedule lists a Cure Amount of \$0.00 for a particular Specified Contract, the Debtors believe there is no cure amount outstanding for that Specified Contract as of the date of this Assumption Notice.

<sup>1</sup> The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: Emerge Energy Services LP (2937), Emerge Energy Services GP LLC (4683), Emerge Energy Services Operating LLC (2511), Superior Silica Sands LLC (9889), and Emerge Energy Services Finance Corporation (9875). The Debtors’ address is 5600 Clearfork Main Street, Suite 400, Fort Worth, Texas 76109.

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

5. If you agree with the Cure Amount associated with a Specified Contract to which you are a party as of the date of this Assumption Notice, you need not take any action.

6. To object to the Cure Amount associated with, or the Debtors' ability to assume and/or assign, a Specified Contract to which you are a party, whether or not you previously filed a proof of claim with respect to amounts due under such Specified Contract, you must file an objection (a "**Cure Claim Objection**") with the Clerk of the Bankruptcy Court, 824 North Market Street, 3<sup>rd</sup> Floor, Wilmington, Delaware 19801, and serve such Cure Claim Objection upon each of the Notice Parties (defined below), so that such Cure Claim Objection is **actually received** by the Court and the Objection Notice Parties by no later than **4:00 p.m. (prevailing Eastern time) on October 11, 2019**.

#### **Notice Parties**

- (i) Counsel to the Debtors, Latham & Watkins LLP, 885 Third Avenue, New York, New York 10022-4834 (Attn: Keith A. Simon, Esq., Hugh K. Murtagh, Esq., and Liza L. Burton, Esq. (emails: keith.simon@lw.com, hugh.murtagh@lw.com, and liza.burton@lw.com)) and Richards, Layton & Finger, P.A., One Rodney Square, 920 North King Street, Wilmington, Delaware 19801 (Attn: John H. Knight, Esq. and Paul N. Heath, Esq. (emails: knight@rlf.com and heath@rlf.com));
- (ii) Counsel to the DIP Agent and the Prepetition Agents, Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, NY 10153-0119 (Attn: Matt S. Barr, Esq., David Griffiths, Esq., and Candace M. Arthur, Esq. (emails: matt.barr@weil.com, david.griffiths@weil.com, and candace.arthur@weil.com)) and Pachulski Stang Ziehl & Jones LLP, 919 North Market Street, Wilmington, Delaware 19801 (Attn: Laura Davis Jones, Esq. (email: ljones@pszjlaw.com)); and
- (iii) Counsel to the Committee, Kilpatrick Townsend & Stockton LLP, 1114 Avenue of the Americas, New York, New York 10036 (Attn: Todd C. Meyers, Esq., David M. Posner, Esq., and Kelly Moynihan, Esq. (emails: tmeyers@kilpatricktownsend.com, dposner@kilpatricktownsend.com, and kmoynihan@kilpatricktownsend.com)), Kilpatrick Townsend & Stockton LLP, 700 Louisiana Street, Suite 4300, Houston, Texas 77002 (Attn: Lenard M. Parkins, Esq. (email: lparkins@kilpatricktownsend.com)), and Potter Anderson & Corroon LLP, 1313 North Market Street, Sixth Floor, P.O. Box 951, Wilmington, Delaware 19899 (Attn: Jeremy W. Ryan, Esq., Christopher M. Samis, Esq., and D. Ryan Slauch, Esq. (emails: jryan@potteranderson.com, csamis@potteranderson.com, and rslauch@potteranderson.com)); and
- (iv) The Office of the United States Trustee for the District of Delaware, 844 King Street, Suite 2207, Wilmington, Delaware 19801 (Attn: Juliet M. Sarkessian, Esq. (email: Juliet.M.Sarkessian@usdoj.gov)).

7. Any Cure Claim Objection must (i) be in writing, (ii) set forth with specificity any and all obligations that you assert must be cured or satisfied in respect of each applicable Specified Contract, and (iii) contain all documentation supporting such cure claim.

8. If you timely file and serve a Cure Claim Objection, the Court shall hear such Cure Claim Objection and determine the amount of any disputed Cure Amount not settled by the parties at the Confirmation Hearing before the Honorable Karen B. Owens, United States

Bankruptcy Judge, in the United States Bankruptcy Court for the District of Delaware, located at 824 Market Street, 6th Floor, Courtroom 1, Wilmington, Delaware 19801, currently scheduled for **1:00 p.m. (prevailing Eastern Time) on October 24, 2019** or such other date and time as the Court may deem appropriate.

9. If you fail to timely file and serve a Cure Claim Objection, you shall be deemed to have consented to the Cure Amount proposed by the Debtors and shall be forever enjoined and barred from seeking any additional amounts or claims (as defined in Section 101(5) of the Bankruptcy Code) that arose, accrued or were incurred at any time on or prior to the date of this Cure Claim Notice on account of the Debtors' cure obligations under Section 365 of the Bankruptcy Code or otherwise from the Debtors, their estates, any reorganized Debtor (a "**Reorganized Debtor**"), any assignee with respect to the Specified Contracts, or any purchaser or transferee of the Debtors or Reorganized Debtors' properties on account of the assumption and/or assignment of such Specified Contract.

10. The Debtors' listing of a Specified Contract on this Assumption Notice shall not be deemed or construed as (i) a promise by the Debtors to seek the assumption and/or assignment of such Specified Contract, (ii) a limitation or waiver on the Debtors' ability to amend, modify or supplement this Assumption Notice with an updated Cure Amount for a particular Specified Contract, which updated Cure Amount may be lower than the original Cure Amount listed for such particular Specified Contract, (iii) a limitation or waiver on the Debtors' ability to seek to reject any Specified Contract or (iv) an admission that any Specified Contract is, in fact, an executory contract or unexpired lease under Section 365 of the Bankruptcy Code. The Debtors reserve all their rights, claims, and causes of action with respect to the contracts and leases listed on the Contract Schedule.

11. All documents filed with the Court in connection with the above-captioned chapter 11 cases (the "**Chapter 11 Cases**"), including the Plan, are available for free on the website of the Court-appointed notice and claims agent in the Chapter 11 Cases, Kurtzman Carson Consultants LLC, at <http://www.kccllc.net/EmergeEnergy>

Wilmington, Delaware  
[\_\_\_\_], 2019

<p><b>LATHAM &amp; WATKINS LLP</b> Attn: George A. Davis Attn: Keith A. Simon Attn: Hugh K. Murtagh Attn: Liza L. Burton 885 Third Avenue New York, New York 10022-4834 Fax: 212-751-4864</p>	<p><b>RICHARDS, LAYTON &amp; FINGER, P.A.</b> Attn: John H. Knight Attn: Paul N. Heath Attn: Zachary I. Shapiro Attn: Brett M. Haywood One Rodney Square 920 North King Street Wilmington, Delaware 19801 Fax: 302-651-7701</p>
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*Co-Counsel to the Debtors*

**Exhibit 1**

Contract Schedule

<b>Contract Counterparty</b>	<b>Debtor</b>	<b>Title of Contract or Lease</b>	<b>Cure Amount</b>	<b>Identity of Assignee (if applicable)</b>



**EXHIBIT B**

**Blackline**

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

	X	
In re:	:	Chapter 11
	:	
EMERGE ENERGY SERVICES LP, <i>et al.</i> ,	:	Case No. 19-11563 (KBO)
	:	
Debtors. <sup>1</sup>	:	(Jointly Administered)
	:	
	:	<a href="#"><u>Re: Docket No. 247</u></a>
	:	
	X	

**ORDER (I) APPROVING THE DISCLOSURE STATEMENT, (II) ESTABLISHING THE VOTING RECORD DATE, VOTING DEADLINE AND OTHER DATES, (III) APPROVING PROCEDURES FOR SOLICITING, RECEIVING AND TABULATING VOTES ON THE PLAN AND FOR FILING OBJECTIONS TO THE PLAN, (IV) APPROVING THE MANNER AND FORMS OF NOTICE AND OTHER RELATED DOCUMENTS, (V) APPROVING PROCEDURES FOR ASSUMPTION OF CONTRACTS AND LEASES AND FORM AND MANNER OF ASSUMPTION NOTICE, AND (VI) GRANTING RELATED RELIEF**

Upon the motion (the “**Motion**”)<sup>2</sup> of the above-captioned debtors and debtors in possession (collectively, the “**Debtors**”) for entry of an order, pursuant to 11 U.S.C. §§ 105(a), 1125, and 1126 and Rules 2002, 3003, 3017, 3018, and 3020 of the Federal Rules of Bankruptcy Procedure, (i) approving the Disclosure Statement, (ii) establishing the voting record date, the Voting Deadline and other dates (a summary chart of which is attached hereto as Chart A), (iii) approving procedures for soliciting, receiving and tabulating votes on the Plan and for filing objections to the Plan, (iv) approving the manner and forms of notice and other related documents, (v) approving the Assumption Procedures and the form and manner of the Assumption Notice; and (vi) granting other relief relating thereto as set forth herein; and it

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<sup>1</sup> The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: EmERGE Energy Services LP (2937), EmERGE Energy Services GP LLC (4683), EmERGE Energy Services Operating LCC (2511), Superior Silica Sands LLC (9889), and EmERGE Energy Services Finance Corporation (9875). The Debtors’ address is 5600 Clearfork Main Street, Suite 400, Fort Worth, Texas 76109.

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

appearing that the relief requested in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and it appearing that this Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and it appearing that the Motion is a core proceeding pursuant to 28 U.S.C. § 157; and adequate notice of the Motion and opportunity for objection having been given; and it appearing that no other notice need be given; and after due deliberation and sufficient cause therefore:

**IT IS HEREBY FOUND AND DETERMINED THAT:**

A. The Disclosure Statement contains adequate information within the meaning of Bankruptcy Code Section 1125.

B. The notices attached to this Order (collectively, the "**Notices**") contain sufficient information and are appropriate under the circumstances.

C. For solicitation purposes only, the forms of the ballots and opt-out notice attached to this Order (collectively, the "**Ballots**") (i) are sufficiently consistent with Official Form No. 314, (ii) adequately address the particular needs of the Chapter 11 Cases, and (iii) are appropriate for (a) the Classes of Claims entitled under the Plan to vote to accept or reject the Plan and (b) the Classes of Old Equity Interests entitled under the Plan to opt out of the Third Party Release; provided that all parties' rights are reserved with respect to their ability to challenge the Third Party Release at the Confirmation Hearing.

D. The time period set forth below during which the Debtors may solicit votes on the Plan is a reasonable period of time for creditors to make an informed decision as to whether to accept or reject the Plan, and for Holders of Old Equity Interests to decide whether to opt out of the Third Party Release; provided that all parties' rights are reserved with respect to their ability to challenge the Third Party Release at the Confirmation Hearing.

E. The procedures set forth below for the solicitation and tabulation of votes to accept or reject the Plan provide for a fair and equitable voting process and are consistent with Bankruptcy Code Section 1126.

F. The procedures set forth below regarding the Confirmation Hearing Notice and the contents of the Solicitation Package comply with Bankruptcy Rules 2002 and 3017 and constitute sufficient notice to all interested parties.

**IT IS THEREFORE ORDERED THAT:**

1. The Motion is granted as set forth herein.

**A. Approval of the Disclosure Statement**

2. Pursuant to Bankruptcy Rule 3017(b), the Disclosure Statement is approved as containing adequate information within the meaning of Bankruptcy Code Section 1125(a), and the Debtors are authorized to distribute the Disclosure Statement and Solicitation Package in order to solicit votes on, and pursue confirmation of, the Plan.

3. The Disclosure Statement Notice [Docket No. 100] attached hereto as Exhibit 1 is approved pursuant to Bankruptcy Rules 2002 and 3017.

4. The notice and objection procedures provided in connection with the Disclosure Statement Hearing were reasonable and appropriate under the circumstances, and such notice and objection procedures were adequate pursuant to Bankruptcy Rule 3017.

**B. Confirmation Hearing and Objections**

5. Pursuant to Bankruptcy Rule 3020(b)(2), the hearing to consider confirmation of the Plan (the “**Confirmation Hearing**”) shall be on ~~{October 24}~~, 2019 at ~~{-}:00 {a/p}-m~~1:00 p.m. (prevailing Eastern Time).

6. Pursuant to Bankruptcy Rule 3020(b)(1), the deadline (the “**Confirmation Objection Deadline**”) for filing and serving objections to confirmation of the Plan (“**Confirmation Objections**”) shall be October 11, 2019 at 4:00 p.m. (prevailing Eastern Time).

7. The Confirmation Objections, if any, shall (i) be in writing, (ii) comply with the Bankruptcy Rules and the Local Rules, (iii) set forth the name of the objector and the nature and amount of any Claim or interest asserted by the objector against or in the Debtors, (iv) state with particularity the legal and factual bases for the objection and, if practicable, a proposed modification to the Plan that would resolve such objection, and (v) be filed with the Bankruptcy Court on or before the Confirmation Objection Deadline and served on each of the following parties (the “**Notice Parties**”):

- (i) Counsel to the Debtors, Latham & Watkins LLP, 885 Third Avenue, New York, New York 10022 (Attn: Keith A. Simon, Esq., Hugh K. Murtagh, Esq., and Liza L. Burton, Esq. (emails: keith.simon@lw.com, hugh.murtagh@lw.com, and liza.burton@lw.com)) and Richards, Layton & Finger, P.A., One Rodney Square, 920 North King Street, Wilmington, Delaware 19801 (Attn: John H. Knight, Esq. and Paul N. Heath, Esq. (emails: knight@rlf.com and heath@rlf.com));
- (ii) Counsel to the DIP Agent and the Prepetition Agents, Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, NY 10153-0119 (Attn: Matt S. Barr, Esq., David Griffiths, Esq., and Candace M. Arthur, Esq. (emails: matt.barr@weil.com, david.griffiths@weil.com, and candace.arthur@weil.com)) and Pachulski Stang Ziehl & Jones LLP, 919 North Market Street, Wilmington, Delaware 19801 (Attn: Laura Davis Jones, Esq. (email: ljones@pszjlaw.com));
- (iii) Counsel to the Committee, Kilpatrick Townsend & Stockton LLP, 1114 Avenue of the Americas, New York, New York 10036 (Attn: Todd C. Meyers, Esq., David M. Posner, Esq., and Kelly Moynihan, Esq. (emails: tmeyers@kilpatricktownsend.com, dposner@kilpatricktownsend.com, and kmoynihan@kilpatricktownsend.com)), Kilpatrick Townsend & Stockton LLP, 700 Louisiana Street, Suite 4300, Houston, Texas 77002 (Attn: Lenard M. Parkins, Esq. (email:

lparkins@kilpatricktownsend.com)), and Potter Anderson & Corroon LLP, 1313 North Market Street, Sixth Floor, P.O. Box 951, Wilmington, Delaware 19899 (Attn: Jeremy W. Ryan, Esq., Christopher M. Samis, Esq., and D. Ryan Slaugh, Esq. (emails: jryan@potteranderson.com, csamis@potteranderson.com, and rslaugh@potteranderson.com)); and

- (iv) The Office of the United States Trustee for the District of Delaware, 844 King Street, Suite 2207, Wilmington, Delaware 19801 (Attn: Juliet M. Sarkessian, Esq. (email: Juliet.M.Sarkessian@usdoj.gov)).

**C. Establishment of Voting Record Date and Approving Procedures for Temporary Allowance of Claims that are Subject to an Objection Filed by the Debtors**

8. Pursuant to Bankruptcy Rule 3017(d), September 9, 2019 shall be the voting record date (the “**Voting Record Date**”) with respect to all Claims and Equity Interests. The Debtors shall use the Voting Record Date for determining which Entities are entitled to, as applicable, receive Solicitation Packages, vote to accept or reject the Plan and receive notice of the Confirmation Hearing.

9. Any Holder of a Claim for which an objection is pending on the Voting Record Date, whether such objection relates to the entire Claim or a portion thereof, shall not be entitled to vote on the Plan and shall not be counted in determining whether the requirements of Bankruptcy Code Section 1126(c) have been met with respect to the Plan (except to the extent and in the manner as may be set forth in the objection) unless (i) the Claim has been temporarily allowed for voting purposes pursuant to Bankruptcy Rule 3018(a) and in accordance with this Order, or (ii) on or before the Voting Deadline, the objection to such Claim has been withdrawn or resolved in favor of the creditor asserting the Claim.

10. A recipient of an objection to expunge or disallow its Claim will receive a notice of non-voting status, substantially in the form of Exhibit 2 attached hereto.

11. September 27, 2019 at 4:00 p.m. (prevailing Eastern Time) (the “**Rule 3018(a) Motion Deadline**”) shall be the deadline for the filing and serving of any motion requesting temporary allowance of a Claim for purposes of voting pursuant to Bankruptcy Rule 3018(a) (the “**Rule 3018(a) Motion(s)**”).

12. Rule 3018(a) Motions must be filed with the Court no later than the Rule 3018(a) Motion Deadline and served on the Notice Parties; provided however, that if an objection to a Claim is Filed on or after the date that is fourteen (14) days before the Rule 3018(a) Motion Deadline, then the Rule 3018(a) Motion Deadline shall be extended as to such Claim such that the holder thereof shall have at least fourteen (14) days to file a Rule 3018(a) Motion; provided however, that all objections to Claims for voting purposes must be filed and served no later than September 23, 2019.

13. Any party timely filing and serving a Rule 3018(a) Motion shall be provided a Ballot by no later than three (3) business days after the Rule 3018(a) Motion is filed and be permitted to cast a provisional vote to accept or reject the Plan, if such party is in a Voting Class. If, and to the extent that, the Debtors and such party are unable to resolve the issues raised by the Rule 3018(a) Motion prior to the Voting Deadline, then at the Confirmation Hearing this Court shall determine whether the provisional Ballot should be counted as a vote on the Plan.

14. Nothing in this Order shall affect or limit any party’s rights to object to any Proof of Claim or Rule 3018(a) Motion.

**D. Approval of Solicitation Procedures**

**i. Duties of Voting and Claims Agent**

15. The Voting and Claims Agent shall assist the Debtors in, among other things, (i) mailing Confirmation Hearing Notices to Holders of Claims in Non-Voting Classes and other non-voting parties entitled to notice, (ii) mailing Solicitation Packages, (iii) soliciting votes on

the Plan, (iv) receiving, tabulating, and reporting on Ballots cast for or against the Plan by Holders of Claims against the Debtors, (v) responding to inquiries from creditors and stakeholders relating to the Plan, the Disclosure Statement, the Ballots and matters related thereto, including, without limitation, the procedures and requirements for voting to accept or reject the Plan and objecting to the Plan, and (vi) if necessary, contacting creditors and Equity Interest Holders regarding the Plan and their Ballots.

16. The Voting and Claims Agent is also authorized to accept Ballots via electronic online transmission solely through a customized online balloting portal on the Debtors' case website. The encrypted ballot data and audit trail created by such electronic submission shall become part of the record of any Ballot submitted in this manner and the creditor's electronic signature will be deemed to be immediately legally valid and effective.

**ii. Notices and Ballots**

17. The Notices and Ballots in the forms attached to this Order to be used in connection with the solicitation of votes on, and confirmation of, the Plan (as applicable) are hereby approved in full.

18. Claims in Class 1 (Other Priority Claims), Class 2 (Other Secured Claims), Class 3 (Secured Tax Claims), Class 4 (Prepetition Credit Agreement Claims) and Class 10 (Old Affiliate Equity Interests) are Unimpaired and, thus, the Holders of such Unimpaired Claims and Equity Interests are conclusively presumed to accept the Plan pursuant to Bankruptcy Code Section 1126(f), and the Debtors are not required to solicit their vote with respect to such Unimpaired Claims and Equity Interests.

19. The Debtors shall not be obligated to deliver Solicitation Packages or Ballots to Holders of Unimpaired Claims and Equity Interests. Rather, in lieu thereof and in accordance



with Bankruptcy Rule 3017(d), the Debtors shall mail, by no later than September 13, 2019 (the “**Solicitation and Notice Mailing Date**”), to the Holders of such Unimpaired Claims and Equity Interests a notice, substantially in the form of Exhibit 4 attached hereto (the “**Unimpaired Claims/Equity Notice**”), together with the form of Exhibit 6 attached hereto (the “**Confirmation Hearing Notice**”).

20. Class 7 (Intercompany Claims) do not retain or receive any property under the Plan. However, because the Holders of such Claims are Affiliates of the Debtors, the Holders of such Claims will be conclusively deemed to have accepted the Plan. Therefore, the Debtors shall not be obligated to deliver Solicitation Packages or Ballots to Holders of Intercompany Claims and any requirement to deliver a notice with respect to the Holders of such Claims under Bankruptcy Rule 3017(d) shall be waived.

21. Holders of Equity Interests in Class 8 (Old Emerge GP Equity Interests) do not retain or receive any property under the Plan on account of their Equity Interests. Holders of Equity Interests in Class 9 (Old Emerge LP Equity Interests) (together with Old Emerge GP Equity Interests, “**Old Equity Interests**”) will not retain or receive any property under the Plan on account of their Equity Interests if Class 6 votes to reject the Plan. Therefore, Holders of Old Equity Interests are deemed to reject the Plan pursuant to Bankruptcy Code Section 1126(g), and the Debtors shall not be required to send Solicitation Packages to Holders of Old Equity Interests. Rather, in lieu thereof, and in accordance with Bankruptcy Rule 3017(d), the Debtors shall mail, by the Solicitation and Notice Mailing Date to the Holders of such Old Equity Interests a copy of the Disclosure Statement with attached Plan, Confirmation Hearing Notice and the Opt-Out Form, substantially in the form of Exhibit 3-C attached hereto, that provides (i) notice of the filing of the Plan, (ii) notice that such party has been identified as the Holder of a

non-voting Equity Interest, (iii) instructions regarding the Confirmation Hearing, (iv) detailed directions for filing objections to confirmation of the Plan, and (v) such Holder of Class 8 or 9 Old Equity Interests with the opportunity to opt out of the Third Party Releases.

22. The Debtors shall not be required to deliver Ballots or Solicitation Packages to counterparties to the Debtors' executory contracts and unexpired leases who do not have scheduled Claims or Claims based upon filed Proofs of Claim. Rather, in lieu thereof, and in accordance with Bankruptcy Rule 3017(d), the Debtors shall mail to all the counterparties to the Debtors' executory contracts and unexpired leases, including but not limited to those who do not have scheduled Claims or Claims based upon filed Proofs of claim, a notice, substantially in the form of Exhibit 5 attached hereto (the "**Contract/Lease Notice**"), by no later than the Solicitation and Notice Mailing Date.

**iii. Content and General Transmittal of Solicitation Packages; Notice of Confirmation Hearing**

23. The Debtors are authorized to transmit, or cause to be transmitted, on or before the Solicitation and Notice Mailing Date, to Holders of Class 5 Prepetition Notes Claims and Class 6 General Unsecured Claims, by United States mail, first-class postage prepaid, personal service, or overnight delivery, a solicitation package (the "**Solicitation Package**") containing a printed version, CD-ROM, or flash drive, of the following:

- i. the Confirmation Hearing Notice;
- ii. the Disclosure Statement;
- iii. the Plan (which may be furnished in the Solicitation Package as Exhibit A to the Disclosure Statement);
- iv. the Disclosure Statement Order (without exhibits attached); and
- v. a Ballot in substantially the forms attached to this Order as Exhibit 3-A for Class 5 and Exhibit 3-B for Class 6;

provided however, that the Ballot and the Confirmation Hearing Notice must be in paper format.

24. The Debtors shall file the Plan Supplement with the Court on or before October 4, 2019 (the “**Exhibit Filing Date**”), which filing is without prejudice to the Debtors’ rights to amend or supplement the Plan Supplement.

25. The Plan Supplement shall be made available in accordance with the procedures set forth in paragraphs 24, 26 and 50 of this Order.

26. The Debtors shall serve copies of the Solicitation Package (other than a Ballot), together with this Order, with all attachments, and the Plan Supplement to (i) the Office of the United States Trustee for the District of Delaware; (ii) the United States Attorney for the District of Delaware; (iii) the Securities and Exchange Commission; (iv) the Internal Revenue Service and all state taxing authorities in the states in which the Debtors have tax obligations; (v) any federal and state agencies that regulate any portion of the Debtors’ business; (vi) the creditors listed on the Debtors’ consolidated list of thirty creditors holding the largest unsecured claims; (vii) counsel to the DIP Agent and the Prepetition Agents; (viii) counsel to the Committee; (ix) counsel to Insight Equity; (x) all parties entitled to notice pursuant to Bankruptcy Rule 2002, and (xi) all parties who request in writing a copy of the Plan or Disclosure Statement, on the date of mailing the Solicitation Package or filing the Plan Supplement (as applicable).

27. The Debtors shall also serve the Confirmation Hearing Notice on the following additional parties: (i) all holders of claims or interests, whether in Voting Classes or in the Non-Voting Classes, or unclassified, known to the Debtors, (ii) all persons or entities listed on the Debtors’ creditor matrix, and (iii) all counterparties to the Debtors’ executory contracts and leases.

28. Creditors who have filed duplicate Proofs of Claim shall be entitled to receive only one Solicitation Package and shall be allowed one Ballot for voting that Claim.

29. The Debtors shall mail the Confirmation Hearing Notice to all parties that received the Disclosure Statement Notice (other than parties to whom notice is not required pursuant to paragraph 34 of this Order), and to parties to executory contracts and unexpired leases that are not currently “creditors” as defined in Bankruptcy Code Section 101(10).

30. The Debtors shall publish the Confirmation Hearing Notice on or prior to September 20, 2019 in the national edition of The Wall Street Journal, and shall be authorized (but not required) to publish the Confirmation Hearing Notice in such trade or other local publications of general circulation as the Debtors shall determine.

31. Publication of the Confirmation Hearing Notice as described herein shall constitute sufficient notice of the Confirmation Hearing to persons who do not otherwise receive notice by mail as provided for in this Order.

**iv. Transmittal of Solicitation Packages to Holders of Contingent, Unliquidated, and Disputed Claims that are Not Subject to an Objection Filed by the Debtors**

32. ~~The~~ With the exception of the Confirmation Hearing Notice, the Debtors shall not be required to mail any documents or notices to any creditor whose Claim is not scheduled and who fails to timely file a Proof of Claim. The Debtors shall not be required to mail any documents or notices other than the Confirmation Hearing Notice to any creditor whose Claim is scheduled at \$0 or as disputed, contingent or unliquidated and who fails to timely file a Proof of Claim.

33. The Debtors shall distribute to claimants in Voting Classes who have filed timely Proofs of Claim, which, in whole or in part, reflect ~~a disputed, an~~ unliquidated, or contingent claim, and which are not subject to a pending objection, (i) a Solicitation Package that contains a

Ballot, (ii) the Confirmation Hearing Notice, which notice informs such person or entity that its entire Claim has been allowed temporarily for voting purposes only and not for purposes of allowance or distribution, at \$1.00, and (iii) a Notice of Limited Voting Status, substantially in the form of Exhibit 7 attached hereto.

**v. Approval of Certain Transmittal Procedures**

34. ~~By~~ In addition to those creditors and parties in interest receiving the Confirmation Notice pursuant to paragraph 27 of this Order, by the Solicitation and Notice Mailing Date, the Debtors shall mail only the Confirmation Hearing Notice on the following creditors and parties in interest:

- i. any creditor whose Claim is based solely on amounts scheduled by the Debtors but whose Claim already has been paid or satisfied in the full scheduled amount; provided, however, that if, and to the extent that, any such creditor would be entitled to receive a Solicitation Package for any reason other than by virtue of the fact that its Claim had been scheduled by the Debtors, then such creditor shall be sent a Solicitation Package in accordance with the procedures set forth herein;
- ii. any creditor who filed a Proof of Claim if the amount asserted in such Proof of Claim is less than or equal to the amount that has already been paid; and
- iii. any Holder of a Claim that was disallowed in full by order of this Court.

35. Notwithstanding anything in this Order to the contrary, the Debtors shall not be required to send Solicitation Packages, Ballots, individual solicitation materials, or other notices to any person or entity to whom the Debtors mailed the Disclosure Statement Notice and had such notice returned by the United States Postal Service marked “undeliverable as addressed,” “moved - left no forwarding address,” “forwarding order expired,” or any similar reason, and as to whom a further reasonable search has failed to disclose an accurate alternate address.

**E. Voting Deadline and Procedures for Vote Tabulation**

36. The last date and time by which Ballots for accepting or rejecting the Plan must

be received by the Voting and Claims Agent in order to be counted is **5:00 p.m. (prevailing Eastern Time) on October 17, 2019** (the “**Voting Deadline**”).

37. Any timely received Ballot that contains sufficient information to permit the identification of the claimant and is cast as an acceptance or rejection of the Plan shall be counted and shall be deemed to be cast as an acceptance or rejection, as the case may be, of the Plan. The foregoing general procedures shall be subject to the following exceptions:

- i. if a Claim is deemed Allowed in accordance with the Plan, such Claim shall be Allowed for voting purposes in the deemed Allowed amount set forth in the Plan;
- ii. if a Claim for which a Proof of Claim has been timely filed, or deemed timely filed by an order of the Court prior to the Voting Deadline, is identified on the Proof of Claim, in whole or in part, as contingent, ~~or~~ or unliquidated, ~~or disputed,~~ and that is not subject to a pending objection, then such Claim shall be temporarily allowed for voting purposes only, and not for purposes of allowance or distribution, at \$1.00;
- iii. if a Claim has been estimated or otherwise allowed for voting purposes by order of the Court, then such Claim shall be temporarily allowed in the amount so estimated or allowed by the Court for voting purposes only, and not for purposes of allowance or distribution;
- iv. if a Claim is not listed on the Schedules, or is scheduled at zero, in an unknown amount, or, as unliquidated, contingent, or disputed, and a Proof of Claim was not (i) timely filed by the Claims Bar Date, or (ii) deemed timely filed by an order of the Court prior to the Voting Deadline, then such Claim shall be disallowed for voting purposes;
- v. if an objection to a Claim or any portion thereof has been Filed prior to September 23, 2019, then such Claim shall be temporarily disallowed for voting purposes only and not for the purposes of the allowance or distribution, except to the extent and in the manner as may be set forth in the objection or an order granting such claimant’s Rule 3018(a) Motion; and
- vi. any Ballot cast in an amount in excess of the Allowed amount of the relevant Claim will only be counted to the extent of such Allowed Claim;

38. The following Ballots shall not be counted or considered for any purpose in determining whether the Plan has been accepted or rejected:

- i. any Ballot received after the Voting Deadline unless the Debtors shall have granted an extension of the Voting Deadline in writing with respect to such Ballot;
  - ii. any Ballot that is illegible or contains insufficient information to permit the identification of the claimant;
  - iii. any Ballot cast by a person or entity that does not hold a Claim in a Voting Class;
  - iv. any Ballot cast for a claim not listed on the Schedules, or scheduled at zero, in an unknown amount, or, as unliquidated, contingent, or disputed, and for which no Proof of Claim was timely filed or deemed timely filed by an order of the Court prior to the Voting Deadline;
  - v. any Ballot that is properly completed, executed and timely filed, but (a) does not indicate an acceptance or rejection of the Plan, (b) indicates both an acceptance and rejection of the Plan, or (c) partially accepts and partially rejects the Plan;
  - vi. any Ballot submitted by facsimile, telecopy or electronic mail;
  - vii. any unsigned Ballot;
  - viii. any Ballot sent to the Debtors, the Debtors' agents/representatives (other than the Voting and Claims Agent), any indenture trustee or agent under the Prepetition Loan Documents, or the Debtors' financial or legal advisors; or
  - ix. any Ballot not cast in accordance with the procedures approved in this Order;
39. Any duplicate Ballots will only be counted once.

40. Notwithstanding anything in this Order to the contrary, the Ballot of any creditor who filed a Rule 3018(a) Motion in accordance with the procedures set forth in this Order shall not be counted for voting purposes, unless such creditor's claim is temporarily allowed by the Court after notice and a hearing or agreed to in writing by the Debtors.

41. Notwithstanding Bankruptcy Rule 3018(a), whenever two or more Ballots are cast which attempt to vote the same Claim prior to the Voting Deadline, the last Ballot received by the Voting and Claims Agent prior to the Voting Deadline shall be deemed to reflect the voter's

intent and thus to supersede any prior Ballots, provided, however, that where an ambiguity exists as to which Ballot was the latest mailed, the Voting and Claims Agent reserves the right to contact the creditor and tabulate the vote according to such voter's stated intent. This procedure is without prejudice to the Debtors' rights to object to the validity of the superseding Ballot(s) on any basis permitted by law and, if the objection is sustained, to count the first Ballot for all purposes.

42. Claims splitting is not permitted and creditors who vote must vote all of their Claims within a particular class to either accept or reject the Plan.

**F. Approval of Assumption Procedures and Form and Manner of Assumption Notice**

43. In connection with the assumption of any executory contract or unexpired lease by the Debtors (any such executory contract or unexpired lease, a "**Contract or Lease**" and, collectively, the "**Contracts and Leases**"), the following procedures (the "**Assumption Procedures**") are authorized and approved:

- i. **Notice.** The Debtors shall mail (or cause to be mailed) the notice substantially in the form of Exhibit 8 attached hereto (the "**Assumption Notice**") to all counterparties to the Debtors' Contracts and Leases (the "**Contract Parties**") by no later than September 27, 2019.
- ii. **Content of the Assumption Notice.** The Assumption Notice will include the following information: (i) the title of the Contract or Lease to be assumed; (ii) the name of the counterparty to the Contract or Lease; (iii) applicable default amount (if any) in Cash (the "**Cure Claim Amount**"); (iv) if applicable, the identify the party to which the Executory Contract or Unexpired Lease will be assigned; (v) description of the procedures for filing objections to the assumption of Contracts and Leases; (vi) explanation of the process by which related disputes will be resolved by the Bankruptcy Court, including the date by which any objection to the proposed assumption, or proposed assumption and assignment of the Contracts and Leases must be filed and received by the Debtors.
- iii. **Objections.** Objections to proposed assumption, or proposed assumption and assignment of the Contracts and Leases must: (i) be in writing; (ii) set forth the nature of the objector's claims against or interests in the Debtors' estates and the basis for the objection and the specific grounds therefor;



(iii) comply with the Bankruptcy Rules, Bankruptcy Local Rules, and orders of this Court; and (iv) be filed with the Court by **4:00 p.m. (prevailing Eastern Time) on October 11, 2019** (the “**Cure Objection Deadline**”).

- iv. Effects of Objecting to a Cure Notice. A properly filed objection to the Debtors’ proposed assumption, or proposed assumption and assignment of Contracts and Leases will reserve such objecting party’s rights against the Debtors with respect to the relevant objection (each such objection a “**Cure Objection**”) pending a Court hearing on such objection.
- v. Effects of Not Objecting to a Cure Notice. Any counterparty to a Contract or Lease that fails to object timely to the proposed assumption, or proposed assumption and assignment of the Contracts and Leases will be deemed to have forever released and waived any objection to such proposed assumption, proposed assumption and assignment, proposed adequate assurance of future payment, and Cure Claim Amount. The Cure Claim Amount(s) owed to such Contract Party shall be paid as specified in the order approving such assumption.

44. As set forth above in the Assumption Procedures, if a Contract Party objects to the Cure Claim Amount for its Contract or Lease, then such Contract Party’s rights are reserved. If the Plan is confirmed, then Cure Objections will be resolved in accordance with the provisions of the Plan, including Article VI.B thereof, which provides, in part, that “[i]n the event of a dispute regarding (a) the amount of any cure payment, (b) the ability of any Debtor or assignee to provide “adequate assurance of future performance” (within the meaning of section 365 of the Bankruptcy Code) under the Executory Contract or Unexpired Lease to be assumed, or assumed and assigned or (c) any other matter pertaining to assumption or assignment, the applicable cure payments required by section 365(b)(1) of the Bankruptcy Code shall be made following the entry of a Final Order resolving the dispute and approving such assumption or assumption and assignment; provided, however, that following the resolution of any such dispute, the Debtors or the Reorganized Debtors, as applicable, may elect to reject such Executory Contract or Unexpired Lease in lieu of assuming or assigning it”; provided further that, rejection by the

Debtors of any such Executory Contract or Unexpired Lease shall not take place after the deadline to assume or reject such contracts under section 365 of the Bankruptcy Code.

45. The Assumption Procedures and the Assumption Notice as set forth herein provide Contract Parties sufficient time to review the Assumption Notice and file any objections to Cure Claim Amounts prior to the Confirmation Hearing, and are hereby approved in full.

**G. Miscellaneous**

46. The service of Solicitation Packages and other notices and documents described herein in the time and manner set forth in this Order constitutes adequate and sufficient notice of the Confirmation Hearing and no further notice is necessary.

47. The Debtors are authorized and empowered to take all actions necessary to implement the relief granted in this Order.

48. Notwithstanding any applicable Bankruptcy Rule, the terms and conditions of this Order shall be immediately effective and enforceable upon its entirety.

49. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation of this Order.

50. Copies of the Plan and Disclosure Statement (including after the Exhibit Filing Date, the Plan Supplement) and all pleadings and orders of the Bankruptcy Court are publicly available, for a fee via PACER at: <http://www.deb.uscourts.gov>, or free of charge from the Voting and Claims Agent at <http://www.kccllc.net/emergeenergy>. Such documents and pleadings may also be obtained by: (i) 877-634-7165 (toll-free in US and Canada) or 424-236-7221 (for international callers); and/or (ii) writing to Emerge Energy Claims Processing Center, c/o Kurtzman Carson Consultants LLC, 222 N. Pacific Coast Highway, Suite 300, El Segundo, CA 90245.

51. The Debtors are authorized to make non-material changes to the Disclosure Statement, the Plan, the Ballots, the Confirmation Hearing Notice, the Unimpaired Claims/Equity Notice, the Contract/Lease Notice, and related documents and any other materials in the Solicitation Package without further order of this Court, including, without limitation, changes to correct typographical and grammatical errors and to make conforming changes among the Disclosure Statement, the Plan, the Ballots, the Confirmation Hearing Notice, the Unimpaired Claims/Equity Notice, the Contract/Lease Notice, and related documents and any other materials in the Solicitation Package prior to their distribution.

Dated: \_\_\_\_\_, 2019  
Wilmington, Delaware

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THE HONORABLE KAREN B. OWENS  
UNITED STATES BANKRUPTCY JUDGE

**Chart A****Summary Chart of Approved Dates and Deadlines<sup>1</sup>**

<b><u>Event</u></b>	<b><u>Date/Deadline</u></b>
Voting Record Date	September 9, 2019
Solicitation and Notice Mailing Date	September 13, 2019
Deadline to Publish Notice of Confirmation Hearing	September 20, 2019
Deadline to file Claims Objections for Voting Purposes	September 23, 2019
Mailing of Assumption Notice	September 27, 2019
Rule 3018(a) Motion Deadline	The later of (i) September 27, 2019 4:00 p.m. (prevailing Eastern Time), or (ii) fourteen (14) days after service of the applicable Claims Objection
Exhibit Filing Date (Deadline to File Plan Supplement)	October 4, 2019
Objection Deadline for Confirmation Hearing	October 11, 2019 4:00 p.m. (prevailing Eastern Time)
Cure Objection Deadline	October 11, 2019 4:00 p.m. (prevailing Eastern Time)
Voting Deadline	October 17, 2019 5:00 p.m. (prevailing Eastern Time)
Deadline for Debtors to file Voting Certification, Confirmation Brief and Form of Confirmation Order	October 21, 2019
Confirmation Hearing	October 24, 2019 <del>1:00 p.m. (subject to the Court's availability)</del> <u>prevailing Eastern Time</u>

<sup>1</sup> To the extent of any conflict between the dates in this chart and those in the Order, the dates in the Order shall control.

**EXHIBIT 1**

**Disclosure Statement Notice**

**[\[See Docket No. 100\]](#)**

**EXHIBIT 2**  
**Notice of Non-Voting Status: Disputed Claims**

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

In re:	X	
	:	Chapter 11
	:	
EMERGE ENERGY SERVICES LP, <i>et al.</i> , <sup>1</sup>	:	Case No. 19-11563 (KBO)
	:	
Debtors.	:	(Jointly Administered)
	:	
	X	

**NOTICE OF NON-VOTING STATUS TO HOLDERS OF CLAIMS  
FOR WHICH AN OBJECTION HAS BEEN FILED BY THE DEBTORS**

**PLEASE TAKE NOTICE THAT** on [\_\_\_], 2019, Emerge Energy Services LP and its affiliate debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “**Debtors**”) filed their (i) *First Amended Joint Plan of Reorganization for Emerge Energy Services LP and its Affiliate Debtors Under Chapter 11 of the Bankruptcy Code* [Docket No. [ ● ]] (as may be amended from time to time, the “**Plan**”)² and (ii) *Disclosure Statement for the First Amended Joint Plan of Reorganization for Emerge Energy Services LP and its Affiliate Debtors Under Chapter 11 of the Bankruptcy Code* [Docket No. [ ● ]] (as may be amended from time to time, the “**Disclosure Statement**”), and by no later than October 4, 2019, the Debtors shall file the Plan Supplement. On [ ● ], 2019, the Bankruptcy Court entered the *Order (I) Approving the Disclosure Statement, (II) Establishing the Voting Record Date, Voting Deadline and Other dates, (III) Approving Procedures for Soliciting, Receiving and Tabulating Votes on the Plan and for Filing objections to the Plan and (IV) Approving the Manner and Forms of Notice and Other Related Documents, (V) Approving Procedures for Assumption of Contracts and Leases and Form and Manner of Assumption Notice, and (VI) Granting Related Relief* [Docket No. [ ● ]] (the “**Disclosure Statement Order**”).

**PLEASE TAKE FURTHER NOTICE THAT** you are receiving this notice because you are the Holder of a Claim that has filed a proof of claim, which is subject, in whole or in part, to an objection filed by the Debtors. As a result, you are not entitled to vote on the Plan for any purpose and you have not been sent a Solicitation Package or Ballot. Provided that you are the Holder of a Claim in Classes 5 or 6, if you disagree with the Debtors’ classification or status of your Claim, then you **MUST** file with the Bankruptcy Court and serve upon the Notice Parties listed below, on or before 4:00 p.m. (prevailing Eastern Time) on **September 27, 2019** (the “**Rule 3018(a) Motion Deadline**”), a motion requesting temporary allowance of your Claim solely for voting purposes in accordance with Bankruptcy Rule 3018 (such motion, the “**Rule 3018(a) Motion**”). No later than three (3) Business Days after the filing and service of such Rule 3018(a) Motion, the Voting and Claims Agent will send you a Solicitation Package, including the appropriate ballot, and a pre-addressed, postage pre-paid envelope, which you must then return your ballot according to the instructions attached thereto so it is **actually received** by

<sup>1</sup> The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: Emerge Energy Services LP (2937), Emerge Energy Services GP LLC (4683), Emerge Energy Services Operating LLC (2511), Superior Silica Sands LLC (9889), and Emerge Energy Services Finance Corporation (9875). The Debtors’ address is 5600 Clearfork Main Street, Suite 400, Fort Worth, Texas 76109.

<sup>2</sup> Capitalized terms used but not otherwise defined herein will have the meanings set forth in the Plan.

the Voting and Claims Agent on or before **October 17, 2019** (the “**Voting Deadline**”). Please be advised that the Debtors reserve all of their rights and objections regarding any and all Rule 3018(a) Motions that may be filed with the Bankruptcy Court and that the distribution of a Solicitation Package is not and shall not constitute a waiver or release of such rights and objections.

**PLEASE TAKE FURTHER NOTICE THAT** the Confirmation Hearing to consider confirmation of the Plan will commence at ~~1:00 p.m.~~ **1:00 p.m. (prevailing Eastern Time) on [October 24], 2019**, before the Honorable Karen B. Owens, United States Bankruptcy Judge, in the United States Bankruptcy Court for the District of Delaware, located at 824 Market Street, 6th Floor, Courtroom 1, Wilmington, Delaware 19801. The Confirmation Hearing may be continued from time to time by the Bankruptcy Court or the Debtors without further notice other than by such adjournment being announced in open court and/or by a notice of adjournment filed with the Bankruptcy Court and served on such parties as the Bankruptcy Court may order. Moreover, the Plan may be modified or amended, if necessary, pursuant to Bankruptcy Code Section 1127, prior to, during or as a result of the Confirmation Hearing, without further notice to parties in interest.

**PLEASE TAKE FURTHER NOTICE THAT** the deadline for filing objections to the Plan is **October 11, 2019 at 4:00 p.m. (prevailing Eastern Time)** (the “**Plan Objection Deadline**”). Any objection to the Plan must: (i) be in writing; (ii) conform to the Bankruptcy Rules and the Local Rules; (iii) state the name and address of the objecting party and the amount and nature of the Claim of such Entity; (iv) state with particularity the basis and nature of any objection to the Plan and, if practicable, a proposed modification to the Plan that would resolve such objection; and (v) be filed with the Bankruptcy Court no later than the Plan Objection Deadline and served on the following parties listed below (the “**Notice Parties**”), with proof of service filed as required under the Local Rules of the Bankruptcy Court. **CONFIRMATION OBJECTIONS NOT TIMELY FILED AND SERVED IN THE MANNER SET FORTH HEREIN MAY NOT BE CONSIDERED BY THE BANKRUPTCY COURT AND MAY BE OVERRULED WITHOUT FURTHER NOTICE.**

#### Notice Parties

- (i) Counsel to the Debtors, Latham & Watkins LLP, 885 Third Avenue, New York, New York 10022-4834 (Attn: Keith A. Simon, Esq., Hugh K. Murtagh, Esq., and Liza L. Burton, Esq. (emails: keith.simon@lw.com, hugh.murtagh@lw.com, and liza.burton@lw.com)) and Richards, Layton & Finger, P.A., One Rodney Square, 920 North King Street, Wilmington, Delaware 19801 (Attn: John H. Knight, Esq. and Paul N. Heath, Esq. (emails: knight@rlf.com and heath@rlf.com));
- (ii) Counsel to the DIP Agent and the Prepetition Agents, Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, NY 10153-0119 (Attn: Matt S. Barr, Esq., David Griffiths, Esq., and Candace M. Arthur, Esq. (emails: matt.barr@weil.com, david.griffiths@weil.com, and candace.arthur@weil.com)) and Pachulski Stang Ziehl & Jones LLP, 919 North Market Street, Wilmington, Delaware 19801 (Attn: Laura Davis Jones, Esq. (email: ljones@pszjlaw.com)); and
- (iii) Counsel to the Committee, Kilpatrick Townsend & Stockton LLP, 1114 Avenue of the Americas, New York, New York 10036 (Attn: Todd C. Meyers, Esq., David M. Posner, Esq., and Kelly Moynihan, Esq. (emails: tmeyers@kilpatricktownsend.com, dposner@kilpatricktownsend.com, and kmoynihan@kilpatricktownsend.com)), Kilpatrick Townsend & Stockton LLP, 700 Louisiana Street, Suite 4300, Houston, Texas 77002 (Attn: Lenard M. Parkins, Esq. (email: lparkins@kilpatricktownsend.com)), and Potter Anderson &



Corroon LLP, 1313 North Market Street, Sixth Floor, P.O. Box 951, Wilmington, Delaware 19899 (Attn: Jeremy W. Ryan, Esq., Christopher M. Samis, Esq., and D. Ryan Slaugh, Esq. (emails: jryan@potteranderson.com, csamis@potteranderson.com, and rslaug@potteranderson.com)); and

- (iv) The Office of the United States Trustee for the District of Delaware, 844 King Street, Suite 2207, Wilmington, Delaware 19801 (Attn: Juliet M. Sarkessian, Esq. (email: Juliet.M.Sarkessian@usdoj.gov)).

**PLEASE TAKE FURTHER NOTICE THAT** if you would like to obtain a Solicitation Package, a copy of the Plan Supplement once filed, or if you have questions regarding the procedures and requirements for objecting to the Plan, you may contact the Debtors' Voting and Claims Agent, Kurtzman Carson Consultants LLC, by: (i) calling the Debtors' restructuring hotline at (888) 830-4659; (ii) visiting the Debtors' restructuring website at: [www.kccllc.net/EmergeEnergy](http://www.kccllc.net/EmergeEnergy) (under Tab "Plan and Disclosure Statement"); and/or (iii) writing to Emerge Energy Claims Processing Center, c/o Kurtzman Carson Consultants LLC, 222 N. Pacific Coast Highway, Suite 300, El Segundo, CA 90245. 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>.

**THIS NOTICE IS BEING SENT TO YOU FOR INFORMATIONAL PURPOSES ONLY. IF YOU HAVE QUESTIONS ABOUT ANYTHING STATED HEREIN OR IF YOU WOULD LIKE TO OBTAIN ADDITIONAL INFORMATION, PLEASE CONTACT THE VOTING AND CLAIMS AGENT AT THE NUMBER OR ADDRESS SPECIFIED ABOVE. PLEASE NOTE THAT THE VOTING AND CLAIMS AGENT CANNOT PROVIDE LEGAL ADVICE.**

Wilmington, Delaware  
[\_\_\_], 2019

**LATHAM & WATKINS LLP**

Attn: George A. Davis  
Attn: Keith A. Simon  
Attn: Hugh K. Murtagh  
Attn: Liza L. Burton  
885 Third Avenue  
New York, New York 10022-4834  
Fax: 212-751-4864

**RICHARDS, LAYTON & FINGER, P.A.**

Attn: John H. Knight  
Attn: Paul N. Heath  
Attn: Zachary I. Shapiro  
Attn: Brett M. Haywood  
One Rodney Square  
920 North King Street  
Wilmington, Delaware 19801  
Fax: 302-651-7701

*Co-Counsel to the Debtors*

**THE PLAN CONTAINS THE FOLLOWING RELEASE, EXCULPATION AND INJUNCTION PROVISIONS.**

**YOU SHOULD REVIEW THESE PROVISIONS CAREFULLY.**

**Release of Claims and Causes of Action**

1. ***Release by the Debtors and their Estates.*** Pursuant to section 1123(b) and any other applicable provisions of the Bankruptcy Code, and except as otherwise expressly provided in the Plan, effective as of the Effective Date, for good and valuable consideration provided by each of the Released Parties, the adequacy and sufficiency of which is thereby confirmed, the Debtors and the Reorganized Debtors, in their respective individual capacities and as debtors-in-possession, and on behalf of themselves and their respective Estates, including, without limitation, any successor to the Debtors or any Estate representative appointed or selected pursuant to section 1123(b)(3) of the Bankruptcy Code (collectively, the “**Debtor Releasing Parties**”) will be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever provided a full discharge, waiver and release to each of the Released Parties (and each such Released Party so released shall be deemed forever released, waived and discharged by the Debtor Releasing Parties) and their respective assets and properties (the “**Debtor Release**”) from any and all claims, Causes of Action, Released and Settled Claims, Litigation Claims and any other debts, obligations, rights, suits, damages, actions, remedies, and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, whether directly or derivatively held, existing as of the Effective Date or thereafter arising, in law, at equity or otherwise, whether for tort, contract, violations of federal or state securities laws, or otherwise, based in whole or in part upon any act or omission, transaction, or other occurrence or circumstances existing or taking place prior to or on the Effective Date arising from or related in any way in whole or in part to any of the Debtors, including, without limitation, (i) the Chapter 11 Cases, the Disclosure Statement, the Plan, the Restructuring Support Agreement and the Restructuring Documents, (ii) the subject matter of, or the transactions or events giving rise to, any Claim or Equity Interest that is treated in the Plan, (iii) the business or contractual arrangements between any Debtor and any Released Parties, (iv) the negotiation, formulation or preparation of the Restructuring Support Agreement, the Plan, the Disclosure Statement, the Plan Supplement, the Restructuring Documents, or related agreements, instruments or other documents, (v) the restructuring of Claims or Equity Interests prior to or during the Chapter 11 Cases, (vi) the purchase, sale, or rescission of the purchase or sale of any Equity Interest of the Debtors or the Reorganized Debtors, and/or (vii) the Confirmation or Consummation of the Plan or the solicitation of votes on the Plan that such Debtor Releasing Party would have been legally entitled to assert (whether individually or collectively) or that any Holder of a Claim or Equity Interest or other Entity would have been legally entitled to assert for, or on behalf or in the name of, any Debtor, its respective Estate or any Reorganized Debtor (whether directly or derivatively) against any of the Released Parties; **provided, however,** that the foregoing provisions of this Debtor Release shall not operate to waive or release: (i) any Causes of Action arising from willful misconduct, actual fraud, or gross negligence of such applicable Released Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction; (ii) any Causes of Action relating to the MSHA Action (other than against a member of the Special Restructuring Committee); and/or (iii) the rights of such Debtor Releasing Party to enforce the Plan and the contracts, instruments, releases, indentures, and other agreements or documents delivered under or in connection with the Plan or assumed pursuant to the Plan or assumed pursuant to Final Order of the Bankruptcy Court. The foregoing release shall be effective as of the Effective Date without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Person and

the Confirmation Order will permanently enjoin the commencement or prosecution by any Person or Entity, whether directly, derivatively or otherwise, of any claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, or liabilities released pursuant to this Debtor Release. Notwithstanding the foregoing, nothing in this Article X.B shall or shall be deemed to (i) prohibit the Debtors or the Reorganized Debtors from asserting and enforcing any claims, obligations, suits, judgments, demands, debts, rights, Causes of Action or liabilities they may have against any Person that is based upon an alleged breach of a confidentiality or non-compete obligation owed to the Debtors or the Reorganized Debtors and/or (ii) operate as a release or waiver of any Intercompany Claims, in each case unless otherwise expressly provided for in the Plan.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the Debtor Release, which includes by reference each of the related provisions and definitions contained under the Plan, and further, shall constitute the Bankruptcy Court's finding that the Debtor Release is: (i) in exchange for the good and valuable consideration provided by the Released Parties; (ii) a good faith settlement and compromise of the claims released by the Debtor Release; (iii) in the best interest of the Debtors and their Estates; (iv) fair, equitable and reasonable; and (v) given and made after due notice and opportunity for hearing.

2. Release By Third Parties. Except as otherwise expressly provided in the Plan, effective as of the Effective Date, to the fullest extent permitted by applicable law, for good and valuable consideration provided by each of the Released Parties, the adequacy and sufficiency of which is thereby confirmed, and without limiting or otherwise modifying the scope of the Debtor Release provided by the Debtor Releasing Parties above, each Non-Debtor Releasing Party (together with the Debtor Releasing Parties, the "Releasing Parties") will be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever provided a full discharge, waiver and release to each of the Released Parties (and each such Released Party so released shall be deemed forever released, waived and discharged by the Non-Debtor Releasing Parties) and their respective assets and properties (the "Third Party Release") from any and all claims, Causes of Action, Released and Settled Claims, Litigation Claims and any other debts, obligations, rights, suits, damages, actions, remedies, and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, whether directly or derivatively held, existing as of the Effective Date or thereafter arising, in law, at equity or otherwise, whether for tort, contract, violations of federal or state securities laws, or otherwise, based in whole or in part upon any act or omission, transaction, or other occurrence or circumstances existing or taking place prior to or on the Effective Date arising from or related in any way in whole or in part to any of the Debtors, including, without limitation, (i) the Chapter 11 Cases, the Disclosure Statement, the Plan, the Restructuring Support Agreement and the Restructuring Documents, (ii) the subject matter of, or the transactions or events giving rise to, any Claim or Equity Interest that is treated in the Plan, (iii) the business or contractual arrangements between any Debtor and any Released Parties, (iv) the negotiation, formulation or preparation of the Restructuring Support Agreement, the Plan, the Disclosure Statement, the Plan Supplement, the Restructuring Documents, or related agreements, instruments or other documents, (v) the restructuring of Claims or Equity Interests prior to or during the Chapter 11 Cases, (vi) the purchase, sale or rescission of the purchase or sale of any Equity Interest of the Debtors or the Reorganized Debtors, and/or (vii) the Confirmation or Consummation of the Plan or the solicitation of votes on the Plan that such Non-Debtor Releasing Party would have been legally entitled to assert (whether individually or collectively) against any of the Released Parties; provided, however, that the foregoing provisions of this Third Party Release shall not operate to waive or release (i) any Causes of Action arising from willful misconduct, actual fraud, or gross negligence of such applicable Released Party as determined by Final Order of the Bankruptcy Court or any other court

of competent jurisdiction; (ii) any Causes of Action relating to the MSHA Action (other than against a member of the Special Restructuring Committee); and/or (iii) the rights of such Non-Debtor Releasing Party to enforce the Plan and the contracts, instruments, releases, indentures, and other agreements and documents delivered under or in connection with the Plan or assumed pursuant to the Plan or Final Order of the Bankruptcy Court. The foregoing release shall be effective as of the Effective Date, without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Person and the Confirmation Order will permanently enjoin the commencement or prosecution by any Person or Entity, whether directly, derivatively or otherwise, of any claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, or liabilities released pursuant to this Third Party Release.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of the Third Party Release, which includes by reference each of the related provisions and definitions contained under the Plan, and further, shall constitute the Bankruptcy Court's finding that the Third Party Release is: (i) in exchange for the good and valuable consideration provided by the Released Parties; (ii) a good faith settlement and compromise of the claims released by the Third Party Release; (iii) in the best interest of the Debtors and all Holders of Claims and Equity Interests; (iv) fair, equitable and reasonable; and (v) given and made after due notice and opportunity for hearing.

### 3. Exculpation

Effective as of the Effective Date, the Exculpated Parties shall neither have nor incur any liability to any Person or Entity for any claims, Causes of Action or Released and Settled Claim arising prior to or on the Effective Date for any act taken or omitted to be taken in connection with, or related to, formulating, negotiating, preparing, disseminating, implementing, administering, confirming or effecting the Confirmation or Consummation of the Plan, the Disclosure Statement, the Restructuring Documents or any contract, instrument, release or other agreement or document created or entered into in connection with the Plan, including the Restructuring Support Agreement, or any other prepetition or postpetition act taken or omitted to be taken in connection with or in contemplation of the restructuring of the Debtors, the approval of the Disclosure Statement or Confirmation or Consummation of the Plan; provided, however, that the foregoing provisions of this exculpation shall not operate to waive or release: (i) any Causes of Action arising from willful misconduct, actual fraud, or gross negligence of such applicable Exculpated Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction; and/or (ii) the rights of any Person or Entity to enforce the Plan and the contracts, instruments, releases, indentures, and other agreements and documents delivered under or in connection with the Plan or assumed pursuant to the Plan or Final Order of the Bankruptcy Court; provided, further, that each Exculpated Party shall be entitled to rely upon the advice of counsel concerning its respective duties pursuant to, or in connection with, the above referenced documents, actions or inactions. The foregoing exculpation shall be effective as of the Effective Date without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Person. Notwithstanding the foregoing, nothing in this Article X.E shall or shall be deemed to prohibit the Debtors or the Reorganized Debtors from asserting and enforcing any claims, obligations, suits, judgments, demands, debts, rights, Causes of Action or liabilities they may have against any Person that is based upon an alleged breach of a confidentiality or non-compete obligation owed to the Debtors or the Reorganized Debtors, in each case unless otherwise expressly provided for in the Plan.

#### 4. Injunction

Except as otherwise expressly provided in the Plan or the Confirmation Order, from and after the Effective Date, all Persons and Entities are, to the fullest extent provided under section 524 and other applicable provisions of the Bankruptcy Code, permanently enjoined from (i) commencing or continuing, in any manner or in any place, any suit, action or other proceeding; (ii) enforcing, attaching, collecting, or recovering in any manner any judgment, award, decree, or order; (iii) creating, perfecting, or enforcing any Lien or encumbrance; (iv) asserting a setoff or right of subrogation of any kind; or (v) commencing or continuing in any manner any action or other proceeding of any kind, in each case on account of or with respect to any Claim, demand, liability, obligation, debt, right, Cause of Action, equity interest, or remedy released or to be released, exculpated or to be exculpated, settled or to be settled or discharged or to be discharged pursuant to the Plan or the Confirmation Order against any Person or Entity so released, discharged, or exculpated (or the property or estate of any Person or Entity so released, discharged, or exculpated). All injunctions or stays provided for in the Chapter 11 Cases under section 105 or section 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect until the Effective Date.

#### Certain Definitions Contains in the Plan Release, Exculpation and Injunction Provisions

“*Causes of Action*” means any claims, causes of action (including Avoidance Actions), demands, actions, suits, obligations, liabilities, cross-claims, counterclaims, offsets, or setoffs of any kind or character whatsoever, in each case whether known or unknown, contingent or non-contingent, matured or unmatured, suspected or unsuspected, foreseen or unforeseen, direct or indirect, choate or inchoate, existing or hereafter arising, under statute, in contract, in tort, in law, or in equity, or pursuant to any other theory of law, federal or state, whether asserted or assertable directly or derivatively in law or equity or otherwise by way of claim, counterclaim, cross-claim, third party action, action for indemnity or contribution or otherwise, based in whole or in part upon any act or omission or other event occurring prior to the Petition Date or during the course of the Chapter 11 Cases, including through the Effective Date.

“*Exculpated Parties*” means, collectively: (a) the Debtors; (b) the Reorganized Debtors; (c) any Committee and the members thereof in their capacity as such; (d) the DIP Credit Agreement Agent; (e) DIP Credit Agreement Lenders; (f) the Prepetition Credit Agreement Agent; (g) the Prepetition Credit Agreement Lenders; (h) the Prepetition Notes Agent; (i) the Prepetition Noteholders; and (j) in each case, the respective Related Persons of each of the foregoing Entities.

“*Litigation Claims*” means the claims, rights of action, suits or proceedings, whether in law or in equity, whether known or unknown, that any Debtor or any Estate may hold against any Person or Entity, including, without limitation, the Causes of Action of the Debtors or their Estates, in each case solely to the extent of the Debtors’ or their Estates’ interest therein. A non-exclusive list of the Litigation Claims held by the Debtors as of the Effective Date is to be Filed with the Plan Supplement, which shall be deemed to include any derivative actions filed against any Debtor as of the Effective Date.

“*New Railcar Lease Agreements*” means those certain railcar lease agreements entered into between the Debtors and the Specified Rail Car Lessors pursuant to the New Railcar Lease Agreements Order.

“*New Railcar Lease Agreements Order*” means the Order Authorizing the Debtors to (I) Reject Certain Railcar Lease Agreements Nunc Pro Tunc to the Petition Date and (II) Enter Into

Proposed New Railcar Lease Agreements Effective as of the Petition Date entered by the Bankruptcy Court in the Chapter 11 Cases (Docket No. 208), as such order may be amended, supplemented, or modified from time to time.

**“Non-Debtor Releasing Parties”** means, collectively: (a) the Committee and the members thereof in their capacity as such; (b) the Prepetition Credit Agreement Agent and the Releasing Prepetition Credit Agreement Lenders; (c) the DIP Credit Agreement Agent and the DIP Credit Agreement Lenders (d) the Prepetition Notes Agent and the Releasing Prepetition Noteholders; (e) the Releasing Old Emerge LP Equity Holders; (f) those Holders of General Unsecured Claims or Old Emerge LP Equity Interests that do not affirmatively opt out of the Third Party Release as provided on their respective Ballots; and (g) each Specified Railcar Lessor (to the extent it is a Released Party).

**“Related Persons”** means, with respect to any Person, such Person’s predecessors, successors, assigns and present and former Affiliates (whether by operation of law or otherwise) and subsidiaries, and each of their respective current and former officers, directors, principals, employees, shareholders, members (including *ex officio* members and managing members), managers, managed accounts or funds, management companies, fund advisors, advisory or subcommittee board members, partners, agents, financial advisors, attorneys, accountants, investment bankers, investment advisors, consultants, representatives, and other professionals, in each case acting in such capacity at any time on or after the date of the Restructuring Support Agreement, and any Person claiming by or through any of them, including such Related Persons’ respective heirs, executors, estates, servants, and nominees; provided, however, that no insurer of any Debtor shall constitute a Related Person.

**“Released and Settled Claims”** means all Claims and Causes of Action made, or which could have been made, on or on behalf of any of the Debtors against the Prepetition Revolver Agent, the Prepetition Revolving Lenders, the Prepetition Note Agent, or the Prepetition Noteholders, or any of their respective affiliates, agents, attorneys, advisors, professionals, officers, directors, and employees, in their respective capacities as such.

**“Released Party”** means, collectively: (a) the Debtors; (b) the Reorganized Debtors; (c) the Committee and the members thereof in their capacity as such; (d) the Prepetition Credit Agreement Agent and the Releasing Prepetition Credit Agreement Lenders; (e) the DIP Credit Agreement Agent and the DIP Credit Agreement Lenders; (f) the Prepetition Notes Agent and the Releasing Prepetition Noteholders; (g) the Releasing Old Emerge LP Equity Holders; and (h) each Specified Railcar Lessor, so long as the applicable New Railcar Lease Agreement(s) between the Debtors and the applicable Specified Railcar Lessor is in full force and effect as of the Effective Date; and in each case the respective Related Persons of each of the foregoing Entities.

**“Specified Railcar Lessors”** means, collectively, (a) Trinity Industries Leasing Company, (b) MUL Railcars Leasing, LLC, and (c) CIT Bank, N.A. and The CIT Group/Equipment Financing, Inc., as an assignee of CIT Rail, LLC.

**EXHIBIT 3-A**

**Ballot for Holders of Class 5 Prepetition Notes Claims**

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

-----	X	
In re:	:	Chapter 11
	:	
EMERGE ENERGY SERVICES LP, <i>et al.</i> , <sup>1</sup>	:	Case No. 19-11563 (KBO)
	:	
Debtors.	:	(Jointly Administered)
	:	
-----	X	

**BALLOT FOR VOTING ON THE ABOVE-CAPTIONED DEBTORS' CHAPTER 11 PLAN**

**Class 5 – Prepetition Notes Claims**

PLEASE READ AND FOLLOW THE ENCLOSED INSTRUCTIONS FOR COMPLETING THIS BALLOT CAREFULLY BEFORE COMPLETING THIS BALLOT.

**THIS BALLOT MUST BE COMPLETED, EXECUTED AND RETURNED SO THAT IT IS ACTUALLY RECEIVED BY THE VOTING AND CLAIMS AGENT (KURTZMAN CARSON CONSULTANTS LLC) ON OR BEFORE 5:00 P.M. PREVAILING EASTERN TIME ON OCTOBER 17, 2019 (THE "VOTING DEADLINE") IN ACCORDANCE WITH THE FOLLOWING:**

The above-captioned debtors and debtors in possession (collectively, the "**Debtors**") are soliciting votes with respect to the *First Amended Joint Plan of Reorganization for Emerge Energy Services LP and its Affiliate Debtors Under Chapter 11 of the Bankruptcy Code* [Docket No. [ ● ]] (as may be amended from time to time, the "**Plan**")<sup>2</sup> as set forth in the Disclosure Statement for the Plan [Docket No. [ ● ]] (as may be amended from time to time, the "**Disclosure Statement**"). The Bankruptcy Court has approved the Disclosure Statement as containing adequate information pursuant to Bankruptcy Code Section 1125, by entry of an order on [ ● ], 2019 [Docket No. [ ● ]] (the "**Disclosure Statement Order**"). Bankruptcy Court approval of the Disclosure Statement does not indicate approval of the Plan by the Bankruptcy Court. Capitalized terms used but not otherwise defined herein shall have the meanings set forth in the Plan.

You are receiving this Ballot because our records indicate that you are a direct Holder of a Class 5 Prepetition Notes Claim, as of the Voting Record Date (the close of business on September 9, 2019). Accordingly, you have a right to (i) vote to accept or reject the Plan as

<sup>1</sup> The Debtors in these cases, along with the last four digits of each Debtor's federal tax identification number, are: Emerge Energy Services LP (2937), Emerge Energy Services GP LLC (4683), Emerge Energy Services Operating LLC (2511), Superior Silica Sands LLC (9889), and Emerge Energy Services Finance Corporation (9875). The Debtors' address is 5600 Clearfork Main Street, Suite 400, Fort Worth, Texas 76109.

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



provided in Item 2 below, and (ii) opt-out of the Third Party Release as provided in Item 2 below.

Your rights are described in the Disclosure Statement, which is included (along with the Plan, Disclosure Statement Order and certain other materials) in the Solicitation Package you are receiving with this Ballot. If you need to obtain additional solicitation materials, you may contact the Debtors' Voting and Claims Agent by: (i) visiting the Debtors' restructuring website at [www.kccllc.net/EmergeEnergy](http://www.kccllc.net/EmergeEnergy) (under Tab "Plan and Disclosure Statement"); (ii) writing to Emerge Energy Claims Processing Center, c/o Kurtzman Carson Consultants LLC, 222 N. Pacific Coast Highway, Suite 300, El Segundo, CA 90245; and/or (iii) calling the Debtors' restructuring hotline at 877-634-7165 (toll-free in US and Canada) or 424-236-7221 (for international callers). You may also obtain these documents and any other pleadings filed in the Debtors' chapter 11 cases (for a fee) via PACER at [www.deb.uscourts.gov](http://www.deb.uscourts.gov) or free of charge at [www.kccllc.net/EmergeEnergy](http://www.kccllc.net/EmergeEnergy).

This Ballot may not be used for any purpose other than (i) for casting votes to accept or reject the Plan, and (ii) opting out of the Third Party Release. If you believe you have received this Ballot in error, or if you believe that you have received the wrong Ballot, please contact the Voting and Claims Agent immediately at the address or telephone number set forth above.

You should review the Disclosure Statement and the Plan before you vote. You may wish to seek legal advice concerning the Plan and the Plan's classification and treatment of your Claim. Your Claim has been placed in Class 5 – Prepetition Notes Claims under the Plan. If you hold Claims in more than one Class, you will receive a Ballot for each Class in which you are entitled to vote.

You should also review the Plan Supplement which shall be filed by the Debtors by no later than October 4, 2019, and which shall be available on the Debtors' restructuring website at [www.kccllc.net/EmergeEnergy](http://www.kccllc.net/EmergeEnergy) (under Tab "Plan and Disclosure Statement"). The Plan Supplement shall contain documents and agreements (and the exhibits, schedules, annexes and supplements thereto) necessary to implement, or entered into in connection with, the Plan, including, but not limited to, the Amended/New Organizational Documents, the Exit Facility Loan Documents, the New Second Lien Notes Documents, the New Warrants Agreement and a non-exclusive list of the Litigation Claims.

The Bankruptcy Court can confirm the Plan and bind you if the Plan is accepted by the holders of at least two-thirds in amount and more than one-half in number of the Claims in each impaired Class who vote on the Plan and if the Plan otherwise satisfies the applicable requirements of section 1129(a) of the Bankruptcy Code. If the requisite acceptances are not obtained, the Bankruptcy Court nonetheless may confirm the Plan if it finds that the Plan (i) provides fair and equitable treatment to, and does not unfairly discriminate against, each Class rejecting the Plan and (ii) otherwise satisfies the requirements of section 1129(b) of the Bankruptcy Code. If the Plan is confirmed by the Bankruptcy Court, it will be binding on you whether or not you vote or affirmatively vote to reject the Plan. To have your vote counted, you must complete, sign and return this Ballot to the Voting and Claims Agent by the Voting Deadline.

**Item 1. Amount of Claim.**

The undersigned hereby certifies that as of the Voting Record Date (the close of business on September 9, 2019), the undersigned was the Holder of Class 5 – Prepetition Notes Claims against the Debtors in the following unpaid amount (insert unpaid amount in box below if not already completed):

\$ \_\_\_\_\_

**Item 2. Vote on Plan.**

The Holder of the Class 5 – Prepetition Notes Claims against the Debtors set forth in Item 1 above votes to (please check one box below):

<input type="checkbox"/> <b><u>ACCEPT</u></b> (vote FOR) the Plan	<input type="checkbox"/> <b><u>REJECT</u></b> (vote AGAINST) the Plan
---	---

THE DEBTORS RECOMMEND THAT YOU VOTE TO ACCEPT THE PLAN.

**IMPORTANT INFORMATION REGARDING THE RELEASE OF CLAIMS BY THIRD PARTIES**

ARTICLE X OF THE PLAN CONTAINS RELEASE, EXCULPATION AND INJUNCTION PROVISIONS, WHICH ARE SET FORTH AT THE END OF THIS BALLOT. YOU SHOULD REVIEW THESE PROVISIONS CAREFULLY.

**Check the box below if you elect not to grant the Third Party Release contained in Article X.B.2 of the Plan. If you are not a signatory to the Restructuring Support Agreement, election to withhold consent is at your option. If you submit your Ballot with this box checked, then you will be deemed NOT to consent to the Third Party Release set forth in Article X.B.2 of the Plan. PLEASE BE ADVISED THAT BY NOT CHECKING THE BOX BELOW YOU ELECT TO GRANT THE THIRD-PARTY RELEASE AGAINST THE “RELEASED PARTIES,” AS THAT TERM IS DEFINED IN THE PLAN, IN EACH AND EVERY CAPACITY IN WHICH YOU HOLD A CLAIM AGAINST, OR EQUITY INTEREST IN, ANY OF THE DEBTORS. YOU MUST AFFIRMATIVELY CHECK THE BOX BELOW IN ORDER TO OPT-OUT OF THE THIRD PARTY RELEASE.**

**PLEASE ALSO BE ADVISED THAT THE DEBTOR RELEASE CONTAINED IN ARTICLE X.B.1 OF THE PLAN IS SEPARATE FROM AND INDEPENDENT OF THE THIRD PARTY RELEASE. IF YOU OBJECT TO THE DEBTOR RELEASE, YOU MUST FILE A SEPARATE OBJECTION WITH THE BANKRUPTCY COURT IN ACCORDANCE WITH THE PROCEDURES DESCRIBED IN THE DISCLOSURE STATEMENT ORDER.**

<input type="checkbox"/> <b>OPT-OUT ELECTION:</b> The undersigned elects to opt-out of the Third Party Releases contained in Article X.B.2 of the Plan
--

**Item 3. Certifications.**

By signing this Ballot, the undersigned certifies to the Bankruptcy Court and the Debtors:

- i. that either: (i) the undersigned is the Holder of the Class 5 Claims being voted; or (ii) the undersigned is an authorized signatory for an Entity that is a Holder of the Class 5 Claims being voted, and, in either case, has the full power and authority to vote to accept or reject the Plan with respect to the Claims identified in Item 1 above;
- ii. that the undersigned has received a copy of the Disclosure Statement and the Solicitation Package and acknowledges that the solicitation is being made pursuant to the terms and conditions set forth therein;
- iii. that the undersigned has cast the same vote with respect to all Class 5 Claims in a single Class; and
- iv. that no other Ballots with respect to the amount of the Class 5 Claims identified in Item 1 above have been cast or, if any other Ballots have been cast with respect to such Claims, then any such earlier Ballots are hereby revoked.

Name of Holder:	_____
	(Print or Type)
Social Security or Federal Tax Identification Number:	_____
Signature:	_____
Name of Signatory:	_____
	(If other than Holder)
Title:	_____
Address:	_____
	_____
	_____
Date Completed:	_____

If your address or contact information has changed, please note the new information here.

**PLEASE COMPLETE, SIGN AND DATE THIS BALLOT AND RETURN IT IN THE ENVELOPE PROVIDED TO THE FOLLOWING ADDRESS SO THAT IT IS ACTUALLY RECEIVED BY 5:00 P.M. (PREVAILING EASTERN TIME) ON OCTOBER 17, 2019:**

Emerge Energy Services LP Balloting Center  
c/o Kurtzman Carson Consultants LLC  
222 N. Pacific Coast Highway, Suite 300  
El Segundo, California 90245  
Telephone: 877-634-7165 (toll-free in US and Canada)  
or 424-236-7221 (for international callers)

**THIS BALLOT MUST BE ACTUALLY RECEIVED BY THE VOTING AND CLAIMS AGENT ON OR BEFORE:**

**5:00 P.M. PREVAILING EASTERN TIME ON OCTOBER 17, 2019.**

**BALLOTS SENT BY FACSIMILE, TELECOPY OR ELECTRONIC MAIL (OTHER THAN THROUGH THE VOTING AND CLAIMS AGENT'S ONLINE PORTAL IN ACCORDANCE WITH THE BELOW) WILL NOT BE ACCEPTED**

In addition, to submit your Ballot via the Voting and Claims Agent's online portal, please visit [www.kccllc.net/EmergeEnergy](http://www.kccllc.net/EmergeEnergy). Click on the "E-Ballot" section of the website and follow the instructions to submit your Ballot.

**IMPORTANT NOTE:** You will need the following information to retrieve and submit your customized electronic Ballot:

Unique E-Ballot ID#: \_\_\_\_\_

The Voting and Claims Agent's online portal is the sole manner in which Ballots will be accepted via electronic or online transmission. Ballots submitted by facsimile, email or other means of electronic transmission will not be counted.

Each E-Ballot ID# is to be used solely for voting only those Claims described in Item 1 of your electronic Ballot. Please complete and submit an electronic Ballot for each E-Ballot ID# you receive, as applicable.

Creditors who cast a Ballot using the Voting and Claims Agent's online portal should NOT also submit a paper Ballot.

## Class 5 — Prepetition Notes Claims

**INSTRUCTIONS FOR COMPLETING THIS BALLOT**

1. The Debtors are soliciting the votes of Holders of Claims with respect to the Plan attached as Exhibit A to the Disclosure Statement. Capitalized terms used in the Ballot or in these instructions (the “**Ballot Instructions**”) but not otherwise defined therein or herein shall have the meaning set forth in the Plan, a copy of which also accompanies the Ballot.
2. To ensure that your Ballot is counted, you ***must either***: (i) complete and submit this hard copy Ballot, or (ii) vote through the Debtors’ online balloting portal accessible through the Debtors’ case website [www.kccllc.net/EmergeEnergy](http://www.kccllc.net/EmergeEnergy). **Ballots will not be accepted by facsimile or other electronic means (other than the online portal).**
3. **Use of Hard Copy Ballot.** To ensure that your vote is counted, you must complete the Ballot and take the following steps: (i) make sure that the information required by Item 1 above has been inserted (if you do not know the amount of your claim, please contact the Voting and Claims Agent); (ii) clearly indicate your decision either to accept or reject the Plan in the boxes provided in Item 2 above; (iii) provide the information required by Item 3 above and; (iv) sign, date and return an original of your Ballot to the address set forth on the enclosed pre-addressed envelope.
4. **Use of Online Ballot Portal.** To ensure that your electronic Ballot is counted, please follow the instructions of the Debtors’ case administration website at [www.kccllc.net/EmergeEnergy](http://www.kccllc.net/EmergeEnergy). You will need to enter your unique E-Ballot identification number indicated above. The online balloting portal is the sole manner in which Ballots will be accepted via electronic or online transmission. **Ballots will not be accepted by facsimile or electronic means (other than the online portal).**
5. If a Ballot is received after the Voting Deadline, it will not be counted, unless the Debtors have granted an extension of the Voting Deadline in writing with respect to such Ballot. Additionally, the following Ballots will **NOT** be counted:
  - i. any Ballot that is illegible or contains insufficient information to permit the identification of the claimant;
  - ii. any Ballot cast by a person or entity that does not hold a claim in a class that is entitled to vote to accept or reject the Plan;
  - iii. any Ballot cast for a claim that is not listed on the Schedules, or that is scheduled at zero, in an unknown amount, or, in whole or in part, as unliquidated, contingent, or disputed, and for which no proof of claim was timely filed or deemed timely filed by an order of the Court prior to the Voting Deadline;
  - iv. any Ballot that is properly completed, executed and timely filed, but (i) does not indicate an acceptance or rejection of the Plan, (ii) indicates both an acceptance and rejection of the Plan, or (iii) partially accepts and partially rejects the Plan;
  - v. any Ballot submitted by facsimile, telecopy or electronic mail (other than the Voting and Claims Agent’s online portal);

- vi. any unsigned Ballot;
  - vii. any Ballot sent to the Debtors, the Debtors' agents/representatives (other than the Voting and Claims Agent), any indenture trustee, or the Debtors' financial or legal advisors; and/or
  - viii. any Ballot not cast in accordance with the procedures approved in the Disclosure Statement Order.
6. The method of delivery of Ballots to the Voting and Claims Agent is at the election and risk of each Holder of a Claim. Except as otherwise provided herein, such delivery will be deemed made only when the Voting and Claims Agent **actually receives** the originally executed Ballot. Instead of effecting delivery by first-class mail, it is recommended, though not required, that Holders use an overnight or hand delivery service. In all cases, Holders should allow sufficient time to assure timely delivery.
  7. If multiple Ballots are received from the same Holder of a Claim with respect to the same Claim prior to the Voting Deadline, the last Ballot timely received will supersede and revoke any earlier received Ballots.
  8. You must vote all of your Claims within a particular Class either to accept or reject the Plan and may not split your vote. Further, if a Holder has multiple Claims within the same Class, the Debtors may, in their discretion, aggregate the Claims of any particular Holder within a Class for the purpose of counting votes.
  9. The Ballot is not a letter of transmittal and may not be used for any purpose other than to (i) vote to accept or reject the Plan, and (ii) opt-out of the Third Party Release. Accordingly, at this time, Holders of Claims should not surrender certificates or instruments representing or evidencing their Claims, and neither the Debtors nor the Voting and Claims Agent will accept delivery of any such certificates or instruments surrendered together with a Ballot.
  10. This Ballot does not constitute, and shall not be deemed to be, (i) a Proof of Claim or (ii) an assertion or admission of a Claim.
  11. Please be sure to sign and date your Ballot. If you are signing a Ballot in your capacity as a trustee, executor, administrator, guardian, attorney in fact, officer of a corporation or otherwise acting in a fiduciary or representative capacity, you must indicate such capacity when signing and, if required or requested by the Voting and Claims Agent, the Debtors or the Bankruptcy Court, must submit proper evidence to the requesting party to so act on behalf of such Holder. In addition, please provide your name and mailing address if it is different from that set forth on the attached mailing label or if no such mailing label is attached to the Ballot.
  12. If you hold Claims in more than one Class under the Plan you may receive more than one Ballot coded for each different Class. Each Ballot votes only your Claims indicated on that Ballot, so please complete and return each Ballot you received.

**PLEASE MAIL YOUR BALLOT PROMPTLY!**

**IF YOU HAVE ANY QUESTIONS REGARDING THIS BALLOT, THESE VOTING INSTRUCTIONS OR THE PROCEDURES FOR VOTING, PLEASE CALL THE VOTING AND CLAIMS AGENT AT: 877-634-7165 (TOLL-FREE IN US AND CANADA) OR 424-236-7221 (FOR INTERNATIONAL CALLERS). PLEASE NOTE THAT THE VOTING AND CLAIMS AGENT CANNOT PROVIDE LEGAL ADVICE.**

**IF THE VOTING AND CLAIMS AGENT DOES NOT ACTUALLY RECEIVE THIS BALLOT ON OR BEFORE THE VOTING DEADLINE, WHICH IS 5:00 P.M. PREVAILING EASTERN TIME ON OCTOBER 17, 2019, THEN YOUR VOTE TRANSMITTED HEREBY WILL NOT BE COUNTED.**

NO PERSON HAS BEEN AUTHORIZED TO GIVE ANY INFORMATION OR ADVICE, OR TO MAKE ANY REPRESENTATION, REGARDING THE DEBTORS OR THE PLAN, OTHER THAN WHAT IS CONTAINED IN THE SOLICITATION PACKAGE MAILED HEREWITH.

PLEASE SEE THE FOLLOWING IMPORTANT INFORMATION REGARDING THE RELEASES, EXCULPATIONS AND INJUNCTION SET FORTH IN THE PLAN.

**RELEASE, EXCULPATION, AND INJUNCTION PROVISIONS CONTAINED  
IN THE PLAN**

**Release of Claims and Causes of Action**

1. **Release by the Debtors and their Estates.** Pursuant to section 1123(b) and any other applicable provisions of the Bankruptcy Code, and except as otherwise expressly provided in the Plan, effective as of the Effective Date, for good and valuable consideration provided by each of the Released Parties, the adequacy and sufficiency of which is thereby confirmed, the Debtors and the Reorganized Debtors, in their respective individual capacities and as debtors-in-possession, and on behalf of themselves and their respective Estates, including, without limitation, any successor to the Debtors or any Estate representative appointed or selected pursuant to section 1123(b)(3) of the Bankruptcy Code (collectively, the "Debtor Releasing Parties") will be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever provided a full discharge, waiver and release to each of the Released Parties (and each such Released Party so released shall be deemed forever released, waived and discharged by the Debtor Releasing Parties) and their respective assets and properties (the "Debtor Release") from any and all claims, Causes of Action, Released and Settled Claims, Litigation Claims and any other debts, obligations, rights, suits, damages, actions, remedies, and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, whether directly or derivatively held, existing as of the Effective Date or thereafter arising, in law, at equity or otherwise, whether for tort, contract, violations of federal or state securities laws, or otherwise, based in whole or in part upon any act or omission, transaction, or other occurrence or circumstances existing or taking place prior to or on the Effective Date arising from or related in any way in whole or in part to any of the Debtors, including, without limitation, (i) the Chapter 11 Cases, the Disclosure Statement, the Plan, the Restructuring Support Agreement and the Restructuring Documents, (ii) the subject matter of, or the transactions or events giving rise to, any Claim or Equity Interest that is treated in the Plan, (iii) the business or contractual arrangements between any Debtor and any Released Parties, (iv) the

negotiation, formulation or preparation of the Restructuring Support Agreement, the Plan, the Disclosure Statement, the Plan Supplement, the Restructuring Documents, or related agreements, instruments or other documents, (v) the restructuring of Claims or Equity Interests prior to or during the Chapter 11 Cases, (vi) the purchase, sale, or rescission of the purchase or sale of any Equity Interest of the Debtors or the Reorganized Debtors, and/or (vii) the Confirmation or Consummation of the Plan or the solicitation of votes on the Plan that such Debtor Releasing Party would have been legally entitled to assert (whether individually or collectively) or that any Holder of a Claim or Equity Interest or other Entity would have been legally entitled to assert for, or on behalf or in the name of, any Debtor, its respective Estate or any Reorganized Debtor (whether directly or derivatively) against any of the Released Parties; provided, however, that the foregoing provisions of this Debtor Release shall not operate to waive or release: (i) any Causes of Action arising from willful misconduct, actual fraud, or gross negligence of such applicable Released Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction; (ii) any Causes of Action relating to the MSHA Action (other than against a member of the Special Restructuring Committee); and/or (iii) the rights of such Debtor Releasing Party to enforce the Plan and the contracts, instruments, releases, indentures, and other agreements or documents delivered under or in connection with the Plan or assumed pursuant to the Plan or assumed pursuant to Final Order of the Bankruptcy Court. The foregoing release shall be effective as of the Effective Date without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Person and the Confirmation Order will permanently enjoin the commencement or prosecution by any Person or Entity, whether directly, derivatively or otherwise, of any claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, or liabilities released pursuant to this Debtor Release. Notwithstanding the foregoing, nothing in this Article X.B shall or shall be deemed to (i) prohibit the Debtors or the Reorganized Debtors from asserting and enforcing any claims, obligations, suits, judgments, demands, debts, rights, Causes of Action or liabilities they may have against any Person that is based upon an alleged breach of a confidentiality or non-compete obligation owed to the Debtors or the Reorganized Debtors and/or (ii) operate as a release or waiver of any Intercompany Claims, in each case unless otherwise expressly provided for in the Plan.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the Debtor Release, which includes by reference each of the related provisions and definitions contained under the Plan, and further, shall constitute the Bankruptcy Court's finding that the Debtor Release is: (i) in exchange for the good and valuable consideration provided by the Released Parties; (ii) a good faith settlement and compromise of the claims released by the Debtor Release; (iii) in the best interest of the Debtors and their Estates; (iv) fair, equitable and reasonable; and (v) given and made after due notice and opportunity for hearing.

2. Release By Third Parties. Except as otherwise expressly provided in the Plan, effective as of the Effective Date, to the fullest extent permitted by applicable law, for good and valuable consideration provided by each of the Released Parties, the adequacy and sufficiency of which is thereby confirmed, and without limiting or otherwise modifying the scope of the Debtor Release provided by the Debtor Releasing Parties above, each Non-Debtor Releasing Party (together with the Debtor Releasing Parties, the "Releasing Parties") will be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever provided a full discharge, waiver and release to each of the Released Parties (and each such Released Party so released shall be deemed forever released, waived and discharged by the Non-Debtor Releasing Parties) and their respective assets and properties (the "Third Party Release") from any and all claims, Causes of Action, Released and Settled Claims, Litigation Claims and any other debts, obligations, rights, suits, damages,



actions, remedies, and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, whether directly or derivatively held, existing as of the Effective Date or thereafter arising, in law, at equity or otherwise, whether for tort, contract, violations of federal or state securities laws, or otherwise, based in whole or in part upon any act or omission, transaction, or other occurrence or circumstances existing or taking place prior to or on the Effective Date arising from or related in any way in whole or in part to any of the Debtors, including, without limitation, (i) the Chapter 11 Cases, the Disclosure Statement, the Plan, the Restructuring Support Agreement and the Restructuring Documents, (ii) the subject matter of, or the transactions or events giving rise to, any Claim or Equity Interest that is treated in the Plan, (iii) the business or contractual arrangements between any Debtor and any Released Parties, (iv) the negotiation, formulation or preparation of the Restructuring Support Agreement, the Plan, the Disclosure Statement, the Plan Supplement, the Restructuring Documents, or related agreements, instruments or other documents, (v) the restructuring of Claims or Equity Interests prior to or during the Chapter 11 Cases, (vi) the purchase, sale or rescission of the purchase or sale of any Equity Interest of the Debtors or the Reorganized Debtors, and/or (vii) the Confirmation or Consummation of the Plan or the solicitation of votes on the Plan that such Non-Debtor Releasing Party would have been legally entitled to assert (whether individually or collectively) against any of the Released Parties; provided, however, that the foregoing provisions of this Third Party Release shall not operate to waive or release (i) any Causes of Action arising from willful misconduct, actual fraud, or gross negligence of such applicable Released Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction; (ii) any Causes of Action relating to the MSHA Action (other than against a member of the Special Restructuring Committee); and/or (iii) the rights of such Non-Debtor Releasing Party to enforce the Plan and the contracts, instruments, releases, indentures, and other agreements and documents delivered under or in connection with the Plan or assumed pursuant to the Plan or Final Order of the Bankruptcy Court. The foregoing release shall be effective as of the Effective Date, without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Person and the Confirmation Order will permanently enjoin the commencement or prosecution by any Person or Entity, whether directly, derivatively or otherwise, of any claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, or liabilities released pursuant to this Third Party Release.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of the Third Party Release, which includes by reference each of the related provisions and definitions contained under the Plan, and further, shall constitute the Bankruptcy Court's finding that the Third Party Release is: (i) in exchange for the good and valuable consideration provided by the Released Parties; (ii) a good faith settlement and compromise of the claims released by the Third Party Release; (iii) in the best interest of the Debtors and all Holders of Claims and Equity Interests; (iv) fair, equitable and reasonable; and (v) given and made after due notice and opportunity for hearing.

### 3. Exculpation

Effective as of the Effective Date, the Exculpated Parties shall neither have nor incur any liability to any Person or Entity for any claims, Causes of Action or Released and Settled Claim arising prior to or on the Effective Date for any act taken or omitted to be taken in connection with, or related to, formulating, negotiating, preparing, disseminating, implementing, administering, confirming or effecting the Confirmation or Consummation of the Plan, the Disclosure Statement, the Restructuring Documents or any contract, instrument, release or other agreement or document created or entered into in connection with the Plan, including the Restructuring Support Agreement, or any other petition or

postpetition act taken or omitted to be taken in connection with or in contemplation of the restructuring of the Debtors, the approval of the Disclosure Statement or Confirmation or Consummation of the Plan; provided, however, that the foregoing provisions of this exculpation shall not operate to waive or release: (i) any Causes of Action arising from willful misconduct, actual fraud, or gross negligence of such applicable Exculpated Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction; and/or (ii) the rights of any Person or Entity to enforce the Plan and the contracts, instruments, releases, indentures, and other agreements and documents delivered under or in connection with the Plan or assumed pursuant to the Plan or Final Order of the Bankruptcy Court; provided, further, that each Exculpated Party shall be entitled to rely upon the advice of counsel concerning its respective duties pursuant to, or in connection with, the above referenced documents, actions or inactions. The foregoing exculpation shall be effective as of the Effective Date without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Person. Notwithstanding the foregoing, nothing in this Article X.E shall or shall be deemed to prohibit the Debtors or the Reorganized Debtors from asserting and enforcing any claims, obligations, suits, judgments, demands, debts, rights, Causes of Action or liabilities they may have against any Person that is based upon an alleged breach of a confidentiality or non-compete obligation owed to the Debtors or the Reorganized Debtors, in each case unless otherwise expressly provided for in the Plan.

#### 4. Injunction

Except as otherwise expressly provided in the Plan or the Confirmation Order, from and after the Effective Date, all Persons and Entities are, to the fullest extent provided under section 524 and other applicable provisions of the Bankruptcy Code, permanently enjoined from (i) commencing or continuing, in any manner or in any place, any suit, action or other proceeding; (ii) enforcing, attaching, collecting, or recovering in any manner any judgment, award, decree, or order; (iii) creating, perfecting, or enforcing any Lien or encumbrance; (iv) asserting a setoff or right of subrogation of any kind; or (v) commencing or continuing in any manner any action or other proceeding of any kind, in each case on account of or with respect to any Claim, demand, liability, obligation, debt, right, Cause of Action, equity interest, or remedy released or to be released, exculpated or to be exculpated, settled or to be settled or discharged or to be discharged pursuant to the Plan or the Confirmation Order against any Person or Entity so released, discharged, or exculpated (or the property or estate of any Person or Entity so released, discharged, or exculpated). All injunctions or stays provided for in the Chapter 11 Cases under section 105 or section 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect until the Effective Date.

#### Certain Definitions Contains in the Plan Release, Exculpation and Injunction Provisions

“*Causes of Action*” means any claims, causes of action (including Avoidance Actions), demands, actions, suits, obligations, liabilities, cross-claims, counterclaims, offsets, or setoffs of any kind or character whatsoever, in each case whether known or unknown, contingent or non-contingent, matured or unmatured, suspected or unsuspected, foreseen or unforeseen, direct or indirect, choate or inchoate, existing or hereafter arising, under statute, in contract, in tort, in law, or in equity, or pursuant to any other theory of law, federal or state, whether asserted or assertable directly or derivatively in law or equity or otherwise by way of claim, counterclaim, cross-claim, third party action, action for indemnity or contribution or otherwise, based in whole or in part upon any act or omission or other event occurring prior to the Petition Date or during the course of the Chapter 11 Cases, including through the Effective Date.

**“Exculpated Parties”** means, collectively: (a) the Debtors; (b) the Reorganized Debtors; (c) any Committee and the members thereof in their capacity as such; (d) the DIP Credit Agreement Agent; (e) DIP Credit Agreement Lenders; (f) the Prepetition Credit Agreement Agent; (g) the Prepetition Credit Agreement Lenders; (h) the Prepetition Notes Agent; (i) the Prepetition Noteholders; and (j) in each case, the respective Related Persons of each of the foregoing Entities.

**“Litigation Claims”** means the claims, rights of action, suits or proceedings, whether in law or in equity, whether known or unknown, that any Debtor or any Estate may hold against any Person or Entity, including, without limitation, the Causes of Action of the Debtors or their Estates, in each case solely to the extent of the Debtors’ or their Estates’ interest therein. A non-exclusive list of the Litigation Claims held by the Debtors as of the Effective Date is to be Filed with the Plan Supplement, which shall be deemed to include any derivative actions filed against any Debtor as of the Effective Date.

**“New Railcar Lease Agreements”** means those certain railcar lease agreements entered into between the Debtors and the Specified Rail Car Lessors pursuant to the New Railcar Lease Agreements Order.

**“New Railcar Lease Agreements Order”** means the Order Authorizing the Debtors to (I) Reject Certain Railcar Lease Agreements Nunc Pro Tunc to the Petition Date and (II) Enter Into Proposed New Railcar Lease Agreements Effective as of the Petition Date entered by the Bankruptcy Court in the Chapter 11 Cases (Docket No. 208), as such order may be amended, supplemented, or modified from time to time.

**“Non-Debtor Releasing Parties”** means, collectively: (a) the Committee and the members thereof in their capacity as such; (b) the Prepetition Credit Agreement Agent and the Releasing Prepetition Credit Agreement Lenders; (c) the DIP Credit Agreement Agent and the DIP Credit Agreement Lenders (d) the Prepetition Notes Agent and the Releasing Prepetition Noteholders; (e) the Releasing Old Emerge LP Equity Holders; (f) those Holders of General Unsecured Claims or Old Emerge LP Equity Interests that do not affirmatively opt out of the Third Party Release as provided on their respective Ballots; and (g) each Specified Railcar Lessor (to the extent it is a Released Party).

**“Related Persons”** means, with respect to any Person, such Person’s predecessors, successors, assigns and present and former Affiliates (whether by operation of law or otherwise) and subsidiaries, and each of their respective current and former officers, directors, principals, employees, shareholders, members (including *ex officio* members and managing members), managers, managed accounts or funds, management companies, fund advisors, advisory or subcommittee board members, partners, agents, financial advisors, attorneys, accountants, investment bankers, investment advisors, consultants, representatives, and other professionals, in each case acting in such capacity at any time on or after the date of the Restructuring Support Agreement, and any Person claiming by or through any of them, including such Related Persons’ respective heirs, executors, estates, servants, and nominees; *provided, however*, that no insurer of any Debtor shall constitute a Related Person.

**“Released and Settled Claims”** means all Claims and Causes of Action made, or which could have been made, on or on behalf of any of the Debtors against the Prepetition Revolver Agent, the Prepetition Revolving Lenders, the Prepetition Note Agent, or the Prepetition Noteholders, or any of their respective affiliates, agents, attorneys, advisors, professionals, officers, directors, and employees, in their respective capacities as such.

**“Released Party”** means, collectively: (a) the Debtors; (b) the Reorganized Debtors; (c)

the Committee and the members thereof in their capacity as such; (d) the Prepetition Credit Agreement Agent and the Releasing Prepetition Credit Agreement Lenders; (e) the DIP Credit Agreement Agent and the DIP Credit Agreement Lenders; (f) the Prepetition Notes Agent and the Releasing Prepetition Noteholders; (g) the Releasing Old Emerge LP Equity Holders; and (h) each Specified Railcar Lessor, so long as the applicable New Railcar Lease Agreement(s) between the Debtors and the applicable Specified Railcar Lessor is in full force and effect as of the Effective Date; and in each case the respective Related Persons of each of the foregoing Entities.

***“Specified Railcar Lessors”*** means, collectively, (a) Trinity Industries Leasing Company, (b) MUL Railcars Leasing, LLC, and (c) CIT Bank, N.A. and The CIT Group/Equipment Financing, Inc., as an assignee of CIT Rail, LLC.

**EXHIBIT 3-B**

**Ballot for Holders of Class 6 General Unsecured Claims**

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

-----	X	
In re:	:	Chapter 11
	:	
EMERGE ENERGY SERVICES LP, <i>et al.</i> , <sup>1</sup>	:	Case No. 19-11563 (KBO)
	:	
Debtors.	:	(Jointly Administered)
	:	
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**BALLOT FOR VOTING ON THE ABOVE-CAPTIONED DEBTORS’  
CHAPTER 11 PLAN**

**Class 6 – General Unsecured Claims**

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**PLEASE READ AND FOLLOW THE ENCLOSED INSTRUCTIONS FOR  
COMPLETING THIS BALLOT CAREFULLY BEFORE COMPLETING THIS  
BALLOT.**

**THIS BALLOT MUST BE COMPLETED, EXECUTED AND RETURNED SO THAT  
IT IS ACTUALLY RECEIVED BY THE VOTING AND CLAIMS AGENT (KURTZMAN  
CARSON CONSULTANTS LLC) ON OR BEFORE 5:00 P.M. PREVAILING EASTERN  
TIME ON OCTOBER 17, 2019 (THE “VOTING DEADLINE”) IN ACCORDANCE  
WITH THE FOLLOWING:**

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The above-captioned debtors and debtors in possession (collectively, the “**Debtors**”) are soliciting votes with respect to the *First Amended Joint Plan of Reorganization for Emerge Energy Services LP and its Affiliate Debtors Under Chapter 11 of the Bankruptcy Code* [Docket No. [ ● ]] (as may be amended from time to time, the “**Plan**”)<sup>2</sup> as set forth in the Disclosure Statement for the Plan [Docket No. [ ● ]] (as may be amended from time to time, the “**Disclosure Statement**”). The Bankruptcy Court has approved the Disclosure Statement as containing adequate information pursuant to Bankruptcy Code Section 1125, by entry of an order on [ ● ], 2019 [Docket No. [ ● ]] (the “**Disclosure Statement Order**”). Bankruptcy Court approval of the Disclosure Statement does not indicate approval of the Plan by the Bankruptcy Court. Capitalized terms used but not otherwise defined herein shall have the meanings set forth in the Plan.

You are receiving this Ballot because our records indicate that you are a direct Holder of a Class 6 General Unsecured Claim, as of the Voting Record Date (the close of business on

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<sup>1</sup> The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: Emerge Energy Services LP (2937), Emerge Energy Services GP LLC (4683), Emerge Energy Services Operating LLC (2511), Superior Silica Sands LLC (9889), and Emerge Energy Services Finance Corporation (9875). The Debtors’ address is 5600 Clearfork Main Street, Suite 400, Fort Worth, Texas 76109.

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

September 9, 2019). Accordingly, you have a right to (i) vote to accept or reject the Plan as provided in Item 2 below, and (ii) opt-out of the Third Party Release as provided in Item 2 below.

Your rights are described in the Disclosure Statement, which is included (along with the Plan, Disclosure Statement Order and certain other materials) in the Solicitation Package you are receiving with this Ballot. If you need to obtain additional solicitation materials, you may contact the Debtors' Voting and Claims Agent by: (i) visiting the Debtors' restructuring website at [www.kccllc.net/EmergeEnergy](http://www.kccllc.net/EmergeEnergy) (under Tab "Plan and Disclosure Statement"); (ii) writing to Emerge Energy Claims Processing Center, c/o Kurtzman Carson Consultants LLC, 222 N. Pacific Coast Highway, Suite 300, El Segundo, CA 90245; and/or (iii) calling the Debtors' restructuring hotline at 877-634-7165 (toll-free in US and Canada) or 424-236-7221 (for international callers). You may also obtain these documents and any other pleadings filed in the Debtors' chapter 11 cases (for a fee) via PACER at [www.deb.uscourts.gov](http://www.deb.uscourts.gov) or free of charge at [www.kccllc.net/EmergeEnergy](http://www.kccllc.net/EmergeEnergy).

This Ballot may not be used for any purpose other than (i) for casting votes to accept or reject the Plan, and (ii) opting out of the Third Party Release. If you believe you have received this Ballot in error, or if you believe that you have received the wrong Ballot, please contact the Voting and Claims Agent immediately at the address or telephone number set forth above.

You should review the Disclosure Statement and the Plan before you vote. You may wish to seek legal advice concerning the Plan and the Plan's classification and treatment of your Claim. Your Claim has been placed in Class 6 – General Unsecured Claims under the Plan. If you hold Claims in more than one Class, you will receive a Ballot for each Class in which you are entitled to vote.

You should also review the Plan Supplement which shall be filed by the Debtors by no later than October 4, 2019, and which shall be available on the Debtors' restructuring website at [www.kccllc.net/EmergeEnergy](http://www.kccllc.net/EmergeEnergy) (under Tab "Plan and Disclosure Statement"). The Plan Supplement shall contain documents and agreements (and the exhibits, schedules, annexes and supplements thereto) necessary to implement, or entered into in connection with, the Plan, including, but not limited to, the Amended/New Organizational Documents, the Exit Facility Loan Documents, the New Second Lien Notes Documents, the New Warrants Agreement and a non-exclusive list of the Litigation Claims.

The Bankruptcy Court can confirm the Plan and bind you if the Plan is accepted by the holders of at least two-thirds in amount and more than one-half in number of the Claims in each impaired Class who vote on the Plan and if the Plan otherwise satisfies the applicable requirements of section 1129(a) of the Bankruptcy Code. If the requisite acceptances are not obtained, the Bankruptcy Court nonetheless may confirm the Plan if it finds that the Plan (i) provides fair and equitable treatment to, and does not unfairly discriminate against, each Class rejecting the Plan and (ii) otherwise satisfies the requirements of section 1129(b) of the Bankruptcy Code. If the Plan is confirmed by the Bankruptcy Court, it will be binding on you whether or not you vote or affirmatively vote to reject the Plan. To have your vote counted, you must complete, sign and return this Ballot to the Voting and Claims Agent by the Voting Deadline.

**IMPORTANT NOTICE REGARDING TREATMENT FOR HOLDERS OF  
CLASS 6 GENERAL UNSECURED CLAIMS**

***Treatment: IF AND ONLY IF CLASS 6 VOTES TO ACCEPT THE PLAN, THEN:***

- Subject to Article VIII of the Plan, on, or as soon as reasonably practicable after, the later of (i) the Initial Distribution Date if such Class 6 Claim is an Allowed Class 6 Claim as of the Effective Date or (ii) the next Subsequent Distribution Date after the date on which such Class 6 Claim becomes an Allowed Class 6 Claim, each Holder of an Allowed Class 6 Claim shall receive, in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Class 6 Claim, its Pro Rata share of (1) 5.0% of the New Limited Partnership Interests issued and outstanding on the Effective Date prior to dilution by the New Management Incentive Plan Equity and any issuances pursuant to the New Warrants and (2) New Warrants representing 10.0% of the New Limited Partnership Interests issued and outstanding on the Effective Date prior to dilution by the New Management Incentive Plan Equity.

***Treatment: IF AND ONLY IF CLASS 6 VOTES TO REJECT THE PLAN, THEN:***

- On the Effective Date, the Class 6 Claims will be discharged without further notice to, approval of or action by any Person or Entity, **and each Holder of a Class 6 Claim shall not receive any distribution or retain any property on account of such Class 6 Claim.**

“**New Limited Partnership Interests**” means the new limited partnership interests in Reorganized Emerge LP to be issued on and as of the Effective Date to the Prepetition Noteholders and, subject to the terms and conditions of the Plan, certain other Holders.

“**New Management Incentive Plan Equity**” means a post-Effective Date equity incentive plan providing for the issuance from time to time, as approved by the New Board, of New Limited Partnership Interests to those individuals involved in day-to-day management of the Reorganized Debtors. The New Board shall determine allocation and other terms of the New Management Incentive Plan.

“**New Warrants**” means the warrants contemplated under the New Warrants Agreement.

“**New Warrants Agreement**” means the warrant agreement Filed with the Plan Supplement, which warrant agreement shall contain terms and conditions consistent in all respects with those set forth on the New Warrants Term Sheet and, to the extent any terms and conditions are not set forth on or contemplated therein, such other terms and conditions as are acceptable to the Special Restructuring Committee, the Majority Noteholders, and the other applicable parties to the Restructuring Support Agreement in the manner set forth therein.



**Item 1. Amount of Claim.**

The undersigned hereby certifies that as of the Voting Record Date (the close of business on September 9, 2019), the undersigned was the Holder of Class 6 – General Unsecured Claims against the Debtors in the following unpaid amount (insert unpaid amount in box below if not already completed):

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**Item 2. Vote on Plan.**

The Holder of the Class 6 – General Unsecured Claims against the Debtors set forth in Item 1 above votes to (please check one box below):

**PRIOR TO VOTING ON THE PLAN, PLEASE REVIEW THE “IMPORTANT NOTICE REGARDING TREATMENT FOR HOLDERS OF CLASS 6 GENERAL UNSECURED CLAIMS” INCLUDED IN THIS DISTRIBUTION.** Please be advised that if and only if Class 6 votes to **REJECT** the Plan then: On the Effective Date, the Class 6 Claims will be discharged without further notice to, approval of or action by any Person or Entity, **and each Holder of a Class 6 Claim shall not receive any distribution or retain any property on account of such Class 6 Claim.**

<input type="checkbox"/> <b><u>ACCEPT</u></b> (vote FOR) the Plan	<input type="checkbox"/> <b><u>REJECT</u></b> (vote AGAINST) the Plan
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THE DEBTORS RECOMMEND THAT YOU VOTE TO ACCEPT THE PLAN.

**IMPORTANT INFORMATION REGARDING THE RELEASE OF CLAIMS BY THIRD PARTIES**

ARTICLE X OF THE PLAN CONTAINS RELEASE, EXCULPATION AND INJUNCTION PROVISIONS, **WHICH ARE SET FORTH AT THE END OF THIS BALLOT.** YOU SHOULD REVIEW THESE PROVISIONS CAREFULLY.

**Check the box below if you elect not to grant the Third Party Release contained in Article X.B.2 of the Plan. If you are not a signatory to the Restructuring Support Agreement, election to withhold consent is at your option. If you submit your Ballot with this box checked, then you will be deemed NOT to consent to the Third Party Release set forth in Article X.B.2 of the Plan. PLEASE BE ADVISED THAT BY NOT CHECKING THE BOX BELOW YOU ELECT TO GRANT THE THIRD-PARTY RELEASE AGAINST THE “RELEASED PARTIES,” AS THAT TERM IS DEFINED IN THE PLAN, IN EACH AND EVERY CAPACITY IN WHICH YOU HOLD A CLAIM AGAINST, OR EQUITY INTEREST IN, ANY OF THE DEBTORS. YOU MUST AFFIRMATIVELY CHECK THE BOX BELOW IN ORDER TO OPT-OUT OF THE THIRD PARTY RELEASE.**

**PLEASE ALSO BE ADVISED THAT THE DEBTOR RELEASE CONTAINED IN ARTICLE X.B.1 OF THE PLAN IS SEPARATE FROM AND INDEPENDENT OF THE THIRD PARTY RELEASE. IF YOU OBJECT TO THE DEBTOR RELEASE, YOU MUST FILE A SEPARATE OBJECTION WITH THE BANKRUPTCY COURT IN ACCORDANCE WITH THE PROCEDURES DESCRIBED IN THE DISCLOSURE STATEMENT ORDER.**

**OPT-OUT ELECTION:** The undersigned elects to opt-out of the Third Party Releases contained in Article X.B.2 of the Plan

**Item 3. Certifications.**

By signing this Ballot, the undersigned certifies to the Bankruptcy Court and the Debtors:

- i. that either: (i) the undersigned is the Holder of the Class 6 Claims being voted; or (ii) the undersigned is an authorized signatory for an Entity that is a Holder of the Class 6 Claims being voted, and, in either case, has the full power and authority to vote to accept or reject the Plan with respect to the Claims identified in Item 1 above;
- ii. that the undersigned has received a copy of the Disclosure Statement and the Solicitation Package and acknowledges that the solicitation is being made pursuant to the terms and conditions set forth therein;
- iii. that the undersigned has cast the same vote with respect to all Class 6 Claims in a single Class; and
- iv. that no other Ballots with respect to the amount of the Class 6 Claims identified in Item 1 above have been cast or, if any other Ballots have been cast with respect to such Claims, then any such earlier Ballots are hereby revoked.

Name of Holder:	
	(Print or Type)
Social Security or Federal Tax Identification Number:	
Signature:	
Name of Signatory:	
	(If other than Holder)
Title:	
Address:	
Date Completed:	

If your address or contact information has changed, please note the new information here.

**PLEASE COMPLETE, SIGN AND DATE THIS BALLOT AND RETURN IT IN THE ENVELOPE PROVIDED TO THE FOLLOWING ADDRESS SO THAT IT IS ACTUALLY RECEIVED BY 5:00 P.M. (PREVAILING EASTERN TIME) ON OCTOBER 17, 2019:**

Emerge Energy Services LP Balloting Center  
c/o Kurtzman Carson Consultants LLC  
N. Pacific Coast Highway, Suite 300,  
El Segundo, California 90245  
Telephone: 877-634-7165 (toll-free in US and Canada)  
or 424-236-7221 (for international callers)

**THIS BALLOT MUST BE ACTUALLY RECEIVED BY THE VOTING AND CLAIMS AGENT ON OR BEFORE:**

**5:00 P.M. PREVAILING EASTERN TIME ON OCTOBER 17, 2019.**

**BALLOTS SENT BY FACSIMILE, TELECOPY OR ELECTRONIC MAIL (OTHER THAN THROUGH THE VOTING AND CLAIMS AGENT'S ONLINE PORTAL IN ACCORDANCE WITH THE BELOW) WILL NOT BE ACCEPTED**

In addition, to submit your Ballot via the Voting and Claims Agent's online portal, please visit <http://www.kccllc.net/EmergeEnergy>. Click on the "E-Ballot" section of the website and follow the instructions to submit your Ballot.

**IMPORTANT NOTE:** You will need the following information to retrieve and submit your customized electronic Ballot:

Unique E-Ballot ID#: \_\_\_\_\_

The Voting and Claims Agent's online portal is the sole manner in which Ballots will be accepted via electronic or online transmission. Ballots submitted by facsimile, email or other means of electronic transmission will not be counted.

Each E-Ballot ID# is to be used solely for voting only those Claims described in Item 1 of your electronic Ballot. Please complete and submit an electronic Ballot for each E-Ballot ID# you receive, as applicable.

Creditors who cast a Ballot using the Voting and Claims Agent's online portal should NOT also submit a paper Ballot.

## Class 6 — General Unsecured Claims

**INSTRUCTIONS FOR COMPLETING THIS BALLOT**

1. The Debtors are soliciting the votes of Holders of Claims with respect to the Plan attached as Exhibit A to the Disclosure Statement. Capitalized terms used in the Ballot or in these instructions (the “**Ballot Instructions**”) but not otherwise defined therein or herein shall have the meaning set forth in the Plan, a copy of which also accompanies the Ballot.
2. To ensure that your Ballot is counted, you ***must either***: (i) complete and submit this hard copy Ballot or (ii) vote through the Debtors’ online balloting portal accessible through the Debtors’ case website <http://www.kccllc.net/EmergeEnergy>. **Ballots will not be accepted by facsimile or other electronic means (other than the online portal)**
3. **Use of Hard Copy Ballot.** To ensure that your vote is counted, you must complete the Ballot and take the following steps: (i) make sure that the information required by Item 1 above has been inserted (if you do not know the amount of your claim, please contact the Voting and Claims Agent); (ii) clearly indicate your decision either to accept or reject the Plan in the boxes provided in Item 2 above; (iii) provide the information required by Item 3 above and; (iv) sign, date and return an original of your Ballot to the address set forth on the enclosed pre-addressed envelope.
4. **Use of Online Ballot Portal.** To ensure that your electronic Ballot is counted, please follow the instructions of the Debtors’ case administration website at <http://www.kccllc.net/EmergeEnergy>. You will need to enter your unique E-Ballot identification number indicated above. The online balloting portal is the sole manner in which Ballots will be accepted via electronic or online transmission. **Ballots will not be accepted by facsimile or electronic means (other than the online portal)**
5. If a Ballot is received after the Voting Deadline, it will not be counted, unless the Debtors have granted an extension of the Voting Deadline in writing with respect to such Ballot. Additionally, the following Ballots will **NOT** be counted:
  - i. any Ballot that is illegible or contains insufficient information to permit the identification of the claimant;
  - ii. any Ballot cast by a person or entity that does not hold a claim in a class that is entitled to vote to accept or reject the Plan;
  - iii. any Ballot cast for a claim that is not listed on the Schedules, or that is scheduled at zero, in an unknown amount, or, in whole or in part, as unliquidated, contingent, or disputed, and for which no proof of claim was timely filed or deemed timely filed by an order of the Court prior to the Voting Deadline;
  - iv. any Ballot that is properly completed, executed and timely filed, but (i) does not indicate an acceptance or rejection of the Plan, (ii) indicates both an acceptance and rejection of the Plan, or (iii) partially accepts and partially rejects the Plan;
  - v. any Ballot submitted by facsimile, telecopy or electronic mail (other than the Voting and Claims Agent’s online portal);

- vi. any unsigned Ballot;
  - vii. any Ballot sent to the Debtors, the Debtors' agents/representatives (other than the Voting and Claims Agent), any indenture trustee, or the Debtors' financial or legal advisors; and/or
  - viii. any Ballot not cast in accordance with the procedures approved in the Disclosure Statement Order.
6. The method of delivery of Ballots to the Voting and Claims Agent is at the election and risk of each Holder of a Claim. Except as otherwise provided herein, such delivery will be deemed made only when the Voting and Claims Agent **actually receives** the originally executed Ballot. Instead of effecting delivery by first-class mail, it is recommended, though not required, that Holders use an overnight or hand delivery service. In all cases, Holders should allow sufficient time to assure timely delivery.
  7. If multiple Ballots are received from the same Holder of a Claim with respect to the same Claim prior to the Voting Deadline, the last Ballot timely received will supersede and revoke any earlier received Ballots.
  8. You must vote all of your Claims within a particular Class either to accept or reject the Plan and may not split your vote. Further, if a Holder has multiple Claims within the same Class, the Debtors may, in their discretion, aggregate the Claims of any particular Holder within a Class for the purpose of counting votes.
  9. The Ballot is not a letter of transmittal and may not be used for any purpose other than to (i) vote to accept or reject the Plan and (ii) opt-out of the Third Party Release. Accordingly, at this time, Holders of Claims should not surrender certificates or instruments representing or evidencing their Claims, and neither the Debtors nor the Voting and Claims Agent will accept delivery of any such certificates or instruments surrendered together with a Ballot.
  10. This Ballot does not constitute, and shall not be deemed to be, (i) a Proof of Claim or (ii) an assertion or admission of a Claim.
  11. Please be sure to sign and date your Ballot. If you are signing a Ballot in your capacity as a trustee, executor, administrator, guardian, attorney in fact, officer of a corporation or otherwise acting in a fiduciary or representative capacity, you must indicate such capacity when signing and, if required or requested by the Voting and Claims Agent, the Debtors or the Bankruptcy Court, must submit proper evidence to the requesting party to so act on behalf of such Holder. In addition, please provide your name and mailing address if it is different from that set forth on the attached mailing label or if no such mailing label is attached to the Ballot.
  12. If you hold Claims in more than one Class under the Plan you may receive more than one Ballot coded for each different Class. Each Ballot votes only your Claims indicated on that Ballot, so please complete and return each Ballot you received.

**PLEASE MAIL YOUR BALLOT PROMPTLY!**

**IF YOU HAVE ANY QUESTIONS REGARDING THIS BALLOT, THESE VOTING INSTRUCTIONS OR THE PROCEDURES FOR VOTING, PLEASE CALL THE VOTING AND CLAIMS AGENT AT: 877-634-7165 (TOLL-FREE IN US AND CANADA) OR 424-236-7221 (FOR INTERNATIONAL CALLERS). PLEASE NOTE THAT THE VOTING AND CLAIMS AGENT CANNOT PROVIDE LEGAL ADVICE.**

**IF THE VOTING AND CLAIMS AGENT DOES NOT ACTUALLY RECEIVE THIS BALLOT ON OR BEFORE THE VOTING DEADLINE, WHICH IS 5:00 P.M. PREVAILING EASTERN TIME ON OCTOBER 17, 2019, THEN YOUR VOTE TRANSMITTED HEREBY WILL NOT BE COUNTED.**

NO PERSON HAS BEEN AUTHORIZED TO GIVE ANY INFORMATION OR ADVICE, OR TO MAKE ANY REPRESENTATION, REGARDING THE DEBTORS OR THE PLAN, OTHER THAN WHAT IS CONTAINED IN THE SOLICITATION PACKAGE MAILED HEREWITH.

THE FOLLOWING IS IMPORTANT INFORMATION REGARDING THE RELEASES, EXCULPATIONS AND INJUNCTION SET FORTH IN THE PLAN.

**RELEASE, EXCULPATION, AND INJUNCTION PROVISIONS CONTAINED IN THE PLAN**

**Release of Claims and Causes of Action**

1. **Release by the Debtors and their Estates.** Pursuant to section 1123(b) and any other applicable provisions of the Bankruptcy Code, and except as otherwise expressly provided in the Plan, effective as of the Effective Date, for good and valuable consideration provided by each of the Released Parties, the adequacy and sufficiency of which is thereby confirmed, the Debtors and the Reorganized Debtors, in their respective individual capacities and as debtors-in-possession, and on behalf of themselves and their respective Estates, including, without limitation, any successor to the Debtors or any Estate representative appointed or selected pursuant to section 1123(b)(3) of the Bankruptcy Code (collectively, the "Debtor Releasing Parties") will be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever provided a full discharge, waiver and release to each of the Released Parties (and each such Released Party so released shall be deemed forever released, waived and discharged by the Debtor Releasing Parties) and their respective assets and properties (the "Debtor Release") from any and all claims, Causes of Action, Released and Settled Claims, Litigation Claims and any other debts, obligations, rights, suits, damages, actions, remedies, and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, whether directly or derivatively held, existing as of the Effective Date or thereafter arising, in law, at equity or otherwise, whether for tort, contract, violations of federal or state securities laws, or otherwise, based in whole or in part upon any act or omission, transaction, or other occurrence or circumstances existing or taking place prior to or on the Effective Date arising from or related in any way in whole or in part to any of the Debtors, including, without limitation, (i) the Chapter 11 Cases, the Disclosure Statement, the Plan, the Restructuring Support Agreement and the Restructuring Documents, (ii) the subject matter of, or the transactions or events giving rise to, any Claim or Equity Interest that is treated in the Plan, (iii) the business or contractual arrangements between any Debtor and any Released Parties, (iv) the negotiation, formulation or preparation of the Restructuring Support Agreement, the Plan, the Disclosure Statement, the Plan Supplement, the Restructuring Documents, or related

agreements, instruments or other documents, (v) the restructuring of Claims or Equity Interests prior to or during the Chapter 11 Cases, (vi) the purchase, sale, or rescission of the purchase or sale of any Equity Interest of the Debtors or the Reorganized Debtors, and/or (vii) the Confirmation or Consummation of the Plan or the solicitation of votes on the Plan that such Debtor Releasing Party would have been legally entitled to assert (whether individually or collectively) or that any Holder of a Claim or Equity Interest or other Entity would have been legally entitled to assert for, or on behalf or in the name of, any Debtor, its respective Estate or any Reorganized Debtor (whether directly or derivatively) against any of the Released Parties; provided, however, that the foregoing provisions of this Debtor Release shall not operate to waive or release: (i) any Causes of Action arising from willful misconduct, actual fraud, or gross negligence of such applicable Released Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction; (ii) any Causes of Action relating to the MSHA Action (other than against a member of the Special Restructuring Committee); and/or (iii) the rights of such Debtor Releasing Party to enforce the Plan and the contracts, instruments, releases, indentures, and other agreements or documents delivered under or in connection with the Plan or assumed pursuant to the Plan or assumed pursuant to Final Order of the Bankruptcy Court. The foregoing release shall be effective as of the Effective Date without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Person and the Confirmation Order will permanently enjoin the commencement or prosecution by any Person or Entity, whether directly, derivatively or otherwise, of any claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, or liabilities released pursuant to this Debtor Release. Notwithstanding the foregoing, nothing in this Article X.B shall or shall be deemed to (i) prohibit the Debtors or the Reorganized Debtors from asserting and enforcing any claims, obligations, suits, judgments, demands, debts, rights, Causes of Action or liabilities they may have against any Person that is based upon an alleged breach of a confidentiality or non-compete obligation owed to the Debtors or the Reorganized Debtors and/or (ii) operate as a release or waiver of any Intercompany Claims, in each case unless otherwise expressly provided for in the Plan.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the Debtor Release, which includes by reference each of the related provisions and definitions contained under the Plan, and further, shall constitute the Bankruptcy Court's finding that the Debtor Release is: (i) in exchange for the good and valuable consideration provided by the Released Parties; (ii) a good faith settlement and compromise of the claims released by the Debtor Release; (iii) in the best interest of the Debtors and their Estates; (iv) fair, equitable and reasonable; and (v) given and made after due notice and opportunity for hearing.

2. Release By Third Parties. Except as otherwise expressly provided in the Plan, effective as of the Effective Date, to the fullest extent permitted by applicable law, for good and valuable consideration provided by each of the Released Parties, the adequacy and sufficiency of which is thereby confirmed, and without limiting or otherwise modifying the scope of the Debtor Release provided by the Debtor Releasing Parties above, each Non-Debtor Releasing Party (together with the Debtor Releasing Parties, the "Releasing Parties") will be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever provided a full discharge, waiver and release to each of the Released Parties (and each such Released Party so released shall be deemed forever released, waived and discharged by the Non-Debtor Releasing Parties) and their respective assets and properties (the "Third Party Release") from any and all claims, Causes of Action, Released and Settled Claims, Litigation Claims and any other debts, obligations, rights, suits, damages, actions, remedies, and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, whether directly or derivatively held, existing as of the Effective Date or

thereafter arising, in law, at equity or otherwise, whether for tort, contract, violations of federal or state securities laws, or otherwise, based in whole or in part upon any act or omission, transaction, or other occurrence or circumstances existing or taking place prior to or on the Effective Date arising from or related in any way in whole or in part to any of the Debtors, including, without limitation, (i) the Chapter 11 Cases, the Disclosure Statement, the Plan, the Restructuring Support Agreement and the Restructuring Documents, (ii) the subject matter of, or the transactions or events giving rise to, any Claim or Equity Interest that is treated in the Plan, (iii) the business or contractual arrangements between any Debtor and any Released Parties, (iv) the negotiation, formulation or preparation of the Restructuring Support Agreement, the Plan, the Disclosure Statement, the Plan Supplement, the Restructuring Documents, or related agreements, instruments or other documents, (v) the restructuring of Claims or Equity Interests prior to or during the Chapter 11 Cases, (vi) the purchase, sale or rescission of the purchase or sale of any Equity Interest of the Debtors or the Reorganized Debtors, and/or (vii) the Confirmation or Consummation of the Plan or the solicitation of votes on the Plan that such Non-Debtor Releasing Party would have been legally entitled to assert (whether individually or collectively) against any of the Released Parties; provided, however, that the foregoing provisions of this Third Party Release shall not operate to waive or release (i) any Causes of Action arising from willful misconduct, actual fraud, or gross negligence of such applicable Released Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction; (ii) any Causes of Action relating to the MSHA Action (other than against a member of the Special Restructuring Committee); and/or (iii) the rights of such Non-Debtor Releasing Party to enforce the Plan and the contracts, instruments, releases, indentures, and other agreements and documents delivered under or in connection with the Plan or assumed pursuant to the Plan or Final Order of the Bankruptcy Court. The foregoing release shall be effective as of the Effective Date, without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Person and the Confirmation Order will permanently enjoin the commencement or prosecution by any Person or Entity, whether directly, derivatively or otherwise, of any claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, or liabilities released pursuant to this Third Party Release.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of the Third Party Release, which includes by reference each of the related provisions and definitions contained under the Plan, and further, shall constitute the Bankruptcy Court's finding that the Third Party Release is: (i) in exchange for the good and valuable consideration provided by the Released Parties; (ii) a good faith settlement and compromise of the claims released by the Third Party Release; (iii) in the best interest of the Debtors and all Holders of Claims and Equity Interests; (iv) fair, equitable and reasonable; and (v) given and made after due notice and opportunity for hearing.

### 3. Exculpation

Effective as of the Effective Date, the Exculpated Parties shall neither have nor incur any liability to any Person or Entity for any claims, Causes of Action or Released and Settled Claim arising prior to or on the Effective Date for any act taken or omitted to be taken in connection with, or related to, formulating, negotiating, preparing, disseminating, implementing, administering, confirming or effecting the Confirmation or Consummation of the Plan, the Disclosure Statement, the Restructuring Documents or any contract, instrument, release or other agreement or document created or entered into in connection with the Plan, including the Restructuring Support Agreement, or any other prepetition or postpetition act taken or omitted to be taken in connection with or in contemplation of the restructuring of the Debtors, the approval of the Disclosure Statement or Confirmation or



Consummation of the Plan; provided, however, that the foregoing provisions of this exculpation shall not operate to waive or release: (i) any Causes of Action arising from willful misconduct, actual fraud, or gross negligence of such applicable Exculpated Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction; and/or (ii) the rights of any Person or Entity to enforce the Plan and the contracts, instruments, releases, indentures, and other agreements and documents delivered under or in connection with the Plan or assumed pursuant to the Plan or Final Order of the Bankruptcy Court; provided, further, that each Exculpated Party shall be entitled to rely upon the advice of counsel concerning its respective duties pursuant to, or in connection with, the above referenced documents, actions or inactions. The foregoing exculpation shall be effective as of the Effective Date without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Person. Notwithstanding the foregoing, nothing in this Article X.E shall or shall be deemed to prohibit the Debtors or the Reorganized Debtors from asserting and enforcing any claims, obligations, suits, judgments, demands, debts, rights, Causes of Action or liabilities they may have against any Person that is based upon an alleged breach of a confidentiality or non-compete obligation owed to the Debtors or the Reorganized Debtors, in each case unless otherwise expressly provided for in the Plan.

#### 4. Injunction

Except as otherwise expressly provided in the Plan or the Confirmation Order, from and after the Effective Date, all Persons and Entities are, to the fullest extent provided under section 524 and other applicable provisions of the Bankruptcy Code, permanently enjoined from (i) commencing or continuing, in any manner or in any place, any suit, action or other proceeding; (ii) enforcing, attaching, collecting, or recovering in any manner any judgment, award, decree, or order; (iii) creating, perfecting, or enforcing any Lien or encumbrance; (iv) asserting a setoff or right of subrogation of any kind; or (v) commencing or continuing in any manner any action or other proceeding of any kind, in each case on account of or with respect to any Claim, demand, liability, obligation, debt, right, Cause of Action, equity interest, or remedy released or to be released, exculpated or to be exculpated, settled or to be settled or discharged or to be discharged pursuant to the Plan or the Confirmation Order against any Person or Entity so released, discharged, or exculpated (or the property or estate of any Person or Entity so released, discharged, or exculpated). All injunctions or stays provided for in the Chapter 11 Cases under section 105 or section 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect until the Effective Date.

#### Certain Definitions Contains in the Plan Release, Exculpation and Injunction Provisions

“*Causes of Action*” means any claims, causes of action (including Avoidance Actions), demands, actions, suits, obligations, liabilities, cross-claims, counterclaims, offsets, or setoffs of any kind or character whatsoever, in each case whether known or unknown, contingent or non-contingent, matured or unmatured, suspected or unsuspected, foreseen or unforeseen, direct or indirect, choate or inchoate, existing or hereafter arising, under statute, in contract, in tort, in law, or in equity, or pursuant to any other theory of law, federal or state, whether asserted or assertable directly or derivatively in law or equity or otherwise by way of claim, counterclaim, cross-claim, third party action, action for indemnity or contribution or otherwise, based in whole or in part upon any act or omission or other event occurring prior to the Petition Date or during the course of the Chapter 11 Cases, including through the Effective Date.

“*Exculpated Parties*” means, collectively: (a) the Debtors; (b) the Reorganized Debtors; (c) any Committee and the members thereof in their capacity as such; (d) the DIP Credit Agreement Agent; (e) DIP Credit Agreement Lenders; (f) the Prepetition Credit Agreement

Agent; (g) the Prepetition Credit Agreement Lenders; (h) the Prepetition Notes Agent; (i) the Prepetition Noteholders; and (j) in each case, the respective Related Persons of each of the foregoing Entities.

**“Litigation Claims”** means the claims, rights of action, suits or proceedings, whether in law or in equity, whether known or unknown, that any Debtor or any Estate may hold against any Person or Entity, including, without limitation, the Causes of Action of the Debtors or their Estates, in each case solely to the extent of the Debtors’ or their Estates’ interest therein. A non-exclusive list of the Litigation Claims held by the Debtors as of the Effective Date is to be Filed with the Plan Supplement, which shall be deemed to include any derivative actions filed against any Debtor as of the Effective Date.

**“New Railcar Lease Agreements”** means those certain railcar lease agreements entered into between the Debtors and the Specified Rail Car Lessors pursuant to the New Railcar Lease Agreements Order.

**“New Railcar Lease Agreements Order”** means the Order Authorizing the Debtors to (I) Reject Certain Railcar Lease Agreements Nunc Pro Tunc to the Petition Date and (II) Enter Into Proposed New Railcar Lease Agreements Effective as of the Petition Date entered by the Bankruptcy Court in the Chapter 11 Cases (Docket No. 208), as such order may be amended, supplemented, or modified from time to time.

**“Non-Debtor Releasing Parties”** means, collectively: (a) the Committee and the members thereof in their capacity as such; (b) the Prepetition Credit Agreement Agent and the Releasing Prepetition Credit Agreement Lenders; (c) the DIP Credit Agreement Agent and the DIP Credit Agreement Lenders (d) the Prepetition Notes Agent and the Releasing Prepetition Noteholders; (e) the Releasing Old Emerge LP Equity Holders; (f) those Holders of General Unsecured Claims or Old Emerge LP Equity Interests that do not affirmatively opt out of the Third Party Release as provided on their respective Ballots; and (g) each Specified Railcar Lessor (to the extent it is a Released Party).

**“Related Persons”** means, with respect to any Person, such Person’s predecessors, successors, assigns and present and former Affiliates (whether by operation of law or otherwise) and subsidiaries, and each of their respective current and former officers, directors, principals, employees, shareholders, members (including *ex officio* members and managing members), managers, managed accounts or funds, management companies, fund advisors, advisory or subcommittee board members, partners, agents, financial advisors, attorneys, accountants, investment bankers, investment advisors, consultants, representatives, and other professionals, in each case acting in such capacity at any time on or after the date of the Restructuring Support Agreement, and any Person claiming by or through any of them, including such Related Persons’ respective heirs, executors, estates, servants, and nominees; provided, however, that no insurer of any Debtor shall constitute a Related Person.

**“Released and Settled Claims”** means all Claims and Causes of Action made, or which could have been made, on or on behalf of any of the Debtors against the Prepetition Revolver Agent, the Prepetition Revolving Lenders, the Prepetition Note Agent, or the Prepetition Noteholders, or any of their respective affiliates, agents, attorneys, advisors, professionals, officers, directors, and employees, in their respective capacities as such.

**“Released Party”** means, collectively: (a) the Debtors; (b) the Reorganized Debtors; (c) the Committee and the members thereof in their capacity as such; (d) the Prepetition Credit Agreement Agent and the Releasing Prepetition Credit Agreement Lenders; (e) the DIP Credit Agreement Agent and the DIP Credit Agreement Lenders; (f) the Prepetition Notes Agent and

the Releasing Prepetition Noteholders; (g) the Releasing Old Emerge LP Equity Holders; and (h) each Specified Railcar Lessor, so long as the applicable New Railcar Lease Agreement(s) between the Debtors and the applicable Specified Railcar Lessor is in full force and effect as of the Effective Date; and in each case the respective Related Persons of each of the foregoing Entities.

***“Specified Railcar Lessors”*** means, collectively, (a) Trinity Industries Leasing Company, (b) MUL Railcars Leasing, LLC, and (c) CIT Bank, N.A. and The CIT Group/Equipment Financing, Inc., as an assignee of CIT Rail, LLC.

**EXHIBIT 3-C**

**Opt-Out Form for Holders of Class 8 and Class 9 Old Equity Interests**

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

-----	X	
In re:	:	Chapter 11
	:	
EMERGE ENERGY SERVICES LP, <i>et al.</i> , <sup>1</sup>	:	Case No. 19-11563 (KBO)
	:	
Debtors.	:	(Jointly Administered)
	:	
-----	X	

**OPT-OUT FORM REGARDING THE ABOVE-CAPTIONED DEBTORS’  
CHAPTER 11 PLAN**

**Class 8 and 9 – Old Equity Interests**

**THIS OPT-OUT FORM IMPACTS YOUR LEGAL RIGHTS. PLEASE READ AND FOLLOW THE ENCLOSED INSTRUCTIONS FOR COMPLETING THIS OPT-FORM CAREFULLY BEFORE COMPLETING THIS OPT-OUT FORM. CAREFULLY.**

**UNLESS YOU CHECK THE BOX ON PAGE 5 OF THIS OPT-OUT FORM, YOU WILL BE HELD TO FOREVER RELEASE CERTAIN PARTIES, INCLUDING, BUT NOT LIMITED TO, THE DIRECTORS AND OFFICERS, LENDERS AND EQUITY HOLDERS, INCLUDING INSIGHT EQUITY, OF EMERGE ENERGY SERVICES LP AND THE OTHER DEBTORS. PLEASE SEE THE DEFINITION OF “RELEASED PARTIES” ON PAGE 13 OF THIS OPT-FORM FOR A LIST OF ALL OF THE PARTIES YOU WILL BE RELEASING IF YOU DO NOT CHECK THE BOX ON PAGE 5 OF THIS OPT-OUT FORM**

**IF YOU WISH TO OPT-OUT OF THE THIRD PARTY RELEASES PURSUANT TO THE PLAN, THIS OPT-FORM MUST BE COMPLETED, EXECUTED AND RETURNED SO THAT IF YOU DO NOT WANT TO GIVE THESE RELEASES, YOU MUST CHECK THE BOX ON PAGE 5 OF THIS OPT-OUT FORM, COMPLETE THIS OPT-FORM, SIGN IT, AND RETURN IT SO IT IS ACTUALLY RECEIVED BY THE VOTING AND CLAIMS AGENT (KURTZMAN CARSON CONSULTANTS LLC) ON OR BEFORE 5:00 P.M. PREVAILING EASTERN TIME ON OCTOBER 17, 2019 (THE “VOTING DEADLINE”) IN ACCORDANCE WITH THE FOLLOWING:**

The above-captioned debtors and debtors in possession (collectively, the “**Debtors**”) ~~are soliciting votes with respect to~~ have filed<sup>1+</sup> ~~the First Amended Joint Plan of Reorganization for Emerge Energy Services LP and its Affiliate Debtors Under Chapter 11 of the Bankruptcy Code [Docket No. [ ● ]]~~ (as may be amended from time to time, the “**Plan**”)<sup>2</sup> ~~as set forth in and~~ the

<sup>1</sup> The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: Emerge Energy Services LP (2937), Emerge Energy Services GP LLC (4683), Emerge Energy Services Operating LLC (2511), Superior Silica Sands LLC (9889), and Emerge Energy Services Finance Corporation (9875). The Debtors’ address is 5600 Clearfork Main Street, Suite 400, Fort Worth, Texas 76109.

<sup>1+</sup> ~~Capitalized terms used but not otherwise defined herein have the meaning ascribed to them in the Plan.~~

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

Disclosure Statement for the Plan [Docket No. [ ● ]] (as may be amended from time to time, the “**Disclosure Statement**”). The Bankruptcy Court has approved the Disclosure Statement as containing adequate information pursuant to Bankruptcy Code Section 1125, by entry of an order on [ ● ], 2019 [Docket No. [ ● ]] (the “**Disclosure Statement Order**”). Bankruptcy Court approval of the Disclosure Statement does not indicate approval of the Plan by the Bankruptcy Court. Capitalized terms used but not otherwise defined herein shall have the meanings set forth in the Plan.

You are receiving this Opt-Out Form because you are a direct Holder of a Class 8 Old Emerge GP Equity Interests or Class 9 Old Emerge LP Equity Interests, as of the ~~Voting Record Date~~ (the close of business on September 9, 2019). Accordingly, you have a right to opt-out of the Third Party Releases contained in the Plan. **Please be advised that by checking the box to opt-out of the Third Party Release in Item 2 below, you will not receive a release from the Non-Debtor Releasing Parties pursuant to Article X.B.2 of the Plan.**

Your rights are described in the Disclosure Statement, which is included (along with the Plan, Disclosure Statement Order and certain other materials) in the Solicitation Package you are receiving with this Opt-Out Form. If you need to obtain additional solicitation materials, you may contact the Debtors’ ~~Voting and~~ Claims Agent by: (i) visiting the Debtors’ restructuring website at [www.kccllc.net/EmergeEnergy](http://www.kccllc.net/EmergeEnergy) (under Tab “Plan and Disclosure Statement”); (ii) writing to Emerge Energy Claims Processing Center, c/o Kurtzman Carson Consultants LLC, 222 N. Pacific Coast Highway, Suite 300, El Segundo, CA 90245; and/or (iii) calling the Debtors’ restructuring hotline at 877-634-7165 (toll-free in US and Canada) or 424-236-7221 (for international callers). You may also obtain these documents and any other pleadings filed in the Debtors’ chapter 11 cases (for a fee) via PACER at [www.deb.uscourts.gov](http://www.deb.uscourts.gov).

This Opt-Out Form may not be used for any purpose other than for accepting or electing to opt-out of the Third Party Releases contained in the Plan. If you believe you have received this Opt-Out Form in error, or if you believe that you have received the wrong form, please contact the ~~Voting and~~ Claims Agent immediately at the address or telephone number set forth above.

You should review the Disclosure Statement and the Plan before you complete this Opt-Out Form. You may wish to seek legal advice concerning the Plan and the Plan’s classification and treatment of your Equity Interest. Your Equity Interest has been placed in Class 8 Old Emerge GP Equity Interests or Class 9 Old Emerge LP Equity Interests under the Plan. If you hold Claims or Equity Interests in more than one Class, you will receive a Ballot for each Class in which you are entitled to vote and/or Opt-Out Form, as applicable.

You should also review the Plan Supplement which shall be filed by the Debtors by no later than October 4, 2019, and which shall be available on the Debtors’ restructuring website at [www.kccllc.net/EmergeEnergy](http://www.kccllc.net/EmergeEnergy) (under Tab “Plan and Disclosure Statement”). The Plan Supplement shall contain documents and agreements (and the exhibits, schedules, annexes and supplements thereto) necessary to implement, or entered into in connection with, the Plan, including, but not limited to, the Amended/New Organizational Documents, the Exit Facility Loan Documents, the New Second Lien Notes Documents, the New Warrants Agreement and a non-exclusive list of the Litigation Claims.

The Bankruptcy Court can confirm the Plan and bind you if the Plan is accepted by the holders of at least two-thirds in amount and more than one-half in number of the Claims in each impaired Class who vote on the Plan and if the Plan otherwise satisfies the applicable requirements of section 1129(a) of the Bankruptcy Code. If the requisite acceptances are not obtained, the Bankruptcy Court nonetheless may confirm the Plan if it finds that the Plan (i) provides fair and equitable treatment to, and does not unfairly discriminate against, each Class

rejecting the Plan and (ii) otherwise satisfies the requirements of section 1129(b) of the Bankruptcy Code. If the Plan is confirmed by the Bankruptcy Court, it will be binding on you even though you are not entitled to vote on the Plan and are deemed to reject the Plan pursuant to section 1126(g) of the Bankruptcy Code. As described further below, in order to opt-out of the Third Party Releases, you must complete, sign and return this Opt-Out Form to the ~~Voting and~~ Claims Agent by the ~~Voting~~ Deadline. Please see the Confirmation Hearing Notice included with this mailing for important information regarding the Confirmation Hearing and the Plan Objection Deadline.

**IMPORTANT NOTICE REGARDING TREATMENT OF ~~AND VOTING FOR~~  
HOLDERS OF CLASS 8 OLD EMERGE GP EQUITY INTERESTS**

**Treatment:** On the Effective Date, the Old Emerge GP Equity Interests will be cancelled without further notice to, approval of or action by any Person or Entity, and each Holder of an Old Emerge GP Equity Interest shall not receive any distribution or retain any property on account of such Old Emerge GP Equity Interests.

~~**Voting:**~~ Class 8 is an Impaired Class, and the Holders of Equity Interests in Class 8 will be conclusively deemed to have rejected this Plan pursuant to section 1126(g) of the Bankruptcy Code. Therefore, Holders of Equity Interests in Class 8 will not be entitled to vote to accept or reject the Plan.

**IMPORTANT NOTICE REGARDING TREATMENT OF ~~AND VOTING FOR~~  
HOLDERS OF CLASS 9 OLD EMERGE LP EQUITY INTERESTS**

**Treatment: IF AND ONLY IF CLASS 6 VOTES TO ACCEPT THE PLAN, THEN:**

- Subject to Article VIII of the Plan, on, or as soon as reasonably practicable after, the later of (i) the Initial Distribution Date if such Class 9 Equity Interest is an Allowed Class 9 Equity Interest as of the Effective Date or (ii) the next Subsequent Distribution Date after the date on which such Class 9 Equity Interest becomes an Allowed Class 9 Equity Interest, each Holder of an Allowed Class 9 Equity Interest shall receive, in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Class 9 Equity Interest, its Pro Rata share of New Warrants representing 5.0% of the New Limited Partnership Interests issued and outstanding on the Effective Date prior to dilution by the New Management Incentive Plan Equity.

**Please be advised that the above described treatment – including distribution to Holders of Allowed Class 9 Old Emerge LP Equity Interests of their Pro Rata share of New Warrants representing 5.0% of the New Limited Partnership Interests – may be reduced or eliminated in its entirety in connection with Confirmation of the Plan. The Debtors can provide no assurances that Holders of Allowed Class 9 Old Emerge LP Equity Interests will receive the above described treatment even in the event that Class 6 votes to accept the Plan.**

**Treatment: IF AND ONLY IF CLASS 6 VOTES TO REJECT THE PLAN, THEN:**

- On the Effective Date, the Old Emerge LP Equity Interests will be cancelled without further notice to, approval of or action by any Person or Entity, and each Holder of an Old Emerge LP Equity Interest shall not receive any distribution or retain any property on account of such Old Emerge LP Equity Interests.

~~**Voting:**~~ Class 9 is an Impaired Class and, if the Class of General Unsecured Claims in Class 6 votes to reject the Plan, the Holders of Equity Interests in this Class 9 shall receive no distribution under the Plan on account of such Equity Interests. Therefore, the Holders of Equity Interests in this Class 9 are deemed to have rejected this Plan pursuant to section 1126(g) of the Bankruptcy Code and are not entitled to vote to accept or reject this Plan.

**“New Limited Partnership Interests”** means the new limited partnership interests in Reorganized Emerge LP to be issued on and as of the Effective Date to the Prepetition Noteholders and, subject to the terms and conditions of the Plan, certain other Holders.

**“New Management Incentive Plan Equity”** means a post-Effective Date equity incentive plan providing for the issuance from time to time, as approved by the New Board, of New Limited Partnership Interests to those individuals involved in day-to-day management of the Reorganized Debtors. The New Board shall determine allocation and other terms of the New Management Incentive Plan.

**“New Warrants”** means the warrants contemplated under the New Warrants Agreement.

**“New Warrants Agreement”** means the warrant agreement Filed with the Plan Supplement, which warrant agreement shall contain terms and conditions consistent in all respects with those set forth on the New Warrants Term Sheet and, to the extent any terms and conditions are not set forth on or contemplated therein, such other terms and conditions as are acceptable to the Special Restructuring Committee, the Majority Noteholders, and the other applicable parties to the Restructuring Support Agreement in the manner set forth therein.

**Item 1. Amount of Equity Interest.**

The undersigned hereby certifies that as ~~of the Voting Record Date~~ (the close of business on September 9, 2019), the undersigned was a Holder of Class 8 or 9 – Old Equity Interests.

**Item 2. Opt-Out of Third Party Release.**

**IMPORTANT INFORMATION REGARDING THE RELEASE OF CLAIMS BY THIRD PARTIES**

ARTICLE X OF THE PLAN CONTAINS RELEASE, EXCULPATION AND INJUNCTION PROVISIONS, WHICH ARE SET FORTH AT THE END OF THIS OPT-OUT FORM. YOU SHOULD REVIEW THESE PROVISIONS CAREFULLY.

Check the box below if you elect not to grant the Third Party Release contained in Article X.B.2 of the Plan. If you are not a signatory to the Plan Support Agreement, election to withhold consent is at your option. If you submit your Opt-Out Form with this box checked, then you will be deemed **NOT** to consent to the Third Party Release set forth in Article X.B.2 of the Plan.

PLEASE BE ADVISED THAT BY NOT CHECKING THE BOX BELOW YOU ELECT TO GRANT THE THIRD-PARTY RELEASE AGAINST THE “RELEASED PARTIES” AS THAT TERM IS DEFINED IN THE PLAN, IN EACH AND EVERY CAPACITY IN WHICH YOU HOLD A CLAIM AGAINST, OR EQUITY INTEREST IN, ANY OF THE DEBTORS. PLEASE ALSO BE ADVISED THAT BY CHECKING THE BOX, YOU WILL **NOT** RECEIVE A RELEASE FROM THE NON-DEBTOR RELEASING PARTIES PURSUANT TO ARTICLE X.B.2 OF THE PLAN. YOU MUST AFFIRMATIVELY CHECK THE BOX BELOW IN ORDER TO OPT-OUT OF THE THIRD PARTY RELEASE.

PLEASE ALSO BE ADVISED THAT IF YOU **DO NOT** CHECK THE BOX BELOW AND YOU ELECT TO GRANT THE THIRD PARTY RELEASE IN ARTICLE X.B.2 OF THE PLAN, THEN, AS FURTHER PROVIDED IN THIRD PARTY RELEASE PROVISIONS IN THE PLAN WHICH ARE ATTACHED TO THIS OPT-OUT FORM, YOU WILL BE DEEMED TO HAVE CONCLUSIVELY, ABSOLUTELY,



**UNCONDITIONALLY, IRREVOCABLY, AND FOREVER PROVIDED A FULL DISCHARGE, WAIVER AND RELEASE TO EACH OF THE RELEASED PARTIES FROM ANY AND ALL CLAIMS, CAUSES OF ACTION, RELEASED AND SETTLED CLAIMS, LITIGATION CLAIMS AND ANY OTHER DEBTS, OBLIGATIONS, RIGHTS, SUITS, DAMAGES, ACTIONS, REMEDIES, AND LIABILITIES WHATSOEVER, WHETHER KNOWN OR UNKNOWN, FORESEEN OR UNFORESEEN, WHETHER DIRECTLY OR DERIVATIVELY HELD, EXISTING AS OF THE EFFECTIVE DATE OR THEREAFTER ARISING, IN LAW, AT EQUITY OR OTHERWISE, WHETHER FOR TORT, CONTRACT, VIOLATIONS OF FEDERAL OR STATE SECURITIES LAWS, OR OTHERWISE, BASED IN WHOLE OR IN PART UPON ANY ACT OR OMISSION, TRANSACTION, OR OTHER OCCURRENCE OR CIRCUMSTANCES EXISTING OR TAKING PLACE PRIOR TO OR ON THE EFFECTIVE DATE ARISING FROM OR RELATED IN ANY WAY IN WHOLE OR IN PART TO ANY OF THE DEBTORS.**

**PLEASE ALSO BE ADVISED THAT THE DEBTOR RELEASE CONTAINED IN ARTICLE X.B.1 OF THE PLAN IS SEPARATE FROM AND INDEPENDENT OF THE THIRD PARTY RELEASE. IF YOU OBJECT TO THE DEBTOR RELEASE, YOU MUST FILE A SEPARATE OBJECTION WITH THE BANKRUPTCY COURT IN ACCORDANCE WITH THE PROCEDURES DESCRIBED IN THE DISCLOSURE STATEMENT ORDER.**

**OPT-OUT ELECTION:** The undersigned elects to opt-out of the Third Party Releases contained in Article X.B.2 of the Plan.

**Item 3. Certifications.**

By signing this Opt-Out Form, the undersigned certifies to the Bankruptcy Court and the Debtors:

- i. that either: (i) the undersigned is the Holder of the Class 8 or 9 Old Equity Interests; or (ii) the undersigned is an authorized signatory for an Entity that is a Holder of the Class 8 or 9 Old Equity Interests, and, in either case, has the full power and authority to elect to opt-out of the Third Party Releases;
- ii. that the undersigned has received a copy of the Disclosure Statement and the Solicitation Package and acknowledges that the solicitation is being made pursuant to the terms and conditions set forth therein;
- iii. that the undersigned has made the same election with respect to all Class 8 or 9 Old Equity Interests in a single Class; and
- iv. that no other Opt-Out Forms with respect to your Class 8 or 9 Old Equity Interests have been cast or, if any other Opt-Out Forms have been cast with respect to such Equity Interest, then any such earlier Opt-Out Forms are hereby revoked.

Name of Holder: _____ (Print or Type)
Social Security or Federal Tax Identification Number: _____
Signature: _____
Name of Signatory: _____

(If other than Holder)
Title: _____
Address: _____ _____
Date Completed: _____

If your address or contact information has changed, please note the new information here.

**PLEASE COMPLETE, SIGN AND DATE THIS OPT-OUT FORM AND RETURN IT TO THE FOLLOWING ADDRESS SO THAT IT IS ACTUALLY RECEIVED BY 5:00 P.M. (PREVAILING EASTERN TIME) ON OCTOBER 17, 2019:**

Emerge Energy Services LP Balloting Center  
 c/o Kurtzman Carson Consultants LLC  
 222 N. Pacific Coast Highway, Suite 300  
 El Segundo, California 90245  
 Telephone: 877-634-7165 (toll-free in US and Canada)  
 or 424-236-7221 (for international callers)

THIS OPT-OUT FORM MUST BE **ACTUALLY RECEIVED** BY THE ~~VOTING AND~~ CLAIMS AGENT ON OR BEFORE:

**5:00 P.M. PREVAILING EASTERN TIME ON OCTOBER 17, 2019.**

**OPT-OUT FORMS SENT BY FACSIMILE, TELECOPY OR ELECTRONIC MAIL WILL NOT BE ACCEPTED**

[To submit your Opt-Out Form via the Claims Agent’s online portal, please visit http://www.kccllc.net/EmergeEnergy. Click on the “Opt-Out Form” section of the website and follow the instructions to submit your Opt-Out Form.](http://www.kccllc.net/EmergeEnergy)

[Equity Interest Holders who fill out an Opt-Out Form using the Claims Agent’s online portal should NOT also submit a paper Opt-Out Form.](#)

**Class 8 and 9 — Old Equity Interests**

**INSTRUCTIONS FOR COMPLETING THIS OPT-OUT FORM**

1. The Debtors are providing Holders of Class 8 and 9 Equity Interests with the opportunity to elect to opt-out of the Third Party Releases contained in the Plan attached as Exhibit A to the Disclosure Statement. Capitalized terms used in the Opt-Out Form or in these instructions (the “**Opt-Out Form Instructions**”) but not otherwise defined therein or herein shall have the meaning set forth in the Plan, a copy of which also accompanies the Opt-Out Form.

2. To ensure that your Opt-Out Form is counted, you must either: (i) complete and submit this hard copy Opt-Out Form or (ii) opt-out of the Third Party Releases through the Debtors' online opt-out portal accessible through the Debtors' case website <http://www.kccllc.net/EmergeEnergy>. **Opt-Out Forms will not be accepted by facsimile or other electronic means (other than the online portal).**

3. ~~2.~~ **Use of Hard Copy Opt-Out Form.** To ensure that your election is counted, you must complete the Opt-Out Form and take the following steps: (i) clearly indicate your decision to opt-out of the Third Party Release if you wish to do so by checking the box provided in Item 2 above; (ii) provide the information required by Item 3 above and; (iii) sign, date and return an original of your Opt-Out Form to the following address:

Emerge Energy Services LP Balloting Center  
c/o Kurtzman Carson Consultants LLC  
222 N. Pacific Coast Highway, Suite 300  
El Segundo, California 90245

4. **Use of Online Opt-Out Portal.** To ensure that your electronic Opt-Out Form is counted, please follow the instructions of the Debtors' case administration website at <http://www.kccllc.net/EmergeEnergy>. The online opt-out form portal is the sole manner in which Opt-Out Forms will be accepted via electronic or online transmission.

5. ~~3.~~ If you do not wish to opt-out of the Third Party Releases, you may either (i) return the Opt-Out Form without checking the box provided in Item 2 above, or (ii) not return the Opt-Out Form to the ~~Voting and~~ Claims Agent by the ~~Voting~~ Deadline.

6. ~~4.~~ If an Opt-Out Form is received after the ~~Voting~~ Deadline, it will not be counted, unless the Debtors have granted an extension of the ~~Voting~~ Deadline in writing with respect to such Opt-Out Form. Additionally, the following Opt-Out Form will **NOT** be counted:

- i. any Opt-Out Form that is illegible or contains insufficient information to permit the identification of the claimant;
- ii. any Opt-Out Form submitted by facsimile, telecopy or electronic mail;
- iii. any unsigned Opt-Out Form;
- iv. any Opt-Out Form sent to the Debtors, the Debtors' agents/representatives (other than the ~~Voting and~~ Claims Agent), any indenture trustee, or the Debtors' financial or legal advisors; and/or
- v. any Opt-Out Form not cast in accordance with the procedures approved in the Disclosure Statement Order.

7. ~~5.~~ The method of delivery of Opt-Out Forms to the ~~Voting and~~ Claims Agent is at the election and risk of each Holder of an Equity Interest. Except as otherwise provided herein, such delivery will be deemed made only when the ~~Voting and~~ Claims Agent **actually receives** the originally executed Opt-Out Form. Instead of effecting delivery by first-class mail, it is recommended, though not required, that Holders use an overnight or hand delivery service. In all cases, Holders should allow sufficient time to assure timely delivery.

8. ~~6.~~ If multiple Opt-Out Forms are received from the same Holder of an Equity Interest with respect to the same Equity Interest prior to the ~~Voting~~-Deadline, the last Opt-Out Form timely received will supersede and revoke any earlier received Opt-Out Forms.
9. ~~7.~~ You must make the same election for all of your Equity Interests within a particular Class either to accept or opt-out of the Third Party Releases and may not split your election.
10. ~~8.~~ The Opt-Out Form is not a letter of transmittal and may not be used for any purpose other than to elect to accept or opt-out of the Third Party Releases contained in the Plan. Accordingly, at this time, Holders of Equity Interests should not surrender certificates or instruments representing or evidencing their Equity Interests, and neither the Debtors nor the ~~Voting and~~-Claims Agent will accept delivery of any such certificates or instruments surrendered together with an Opt-Out Form.
11. ~~9.~~ This Opt-Out Form does not constitute, and shall not be deemed to be, (i) a proof of interest, or (ii) an assertion or admission that you hold an Equity Interest.
12. ~~10.~~ Please be sure to sign and date your Opt-Out Form. If you are signing an Opt-Out Form in your capacity as a trustee, executor, administrator, guardian, attorney in fact, officer of a corporation or otherwise acting in a fiduciary or representative capacity, you must indicate such capacity when signing and, if required or requested by the ~~Voting and~~ Claims Agent, the Debtors or the Bankruptcy Court, must submit proper evidence to the requesting party to so act on behalf of such Holder. In addition, please provide your name and mailing address if it is different from that set forth on the attached mailing label or if no such mailing label is attached to the Opt-Out Form.
13. ~~11.~~ If you hold Claims in more than one Class under the Plan you may receive more than one Ballot/Opt-Out Form coded for each different Class. Each Ballot/Opt-Out Form votes only your Claims or Equity Interests indicated on that Ballot/Opt-Out Form, so please complete and return each Ballot/Opt-Out Form you received.

**PLEASE MAIL YOUR OPT-OUT FORM PROMPTLY!**

**IF YOU HAVE ANY QUESTIONS REGARDING THIS OPT-OUT FORM, THESE INSTRUCTIONS OR THE PROCEDURES FOR MAKING AN ELECTION, PLEASE CALL THE ~~VOTING AND~~-CLAIMS AGENT AT: 877-634-7165 (TOLL-FREE IN US AND CANADA) OR 424-236-7221 (FOR INTERNATIONAL CALLERS).**

**PLEASE NOTE THAT THE ~~VOTING AND~~-CLAIMS AGENT CANNOT PROVIDE LEGAL ADVICE.**

**IF THE ~~VOTING AND~~-CLAIMS AGENT DOES NOT ACTUALLY RECEIVE THIS OPT-OUT FORM ON OR BEFORE THE ~~VOTING~~-DEADLINE, WHICH IS 5:00 P.M. PREVAILING EASTERN TIME ON OCTOBER 17, 2019, THEN YOUR ELECTION TRANSMITTED HEREBY WILL NOT BE COUNTED.**

NO PERSON HAS BEEN AUTHORIZED TO GIVE ANY INFORMATION OR ADVICE, OR TO MAKE ANY REPRESENTATION, REGARDING THE DEBTORS OR THE PLAN, OTHER THAN WHAT IS CONTAINED IN THE SOLICITATION PACKAGE MAILED HEREWITH.

PLEASE SEE THE FOLLOWING FOR IMPORTANT INFORMATION REGARDING THE RELEASES, EXCULPATIONS AND INJUNCTIONS SET FORTH IN THE PLAN.

**RELEASE, EXCULPATION, AND INJUNCTION PROVISIONS CONTAINED  
IN THE PLAN**

**Release of Claims and Causes of Action**

1. ***Release by the Debtors and their Estates.*** Pursuant to section 1123(b) and any other applicable provisions of the Bankruptcy Code, and except as otherwise expressly provided in the Plan, effective as of the Effective Date, for good and valuable consideration provided by each of the Released Parties, the adequacy and sufficiency of which is thereby confirmed, the Debtors and the Reorganized Debtors, in their respective individual capacities and as debtors-in-possession, and on behalf of themselves and their respective Estates, including, without limitation, any successor to the Debtors or any Estate representative appointed or selected pursuant to section 1123(b)(3) of the Bankruptcy Code (collectively, the “**Debtor Releasing Parties**”) will be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever provided a full discharge, waiver and release to each of the Released Parties (and each such Released Party so released shall be deemed forever released, waived and discharged by the Debtor Releasing Parties) and their respective assets and properties (the “**Debtor Release**”) from any and all claims, Causes of Action, Released and Settled Claims, Litigation Claims and any other debts, obligations, rights, suits, damages, actions, remedies, and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, whether directly or derivatively held, existing as of the Effective Date or thereafter arising, in law, at equity or otherwise, whether for tort, contract, violations of federal or state securities laws, or otherwise, based in whole or in part upon any act or omission, transaction, or other occurrence or circumstances existing or taking place prior to or on the Effective Date arising from or related in any way in whole or in part to any of the Debtors, including, without limitation, (i) the Chapter 11 Cases, the Disclosure Statement, the Plan, the Restructuring Support Agreement and the Restructuring Documents, (ii) the subject matter of, or the transactions or events giving rise to, any Claim or Equity Interest that is treated in the Plan, (iii) the business or contractual arrangements between any Debtor and any Released Parties, (iv) the negotiation, formulation or preparation of the Restructuring Support Agreement, the Plan, the Disclosure Statement, the Plan Supplement, the Restructuring Documents, or related agreements, instruments or other documents, (v) the restructuring of Claims or Equity Interests prior to or during the Chapter 11 Cases, (vi) the purchase, sale, or rescission of the purchase or sale of any Equity Interest of the Debtors or the Reorganized Debtors, and/or (vii) the Confirmation or Consummation of the Plan or the solicitation of votes on the Plan that such Debtor Releasing Party would have been legally entitled to assert (whether individually or collectively) or that any Holder of a Claim or Equity Interest or other Entity would have been legally entitled to assert for, or on behalf or in the name of, any Debtor, its respective Estate or any Reorganized Debtor (whether directly or derivatively) against any of the Released Parties; **provided, however,** that the foregoing provisions of this Debtor Release shall not operate to waive or release: (i) any Causes of Action arising from willful misconduct, actual fraud, or gross negligence of such applicable Released Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction; (ii) any Causes of Action relating to the MSHA Action (other than against a member of the Special Restructuring Committee); and/or (iii) the rights of such Debtor Releasing Party to enforce the Plan and the contracts, instruments, releases, indentures, and other agreements or documents delivered under or in connection with the Plan or assumed pursuant to the Plan or assumed pursuant to Final Order of the Bankruptcy Court. The foregoing release shall be effective as of the Effective Date without

further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Person and the Confirmation Order will permanently enjoin the commencement or prosecution by any Person or Entity, whether directly, derivatively or otherwise, of any claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, or liabilities released pursuant to this Debtor Release. Notwithstanding the foregoing, nothing in this Article X.B shall or shall be deemed to (i) prohibit the Debtors or the Reorganized Debtors from asserting and enforcing any claims, obligations, suits, judgments, demands, debts, rights, Causes of Action or liabilities they may have against any Person that is based upon an alleged breach of a confidentiality or non-compete obligation owed to the Debtors or the Reorganized Debtors and/or (ii) operate as a release or waiver of any Intercompany Claims, in each case unless otherwise expressly provided for in the Plan.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the Debtor Release, which includes by reference each of the related provisions and definitions contained under the Plan, and further, shall constitute the Bankruptcy Court's finding that the Debtor Release is: (i) in exchange for the good and valuable consideration provided by the Released Parties; (ii) a good faith settlement and compromise of the claims released by the Debtor Release; (iii) in the best interest of the Debtors and their Estates; (iv) fair, equitable and reasonable; and (v) given and made after due notice and opportunity for hearing.

2. Release By Third Parties. Except as otherwise expressly provided in the Plan, effective as of the Effective Date, to the fullest extent permitted by applicable law, for good and valuable consideration provided by each of the Released Parties, the adequacy and sufficiency of which is thereby confirmed, and without limiting or otherwise modifying the scope of the Debtor Release provided by the Debtor Releasing Parties above, each Non-Debtor Releasing Party (together with the Debtor Releasing Parties, the "Releasing Parties") will be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever provided a full discharge, waiver and release to each of the Released Parties (and each such Released Party so released shall be deemed forever released, waived and discharged by the Non-Debtor Releasing Parties) and their respective assets and properties (the "Third Party Release") from any and all claims, Causes of Action, Released and Settled Claims, Litigation Claims and any other debts, obligations, rights, suits, damages, actions, remedies, and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, whether directly or derivatively held, existing as of the Effective Date or thereafter arising, in law, at equity or otherwise, whether for tort, contract, violations of federal or state securities laws, or otherwise, based in whole or in part upon any act or omission, transaction, or other occurrence or circumstances existing or taking place prior to or on the Effective Date arising from or related in any way in whole or in part to any of the Debtors, including, without limitation, (i) the Chapter 11 Cases, the Disclosure Statement, the Plan, the Restructuring Support Agreement and the Restructuring Documents, (ii) the subject matter of, or the transactions or events giving rise to, any Claim or Equity Interest that is treated in the Plan, (iii) the business or contractual arrangements between any Debtor and any Released Parties, (iv) the negotiation, formulation or preparation of the Restructuring Support Agreement, the Plan, the Disclosure Statement, the Plan Supplement, the Restructuring Documents, or related agreements, instruments or other documents, (v) the restructuring of Claims or Equity Interests prior to or during the Chapter 11 Cases, (vi) the purchase, sale or rescission of the purchase or sale of any Equity Interest of the Debtors or the Reorganized Debtors, and/or (vii) the Confirmation or Consummation of the Plan or the solicitation of votes on the Plan that such Non-Debtor Releasing Party would have been legally entitled to assert (whether individually or collectively) against any of the Released Parties; provided, however, that the foregoing provisions of this Third Party Release shall not operate to waive or release (i) any Causes of Action arising from willful misconduct, actual fraud, or gross negligence of such applicable

Released Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction; (ii) any Causes of Action relating to the MSHA Action (other than against a member of the Special Restructuring Committee); and/or (iii) the rights of such Non-Debtor Releasing Party to enforce the Plan and the contracts, instruments, releases, indentures, and other agreements and documents delivered under or in connection with the Plan or assumed pursuant to the Plan or Final Order of the Bankruptcy Court. The foregoing release shall be effective as of the Effective Date, without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Person and the Confirmation Order will permanently enjoin the commencement or prosecution by any Person or Entity, whether directly, derivatively or otherwise, of any claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, or liabilities released pursuant to this Third Party Release.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of the Third Party Release, which includes by reference each of the related provisions and definitions contained under the Plan, and further, shall constitute the Bankruptcy Court's finding that the Third Party Release is: (i) in exchange for the good and valuable consideration provided by the Released Parties; (ii) a good faith settlement and compromise of the claims released by the Third Party Release; (iii) in the best interest of the Debtors and all Holders of Claims and Equity Interests; (iv) fair, equitable and reasonable; and (v) given and made after due notice and opportunity for hearing.

### 3. Exculpation

Effective as of the Effective Date, the Exculpated Parties shall neither have nor incur any liability to any Person or Entity for any claims, Causes of Action or Released and Settled Claim arising prior to or on the Effective Date for any act taken or omitted to be taken in connection with, or related to, formulating, negotiating, preparing, disseminating, implementing, administering, confirming or effecting the Confirmation or Consummation of the Plan, the Disclosure Statement, the Restructuring Documents or any contract, instrument, release or other agreement or document created or entered into in connection with the Plan, including the Restructuring Support Agreement, or any other prepetition or postpetition act taken or omitted to be taken in connection with or in contemplation of the restructuring of the Debtors, the approval of the Disclosure Statement or Confirmation or Consummation of the Plan; provided, however, that the foregoing provisions of this exculpation shall not operate to waive or release: (i) any Causes of Action arising from willful misconduct, actual fraud, or gross negligence of such applicable Exculpated Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction; and/or (ii) the rights of any Person or Entity to enforce the Plan and the contracts, instruments, releases, indentures, and other agreements and documents delivered under or in connection with the Plan or assumed pursuant to the Plan or Final Order of the Bankruptcy Court; provided, further, that each Exculpated Party shall be entitled to rely upon the advice of counsel concerning its respective duties pursuant to, or in connection with, the above referenced documents, actions or inactions. The foregoing exculpation shall be effective as of the Effective Date without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Person. Notwithstanding the foregoing, nothing in this Article X.E shall or shall be deemed to prohibit the Debtors or the Reorganized Debtors from asserting and enforcing any claims, obligations, suits, judgments, demands, debts, rights, Causes of Action or liabilities they may have against any Person that is based upon an alleged breach of a confidentiality or non-compete obligation owed to the Debtors or the Reorganized Debtors, in each case unless otherwise expressly provided for in the Plan.

#### 4. Injunction

Except as otherwise expressly provided in the Plan or the Confirmation Order, from and after the Effective Date, all Persons and Entities are, to the fullest extent provided under section 524 and other applicable provisions of the Bankruptcy Code, permanently enjoined from (i) commencing or continuing, in any manner or in any place, any suit, action or other proceeding; (ii) enforcing, attaching, collecting, or recovering in any manner any judgment, award, decree, or order; (iii) creating, perfecting, or enforcing any Lien or encumbrance; (iv) asserting a setoff or right of subrogation of any kind; or (v) commencing or continuing in any manner any action or other proceeding of any kind, in each case on account of or with respect to any Claim, demand, liability, obligation, debt, right, Cause of Action, equity interest, or remedy released or to be released, exculpated or to be exculpated, settled or to be settled or discharged or to be discharged pursuant to the Plan or the Confirmation Order against any Person or Entity so released, discharged, or exculpated (or the property or estate of any Person or Entity so released, discharged, or exculpated). All injunctions or stays provided for in the Chapter 11 Cases under section 105 or section 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect until the Effective Date.

#### Certain Definitions Contained in the Plan Release, Exculpation and Injunction Provisions

“*Causes of Action*” means any claims, causes of action (including Avoidance Actions), demands, actions, suits, obligations, liabilities, cross-claims, counterclaims, offsets, or setoffs of any kind or character whatsoever, in each case whether known or unknown, contingent or non-contingent, matured or unmatured, suspected or unsuspected, foreseen or unforeseen, direct or indirect, choate or inchoate, existing or hereafter arising, under statute, in contract, in tort, in law, or in equity, or pursuant to any other theory of law, federal or state, whether asserted or assertable directly or derivatively in law or equity or otherwise by way of claim, counterclaim, cross-claim, third party action, action for indemnity or contribution or otherwise, based in whole or in part upon any act or omission or other event occurring prior to the Petition Date or during the course of the Chapter 11 Cases, including through the Effective Date.

“*Exculpated Parties*” means, collectively: (a) the Debtors; (b) the Reorganized Debtors; (c) any Committee and the members thereof in their capacity as such; (d) the DIP Credit Agreement Agent; (e) DIP Credit Agreement Lenders; (f) the Prepetition Credit Agreement Agent; (g) the Prepetition Credit Agreement Lenders; (h) the Prepetition Notes Agent; (i) the Prepetition Noteholders; and (j) in each case, the respective Related Persons of each of the foregoing Entities.

“*Litigation Claims*” means the claims, rights of action, suits or proceedings, whether in law or in equity, whether known or unknown, that any Debtor or any Estate may hold against any Person or Entity, including, without limitation, the Causes of Action of the Debtors or their Estates, in each case solely to the extent of the Debtors’ or their Estates’ interest therein. A non-exclusive list of the Litigation Claims held by the Debtors as of the Effective Date is to be Filed with the Plan Supplement, which shall be deemed to include any derivative actions filed against any Debtor as of the Effective Date.

“*New Railcar Lease Agreements*” means those certain railcar lease agreements entered into between the Debtors and the Specified Rail Car Lessors pursuant to the New Railcar Lease Agreements Order.

“*New Railcar Lease Agreements Order*” means the Order Authorizing the Debtors to (I) Reject Certain Railcar Lease Agreements Nunc Pro Tunc to the Petition Date and (II) Enter Into



Proposed New Railcar Lease Agreements Effective as of the Petition Date entered by the Bankruptcy Court in the Chapter 11 Cases (Docket No. 208), as such order may be amended, supplemented, or modified from time to time.

**“Non-Debtor Releasing Parties”** means, collectively: (a) the Committee and the members thereof in their capacity as such; (b) the Prepetition Credit Agreement Agent and the Releasing Prepetition Credit Agreement Lenders; (c) the DIP Credit Agreement Agent and the DIP Credit Agreement Lenders (d) the Prepetition Notes Agent and the Releasing Prepetition Noteholders; (e) the Releasing Old Emerge LP Equity Holders; (f) those Holders of General Unsecured Claims or Old Emerge LP Equity Interests that do not affirmatively opt out of the Third Party Release as provided on their respective Ballots; and (g) each Specified Railcar Lessor (to the extent it is a Released Party).

**“Related Persons”** means, with respect to any Person, such Person’s predecessors, successors, assigns and present and former Affiliates (whether by operation of law or otherwise) and subsidiaries, and each of their respective current and former officers, directors, principals, employees, shareholders, members (including *ex officio* members and managing members), managers, managed accounts or funds, management companies, fund advisors, advisory or subcommittee board members, partners, agents, financial advisors, attorneys, accountants, investment bankers, investment advisors, consultants, representatives, and other professionals, in each case acting in such capacity at any time on or after the date of the Restructuring Support Agreement, and any Person claiming by or through any of them, including such Related Persons’ respective heirs, executors, estates, servants, and nominees; *provided, however*, that no insurer of any Debtor shall constitute a Related Person.

**“Released and Settled Claims”** means all Claims and Causes of Action made, or which could have been made, on or on behalf of any of the Debtors against the Prepetition Revolver Agent, the Prepetition Revolving Lenders, the Prepetition Note Agent, or the Prepetition Noteholders, or any of their respective affiliates, agents, attorneys, advisors, professionals, officers, directors, and employees, in their respective capacities as such.

**“Released Party”** means, collectively: (a) the Debtors; (b) the Reorganized Debtors; (c) the Committee and the members thereof in their capacity as such; (d) the Prepetition Credit Agreement Agent and the Releasing Prepetition Credit Agreement Lenders; (e) the DIP Credit Agreement Agent and the DIP Credit Agreement Lenders; (f) the Prepetition Notes Agent and the Releasing Prepetition Noteholders; (g) the Releasing Old Emerge LP Equity Holders; and (h) each Specified Railcar Lessor, so long as the applicable New Railcar Lease Agreement(s) between the Debtors and the applicable Specified Railcar Lessor is in full force and effect as of the Effective Date; and in each case the respective Related Persons of each of the foregoing Entities.

**“Specified Railcar Lessors”** means, collectively, (a) Trinity Industries Leasing Company, (b) MUL Railcars Leasing, LLC, and (c) CIT Bank, N.A. and The CIT Group/Equipment Financing, Inc., as an assignee of CIT Rail, LLC.

**EXHIBIT 4**  
**Unimpaired Claims/Equity Notice**

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

In re:	X	
	:	Chapter 11
	:	
EMERGE ENERGY SERVICES LP, <i>et al.</i> , <sup>1</sup>	:	Case No. 19-11563 (KBO)
	:	
Debtors.	:	(Jointly Administered)
	:	
	X	

**NOTICE OF NON-VOTING STATUS TO HOLDERS OF UNCLASSIFIED CLAIMS  
AND HOLDERS OF UNIMPAIRED CLAIMS DEEMED TO ACCEPT THE PLAN**

**PLEASE TAKE NOTICE THAT** on [\_\_\_], 2019, Emerge Energy Services LP and its affiliate debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “**Debtors**”) filed their (i) *First Amended Joint Plan of Reorganization for Emerge Energy Services LP and its Affiliate Debtors Under Chapter 11 of the Bankruptcy Code* [Docket No. [●]] (as may be amended from time to time, the “**Plan**”) and (ii) *First Amended Disclosure Statement for the Joint Plan of Reorganization for Emerge Energy Services LP and its Affiliate Debtors Under Chapter 11 of the Bankruptcy Code* [Docket No. [●]] (as may be amended from time to time, the “**Disclosure Statement**”),<sup>2</sup> and by no later than October 4, 2019, the Debtors shall file the Plan Supplement. On [●], 2019, the Bankruptcy Court entered the *Order (I) Approving the Disclosure Statement, (II) Establishing the Voting Record Date, Voting Deadline and Other dates, (III) Approving Procedures for Soliciting, Receiving and Tabulating Votes on the Plan and for Filing objections to the Plan and (IV) Approving the Manner and Forms of Notice and Other Related Documents, (V) Approving Procedures for Assumption of Contracts and Leases and Form and Manner of Assumption Notice, and (VI) Granting Related Relief* [Docket No. [●]] (the “**Disclosure Statement Order**”).

**PLEASE TAKE FURTHER NOTICE THAT** because of the nature and treatment of your Claim under the Plan, you are not entitled to vote on the Plan. Specifically, you are not entitled to vote on the Plan because you have been identified as a Holder of a Claim that (as currently asserted against one or more of the Debtors) is either (i) an unclassified, non-voting claim pursuant to Bankruptcy Code Section 1123(a)(1), or (ii) unimpaired and therefore deemed to have accepted the Plan pursuant to Bankruptcy Code Section 1126(f).

**PLEASE TAKE FURTHER NOTICE THAT** the Confirmation Hearing to consider confirmation of the Plan will commence at ~~1:00 p.m.~~ **1:00 p.m. (prevailing Eastern Time) on {October 24}, 2019**, before the Honorable Karen B. Owens, United States Bankruptcy Judge, in the United States Bankruptcy Court for the District of Delaware, located at 824 Market Street, 6th Floor, Courtroom 1, Wilmington, Delaware 19801. The Confirmation Hearing may be continued from time to time by the Bankruptcy Court or the Debtors without further notice other than by such adjournment being announced in open court and/or by a notice of adjournment filed

<sup>1</sup> The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: Emerge Energy Services LP (2937), Emerge Energy Services GP LLC (4683), Emerge Energy Services Operating LLC (2511), Superior Silica Sands LLC (9889), and Emerge Energy Services Finance Corporation (9875). The Debtors’ address is 5600 Clearfork Main Street, Suite 400, Fort Worth, Texas 76109.

<sup>2</sup> Capitalized terms used but not otherwise defined herein will have the meanings set forth in the Plan.

with the Bankruptcy Court and served on such parties as the Bankruptcy Court may order. Moreover, the Plan may be modified or amended, if necessary, pursuant to Bankruptcy Code Section 1127, prior to, during or as a result of the Confirmation Hearing, without further notice to parties in interest.

**PLEASE TAKE FURTHER NOTICE THAT** the deadline for filing objections to the Plan is **October 11, 2019 at 4:00 p.m. (prevailing Eastern Time)** (the “**Plan Objection Deadline**”). Any objection to the Plan must: (i) be in writing; (ii) conform to the Bankruptcy Rules and the Local Rules; (iii) state the name and address of the objecting party and the amount and nature of the Claim of such Entity; (iv) state with particularity the basis and nature of any objection to the Plan and, if practicable, a proposed modification to the Plan that would resolve such objection; and (v) be filed with the United States Bankruptcy Court District of Delaware, 824 North Market Street, 3rd Floor, Wilmington, DE 19801, no later than the Plan Objection Deadline and served on the following parties listed below (the “**Notice Parties**”), with proof of service filed as and when required by the Local Rules of the Bankruptcy Court. **CONFIRMATION OBJECTIONS NOT TIMELY FILED AND SERVED IN THE MANNER SET FORTH HEREIN MAY NOT BE CONSIDERED BY THE BANKRUPTCY COURT AND MAY BE OVERRULED WITHOUT FURTHER NOTICE.**

**Notice Parties**

- (i) Counsel to the Debtors, Latham & Watkins LLP, 885 Third Avenue, New York, New York 10022-4834 (Attn: Keith A. Simon, Esq., Hugh K. Murtagh, Esq., and Liza L. Burton, Esq. (emails: keith.simon@lw.com, hugh.murtagh@lw.com, and liza.burton@lw.com)) and Richards, Layton & Finger, P.A., One Rodney Square, 920 North King Street, Wilmington, Delaware 19801 (Attn: John H. Knight, Esq. and Paul N. Heath, Esq. (emails: knight@rlf.com and heath@rlf.com));
- (ii) Counsel to the DIP Agent and the Prepetition Agents, Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, NY 10153-0119 (Attn: David N. Griffiths) and Pachulski Stang Ziehl & Jones LLP, 919 North Market Street, Wilmington, Delaware 19801 (Attn: Laura Davis Jones, Esq. (email: ljones@pszjlaw.com); and
- (iii) Counsel to the Committee, Kilpatrick Townsend & Stockton LLP, 1114 Avenue of the Americas, New York, New York 10036 (Attn: Todd C. Meyers, Esq., David M. Posner, Esq., and Kelly Moynihan, Esq. (emails: tmeyers@kilpatricktownsend.com, dposner@kilpatricktownsend.com, and kmoynihan@kilpatricktownsend.com)), Kilpatrick Townsend & Stockton LLP, 700 Louisiana Street, Suite 4300, Houston, Texas 77002 (Attn: Lenard M. Parkins, Esq. (email: lparkins@kilpatricktownsend.com)), and Potter Anderson & Corroon LLP, 1313 North Market Street, Sixth Floor, P.O. Box 951, Wilmington, Delaware 19899 (Attn: Jeremy W. Ryan, Esq., Christopher M. Samis, Esq., and D. Ryan Slauch, Esq. (emails: jryan@potteranderson.com, csamis@potteranderson.com, and rslauch@potteranderson.com)); and
- (iv) The Office of the United States Trustee for the District of Delaware, 844 King Street, Suite 2207, Wilmington, Delaware 19801 (Attn: Juliet M. Sarkessian, Esq. (email: Juliet.M.Sarkessian@usdoj.gov)).

**PLEASE TAKE FURTHER NOTICE THAT** if you would like to obtain a Solicitation Package, a copy of the Plan Supplement once filed, or if you have questions regarding the procedures and requirements for objecting to the Plan, you may contact the Debtors’ Voting and Claims Agent, Kurtzman Carson Consultants LLC, by: (i) calling the Debtors’ restructuring

hotline at 877-634-7165 (toll-free in US and Canada) or 424-236-7221 (for international callers); (ii) visiting the Debtors' restructuring website at: <http://www.kccllc.net/EmergeEnergy> (please see "Plan and Disclosure Statement" Tab); and/or (iii) writing to Emerge Energy Claims Processing Center, c/o Kurtzman Carson Consultants LLC, 222 N. Pacific Coast Highway, Suite 300, El Segundo, CA 90245. 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>.

THE PLAN CONTAINS RELEASE, EXCULPATION AND INJUNCTION PROVISIONS. THE PROVISIONS ARE **SET FORTH AT THE END OF THIS NOTICE**. YOU SHOULD REVIEW THESE PROVISIONS CAREFULLY.

**THIS NOTICE IS BEING SENT TO YOU FOR INFORMATIONAL PURPOSES ONLY. IF YOU HAVE QUESTIONS ABOUT ANYTHING STATED HEREIN OR IF YOU WOULD LIKE TO OBTAIN ADDITIONAL INFORMATION, PLEASE CONTACT THE VOTING AND CLAIMS AGENT AT THE NUMBER OR ADDRESS SPECIFIED ABOVE.**

Wilmington, Delaware  
[\_\_\_\_], 2019

**LATHAM & WATKINS LLP**

Attn: George A. Davis  
Attn: Keith A. Simon  
Attn: Hugh K. Murtagh  
Attn: Liza L. Burton  
885 Third Avenue  
New York, New York 10022-4834  
Fax: 212-751-4864

**RICHARDS, LAYTON & FINGER, P.A.**

Attn: John H. Knight  
Attn: Paul N. Heath  
Attn: Zachary I. Shapiro  
Attn: Brett M. Haywood  
One Rodney Square  
920 North King Street  
Wilmington, Delaware 19801  
Fax: 302-651-7701

*Co-Counsel to the Debtors*

**RELEASE, EXCULPATION, AND INJUNCTION PROVISIONS CONTAINED  
IN THE PLAN**

**Release of Claims and Causes of Action**

1. **Release by the Debtors and their Estates.** Pursuant to section 1123(b) and any other applicable provisions of the Bankruptcy Code, and except as otherwise expressly provided in the Plan, effective as of the Effective Date, for good and valuable consideration provided by each of the Released Parties, the adequacy and sufficiency of which is thereby confirmed, the Debtors and the Reorganized Debtors, in their respective individual capacities and as debtors-in-possession, and on behalf of themselves and their respective Estates, including, without limitation, any successor to the Debtors or any Estate representative appointed or selected pursuant to section 1123(b)(3) of the Bankruptcy Code (collectively, the "**Debtor Releasing Parties**") will be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever provided a full discharge, waiver and release to each of the Released Parties (and each such Released Party so released shall be deemed forever released, waived and discharged by the Debtor Releasing Parties) and their respective assets and properties (the "**Debtor Release**") from any and all claims, Causes of Action, Released and Settled Claims, Litigation Claims and any other debts, obligations, rights, suits, damages, actions, remedies, and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, whether directly or derivatively held, existing as of the Effective Date or thereafter arising, in law, at equity or otherwise, whether for tort,

contract, violations of federal or state securities laws, or otherwise, based in whole or in part upon any act or omission, transaction, or other occurrence or circumstances existing or taking place prior to or on the Effective Date arising from or related in any way in whole or in part to any of the Debtors, including, without limitation, (i) the Chapter 11 Cases, the Disclosure Statement, the Plan, the Restructuring Support Agreement and the Restructuring Documents, (ii) the subject matter of, or the transactions or events giving rise to, any Claim or Equity Interest that is treated in the Plan, (iii) the business or contractual arrangements between any Debtor and any Released Parties, (iv) the negotiation, formulation or preparation of the Restructuring Support Agreement, the Plan, the Disclosure Statement, the Plan Supplement, the Restructuring Documents, or related agreements, instruments or other documents, (v) the restructuring of Claims or Equity Interests prior to or during the Chapter 11 Cases, (vi) the purchase, sale, or rescission of the purchase or sale of any Equity Interest of the Debtors or the Reorganized Debtors, and/or (vii) the Confirmation or Consummation of the Plan or the solicitation of votes on the Plan that such Debtor Releasing Party would have been legally entitled to assert (whether individually or collectively) or that any Holder of a Claim or Equity Interest or other Entity would have been legally entitled to assert for, or on behalf or in the name of, any Debtor, its respective Estate or any Reorganized Debtor (whether directly or derivatively) against any of the Released Parties; provided, however, that the foregoing provisions of this Debtor Release shall not operate to waive or release: (i) any Causes of Action arising from willful misconduct, actual fraud, or gross negligence of such applicable Released Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction; (ii) any Causes of Action relating to the MSHA Action (other than against a member of the Special Restructuring Committee); and/or (iii) the rights of such Debtor Releasing Party to enforce the Plan and the contracts, instruments, releases, indentures, and other agreements or documents delivered under or in connection with the Plan or assumed pursuant to the Plan or assumed pursuant to Final Order of the Bankruptcy Court. The foregoing release shall be effective as of the Effective Date without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Person and the Confirmation Order will permanently enjoin the commencement or prosecution by any Person or Entity, whether directly, derivatively or otherwise, of any claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, or liabilities released pursuant to this Debtor Release. Notwithstanding the foregoing, nothing in this Article X.B shall or shall be deemed to (i) prohibit the Debtors or the Reorganized Debtors from asserting and enforcing any claims, obligations, suits, judgments, demands, debts, rights, Causes of Action or liabilities they may have against any Person that is based upon an alleged breach of a confidentiality or non-compete obligation owed to the Debtors or the Reorganized Debtors and/or (ii) operate as a release or waiver of any Intercompany Claims, in each case unless otherwise expressly provided for in the Plan.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the Debtor Release, which includes by reference each of the related provisions and definitions contained under the Plan, and further, shall constitute the Bankruptcy Court's finding that the Debtor Release is: (i) in exchange for the good and valuable consideration provided by the Released Parties; (ii) a good faith settlement and compromise of the claims released by the Debtor Release; (iii) in the best interest of the Debtors and their Estates; (iv) fair, equitable and reasonable; and (v) given and made after due notice and opportunity for hearing.

2. Release By Third Parties. Except as otherwise expressly provided in the Plan, effective as of the Effective Date, to the fullest extent permitted by applicable law, for good and valuable consideration provided by each of the Released Parties, the adequacy and sufficiency of which is thereby confirmed, and without limiting or otherwise modifying the

scope of the Debtor Release provided by the Debtor Releasing Parties above, each Non-Debtor Releasing Party (together with the Debtor Releasing Parties, the “Releasing Parties”) will be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever provided a full discharge, waiver and release to each of the Released Parties (and each such Released Party so released shall be deemed forever released, waived and discharged by the Non-Debtor Releasing Parties) and their respective assets and properties (the “Third Party Release”) from any and all claims, Causes of Action, Released and Settled Claims, Litigation Claims and any other debts, obligations, rights, suits, damages, actions, remedies, and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, whether directly or derivatively held, existing as of the Effective Date or thereafter arising, in law, at equity or otherwise, whether for tort, contract, violations of federal or state securities laws, or otherwise, based in whole or in part upon any act or omission, transaction, or other occurrence or circumstances existing or taking place prior to or on the Effective Date arising from or related in any way in whole or in part to any of the Debtors, including, without limitation, (i) the Chapter 11 Cases, the Disclosure Statement, the Plan, the Restructuring Support Agreement and the Restructuring Documents, (ii) the subject matter of, or the transactions or events giving rise to, any Claim or Equity Interest that is treated in the Plan, (iii) the business or contractual arrangements between any Debtor and any Released Parties, (iv) the negotiation, formulation or preparation of the Restructuring Support Agreement, the Plan, the Disclosure Statement, the Plan Supplement, the Restructuring Documents, or related agreements, instruments or other documents, (v) the restructuring of Claims or Equity Interests prior to or during the Chapter 11 Cases, (vi) the purchase, sale or rescission of the purchase or sale of any Equity Interest of the Debtors or the Reorganized Debtors, and/or (vii) the Confirmation or Consummation of the Plan or the solicitation of votes on the Plan that such Non-Debtor Releasing Party would have been legally entitled to assert (whether individually or collectively) against any of the Released Parties; provided, however, that the foregoing provisions of this Third Party Release shall not operate to waive or release (i) any Causes of Action arising from willful misconduct, actual fraud, or gross negligence of such applicable Released Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction; (ii) any Causes of Action relating to the MSHA Action (other than against a member of the Special Restructuring Committee); and/or (iii) the rights of such Non-Debtor Releasing Party to enforce the Plan and the contracts, instruments, releases, indentures, and other agreements and documents delivered under or in connection with the Plan or assumed pursuant to the Plan or Final Order of the Bankruptcy Court. The foregoing release shall be effective as of the Effective Date, without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Person and the Confirmation Order will permanently enjoin the commencement or prosecution by any Person or Entity, whether directly, derivatively or otherwise, of any claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, or liabilities released pursuant to this Third Party Release.

Entry of the Confirmation Order shall constitute the Bankruptcy Court’s approval of the Third Party Release, which includes by reference each of the related provisions and definitions contained under the Plan, and further, shall constitute the Bankruptcy Court’s finding that the Third Party Release is: (i) in exchange for the good and valuable consideration provided by the Released Parties; (ii) a good faith settlement and compromise of the claims released by the Third Party Release; (iii) in the best interest of the Debtors and all Holders of Claims and Equity Interests; (iv) fair, equitable and reasonable; and (v) given and made after due notice and opportunity for hearing.

### 3. Exculpation

Effective as of the Effective Date, the Exculpated Parties shall neither have nor incur any liability to any Person or Entity for any claims, Causes of Action or Released and Settled Claim arising prior to or on the Effective Date for any act taken or omitted to be taken in connection with, or related to, formulating, negotiating, preparing, disseminating, implementing, administering, confirming or effecting the Confirmation or Consummation of the Plan, the Disclosure Statement, the Restructuring Documents or any contract, instrument, release or other agreement or document created or entered into in connection with the Plan, including the Restructuring Support Agreement, or any other prepetition or postpetition act taken or omitted to be taken in connection with or in contemplation of the restructuring of the Debtors, the approval of the Disclosure Statement or Confirmation or Consummation of the Plan; provided, however, that the foregoing provisions of this exculpation shall not operate to waive or release: (i) any Causes of Action arising from willful misconduct, actual fraud, or gross negligence of such applicable Exculpated Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction; and/or (ii) the rights of any Person or Entity to enforce the Plan and the contracts, instruments, releases, indentures, and other agreements and documents delivered under or in connection with the Plan or assumed pursuant to the Plan or Final Order of the Bankruptcy Court; provided, further, that each Exculpated Party shall be entitled to rely upon the advice of counsel concerning its respective duties pursuant to, or in connection with, the above referenced documents, actions or inactions. The foregoing exculpation shall be effective as of the Effective Date without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Person. Notwithstanding the foregoing, nothing in this Article X.E shall or shall be deemed to prohibit the Debtors or the Reorganized Debtors from asserting and enforcing any claims, obligations, suits, judgments, demands, debts, rights, Causes of Action or liabilities they may have against any Person that is based upon an alleged breach of a confidentiality or non-compete obligation owed to the Debtors or the Reorganized Debtors, in each case unless otherwise expressly provided for in the Plan.

#### 4. Injunction

Except as otherwise expressly provided in the Plan or the Confirmation Order, from and after the Effective Date, all Persons and Entities are, to the fullest extent provided under section 524 and other applicable provisions of the Bankruptcy Code, permanently enjoined from (i) commencing or continuing, in any manner or in any place, any suit, action or other proceeding; (ii) enforcing, attaching, collecting, or recovering in any manner any judgment, award, decree, or order; (iii) creating, perfecting, or enforcing any Lien or encumbrance; (iv) asserting a setoff or right of subrogation of any kind; or (v) commencing or continuing in any manner any action or other proceeding of any kind, in each case on account of or with respect to any Claim, demand, liability, obligation, debt, right, Cause of Action, equity interest, or remedy released or to be released, exculpated or to be exculpated, settled or to be settled or discharged or to be discharged pursuant to the Plan or the Confirmation Order against any Person or Entity so released, discharged, or exculpated (or the property or estate of any Person or Entity so released, discharged, or exculpated). All injunctions or stays provided for in the Chapter 11 Cases under section 105 or section 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect until the Effective Date.

#### Certain Definitions Contains in the Plan Release, Exculpation and Injunction Provisions

“*Causes of Action*” means any claims, causes of action (including Avoidance Actions), demands, actions, suits, obligations, liabilities, cross-claims, counterclaims, offsets, or setoffs of any kind or character whatsoever, in each case whether known or unknown, contingent or non-



contingent, matured or unmatured, suspected or unsuspected, foreseen or unforeseen, direct or indirect, choate or inchoate, existing or hereafter arising, under statute, in contract, in tort, in law, or in equity, or pursuant to any other theory of law, federal or state, whether asserted or assertable directly or derivatively in law or equity or otherwise by way of claim, counterclaim, cross-claim, third party action, action for indemnity or contribution or otherwise, based in whole or in part upon any act or omission or other event occurring prior to the Petition Date or during the course of the Chapter 11 Cases, including through the Effective Date.

**“Exculpated Parties”** means, collectively: (a) the Debtors; (b) the Reorganized Debtors; (c) any Committee and the members thereof in their capacity as such; (d) the DIP Credit Agreement Agent; (e) DIP Credit Agreement Lenders; (f) the Prepetition Credit Agreement Agent; (g) the Prepetition Credit Agreement Lenders; (h) the Prepetition Notes Agent; (i) the Prepetition Noteholders; and (j) in each case, the respective Related Persons of each of the foregoing Entities.

**“Litigation Claims”** means the claims, rights of action, suits or proceedings, whether in law or in equity, whether known or unknown, that any Debtor or any Estate may hold against any Person or Entity, including, without limitation, the Causes of Action of the Debtors or their Estates, in each case solely to the extent of the Debtors’ or their Estates’ interest therein. A non-exclusive list of the Litigation Claims held by the Debtors as of the Effective Date is to be Filed with the Plan Supplement, which shall be deemed to include any derivative actions filed against any Debtor as of the Effective Date.

**“New Railcar Lease Agreements”** means those certain railcar lease agreements entered into between the Debtors and the Specified Rail Car Lessors pursuant to the New Railcar Lease Agreements Order.

**“New Railcar Lease Agreements Order”** means the Order Authorizing the Debtors to (I) Reject Certain Railcar Lease Agreements Nunc Pro Tunc to the Petition Date and (II) Enter Into Proposed New Railcar Lease Agreements Effective as of the Petition Date entered by the Bankruptcy Court in the Chapter 11 Cases (Docket No. 208), as such order may be amended, supplemented, or modified from time to time.

**“Non-Debtor Releasing Parties”** means, collectively: (a) the Committee and the members thereof in their capacity as such; (b) the Prepetition Credit Agreement Agent and the Releasing Prepetition Credit Agreement Lenders; (c) the DIP Credit Agreement Agent and the DIP Credit Agreement Lenders (d) the Prepetition Notes Agent and the Releasing Prepetition Noteholders; (e) the Releasing Old Emerge LP Equity Holders; (f) those Holders of General Unsecured Claims or Old Emerge LP Equity Interests that do not affirmatively opt out of the Third Party Release as provided on their respective Ballots; and (g) each Specified Railcar Lessor (to the extent it is a Released Party).

**“Related Persons”** means, with respect to any Person, such Person’s predecessors, successors, assigns and present and former Affiliates (whether by operation of law or otherwise) and subsidiaries, and each of their respective current and former officers, directors, principals, employees, shareholders, members (including *ex officio* members and managing members), managers, managed accounts or funds, management companies, fund advisors, advisory or subcommittee board members, partners, agents, financial advisors, attorneys, accountants, investment bankers, investment advisors, consultants, representatives, and other professionals, in each case acting in such capacity at any time on or after the date of the Restructuring Support Agreement, and any Person claiming by or through any of them, including such Related Persons’ respective heirs, executors, estates, servants, and nominees; *provided, however*, that no insurer of any Debtor shall constitute a Related Person.

**“Released and Settled Claims”** means all Claims and Causes of Action made, or which could have been made, on or on behalf of any of the Debtors against the Prepetition Revolver Agent, the Prepetition Revolving Lenders, the Prepetition Note Agent, or the Prepetition Noteholders, or any of their respective affiliates, agents, attorneys, advisors, professionals, officers, directors, and employees, in their respective capacities as such.

**“Released Party”** means, collectively: (a) the Debtors; (b) the Reorganized Debtors; (c) the Committee and the members thereof in their capacity as such; (d) the Prepetition Credit Agreement Agent and the Releasing Prepetition Credit Agreement Lenders; (e) the DIP Credit Agreement Agent and the DIP Credit Agreement Lenders; (f) the Prepetition Notes Agent and the Releasing Prepetition Noteholders; (g) the Releasing Old Emerge LP Equity Holders; and (h) each Specified Railcar Lessor, so long as the applicable New Railcar Lease Agreement(s) between the Debtors and the applicable Specified Railcar Lessor is in full force and effect as of the Effective Date; and in each case the respective Related Persons of each of the foregoing Entities.

**“Specified Railcar Lessors”** means, collectively, (a) Trinity Industries Leasing Company, (b) MUL Railcars Leasing, LLC, and (c) CIT Bank, N.A. and The CIT Group/Equipment Financing, Inc., as an assignee of CIT Rail, LLC.

**EXHIBIT 5**

**Contract/Lease Notice**

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

In re:	X	
	:	Chapter 11
	:	
EMERGE ENERGY SERVICES LP, <i>et al.</i> , <sup>1</sup>	:	Case No. 19-11563 (KBO)
	:	
Debtors.	:	(Jointly Administered)
	:	
	X	

**NOTICE TO CONTRACT AND LEASE COUNTERPARTIES**

**PLEASE TAKE NOTICE THAT** on [\_\_\_], 2019, Emerge Energy Services LP and its affiliate debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “**Debtors**”) filed their (i) *First Amended Joint Plan of Reorganization for Emerge Energy Services LP and its Affiliate Debtors Under Chapter 11 of the Bankruptcy Code* [Docket No. [●]] (as may be amended from time to time, the “**Plan**”) and (ii) *Disclosure Statement for the First Amended Joint Plan of Reorganization for Emerge Energy Services LP and its Affiliate Debtors Under Chapter 11 of the Bankruptcy Code* [Docket No. [●]] (as may be amended from time to time, the “**Disclosure Statement**”),<sup>2</sup> and by no later than October 4, 2019 the Debtors shall file the Plan Supplement. On [●], 2019, the Bankruptcy Court entered the *Order (I) Approving the Disclosure Statement, (II) Establishing the Voting Record Date, Voting Deadline and Other dates, (III) Approving Procedures for Soliciting, Receiving and Tabulating Votes on the Plan and for Filing objections to the Plan and (IV) Approving the Manner and Forms of Notice and Other Related Documents, (V) Approving Procedures for Assumption of Contracts and Leases and Form and Manner of Assumption Notice, and (VI) Granting Related Relief* [Docket No. [●]] (the “**Disclosure Statement Order**”).

**PLEASE TAKE FURTHER NOTICE THAT** you are receiving this notice because you or one of your affiliates is a counterparty to an executory contract or unexpired lease with one or more of the Debtors that has not been assumed or rejected as of the Voting Record Date (September 9, 2019).

**PLEASE TAKE FURTHER NOTICE THAT** the Confirmation Hearing to consider confirmation of the Plan will commence at ~~[-●-]~~ **1:00 p.m. (prevailing Eastern Time) on [October 24], 2019**, before the Honorable Karen B. Owens, United States Bankruptcy Judge, in the United States Bankruptcy Court for the District of Delaware, located at 824 Market Street, 6th Floor, Courtroom 2, Wilmington, Delaware 19801. The Confirmation Hearing may be continued from time to time by the Bankruptcy Court or the Debtors without further notice other than by such adjournment being announced in open court or by a notice of adjournment filed with the Bankruptcy Court and served on such parties as the Bankruptcy Court may order. Moreover, the Plan may be modified or amended, if necessary, pursuant to Bankruptcy Code

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<sup>1</sup> The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: Emerge Energy Services LP (2937), Emerge Energy Services GP LLC (4683), Emerge Energy Services Operating LLC (2511), Superior Silica Sands LLC (9889), and Emerge Energy Services Finance Corporation (9875). The Debtors’ address is 5600 Clearfork Main Street, Suite 400, Fort Worth, Texas 76109.

<sup>2</sup> Capitalized terms used but not otherwise defined herein will have the meanings set forth in the Plan.

Section 1127, prior to, during or as a result of the Confirmation Hearing, without further notice to parties in interest.

**PLEASE TAKE FURTHER NOTICE THAT**, notwithstanding that you are not entitled to vote on the Plan, you are nevertheless a party in interest in the Debtors' Chapter 11 Cases and you are entitled to participate in the Debtors' chapter 11 cases, including by filing objections to confirmation of the Plan. The deadline for filing objections to the Plan is **October 11, 2019 at 4:00 p.m. (prevailing Eastern Time)** (the "**Plan Objection Deadline**"). Any objection to the Plan must: (i) be in writing; (ii) conform to the Bankruptcy Rules and the Local Rules; (iii) state the name and address of the objecting party and the amount and nature of the Claim of such Entity; (iv) state with particularity the basis and nature of any objection to the Plan and, if practicable, a proposed modification to the Plan that would resolve such objection; and (v) be filed with the United States Bankruptcy Court District of Delaware, 824 North Market Street, 3rd Floor, Wilmington, DE 19801 no later than the Plan Objection Deadline and served on the following parties listed below (the "**Notice Parties**"), with proof of service filed as and when required by the Local Rules of the Bankruptcy Court.

CONFIRMATION OBJECTIONS NOT TIMELY FILED AND SERVED IN THE MANNER SET FORTH HEREIN MAY NOT BE CONSIDERED BY THE BANKRUPTCY COURT AND MAY BE OVERRULED WITHOUT FURTHER NOTICE.

**Notice Parties**

- (i) Counsel to the Debtors, Latham & Watkins LLP, 885 Third Avenue, New York, New York 10022-4834 (Attn: Keith A. Simon, Esq., Hugh K. Murtagh, Esq., and Liza L. Burton, Esq. (emails: keith.simon@lw.com, hugh.murtagh@lw.com, and liza.burton@lw.com)) and Richards, Layton & Finger, P.A., One Rodney Square, 920 North King Street, Wilmington, Delaware 19801 (Attn: John H. Knight, Esq. and Paul N. Heath, Esq. (emails: knight@rlf.com and heath@rlf.com));
- (ii) Counsel to the DIP Agent and the Prepetition Agents, Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, NY 10153-0119 (Attn: Matt S. Barr, Esq., David Griffiths, Esq., and Candace M. Arthur, Esq. (emails: matt.barr@weil.com, david.griffiths@weil.com, and candace.arthur@weil.com)) and Pachulski Stang Ziehl & Jones LLP, 919 North Market Street, Wilmington, Delaware 19801 (Attn: Laura Davis Jones, Esq. (email: ljones@pszjlaw.com)); and
- (iii) Counsel to the Committee, Kilpatrick Townsend & Stockton LLP, 1114 Avenue of the Americas, New York, New York 10036 (Attn: Todd C. Meyers, Esq., David M. Posner, Esq., and Kelly Moynihan, Esq. (emails: tmeyers@kilpatricktownsend.com, dposner@kilpatricktownsend.com, and kmoynihan@kilpatricktownsend.com)), Kilpatrick Townsend & Stockton LLP, 700 Louisiana Street, Suite 4300, Houston, Texas 77002 (Attn: Lenard M. Parkins, Esq. (email: lparkins@kilpatricktownsend.com)), and Potter Anderson & Corroon LLP, 1313 North Market Street, Sixth Floor, P.O. Box 951, Wilmington, Delaware 19899 (Attn: Jeremy W. Ryan, Esq., Christopher M. Samis, Esq., and D. Ryan Slauch, Esq. (emails: jryan@potteranderson.com, csamis@potteranderson.com, and rslauch@potteranderson.com)); and
- (iv) The Office of the United States Trustee for the District of Delaware, 844 King Street, Suite 2207, Wilmington, Delaware 19801 (Attn: Juliet M. Sarkessian, Esq. (email: Juliet.M.Sarkessian@usdoj.gov)).

**PLEASE TAKE FURTHER NOTICE THAT** if you would like to obtain a Solicitation Package, a copy of the Plan Supplement once filed, or if you have questions regarding the procedures and requirements for objecting to the Plan, you may contact the Debtors' Voting and Claims Agent, Kurtzman Carson Consultants LLC, by: (i) calling the Debtors' restructuring hotline at 877-634-7165 (toll-free in US and Canada) or 424-236-7221 (for international callers); (ii) visiting the Debtors' restructuring website at: <http://www.kccllc.net/EmergeEnergy> (please see "Plan and Disclosure Statement" Tab); and/or (iii) writing to Emerge Energy Claims Processing Center, c/o Kurtzman Carson Consultants LLC, 222 N. Pacific Coast Highway, Suite 300, El Segundo, CA 90245. 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>.

THE PLAN CONTAINS RELEASE, EXCULPATION AND INJUNCTION PROVISIONS. THE PROVISIONS ARE SET FORTH AT THE END OF THIS NOTICE. YOU SHOULD REVIEW THESE PROVISIONS CAREFULLY.

**THIS NOTICE IS BEING SENT TO YOU FOR INFORMATIONAL PURPOSES ONLY. IF YOU HAVE QUESTIONS ABOUT ANYTHING STATED HEREIN OR IF YOU WOULD LIKE TO OBTAIN ADDITIONAL INFORMATION, PLEASE CONTACT THE VOTING AND CLAIMS AGENT AT THE NUMBER OR ADDRESS SPECIFIED ABOVE.**

Wilmington, Delaware  
[\_\_\_\_], 2019

**LATHAM & WATKINS LLP**  
Attn: George A. Davis  
Attn: Keith A. Simon  
Attn: Hugh K. Murtagh  
Attn: Liza L. Burton  
885 Third Avenue  
New York, New York 10022-4834  
Fax: 212-751-4864

**RICHARDS, LAYTON & FINGER, P.A.**  
Attn: John H. Knight  
Attn: Paul N. Heath  
Attn: Zachary I. Shapiro  
Attn: Brett M. Haywood  
One Rodney Square  
920 North King Street  
Wilmington, Delaware 19801  
Fax: 302-651-7701

*Co-Counsel to the Debtors*

**RELEASE, EXCULPATION, AND INJUNCTION PROVISIONS CONTAINED  
IN THE PLAN**

**Release of Claims and Causes of Action**

1. **Release by the Debtors and their Estates.** Pursuant to section 1123(b) and any other applicable provisions of the Bankruptcy Code, and except as otherwise expressly provided in the Plan, effective as of the Effective Date, for good and valuable consideration provided by each of the Released Parties, the adequacy and sufficiency of which is thereby confirmed, the Debtors and the Reorganized Debtors, in their respective individual capacities and as debtors-in-possession, and on behalf of themselves and their respective Estates, including, without limitation, any successor to the Debtors or any Estate representative appointed or selected pursuant to section 1123(b)(3) of the Bankruptcy Code (collectively, the "**Debtor Releasing Parties**") will be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever provided a full discharge, waiver and release to each of the Released Parties (and each such Released Party so released shall be

deemed forever released, waived and discharged by the Debtor Releasing Parties) and their respective assets and properties (the “Debtor Release”) from any and all claims, Causes of Action, Released and Settled Claims, Litigation Claims and any other debts, obligations, rights, suits, damages, actions, remedies, and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, whether directly or derivatively held, existing as of the Effective Date or thereafter arising, in law, at equity or otherwise, whether for tort, contract, violations of federal or state securities laws, or otherwise, based in whole or in part upon any act or omission, transaction, or other occurrence or circumstances existing or taking place prior to or on the Effective Date arising from or related in any way in whole or in part to any of the Debtors, including, without limitation, (i) the Chapter 11 Cases, the Disclosure Statement, the Plan, the Restructuring Support Agreement and the Restructuring Documents, (ii) the subject matter of, or the transactions or events giving rise to, any Claim or Equity Interest that is treated in the Plan, (iii) the business or contractual arrangements between any Debtor and any Released Parties, (iv) the negotiation, formulation or preparation of the Restructuring Support Agreement, the Plan, the Disclosure Statement, the Plan Supplement, the Restructuring Documents, or related agreements, instruments or other documents, (v) the restructuring of Claims or Equity Interests prior to or during the Chapter 11 Cases, (vi) the purchase, sale, or rescission of the purchase or sale of any Equity Interest of the Debtors or the Reorganized Debtors, and/or (vii) the Confirmation or Consummation of the Plan or the solicitation of votes on the Plan that such Debtor Releasing Party would have been legally entitled to assert (whether individually or collectively) or that any Holder of a Claim or Equity Interest or other Entity would have been legally entitled to assert for, or on behalf or in the name of, any Debtor, its respective Estate or any Reorganized Debtor (whether directly or derivatively) against any of the Released Parties; provided, however, that the foregoing provisions of this Debtor Release shall not operate to waive or release: (i) any Causes of Action arising from willful misconduct, actual fraud, or gross negligence of such applicable Released Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction; (ii) any Causes of Action relating to the MSHA Action (other than against a member of the Special Restructuring Committee); and/or (iii) the rights of such Debtor Releasing Party to enforce the Plan and the contracts, instruments, releases, indentures, and other agreements or documents delivered under or in connection with the Plan or assumed pursuant to the Plan or assumed pursuant to Final Order of the Bankruptcy Court. The foregoing release shall be effective as of the Effective Date without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Person and the Confirmation Order will permanently enjoin the commencement or prosecution by any Person or Entity, whether directly, derivatively or otherwise, of any claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, or liabilities released pursuant to this Debtor Release. Notwithstanding the foregoing, nothing in this Article X.B shall or shall be deemed to (i) prohibit the Debtors or the Reorganized Debtors from asserting and enforcing any claims, obligations, suits, judgments, demands, debts, rights, Causes of Action or liabilities they may have against any Person that is based upon an alleged breach of a confidentiality or non-compete obligation owed to the Debtors or the Reorganized Debtors and/or (ii) operate as a release or waiver of any Intercompany Claims, in each case unless otherwise expressly provided for in the Plan.

Entry of the Confirmation Order shall constitute the Bankruptcy Court’s approval, pursuant to Bankruptcy Rule 9019, of the Debtor Release, which includes by reference each of the related provisions and definitions contained under the Plan, and further, shall constitute the Bankruptcy Court’s finding that the Debtor Release is: (i) in exchange for the good and valuable consideration provided by the Released Parties; (ii) a good faith settlement and compromise of the claims released by the Debtor Release; (iii) in the best

interest of the Debtors and their Estates; (iv) fair, equitable and reasonable; and (v) given and made after due notice and opportunity for hearing.

2. ***Release By Third Parties.*** Except as otherwise expressly provided in the Plan, effective as of the Effective Date, to the fullest extent permitted by applicable law, for good and valuable consideration provided by each of the Released Parties, the adequacy and sufficiency of which is thereby confirmed, and without limiting or otherwise modifying the scope of the Debtor Release provided by the Debtor Releasing Parties above, each Non-Debtor Releasing Party (together with the Debtor Releasing Parties, the “**Releasing Parties**”) will be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever provided a full discharge, waiver and release to each of the Released Parties (and each such Released Party so released shall be deemed forever released, waived and discharged by the Non-Debtor Releasing Parties) and their respective assets and properties (the “**Third Party Release**”) from any and all claims, Causes of Action, Released and Settled Claims, Litigation Claims and any other debts, obligations, rights, suits, damages, actions, remedies, and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, whether directly or derivatively held, existing as of the Effective Date or thereafter arising, in law, at equity or otherwise, whether for tort, contract, violations of federal or state securities laws, or otherwise, based in whole or in part upon any act or omission, transaction, or other occurrence or circumstances existing or taking place prior to or on the Effective Date arising from or related in any way in whole or in part to any of the Debtors, including, without limitation, (i) the Chapter 11 Cases, the Disclosure Statement, the Plan, the Restructuring Support Agreement and the Restructuring Documents, (ii) the subject matter of, or the transactions or events giving rise to, any Claim or Equity Interest that is treated in the Plan, (iii) the business or contractual arrangements between any Debtor and any Released Parties, (iv) the negotiation, formulation or preparation of the Restructuring Support Agreement, the Plan, the Disclosure Statement, the Plan Supplement, the Restructuring Documents, or related agreements, instruments or other documents, (v) the restructuring of Claims or Equity Interests prior to or during the Chapter 11 Cases, (vi) the purchase, sale or rescission of the purchase or sale of any Equity Interest of the Debtors or the Reorganized Debtors, and/or (vii) the Confirmation or Consummation of the Plan or the solicitation of votes on the Plan that such Non-Debtor Releasing Party would have been legally entitled to assert (whether individually or collectively) against any of the Released Parties; **provided, however**, that the foregoing provisions of this Third Party Release shall not operate to waive or release (i) any Causes of Action arising from willful misconduct, actual fraud, or gross negligence of such applicable Released Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction; (ii) any Causes of Action relating to the MSHA Action (other than against a member of the Special Restructuring Committee); and/or (iii) the rights of such Non-Debtor Releasing Party to enforce the Plan and the contracts, instruments, releases, indentures, and other agreements and documents delivered under or in connection with the Plan or assumed pursuant to the Plan or Final Order of the Bankruptcy Court. The foregoing release shall be effective as of the Effective Date, without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Person and the Confirmation Order will permanently enjoin the commencement or prosecution by any Person or Entity, whether directly, derivatively or otherwise, of any claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, or liabilities released pursuant to this Third Party Release.

Entry of the Confirmation Order shall constitute the Bankruptcy Court’s approval of the Third Party Release, which includes by reference each of the related provisions and definitions contained under the Plan, and further, shall constitute the Bankruptcy Court’s finding that the Third Party Release is: (i) in exchange for the good and valuable



consideration provided by the Released Parties; (ii) a good faith settlement and compromise of the claims released by the Third Party Release; (iii) in the best interest of the Debtors and all Holders of Claims and Equity Interests; (iv) fair, equitable and reasonable; and (v) given and made after due notice and opportunity for hearing.

3. *Exculpation*

Effective as of the Effective Date, the Exculpated Parties shall neither have nor incur any liability to any Person or Entity for any claims, Causes of Action or Released and Settled Claim arising prior to or on the Effective Date for any act taken or omitted to be taken in connection with, or related to, formulating, negotiating, preparing, disseminating, implementing, administering, confirming or effecting the Confirmation or Consummation of the Plan, the Disclosure Statement, the Restructuring Documents or any contract, instrument, release or other agreement or document created or entered into in connection with the Plan, including the Restructuring Support Agreement, or any other prepetition or postpetition act taken or omitted to be taken in connection with or in contemplation of the restructuring of the Debtors, the approval of the Disclosure Statement or Confirmation or Consummation of the Plan; provided, however, that the foregoing provisions of this exculpation shall not operate to waive or release: (i) any Causes of Action arising from willful misconduct, actual fraud, or gross negligence of such applicable Exculpated Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction; and/or (ii) the rights of any Person or Entity to enforce the Plan and the contracts, instruments, releases, indentures, and other agreements and documents delivered under or in connection with the Plan or assumed pursuant to the Plan or Final Order of the Bankruptcy Court; provided, further, that each Exculpated Party shall be entitled to rely upon the advice of counsel concerning its respective duties pursuant to, or in connection with, the above referenced documents, actions or inactions. The foregoing exculpation shall be effective as of the Effective Date without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Person. Notwithstanding the foregoing, nothing in this Article X.E shall or shall be deemed to prohibit the Debtors or the Reorganized Debtors from asserting and enforcing any claims, obligations, suits, judgments, demands, debts, rights, Causes of Action or liabilities they may have against any Person that is based upon an alleged breach of a confidentiality or non-compete obligation owed to the Debtors or the Reorganized Debtors, in each case unless otherwise expressly provided for in the Plan.

4. *Injunction*

Except as otherwise expressly provided in the Plan or the Confirmation Order, from and after the Effective Date, all Persons and Entities are, to the fullest extent provided under section 524 and other applicable provisions of the Bankruptcy Code, permanently enjoined from (i) commencing or continuing, in any manner or in any place, any suit, action or other proceeding; (ii) enforcing, attaching, collecting, or recovering in any manner any judgment, award, decree, or order; (iii) creating, perfecting, or enforcing any Lien or encumbrance; (iv) asserting a setoff or right of subrogation of any kind; or (v) commencing or continuing in any manner any action or other proceeding of any kind, in each case on account of or with respect to any Claim, demand, liability, obligation, debt, right, Cause of Action, equity interest, or remedy released or to be released, exculpated or to be exculpated, settled or to be settled or discharged or to be discharged pursuant to the Plan or the Confirmation Order against any Person or Entity so released, discharged, or exculpated (or the property or estate of any Person or Entity so released, discharged, or exculpated). All injunctions or stays provided for in the Chapter 11 Cases under section

**105 or section 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect until the Effective Date.**

**Certain Definitions Contains in the Plan Release, Exculpation and Injunction Provisions**

**“Causes of Action”** means any claims, causes of action (including Avoidance Actions), demands, actions, suits, obligations, liabilities, cross-claims, counterclaims, offsets, or setoffs of any kind or character whatsoever, in each case whether known or unknown, contingent or non-contingent, matured or unmatured, suspected or unsuspected, foreseen or unforeseen, direct or indirect, choate or inchoate, existing or hereafter arising, under statute, in contract, in tort, in law, or in equity, or pursuant to any other theory of law, federal or state, whether asserted or assertable directly or derivatively in law or equity or otherwise by way of claim, counterclaim, cross-claim, third party action, action for indemnity or contribution or otherwise, based in whole or in part upon any act or omission or other event occurring prior to the Petition Date or during the course of the Chapter 11 Cases, including through the Effective Date.

**“Exculpated Parties”** means, collectively: (a) the Debtors; (b) the Reorganized Debtors; (c) any Committee and the members thereof in their capacity as such; (d) the DIP Credit Agreement Agent; (e) DIP Credit Agreement Lenders; (f) the Prepetition Credit Agreement Agent; (g) the Prepetition Credit Agreement Lenders; (h) the Prepetition Notes Agent; (i) the Prepetition Noteholders; and (j) in each case, the respective Related Persons of each of the foregoing Entities.

**“Litigation Claims”** means the claims, rights of action, suits or proceedings, whether in law or in equity, whether known or unknown, that any Debtor or any Estate may hold against any Person or Entity, including, without limitation, the Causes of Action of the Debtors or their Estates, in each case solely to the extent of the Debtors’ or their Estates’ interest therein. A non-exclusive list of the Litigation Claims held by the Debtors as of the Effective Date is to be Filed with the Plan Supplement, which shall be deemed to include any derivative actions filed against any Debtor as of the Effective Date.

**“New Railcar Lease Agreements”** means those certain railcar lease agreements entered into between the Debtors and the Specified Rail Car Lessors pursuant to the New Railcar Lease Agreements Order.

**“New Railcar Lease Agreements Order”** means the Order Authorizing the Debtors to (I) Reject Certain Railcar Lease Agreements Nunc Pro Tunc to the Petition Date and (II) Enter Into Proposed New Railcar Lease Agreements Effective as of the Petition Date entered by the Bankruptcy Court in the Chapter 11 Cases (Docket No. 208), as such order may be amended, supplemented, or modified from time to time.

**“Non-Debtor Releasing Parties”** means, collectively: (a) the Committee and the members thereof in their capacity as such; (b) the Prepetition Credit Agreement Agent and the Releasing Prepetition Credit Agreement Lenders; (c) the DIP Credit Agreement Agent and the DIP Credit Agreement Lenders (d) the Prepetition Notes Agent and the Releasing Prepetition Noteholders; (e) the Releasing Old Emerge LP Equity Holders; (f) those Holders of General Unsecured Claims or Old Emerge LP Equity Interests that do not affirmatively opt out of the Third Party Release as provided on their respective Ballots; and (g) each Specified Railcar Lessor (to the extent it is a Released Party).

**“Related Persons”** means, with respect to any Person, such Person’s predecessors, successors, assigns and present and former Affiliates (whether by operation of law or otherwise) and subsidiaries, and each of their respective current and former officers, directors, principals,

employees, shareholders, members (including *ex officio* members and managing members), managers, managed accounts or funds, management companies, fund advisors, advisory or subcommittee board members, partners, agents, financial advisors, attorneys, accountants, investment bankers, investment advisors, consultants, representatives, and other professionals, in each case acting in such capacity at any time on or after the date of the Restructuring Support Agreement, and any Person claiming by or through any of them, including such Related Persons' respective heirs, executors, estates, servants, and nominees; *provided, however*, that no insurer of any Debtor shall constitute a Related Person.

**“Released and Settled Claims”** means all Claims and Causes of Action made, or which could have been made, on or on behalf of any of the Debtors against the Prepetition Revolver Agent, the Prepetition Revolving Lenders, the Prepetition Note Agent, or the Prepetition Noteholders, or any of their respective affiliates, agents, attorneys, advisors, professionals, officers, directors, and employees, in their respective capacities as such.

**“Released Party”** means, collectively: (a) the Debtors; (b) the Reorganized Debtors; (c) the Committee and the members thereof in their capacity as such; (d) the Prepetition Credit Agreement Agent and the Releasing Prepetition Credit Agreement Lenders; (e) the DIP Credit Agreement Agent and the DIP Credit Agreement Lenders; (f) the Prepetition Notes Agent and the Releasing Prepetition Noteholders; (g) the Releasing Old Emerge LP Equity Holders; and (h) each Specified Railcar Lessor, so long as the applicable New Railcar Lease Agreement(s) between the Debtors and the applicable Specified Railcar Lessor is in full force and effect as of the Effective Date; and in each case the respective Related Persons of each of the foregoing Entities.

**“Specified Railcar Lessors”** means, collectively, (a) Trinity Industries Leasing Company, (b) MUL Railcars Leasing, LLC, and (c) CIT Bank, N.A. and The CIT Group/Equipment Financing, Inc., as an assignee of CIT Rail, LLC.

**EXHIBIT 6**

**Confirmation Hearing Notice**

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

-----	X	
In re:	:	Chapter 11
	:	
EMERGE ENERGY SERVICES LP, <i>et al.</i> , <sup>1</sup>	:	Case No. 19-11563 (KBO)
	:	
Debtors.	:	(Jointly Administered)
	:	
-----	X	

**NOTICE OF (I) PLAN CONFIRMATION HEARING, (II) OBJECTION AND VOTING DEADLINES AND (C) SOLICITATION AND VOTING PROCEDURES**

**YOU ARE RECEIVING THIS NOTICE BECAUSE YOU MAY BE ENTITLED TO VOTE ON THE PLAN OR MAY HAVE YOUR RIGHTS AFFECTED BY THE PLAN. THEREFORE, YOU SHOULD READ THIS NOTICE CAREFULLY AND DISCUSS IT WITH YOUR ATTORNEY. IF YOU DO NOT HAVE AN ATTORNEY, YOU MAY WISH TO CONSULT ONE.**

**TO: ALL HOLDERS OF CLAIMS AGAINST, AND HOLDERS OF EQUITY INTERESTS IN, EMERGE ENERGY SERVICES LP AND ITS AFFILIATE DEBTORS AND DEBTORS IN POSSESSION AND ALL OTHER PARTIES IN INTEREST IN THE ABOVE-CAPTIONED CHAPTER 11 CASES.**

**PLEASE TAKE NOTICE THAT** on [\_\_\_], 2019, Emerge Energy Services LP and its affiliate debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “**Debtors**”) filed their (i) *First Amended Joint Plan of Reorganization for Emerge Energy Services LP and its Affiliate Debtors Under Chapter 11 of the Bankruptcy Code* [Docket No. [ ● ]] (as may be amended from time to time, the “**Plan**”) and (ii) *Disclosure Statement for the First Amended Joint Plan of Reorganization for Emerge Energy Services LP and its Affiliate Debtors Under Chapter 11 of the Bankruptcy Code* [Docket No. [ ● ]] (as may be amended from time to time, the “**Disclosure Statement**”),<sup>2</sup> and by no later than October 4, 2019, the Debtors shall file the Plan Supplement. On [ ● ], 2019, the Bankruptcy Court entered the *Order (I) Approving the Disclosure Statement, (II) Establishing the Voting Record Date, Voting Deadline and Other dates, (III) Approving Procedures for Soliciting, Receiving and Tabulating Votes on the Plan and for Filing objections to the Plan and (IV) Approving the Manner and Forms of Notice and Other Related Documents, (V) Approving Procedures for Assumption of Contracts and Leases and Form and Manner of Assumption Notice, and (VI) Granting Related Relief* [Docket No. [ ● ]] (the “**Disclosure Statement Order**”).

**PLEASE TAKE FURTHER NOTICE THAT** the Debtors are soliciting acceptances of the Plan from Holders of Claims who are entitled to vote on the Plan. The Bankruptcy Court can

<sup>1</sup> The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: Emerge Energy Services LP (2937), Emerge Energy Services GP LLC (4683), Emerge Energy Services Operating LLC (2511), Superior Silica Sands LLC (9889), and Emerge Energy Services Finance Corporation (9875). The Debtors’ address is 5600 Clearfork Main Street, Suite 400, Fort Worth, Texas 76109.

<sup>2</sup> Capitalized terms used but not otherwise defined herein will have the meanings set forth in the Plan.

confirm the Plan and bind all Holders of Claims and Equity Interests if it is accepted by the holders of at least two-thirds in amount and more than one-half in number of the Claims in each Impaired Class who vote on the Plan and if the Plan otherwise satisfies the applicable requirements of Bankruptcy Code Section 1129(a). If the requisite acceptances are not obtained, the Bankruptcy Court nonetheless may confirm the Plan if it finds that the Plan (i) provides fair and equitable treatment to, and does not unfairly discriminate against, each Class rejecting the Plan and (ii) otherwise satisfies the requirements of Bankruptcy Code Section 1129(b). If the Plan is confirmed by the Bankruptcy Court, it will be binding on all Holders of Claims and Equity Interests whether or not a particular Holder voted or affirmatively voted to reject the Plan, or whether you had the right to vote on the Plan.

**PLEASE TAKE FURTHER NOTICE THAT** the Confirmation Hearing to consider confirmation of the Plan will commence at ~~10:00 a.m.~~ **1:00 p.m. (prevailing Eastern Time) on [October 24], 2019**, before the Honorable Karen B. Owens, United States Bankruptcy Judge, in the United States Bankruptcy Court for the District of Delaware, located at 824 Market Street, 6th Floor, Courtroom 1, Wilmington, Delaware 19801. The Confirmation Hearing may be continued from time to time by the Bankruptcy Court or the Debtors without further notice other than by such adjournment being announced in open court and/or by a notice of adjournment filed with the Bankruptcy Court and served on such parties as the Bankruptcy Court may order. Moreover, the Plan may be modified or amended, if necessary, pursuant to Bankruptcy Code Section 1127, prior to, during or as a result of the Confirmation Hearing, without further notice to parties in interest.

### **CRITICAL INFORMATION REGARDING VOTING ON THE PLAN**

1. In accordance with Bankruptcy Code Sections 1122 and 1123, the Plan contemplates classifying Holders of Claims and Equity Interests into various Classes for all purposes, including with respect to voting on the Plan, as follows:

<b>SUMMARY OF STATUS AND VOTING RIGHTS</b>			
<b><u>Class</u></b>	<b><u>Claim/Equity Interest</u></b>	<b><u>Status</u></b>	<b><u>Voting Rights</u></b>
1.	Other Priority Claims	Unimpaired	Deemed to Accept
2.	Other Secured Claims	Unimpaired	Deemed to Accept
3.	Secured Tax Claims	Unimpaired	Deemed to Accept
4.	Prepetition Credit Agreement Claims	Unimpaired	Deemed to Accept
5.	Prepetition Notes Claims	Impaired	<b><i>Entitled to Vote</i></b>
6.	General Unsecured Claims	Impaired	<b><i>Entitled to Vote</i></b>
7.	Intercompany Claims	Unimpaired	Deemed to Accept
8.	Old Emerge GP Equity Interests	Impaired	Deemed to Reject
9.	Old Emerge LP Equity Interests	Impaired	Deemed to Reject
10.	Old Affiliate Equity Interests	Unimpaired	Deemed to Accept

2. Voting Record Date. The Voting Record Date is **September 9, 2019**. The Voting Record Date is the date by which it will be determined which Holders of Claims in Classes 5 and 6, are entitled to vote on the Plan.

3. Every holder of Claims in Class 5 and Class 6 shall receive a Solicitation Package with this mailing, which package shall include a Ballot, the Plan, and Disclosure Statement. If

you have not received a Solicitation Package, including a Ballot, and are entitled to vote on the Plan, you may request a Ballot and voting instructions appropriate for your Claim from the Debtors' Voting and Claims Agent, Kurtzman Carson Consultants LLC, whose contact information is in paragraph 8 below.

4. **Voting Deadline.** The deadline for voting on the Plan is **5:00 p.m. (prevailing Eastern Time) on October 17, 2019** (the "**Voting Deadline**"). If you hold a Claim against one or more of the Debtors as of the Voting Record Date and are entitled to vote to accept or reject the Plan, you should have received a Ballot and corresponding voting instructions. For your vote to be counted, you **must**: (i) follow such voting instructions carefully, (ii) complete **all** the required information on the Ballot,; **and** (iii) sign, date and return your completed Ballot, so that it is **actually received** by the Voting and Claims Agent according to and as set forth in detail in the voting instructions on or before the Voting Deadline. *A failure to follow such instructions may disqualify your vote.*

5. **Temporary Allowance of Claims for Voting Purposes.** Any Holder of a Claim in Class 5 and Class 6 against the Debtors for which such Holder has filed a proof of claim, which, in whole or in part, reflects an unliquidated or contingent claim, and which is not subject to an objection filed by the Debtors, shall have its entire claim temporarily allowed for voting purposes only, and not for purposes of allowance or distribution, at \$1.00. Any Holder of a Claim in Class 5 and Class 6 against the Debtors for which the Debtors have filed an objection on or before **September 9, 2019**, whether such objection related to the entire claim or a portion thereof, shall not be entitled to vote on the Plan and shall not be counted in determining whether the requirements of Bankruptcy Code Section 1126(c) have been met with respect to the Plan, unless such Holder files and serves upon the Notice Parties listed below a motion requesting temporary allowance of its Claim solely for voting purposes in accordance with Bankruptcy Rule 3018 (such motion, the "**Rule 3018(a) Motion**") by **4:00 p.m. (prevailing Eastern Time) on September 27, 2019** (the "**Rule 3018(a) Motion Deadline**"); **provided however**, that if the Debtors file an objection to a Claim on or after the date that is fourteen (14) days before the Rule 3018(a) Motion Deadline, then Rule 3018(a) Motion Deadline shall be extended as to such Claim such that the Holder thereof shall have at least fourteen (14) days to file a Rule 3018(a) Motion; **provided further however**, that all objections to Claims for voting purposes shall be filed and served by the Debtors no later than September 23, 2019. No later than three (3) Business Days after the filing and service of a Rule 3018(a) Motion, the Voting and Claims Agent will send such Holder a Solicitation Package, including the appropriate Ballot, and a pre-addressed, postage pre-paid envelope, which such Holder must then return its Ballot according to the instructions attached thereto so it is **actually received** by the Voting and Claims Agent on or before the Voting Deadline. Please be advised that the Debtors reserve all of their rights and objections regarding any and all Rule 3018(a) Motions that may be filed with the Bankruptcy Court and that the distribution of a Solicitation Package is not and shall not constitute a waiver or release of such rights and objections.

### **CRITICAL INFORMATION REGARDING OBJECTING TO THE PLAN**

**ARTICLE X OF THE PLAN CONTAINS RELEASE, EXCULPATION AND INJUNCTION PROVISIONS. THUS, YOU ARE ADVISED TO REVIEW AND CONSIDER THE PLAN CAREFULLY BECAUSE YOUR RIGHTS MIGHT BE AFFECTED THEREUNDER.**

6. **Plan Objection Deadline.** The deadline for filing objections to the Plan is **October 11, 2019 at 4:00 p.m. (prevailing Eastern Time)** (the "**Plan Objection Deadline**").

7. Objections to the Plan. Any objection to the Plan must: (i) be in writing; (ii) conform to the Bankruptcy Rules and the Local Rules; (iii) state the name and address of the objecting party and the amount and nature of the Claim of such Entity; (iv) state with particularity the basis and nature of any objection to the Plan and, if practicable, a proposed modification to the Plan that would resolve such objection; and (v) be filed with the United States Bankruptcy Court for the District of Delaware, 824 North Market Street, 3rd Floor, Wilmington, DE 19801, no later than the Plan Objection Deadline and served on the parties listed below (the “**Notice Parties**”), with proof of service filed as and when required by the Local Rules of the Bankruptcy Court. CONFIRMATION OBJECTIONS NOT TIMELY FILED AND SERVED IN THE MANNER SET FORTH HEREIN MAY NOT BE CONSIDERED BY THE BANKRUPTCY COURT AND MAY BE OVERRULED WITHOUT FURTHER NOTICE.

### Notice Parties

- (i) Counsel to the Debtors, Latham & Watkins LLP, 885 Third Avenue, New York, New York 10022-4834 (Attn: Keith A. Simon, Esq., Hugh K. Murtagh, Esq., and Liza L. Burton, Esq. (emails: keith.simon@lw.com, hugh.murtagh@lw.com, and liza.burton@lw.com)) and Richards, Layton & Finger, P.A., One Rodney Square, 920 North King Street, Wilmington, Delaware 19801 (Attn: John H. Knight, Esq. and Paul N. Heath, Esq. (emails: knight@rlf.com and heath@rlf.com));
- (ii) Counsel to the DIP Agent and the Prepetition Agents, Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, NY 10153-0119 (Attn: Matt S. Barr, Esq., David Griffiths, Esq., and Candace M. Arthur, Esq. (emails: matt.barr@weil.com, david.griffiths@weil.com, and candace.arthur@weil.com)) and Pachulski Stang Ziehl & Jones LLP, 919 North Market Street, Wilmington, Delaware 19801 (Attn: Laura Davis Jones, Esq. (email: ljones@pszjlaw.com)); and
- (iii) Counsel to the Committee, Kilpatrick Townsend & Stockton LLP, 1114 Avenue of the Americas, New York, New York 10036 (Attn: Todd C. Meyers, Esq., David M. Posner, Esq., and Kelly Moynihan, Esq. (emails: tmeyers@kilpatricktownsend.com, dposner@kilpatricktownsend.com, and kmoynihan@kilpatricktownsend.com)), Kilpatrick Townsend & Stockton LLP, 700 Louisiana Street, Suite 4300, Houston, Texas 77002 (Attn: Lenard M. Parkins, Esq. (email: lparkins@kilpatricktownsend.com)), and Potter Anderson & Corroon LLP, 1313 North Market Street, Sixth Floor, P.O. Box 951, Wilmington, Delaware 19899 (Attn: Jeremy W. Ryan, Esq., Christopher M. Samis, Esq., and D. Ryan Slauch, Esq. (emails: jryan@potteranderson.com, csamis@potteranderson.com, and rslauch@potteranderson.com)); and
- (iv) The Office of the United States Trustee for the District of Delaware, 844 King Street, Suite 2207, Wilmington, Delaware 19801 (Attn: Juliet M. Sarkessian, Esq. (email: Juliet.M.Sarkessian@usdoj.gov)).

### ADDITIONAL INFORMATION

8. Obtaining Solicitation Materials. If you would like to obtain a Solicitation Package, a copy of the Plan Supplement once filed, or if you have questions regarding the procedures and requirements for objecting to the Plan, you may contact the Debtors’ Voting and Claims Agent, Kurtzman Carson Consultants LLC, by: (i) calling the Debtors’ restructuring hotline at 877-634-7165 (toll-free in US and Canada) or 424-236-7221 (for international callers); (ii) visiting the Debtors’ restructuring website at: <http://www.kccllc.net/EmergeEnergy> (see Tab for Plan and Disclosure Statement); and/or (iii) writing to Emerge Energy Claims Processing



Center, c/o Kurtzman Carson Consultants LLC, 222 N. Pacific Coast Highway, Suite 300, El Segundo, CA 90245. 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> or free of charge at <http://www.kccllc.net/EmergeEnergy>. Please be advised that the Voting and Claims Agent is authorized to answer questions and provide additional copies of solicitation materials but may not advise you as to whether you should vote to accept or reject the Plan.

9. Filing the Plan Supplement. The Debtors shall file the Plan Supplement by no later than October 4, 2019, and will serve the Plan Supplement on all parties that have filed requests for notice in these Chapter 11 Cases pursuant to Bankruptcy Rule 2002 as of such filing date and on such parties directed by the Court pursuant to the Disclosure Statement Order. Copies of the Plan Supplement may be obtained in the manner set forth in paragraph 8 above, once it is filed.

10. **THE PLAN CONTAINS RELEASE, EXCULPATION AND INJUNCTION PROVISIONS. THE PROVISIONS ARE SET FORTH AT THE END OF THIS NOTICE. YOU SHOULD REVIEW THESE PROVISIONS CAREFULLY.**

Wilmington, Delaware  
[\_\_\_\_], 2019

<b>LATHAM &amp; WATKINS LLP</b> Attn: George A. Davis Attn: Keith A. Simon Attn: Hugh K. Murtagh Attn: Liza L. Burton 885 Third Avenue New York, New York 10022-4834 Fax: 212-751-4864	<b>RICHARDS, LAYTON &amp; FINGER, P.A.</b> Attn: John H. Knight Attn: Paul N. Heath Attn: Zachary I. Shapiro Attn: Brett M. Haywood One Rodney Square 920 North King Street Wilmington, Delaware 19801 Fax: 302-651-7701
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*Co-Counsel to the Debtors*

**RELEASE, EXCULPATION, AND INJUNCTION PROVISIONS CONTAINED  
IN THE PLAN**

**Release of Claims and Causes of Action**

1. Release by the Debtors and their Estates. Pursuant to section 1123(b) and any other applicable provisions of the Bankruptcy Code, and except as otherwise expressly provided in the Plan, effective as of the Effective Date, for good and valuable consideration provided by each of the Released Parties, the adequacy and sufficiency of which is thereby confirmed, the Debtors and the Reorganized Debtors, in their respective individual capacities and as debtors-in-possession, and on behalf of themselves and their respective Estates, including, without limitation, any successor to the Debtors or any Estate representative appointed or selected pursuant to section 1123(b)(3) of the Bankruptcy Code (collectively, the “Debtor Releasing Parties”) will be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever provided a full discharge, waiver and release to each of the Released Parties (and each such Released Party so released shall be deemed forever released, waived and discharged by the Debtor Releasing Parties) and their respective assets and properties (the “Debtor Release”) from any and all claims, Causes of Action, Released and Settled Claims, Litigation Claims and any other debts, obligations, rights, suits, damages, actions, remedies, and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, whether directly or derivatively held, existing as of the

Effective Date or thereafter arising, in law, at equity or otherwise, whether for tort, contract, violations of federal or state securities laws, or otherwise, based in whole or in part upon any act or omission, transaction, or other occurrence or circumstances existing or taking place prior to or on the Effective Date arising from or related in any way in whole or in part to any of the Debtors, including, without limitation, (i) the Chapter 11 Cases, the Disclosure Statement, the Plan, the Restructuring Support Agreement and the Restructuring Documents, (ii) the subject matter of, or the transactions or events giving rise to, any Claim or Equity Interest that is treated in the Plan, (iii) the business or contractual arrangements between any Debtor and any Released Parties, (iv) the negotiation, formulation or preparation of the Restructuring Support Agreement, the Plan, the Disclosure Statement, the Plan Supplement, the Restructuring Documents, or related agreements, instruments or other documents, (v) the restructuring of Claims or Equity Interests prior to or during the Chapter 11 Cases, (vi) the purchase, sale, or rescission of the purchase or sale of any Equity Interest of the Debtors or the Reorganized Debtors, and/or (vii) the Confirmation or Consummation of the Plan or the solicitation of votes on the Plan that such Debtor Releasing Party would have been legally entitled to assert (whether individually or collectively) or that any Holder of a Claim or Equity Interest or other Entity would have been legally entitled to assert for, or on behalf or in the name of, any Debtor, its respective Estate or any Reorganized Debtor (whether directly or derivatively) against any of the Released Parties; provided, however, that the foregoing provisions of this Debtor Release shall not operate to waive or release: (i) any Causes of Action arising from willful misconduct, actual fraud, or gross negligence of such applicable Released Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction; (ii) any Causes of Action relating to the MSHA Action (other than against a member of the Special Restructuring Committee); and/or (iii) the rights of such Debtor Releasing Party to enforce the Plan and the contracts, instruments, releases, indentures, and other agreements or documents delivered under or in connection with the Plan or assumed pursuant to the Plan or assumed pursuant to Final Order of the Bankruptcy Court. The foregoing release shall be effective as of the Effective Date without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Person and the Confirmation Order will permanently enjoin the commencement or prosecution by any Person or Entity, whether directly, derivatively or otherwise, of any claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, or liabilities released pursuant to this Debtor Release. Notwithstanding the foregoing, nothing in this Article X.B shall or shall be deemed to (i) prohibit the Debtors or the Reorganized Debtors from asserting and enforcing any claims, obligations, suits, judgments, demands, debts, rights, Causes of Action or liabilities they may have against any Person that is based upon an alleged breach of a confidentiality or non-compete obligation owed to the Debtors or the Reorganized Debtors and/or (ii) operate as a release or waiver of any Intercompany Claims, in each case unless otherwise expressly provided for in the Plan.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the Debtor Release, which includes by reference each of the related provisions and definitions contained under the Plan, and further, shall constitute the Bankruptcy Court's finding that the Debtor Release is: (i) in exchange for the good and valuable consideration provided by the Released Parties; (ii) a good faith settlement and compromise of the claims released by the Debtor Release; (iii) in the best interest of the Debtors and their Estates; (iv) fair, equitable and reasonable; and (v) given and made after due notice and opportunity for hearing.

2. Release By Third Parties. Except as otherwise expressly provided in the Plan, effective as of the Effective Date, to the fullest extent permitted by applicable law, for good and valuable consideration provided by each of the Released Parties, the adequacy and

sufficiency of which is thereby confirmed, and without limiting or otherwise modifying the scope of the Debtor Release provided by the Debtor Releasing Parties above, each Non-Debtor Releasing Party (together with the Debtor Releasing Parties, the “Releasing Parties”) will be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever provided a full discharge, waiver and release to each of the Released Parties (and each such Released Party so released shall be deemed forever released, waived and discharged by the Non-Debtor Releasing Parties) and their respective assets and properties (the “Third Party Release”) from any and all claims, Causes of Action, Released and Settled Claims, Litigation Claims and any other debts, obligations, rights, suits, damages, actions, remedies, and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, whether directly or derivatively held, existing as of the Effective Date or thereafter arising, in law, at equity or otherwise, whether for tort, contract, violations of federal or state securities laws, or otherwise, based in whole or in part upon any act or omission, transaction, or other occurrence or circumstances existing or taking place prior to or on the Effective Date arising from or related in any way in whole or in part to any of the Debtors, including, without limitation, (i) the Chapter 11 Cases, the Disclosure Statement, the Plan, the Restructuring Support Agreement and the Restructuring Documents, (ii) the subject matter of, or the transactions or events giving rise to, any Claim or Equity Interest that is treated in the Plan, (iii) the business or contractual arrangements between any Debtor and any Released Parties, (iv) the negotiation, formulation or preparation of the Restructuring Support Agreement, the Plan, the Disclosure Statement, the Plan Supplement, the Restructuring Documents, or related agreements, instruments or other documents, (v) the restructuring of Claims or Equity Interests prior to or during the Chapter 11 Cases, (vi) the purchase, sale or rescission of the purchase or sale of any Equity Interest of the Debtors or the Reorganized Debtors, and/or (vii) the Confirmation or Consummation of the Plan or the solicitation of votes on the Plan that such Non-Debtor Releasing Party would have been legally entitled to assert (whether individually or collectively) against any of the Released Parties; provided, however, that the foregoing provisions of this Third Party Release shall not operate to waive or release (i) any Causes of Action arising from willful misconduct, actual fraud, or gross negligence of such applicable Released Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction; (ii) any Causes of Action relating to the MSHA Action (other than against a member of the Special Restructuring Committee); and/or (iii) the rights of such Non-Debtor Releasing Party to enforce the Plan and the contracts, instruments, releases, indentures, and other agreements and documents delivered under or in connection with the Plan or assumed pursuant to the Plan or Final Order of the Bankruptcy Court. The foregoing release shall be effective as of the Effective Date, without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Person and the Confirmation Order will permanently enjoin the commencement or prosecution by any Person or Entity, whether directly, derivatively or otherwise, of any claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, or liabilities released pursuant to this Third Party Release.

Entry of the Confirmation Order shall constitute the Bankruptcy Court’s approval of the Third Party Release, which includes by reference each of the related provisions and definitions contained under the Plan, and further, shall constitute the Bankruptcy Court’s finding that the Third Party Release is: (i) in exchange for the good and valuable consideration provided by the Released Parties; (ii) a good faith settlement and compromise of the claims released by the Third Party Release; (iii) in the best interest of the Debtors and all Holders of Claims and Equity Interests; (iv) fair, equitable and reasonable; and (v) given and made after due notice and opportunity for hearing.

### 3. Exculpation

Effective as of the Effective Date, the Exculpated Parties shall neither have nor incur any liability to any Person or Entity for any claims, Causes of Action or Released and Settled Claim arising prior to or on the Effective Date for any act taken or omitted to be taken in connection with, or related to, formulating, negotiating, preparing, disseminating, implementing, administering, confirming or effecting the Confirmation or Consummation of the Plan, the Disclosure Statement, the Restructuring Documents or any contract, instrument, release or other agreement or document created or entered into in connection with the Plan, including the Restructuring Support Agreement, or any other prepetition or postpetition act taken or omitted to be taken in connection with or in contemplation of the restructuring of the Debtors, the approval of the Disclosure Statement or Confirmation or Consummation of the Plan; provided, however, that the foregoing provisions of this exculpation shall not operate to waive or release: (i) any Causes of Action arising from willful misconduct, actual fraud, or gross negligence of such applicable Exculpated Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction; and/or (ii) the rights of any Person or Entity to enforce the Plan and the contracts, instruments, releases, indentures, and other agreements and documents delivered under or in connection with the Plan or assumed pursuant to the Plan or Final Order of the Bankruptcy Court; provided, further, that each Exculpated Party shall be entitled to rely upon the advice of counsel concerning its respective duties pursuant to, or in connection with, the above referenced documents, actions or inactions. The foregoing exculpation shall be effective as of the Effective Date without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Person. Notwithstanding the foregoing, nothing in this Article X.E shall or shall be deemed to prohibit the Debtors or the Reorganized Debtors from asserting and enforcing any claims, obligations, suits, judgments, demands, debts, rights, Causes of Action or liabilities they may have against any Person that is based upon an alleged breach of a confidentiality or non-compete obligation owed to the Debtors or the Reorganized Debtors, in each case unless otherwise expressly provided for in the Plan.

#### 4. Injunction

Except as otherwise expressly provided in the Plan or the Confirmation Order, from and after the Effective Date, all Persons and Entities are, to the fullest extent provided under section 524 and other applicable provisions of the Bankruptcy Code, permanently enjoined from (i) commencing or continuing, in any manner or in any place, any suit, action or other proceeding; (ii) enforcing, attaching, collecting, or recovering in any manner any judgment, award, decree, or order; (iii) creating, perfecting, or enforcing any Lien or encumbrance; (iv) asserting a setoff or right of subrogation of any kind; or (v) commencing or continuing in any manner any action or other proceeding of any kind, in each case on account of or with respect to any Claim, demand, liability, obligation, debt, right, Cause of Action, equity interest, or remedy released or to be released, exculpated or to be exculpated, settled or to be settled or discharged or to be discharged pursuant to the Plan or the Confirmation Order against any Person or Entity so released, discharged, or exculpated (or the property or estate of any Person or Entity so released, discharged, or exculpated). All injunctions or stays provided for in the Chapter 11 Cases under section 105 or section 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect until the Effective Date.

#### Certain Definitions Contains in the Plan Release, Exculpation and Injunction Provisions

“*Causes of Action*” means any claims, causes of action (including Avoidance Actions), demands, actions, suits, obligations, liabilities, cross-claims, counterclaims, offsets, or setoffs of

any kind or character whatsoever, in each case whether known or unknown, contingent or non-contingent, matured or unmatured, suspected or unsuspected, foreseen or unforeseen, direct or indirect, choate or inchoate, existing or hereafter arising, under statute, in contract, in tort, in law, or in equity, or pursuant to any other theory of law, federal or state, whether asserted or assertable directly or derivatively in law or equity or otherwise by way of claim, counterclaim, cross-claim, third party action, action for indemnity or contribution or otherwise, based in whole or in part upon any act or omission or other event occurring prior to the Petition Date or during the course of the Chapter 11 Cases, including through the Effective Date.

**“Exculpated Parties”** means, collectively: (a) the Debtors; (b) the Reorganized Debtors; (c) any Committee and the members thereof in their capacity as such; (d) the DIP Credit Agreement Agent; (e) DIP Credit Agreement Lenders; (f) the Prepetition Credit Agreement Agent; (g) the Prepetition Credit Agreement Lenders; (h) the Prepetition Notes Agent; (i) the Prepetition Noteholders; and (j) in each case, the respective Related Persons of each of the foregoing Entities.

**“Litigation Claims”** means the claims, rights of action, suits or proceedings, whether in law or in equity, whether known or unknown, that any Debtor or any Estate may hold against any Person or Entity, including, without limitation, the Causes of Action of the Debtors or their Estates, in each case solely to the extent of the Debtors’ or their Estates’ interest therein. A non-exclusive list of the Litigation Claims held by the Debtors as of the Effective Date is to be Filed with the Plan Supplement, which shall be deemed to include any derivative actions filed against any Debtor as of the Effective Date.

**“New Railcar Lease Agreements”** means those certain railcar lease agreements entered into between the Debtors and the Specified Rail Car Lessors pursuant to the New Railcar Lease Agreements Order.

**“New Railcar Lease Agreements Order”** means the Order Authorizing the Debtors to (I) Reject Certain Railcar Lease Agreements Nunc Pro Tunc to the Petition Date and (II) Enter Into Proposed New Railcar Lease Agreements Effective as of the Petition Date entered by the Bankruptcy Court in the Chapter 11 Cases (Docket No. 208), as such order may be amended, supplemented, or modified from time to time.

**“Non-Debtor Releasing Parties”** means, collectively: (a) the Committee and the members thereof in their capacity as such; (b) the Prepetition Credit Agreement Agent and the Releasing Prepetition Credit Agreement Lenders; (c) the DIP Credit Agreement Agent and the DIP Credit Agreement Lenders (d) the Prepetition Notes Agent and the Releasing Prepetition Noteholders; (e) the Releasing Old Emerge LP Equity Holders; (f) those Holders of General Unsecured Claims or Old Emerge LP Equity Interests that do not affirmatively opt out of the Third Party Release as provided on their respective Ballots; and (g) each Specified Railcar Lessor (to the extent it is a Released Party).

**“Related Persons”** means, with respect to any Person, such Person’s predecessors, successors, assigns and present and former Affiliates (whether by operation of law or otherwise) and subsidiaries, and each of their respective current and former officers, directors, principals, employees, shareholders, members (including *ex officio* members and managing members), managers, managed accounts or funds, management companies, fund advisors, advisory or subcommittee board members, partners, agents, financial advisors, attorneys, accountants, investment bankers, investment advisors, consultants, representatives, and other professionals, in each case acting in such capacity at any time on or after the date of the Restructuring Support Agreement, and any Person claiming by or through any of them, including such Related Persons’

respective heirs, executors, estates, servants, and nominees; *provided, however*, that no insurer of any Debtor shall constitute a Related Person.

**“Released and Settled Claims”** means all Claims and Causes of Action made, or which could have been made, on or on behalf of any of the Debtors against the Prepetition Revolver Agent, the Prepetition Revolving Lenders, the Prepetition Note Agent, or the Prepetition Noteholders, or any of their respective affiliates, agents, attorneys, advisors, professionals, officers, directors, and employees, in their respective capacities as such.

**“Released Party”** means, collectively: (a) the Debtors; (b) the Reorganized Debtors; (c) the Committee and the members thereof in their capacity as such; (d) the Prepetition Credit Agreement Agent and the Releasing Prepetition Credit Agreement Lenders; (e) the DIP Credit Agreement Agent and the DIP Credit Agreement Lenders; (f) the Prepetition Notes Agent and the Releasing Prepetition Noteholders; (g) the Releasing Old Emerge LP Equity Holders; and (h) each Specified Railcar Lessor, so long as the applicable New Railcar Lease Agreement(s) between the Debtors and the applicable Specified Railcar Lessor is in full force and effect as of the Effective Date; and in each case the respective Related Persons of each of the foregoing Entities.

**“Specified Railcar Lessors”** means, collectively, (a) Trinity Industries Leasing Company, (b) MUL Railcars Leasing, LLC, and (c) CIT Bank, N.A. and The CIT Group/Equipment Financing, Inc., as an assignee of CIT Rail, LLC.

**EXHIBIT 7**

**Notice of Limited Voting Status:  
Contingent or Unliquidated Claims for which No Objection has Been Filed by the Debtors**

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

In re:	X	
	:	Chapter 11
	:	
EMERGE ENERGY SERVICES LP, <i>et al.</i> , <sup>1</sup>	:	Case No. 19-11563 (KBO)
	:	
Debtors.	:	(Jointly Administered)
	:	
	:	
	X	

**NOTICE OF LIMITED VOTING STATUS TO HOLDERS OF CONTINGENT OR UNLIQUIDATED CLAIMS FOR WHICH NO OBJECTION HAS BEEN FILED**

**PLEASE TAKE NOTICE THAT** on [\_\_\_], 2019, Emerge Energy Services LP and its affiliate debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “**Debtors**”) filed their (i) *First Amended Joint Plan of Reorganization for Emerge Energy Services LP and its Affiliate Debtors Under Chapter 11 of the Bankruptcy Code* [Docket No. [ ● ]] (as may be amended from time to time, the “**Plan**”) and (ii) *Disclosure Statement for the First Amended Joint Plan of Reorganization for Emerge Energy Services LP and its Affiliate Debtors Under Chapter 11 of the Bankruptcy Code* [Docket No. [ ● ]] (as may be amended from time to time, the “**Disclosure Statement**”),<sup>2</sup> and by no later than October 4, 2019, the Debtors shall file the Plan Supplement. On [ ● ], 2019, the Bankruptcy Court entered *Order (I) Approving the Disclosure Statement, (II) Establishing the Voting Record Date, Voting Deadline and Other dates, (III) Approving Procedures for Soliciting, Receiving and Tabulating Votes on the Plan and for Filing objections to the Plan and (IV) Approving the Manner and Forms of Notice and Other Related Documents, (V) Approving Procedures for Assumption of Contracts and Leases and Form and Manner of Assumption Notice, and (VI) Granting Related Relief* [Docket No. [ ● ]] (the “**Disclosure Statement Order**”).

**PLEASE TAKE FURTHER NOTICE THAT** you are receiving this notice because you are the Holder of a Claim that has filed a proof of claim, which, in whole or in part, reflects an unliquidated or contingent claim, but which is not subject to an objection filed by the Debtors. As a result, your vote will be counted for numerosity purposes and allowed in the amount of \$1.00 for voting purposes only. If you disagree with the Debtors’ classification or status of your Claim, then you **MUST** file with the Bankruptcy Court and serve upon the Notice Parties listed below, on or before **4:00 p.m. prevailing Eastern Time on September 27, 2019**(the “**Rule 3018(a) Motion Deadline**”), a motion requesting temporary allowance of your Claim solely for voting purposes in accordance with Bankruptcy Rule 3018 (such motion, the “**Rule 3018(a) Motion**”). Provided that you are the Holder of a Claim in a voting class, no later than three (3) Business Days after the filing and service of such Rule 3018(a) Motion, the Voting and Claims Agent will send you a Solicitation Package, including the appropriate ballot, and a pre-addressed, postage pre-paid envelope, which you must then return your ballot according to the instructions

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<sup>1</sup> The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: Emerge Energy Services LP (2937), Emerge Energy Services GP LLC (4683), Emerge Energy Services Operating LLC (2511), Superior Silica Sands LLC (9889), and Emerge Energy Services Finance Corporation (9875). The Debtors’ address is 5600 Clearfork Main Street, Suite 400, Fort Worth, Texas 76109.

<sup>2</sup> Capitalized terms used but not otherwise defined herein will have the meanings set forth in the Plan.



attached thereto so it is **actually received** by the Voting and Claims Agent on or before **October 11, 2019** (the “**Voting Deadline**”). Please be advised that the Debtors reserve all of their rights and objections regarding any and all Rule 3018(a) Motions that may be filed with the Bankruptcy Court and that the distribution of a Solicitation Package is not and shall not constitute a waiver or release of such rights and objections.

**PLEASE TAKE FURTHER NOTICE THAT** the Confirmation Hearing to consider confirmation of the Plan will commence at ~~1:00 p.m.~~ **1:00 p.m. (prevailing Eastern Time) on [October 24], 2019**, before the Honorable Karen B. Owens, United States Bankruptcy Judge, in the United States Bankruptcy Court for the District of Delaware, located at 824 Market Street, 6th Floor, Courtroom 1, Wilmington, Delaware 19801. The Confirmation Hearing may be continued from time to time by the Bankruptcy Court or the Debtors without further notice other than by such adjournment being announced in open court and/or by a notice of adjournment filed with the Bankruptcy Court and served on such parties as the Bankruptcy Court may order. Moreover, the Plan may be modified or amended, if necessary, pursuant to Bankruptcy Code Section 1127, prior to, during or as a result of the Confirmation Hearing, without further notice to parties in interest.

**PLEASE TAKE FURTHER NOTICE THAT** the deadline for filing objections to the Plan is **October 11, 2019 at 4:00 p.m. prevailing Eastern Time** (the “**Plan Objection Deadline**”). Any objection to the Plan must: (i) be in writing; (ii) conform to the Bankruptcy Rules and the Local Rules; (iii) state the name and address of the objecting party and the amount and nature of the Claim of such Entity; (iv) state with particularity the basis and nature of any objection to the Plan and, if practicable, a proposed modification to the Plan that would resolve such objection; and (v) be filed, with the United States Bankruptcy Court for the District of Delaware, 824 North Market Street, 3rd Floor, Wilmington, DE 19801 no later than the Plan Objection Deadline and served on the parties listed below (the “**Notice Parties**”), with proof of service filed as and when required by the Local Rules of the Bankruptcy Court. **CONFIRMATION OBJECTIONS NOT TIMELY FILED AND SERVED IN THE MANNER SET FORTH HEREIN MAY NOT BE CONSIDERED BY THE BANKRUPTCY COURT AND MAY BE OVERRULED WITHOUT FURTHER NOTICE.**

#### Notice Parties

- (i) Counsel to the Debtors, Latham & Watkins LLP, 885 Third Avenue, New York, New York 10022-4834 (Attn: Keith A. Simon, Esq., Hugh K. Murtagh, Esq., and Liza L. Burton, Esq. (emails: keith.simon@lw.com, hugh.murtagh@lw.com, and liza.burton@lw.com)) and Richards, Layton & Finger, P.A., One Rodney Square, 920 North King Street, Wilmington, Delaware 19801 (Attn: John H. Knight, Esq. and Paul N. Heath, Esq. (emails: knight@rlf.com and heath@rlf.com));
- (ii) Counsel to the DIP Agent and the Prepetition Agents, Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, NY 10153-0119 (Attn: Matt S. Barr, Esq., David Griffiths, Esq., and Candace M. Arthur, Esq. (emails: matt.barr@weil.com, david.griffiths@weil.com, and candace.arthur@weil.com)) and Pachulski Stang Ziehl & Jones LLP, 919 North Market Street, Wilmington, Delaware 19801 (Attn: Laura Davis Jones, Esq. (email: ljones@pszjlaw.com)); and
- (iii) Counsel to the Committee, Kilpatrick Townsend & Stockton LLP, 1114 Avenue of the Americas, New York, New York 10036 (Attn: Todd C. Meyers, Esq., David M. Posner, Esq., and Kelly Moynihan, Esq. (emails: tmeyers@kilpatricktownsend.com, dposner@kilpatricktownsend.com, and kmoynihan@kilpatricktownsend.com)), Kilpatrick Townsend & Stockton LLP, 700 Louisiana Street, Suite 4300, Houston, Texas 77002 (Attn: Lenard M.

Parkins, Esq. (email: lparkins@kilpatricktownsend.com)), and Potter Anderson & Corroon LLP, 1313 North Market Street, Sixth Floor, P.O. Box 951, Wilmington, Delaware 19899 (Attn: Jeremy W. Ryan, Esq., Christopher M. Samis, Esq., and D. Ryan Slaugh, Esq. (emails: jryan@potteranderson.com, csamis@potteranderson.com, and rslaug@potteranderson.com)); and

- (iv) The Office of the United States Trustee for the District of Delaware, 844 King Street, Suite 2207, Wilmington, Delaware 19801 (Attn: Juliet M. Sarkessian, Esq. (email: Juliet.M.Sarkessian@usdoj.gov)).

**PLEASE TAKE FURTHER NOTICE THAT** if you would like to obtain a Solicitation Package, a copy of the Plan Supplement once filed, or if you have questions regarding the procedures and requirements for objecting to the Plan, you may contact the Debtors' Voting and Claims Agent, Kurtzman Carson Consultants LLC, by: (i) calling the Debtors' restructuring hotline at 877-634-7165 (toll-free in US and Canada) or 424-236-7221 (for international callers); (ii) visiting the Debtors' restructuring website at: <http://www.kccllc.net/EmergeEnergy> (Please see Tab "Plan and Disclosure Statement"); and/or (iii) writing to Emerge Energy Claims Processing Center, c/o Kurtzman Carson Consultants LLC, 222 N. Pacific Coast Highway, Suite 300, El Segundo, CA 90245. 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> or free of charge at <http://www.kccllc.net/EmergeEnergy>.

**THE PLAN CONTAINS RELEASE, EXCULPATION AND INJUNCTION PROVISIONS. THE PROVISIONS ARE SET FORTH AT THE END OF THIS NOTICE. YOU SHOULD REVIEW THESE PROVISIONS CAREFULLY.**

**THIS NOTICE IS BEING SENT TO YOU FOR INFORMATIONAL PURPOSES ONLY. IF YOU HAVE QUESTIONS ABOUT ANYTHING STATED HEREIN OR IF YOU WOULD LIKE TO OBTAIN ADDITIONAL INFORMATION, PLEASE CONTACT THE VOTING AND CLAIMS AGENT AT THE NUMBER OR ADDRESS SPECIFIED ABOVE.**

Wilmington, Delaware  
[\_\_\_\_], 2019

**LATHAM & WATKINS LLP**

Attn: George A. Davis  
Attn: Keith A. Simon  
Attn: Hugh K. Murtagh  
Attn: Liza L. Burton  
885 Third Avenue  
New York, New York 10022-4834  
Fax: 212-751-4864

**RICHARDS, LAYTON & FINGER, P.A.**

Attn: John H. Knight  
Attn: Paul N. Heath  
Attn: Zachary I. Shapiro  
Attn: Brett M. Haywood  
One Rodney Square  
920 North King Street  
Wilmington, Delaware 19801  
Fax: 302-651-7701

*Co-Counsel to the Debtors*

**ARTICLE X OF THE PLAN CONTAINS THE FOLLOWING RELEASE, EXCULPATION AND INJUNCTION PROVISIONS.**

**YOU SHOULD REVIEW THESE PROVISIONS CAREFULLY.**

**Release of Claims and Causes of Action**

1. ***Release by the Debtors and their Estates.*** Pursuant to section 1123(b) and any other applicable provisions of the Bankruptcy Code, and except as otherwise expressly provided in the Plan, effective as of the Effective Date, for good and valuable consideration provided by each of the Released Parties, the adequacy and sufficiency of which is thereby confirmed, the Debtors and the Reorganized Debtors, in their respective individual capacities and as debtors-in-possession, and on behalf of themselves and their respective Estates, including, without limitation, any successor to the Debtors or any Estate representative appointed or selected pursuant to section 1123(b)(3) of the Bankruptcy Code (collectively, the “**Debtor Releasing Parties**”) will be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever provided a full discharge, waiver and release to each of the Released Parties (and each such Released Party so released shall be deemed forever released, waived and discharged by the Debtor Releasing Parties) and their respective assets and properties (the “**Debtor Release**”) from any and all claims, Causes of Action, Released and Settled Claims, Litigation Claims and any other debts, obligations, rights, suits, damages, actions, remedies, and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, whether directly or derivatively held, existing as of the Effective Date or thereafter arising, in law, at equity or otherwise, whether for tort, contract, violations of federal or state securities laws, or otherwise, based in whole or in part upon any act or omission, transaction, or other occurrence or circumstances existing or taking place prior to or on the Effective Date arising from or related in any way in whole or in part to any of the Debtors, including, without limitation, (i) the Chapter 11 Cases, the Disclosure Statement, the Plan, the Restructuring Support Agreement and the Restructuring Documents, (ii) the subject matter of, or the transactions or events giving rise to, any Claim or Equity Interest that is treated in the Plan, (iii) the business or contractual arrangements between any Debtor and any Released Parties, (iv) the negotiation, formulation or preparation of the Restructuring Support Agreement, the Plan, the Disclosure Statement, the Plan Supplement, the Restructuring Documents, or related agreements, instruments or other documents, (v) the restructuring of Claims or Equity Interests prior to or during the Chapter 11 Cases, (vi) the purchase, sale, or rescission of the purchase or sale of any Equity Interest of the Debtors or the Reorganized Debtors, and/or (vii) the Confirmation or Consummation of the Plan or the solicitation of votes on the Plan that such Debtor Releasing Party would have been legally entitled to assert (whether individually or collectively) or that any Holder of a Claim or Equity Interest or other Entity would have been legally entitled to assert for, or on behalf or in the name of, any Debtor, its respective Estate or any Reorganized Debtor (whether directly or derivatively) against any of the Released Parties; **provided, however,** that the foregoing provisions of this Debtor Release shall not operate to waive or release: (i) any Causes of Action arising from willful misconduct, actual fraud, or gross negligence of such applicable Released Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction; (ii) any Causes of Action relating to the MSHA Action (other than against a member of the Special Restructuring Committee); and/or (iii) the rights of such Debtor Releasing Party to enforce the Plan and the contracts, instruments, releases, indentures, and other agreements or documents delivered under or in connection with the Plan or assumed pursuant to the Plan or assumed pursuant to Final Order of the Bankruptcy Court. The foregoing release shall be effective as of the Effective Date without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Person and

the Confirmation Order will permanently enjoin the commencement or prosecution by any Person or Entity, whether directly, derivatively or otherwise, of any claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, or liabilities released pursuant to this Debtor Release. Notwithstanding the foregoing, nothing in this Article X.B shall or shall be deemed to (i) prohibit the Debtors or the Reorganized Debtors from asserting and enforcing any claims, obligations, suits, judgments, demands, debts, rights, Causes of Action or liabilities they may have against any Person that is based upon an alleged breach of a confidentiality or non-compete obligation owed to the Debtors or the Reorganized Debtors and/or (ii) operate as a release or waiver of any Intercompany Claims, in each case unless otherwise expressly provided for in the Plan.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the Debtor Release, which includes by reference each of the related provisions and definitions contained under the Plan, and further, shall constitute the Bankruptcy Court's finding that the Debtor Release is: (i) in exchange for the good and valuable consideration provided by the Released Parties; (ii) a good faith settlement and compromise of the claims released by the Debtor Release; (iii) in the best interest of the Debtors and their Estates; (iv) fair, equitable and reasonable; and (v) given and made after due notice and opportunity for hearing.

2. Release By Third Parties. Except as otherwise expressly provided in the Plan, effective as of the Effective Date, to the fullest extent permitted by applicable law, for good and valuable consideration provided by each of the Released Parties, the adequacy and sufficiency of which is thereby confirmed, and without limiting or otherwise modifying the scope of the Debtor Release provided by the Debtor Releasing Parties above, each Non-Debtor Releasing Party (together with the Debtor Releasing Parties, the "Releasing Parties") will be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever provided a full discharge, waiver and release to each of the Released Parties (and each such Released Party so released shall be deemed forever released, waived and discharged by the Non-Debtor Releasing Parties) and their respective assets and properties (the "Third Party Release") from any and all claims, Causes of Action, Released and Settled Claims, Litigation Claims and any other debts, obligations, rights, suits, damages, actions, remedies, and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, whether directly or derivatively held, existing as of the Effective Date or thereafter arising, in law, at equity or otherwise, whether for tort, contract, violations of federal or state securities laws, or otherwise, based in whole or in part upon any act or omission, transaction, or other occurrence or circumstances existing or taking place prior to or on the Effective Date arising from or related in any way in whole or in part to any of the Debtors, including, without limitation, (i) the Chapter 11 Cases, the Disclosure Statement, the Plan, the Restructuring Support Agreement and the Restructuring Documents, (ii) the subject matter of, or the transactions or events giving rise to, any Claim or Equity Interest that is treated in the Plan, (iii) the business or contractual arrangements between any Debtor and any Released Parties, (iv) the negotiation, formulation or preparation of the Restructuring Support Agreement, the Plan, the Disclosure Statement, the Plan Supplement, the Restructuring Documents, or related agreements, instruments or other documents, (v) the restructuring of Claims or Equity Interests prior to or during the Chapter 11 Cases, (vi) the purchase, sale or rescission of the purchase or sale of any Equity Interest of the Debtors or the Reorganized Debtors, and/or (vii) the Confirmation or Consummation of the Plan or the solicitation of votes on the Plan that such Non-Debtor Releasing Party would have been legally entitled to assert (whether individually or collectively) against any of the Released Parties; provided, however, that the foregoing provisions of this Third Party Release shall not operate to waive or release (i) any Causes of Action arising from willful misconduct, actual fraud, or gross negligence of such applicable Released Party as determined by Final Order of the Bankruptcy Court or any other court

of competent jurisdiction; (ii) any Causes of Action relating to the MSHA Action (other than against a member of the Special Restructuring Committee); and/or (iii) the rights of such Non-Debtor Releasing Party to enforce the Plan and the contracts, instruments, releases, indentures, and other agreements and documents delivered under or in connection with the Plan or assumed pursuant to the Plan or Final Order of the Bankruptcy Court. The foregoing release shall be effective as of the Effective Date, without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Person and the Confirmation Order will permanently enjoin the commencement or prosecution by any Person or Entity, whether directly, derivatively or otherwise, of any claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, or liabilities released pursuant to this Third Party Release.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of the Third Party Release, which includes by reference each of the related provisions and definitions contained under the Plan, and further, shall constitute the Bankruptcy Court's finding that the Third Party Release is: (i) in exchange for the good and valuable consideration provided by the Released Parties; (ii) a good faith settlement and compromise of the claims released by the Third Party Release; (iii) in the best interest of the Debtors and all Holders of Claims and Equity Interests; (iv) fair, equitable and reasonable; and (v) given and made after due notice and opportunity for hearing.

### 3. Exculpation

Effective as of the Effective Date, the Exculpated Parties shall neither have nor incur any liability to any Person or Entity for any claims, Causes of Action or Released and Settled Claim arising prior to or on the Effective Date for any act taken or omitted to be taken in connection with, or related to, formulating, negotiating, preparing, disseminating, implementing, administering, confirming or effecting the Confirmation or Consummation of the Plan, the Disclosure Statement, the Restructuring Documents or any contract, instrument, release or other agreement or document created or entered into in connection with the Plan, including the Restructuring Support Agreement, or any other prepetition or postpetition act taken or omitted to be taken in connection with or in contemplation of the restructuring of the Debtors, the approval of the Disclosure Statement or Confirmation or Consummation of the Plan; provided, however, that the foregoing provisions of this exculpation shall not operate to waive or release: (i) any Causes of Action arising from willful misconduct, actual fraud, or gross negligence of such applicable Exculpated Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction; and/or (ii) the rights of any Person or Entity to enforce the Plan and the contracts, instruments, releases, indentures, and other agreements and documents delivered under or in connection with the Plan or assumed pursuant to the Plan or Final Order of the Bankruptcy Court; provided, further, that each Exculpated Party shall be entitled to rely upon the advice of counsel concerning its respective duties pursuant to, or in connection with, the above referenced documents, actions or inactions. The foregoing exculpation shall be effective as of the Effective Date without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Person. Notwithstanding the foregoing, nothing in this Article X.E shall or shall be deemed to prohibit the Debtors or the Reorganized Debtors from asserting and enforcing any claims, obligations, suits, judgments, demands, debts, rights, Causes of Action or liabilities they may have against any Person that is based upon an alleged breach of a confidentiality or non-compete obligation owed to the Debtors or the Reorganized Debtors, in each case unless otherwise expressly provided for in the Plan.

#### 4. Injunction

Except as otherwise expressly provided in the Plan or the Confirmation Order, from and after the Effective Date, all Persons and Entities are, to the fullest extent provided under section 524 and other applicable provisions of the Bankruptcy Code, permanently enjoined from (i) commencing or continuing, in any manner or in any place, any suit, action or other proceeding; (ii) enforcing, attaching, collecting, or recovering in any manner any judgment, award, decree, or order; (iii) creating, perfecting, or enforcing any Lien or encumbrance; (iv) asserting a setoff or right of subrogation of any kind; or (v) commencing or continuing in any manner any action or other proceeding of any kind, in each case on account of or with respect to any Claim, demand, liability, obligation, debt, right, Cause of Action, equity interest, or remedy released or to be released, exculpated or to be exculpated, settled or to be settled or discharged or to be discharged pursuant to the Plan or the Confirmation Order against any Person or Entity so released, discharged, or exculpated (or the property or estate of any Person or Entity so released, discharged, or exculpated). All injunctions or stays provided for in the Chapter 11 Cases under section 105 or section 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect until the Effective Date.

#### Certain Definitions Contains in the Plan Release, Exculpation and Injunction Provisions

“*Causes of Action*” means any claims, causes of action (including Avoidance Actions), demands, actions, suits, obligations, liabilities, cross-claims, counterclaims, offsets, or setoffs of any kind or character whatsoever, in each case whether known or unknown, contingent or non-contingent, matured or unmatured, suspected or unsuspected, foreseen or unforeseen, direct or indirect, choate or inchoate, existing or hereafter arising, under statute, in contract, in tort, in law, or in equity, or pursuant to any other theory of law, federal or state, whether asserted or assertable directly or derivatively in law or equity or otherwise by way of claim, counterclaim, cross-claim, third party action, action for indemnity or contribution or otherwise, based in whole or in part upon any act or omission or other event occurring prior to the Petition Date or during the course of the Chapter 11 Cases, including through the Effective Date.

“*Exculpated Parties*” means, collectively: (a) the Debtors; (b) the Reorganized Debtors; (c) any Committee and the members thereof in their capacity as such; (d) the DIP Credit Agreement Agent; (e) DIP Credit Agreement Lenders; (f) the Prepetition Credit Agreement Agent; (g) the Prepetition Credit Agreement Lenders; (h) the Prepetition Notes Agent; (i) the Prepetition Noteholders; and (j) in each case, the respective Related Persons of each of the foregoing Entities.

“*Litigation Claims*” means the claims, rights of action, suits or proceedings, whether in law or in equity, whether known or unknown, that any Debtor or any Estate may hold against any Person or Entity, including, without limitation, the Causes of Action of the Debtors or their Estates, in each case solely to the extent of the Debtors’ or their Estates’ interest therein. A non-exclusive list of the Litigation Claims held by the Debtors as of the Effective Date is to be Filed with the Plan Supplement, which shall be deemed to include any derivative actions filed against any Debtor as of the Effective Date.

“*New Railcar Lease Agreements*” means those certain railcar lease agreements entered into between the Debtors and the Specified Rail Car Lessors pursuant to the New Railcar Lease Agreements Order.

“*New Railcar Lease Agreements Order*” means the Order Authorizing the Debtors to (I) Reject Certain Railcar Lease Agreements Nunc Pro Tunc to the Petition Date and (II) Enter Into

Proposed New Railcar Lease Agreements Effective as of the Petition Date entered by the Bankruptcy Court in the Chapter 11 Cases (Docket No. 208), as such order may be amended, supplemented, or modified from time to time.

**“Non-Debtor Releasing Parties”** means, collectively: (a) the Committee and the members thereof in their capacity as such; (b) the Prepetition Credit Agreement Agent and the Releasing Prepetition Credit Agreement Lenders; (c) the DIP Credit Agreement Agent and the DIP Credit Agreement Lenders (d) the Prepetition Notes Agent and the Releasing Prepetition Noteholders; (e) the Releasing Old Emerge LP Equity Holders; (f) those Holders of General Unsecured Claims or Old Emerge LP Equity Interests that do not affirmatively opt out of the Third Party Release as provided on their respective Ballots; and (g) each Specified Railcar Lessor (to the extent it is a Released Party).

**“Related Persons”** means, with respect to any Person, such Person’s predecessors, successors, assigns and present and former Affiliates (whether by operation of law or otherwise) and subsidiaries, and each of their respective current and former officers, directors, principals, employees, shareholders, members (including *ex officio* members and managing members), managers, managed accounts or funds, management companies, fund advisors, advisory or subcommittee board members, partners, agents, financial advisors, attorneys, accountants, investment bankers, investment advisors, consultants, representatives, and other professionals, in each case acting in such capacity at any time on or after the date of the Restructuring Support Agreement, and any Person claiming by or through any of them, including such Related Persons’ respective heirs, executors, estates, servants, and nominees; *provided, however*, that no insurer of any Debtor shall constitute a Related Person.

**“Released and Settled Claims”** means all Claims and Causes of Action made, or which could have been made, on or on behalf of any of the Debtors against the Prepetition Revolver Agent, the Prepetition Revolving Lenders, the Prepetition Note Agent, or the Prepetition Noteholders, or any of their respective affiliates, agents, attorneys, advisors, professionals, officers, directors, and employees, in their respective capacities as such.

**“Released Party”** means, collectively: (a) the Debtors; (b) the Reorganized Debtors; (c) the Committee and the members thereof in their capacity as such; (d) the Prepetition Credit Agreement Agent and the Releasing Prepetition Credit Agreement Lenders; (e) the DIP Credit Agreement Agent and the DIP Credit Agreement Lenders; (f) the Prepetition Notes Agent and the Releasing Prepetition Noteholders; (g) the Releasing Old Emerge LP Equity Holders; and (h) each Specified Railcar Lessor, so long as the applicable New Railcar Lease Agreement(s) between the Debtors and the applicable Specified Railcar Lessor is in full force and effect as of the Effective Date; and in each case the respective Related Persons of each of the foregoing Entities.

**“Specified Railcar Lessors”** means, collectively, (a) Trinity Industries Leasing Company, (b) MUL Railcars Leasing, LLC, and (c) CIT Bank, N.A. and The CIT Group/Equipment Financing, Inc., as an assignee of CIT Rail, LLC.

**EXHIBIT 7**

**Form of Assumption Notice**



IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

-----	X	
In re:	:	Chapter 11
	:	
EMERGE ENERGY SERVICES LP, <i>et al.</i> , <sup>1</sup>	:	Case No. 19-11563 (KBO)
	:	
Debtors.	:	(Jointly Administered)
	:	
-----	X	

**NOTICE OF CURE AMOUNTS IN CONNECTION WITH CONTRACTS AND LEASES**

**TO: ALL NON-DEBTOR COUNTERPARTIES TO THE DEBTORS’ CONTRACTS AND LEASES LISTED ON THE CONTRACT SCHEDULE ATTACHED HERETO**

**PLEASE TAKE NOTICE OF THE FOLLOWING:**

1. Pursuant to the *First Amended Joint Plan of Reorganization for Emerge Energy Services LP and its Affiliate Debtors Under Chapter 11 of the Bankruptcy Code* [Docket No. [ ● ]] (the “**Plan**”)<sup>2</sup> filed with the United States Bankruptcy Court for the District of Delaware (the “**Court**”) on [ ● ], 2019, the above-captioned debtors and debtors in possession (each a “**Debtor**,” and, collectively, the “**Debtors**”) hereby provide notice (this “**Assumption Notice**”) that they are party to the contracts and leases (each, a “**Specified Contract**,” and, collectively, the “**Specified Contracts**”) listed on Exhibit 1 attached hereto (the “**Contract Schedule**”).

2. You have been identified as a party to one or more of the Specified Contracts listed on the Contract Schedule.

3. For each Specified Contract listed on the Contract Schedule, the Contract Schedule sets forth the amount the Debtors’ records reflect is owing to cure any and all defaults under such Specified Contract as of the date of this Assumption Notice (the “**Cure Amount**”) pursuant to Section 365 of the Bankruptcy Code.

4. If the Contract Schedule lists a Cure Amount of \$0.00 for a particular Specified Contract, the Debtors believe there is no cure amount outstanding for that Specified Contract as of the date of this Assumption Notice.

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<sup>1</sup> The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: Emerge Energy Services LP (2937), Emerge Energy Services GP LLC (4683), Emerge Energy Services Operating LLC (2511), Superior Silica Sands LLC (9889), and Emerge Energy Services Finance Corporation (9875). The Debtors’ address is 5600 Clearfork Main Street, Suite 400, Fort Worth, Texas 76109.

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

5. If you agree with the Cure Amount associated with a Specified Contract to which you are a party as of the date of this Assumption Notice, you need not take any action.

6. To object to the Cure Amount associated with, or the Debtors' ability to assume and/or assign, a Specified Contract to which you are a party, whether or not you previously filed a proof of claim with respect to amounts due under such Specified Contract, you must file an objection (a "**Cure Claim Objection**") with the Clerk of the Bankruptcy Court, 824 North Market Street, 3<sup>rd</sup> Floor, Wilmington, Delaware 19801, and serve such Cure Claim Objection upon each of the Notice Parties (defined below), so that such Cure Claim Objection is **actually received** by the Court and the Objection Notice Parties by no later than **4:00 p.m. (prevailing Eastern time) on October 11, 2019**.

#### **Notice Parties**

- (i) Counsel to the Debtors, Latham & Watkins LLP, 885 Third Avenue, New York, New York 10022-4834 (Attn: Keith A. Simon, Esq., Hugh K. Murtagh, Esq., and Liza L. Burton, Esq. (emails: keith.simon@lw.com, hugh.murtagh@lw.com, and liza.burton@lw.com)) and Richards, Layton & Finger, P.A., One Rodney Square, 920 North King Street, Wilmington, Delaware 19801 (Attn: John H. Knight, Esq. and Paul N. Heath, Esq. (emails: knight@rlf.com and heath@rlf.com));
- (ii) Counsel to the DIP Agent and the Prepetition Agents, Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, NY 10153-0119 (Attn: Matt S. Barr, Esq., David Griffiths, Esq., and Candace M. Arthur, Esq. (emails: matt.barr@weil.com, david.griffiths@weil.com, and candace.arthur@weil.com)) and Pachulski Stang Ziehl & Jones LLP, 919 North Market Street, Wilmington, Delaware 19801 (Attn: Laura Davis Jones, Esq. (email: ljones@pszjlaw.com)); and
- (iii) Counsel to the Committee, Kilpatrick Townsend & Stockton LLP, 1114 Avenue of the Americas, New York, New York 10036 (Attn: Todd C. Meyers, Esq., David M. Posner, Esq., and Kelly Moynihan, Esq. (emails: tmeyers@kilpatricktownsend.com, dposner@kilpatricktownsend.com, and kmoynihan@kilpatricktownsend.com)), Kilpatrick Townsend & Stockton LLP, 700 Louisiana Street, Suite 4300, Houston, Texas 77002 (Attn: Lenard M. Parkins, Esq. (email: lparkins@kilpatricktownsend.com)), and Potter Anderson & Corroon LLP, 1313 North Market Street, Sixth Floor, P.O. Box 951, Wilmington, Delaware 19899 (Attn: Jeremy W. Ryan, Esq., Christopher M. Samis, Esq., and D. Ryan Slauch, Esq. (emails: jryan@potteranderson.com, csamis@potteranderson.com, and rslauch@potteranderson.com)); and
- (iv) The Office of the United States Trustee for the District of Delaware, 844 King Street, Suite 2207, Wilmington, Delaware 19801 (Attn: Juliet M. Sarkessian, Esq. (email: Juliet.M.Sarkessian@usdoj.gov)).

7. Any Cure Claim Objection must (i) be in writing, (ii) set forth with specificity any and all obligations that you assert must be cured or satisfied in respect of each applicable Specified Contract, and (iii) contain all documentation supporting such cure claim.

8. If you timely file and serve a Cure Claim Objection, the Court shall hear such Cure Claim Objection and determine the amount of any disputed Cure Amount not settled by the parties at the Confirmation Hearing before the Honorable Karen B. Owens, United States

Bankruptcy Judge, in the United States Bankruptcy Court for the District of Delaware, located at 824 Market Street, 6th Floor, Courtroom 1, Wilmington, Delaware 19801, currently scheduled for ~~{October 24, 2019}~~, at ~~{●}~~ 1:00 p.m. (prevailing Eastern Time) on October 24, 2019 or such other date and time as the Court may deem appropriate.

9. If you fail to timely file and serve a Cure Claim Objection, you shall be deemed to have consented to the Cure Amount proposed by the Debtors and shall be forever enjoined and barred from seeking any additional amounts or claims (as defined in Section 101(5) of the Bankruptcy Code) that arose, accrued or were incurred at any time on or prior to the date of this Cure Claim Notice on account of the Debtors' cure obligations under Section 365 of the Bankruptcy Code or otherwise from the Debtors, their estates, any reorganized Debtor (a "**Reorganized Debtor**"), any assignee with respect to the Specified Contracts, or any purchaser or transferee of the Debtors or Reorganized Debtors' properties on account of the assumption and/or assignment of such Specified Contract.

10. The Debtors' listing of a Specified Contract on this Assumption Notice shall not be deemed or construed as (i) a promise by the Debtors to seek the assumption and/or assignment of such Specified Contract, (ii) a limitation or waiver on the Debtors' ability to amend, modify or supplement this Assumption Notice with an updated Cure Amount for a particular Specified Contract, which updated Cure Amount may be lower than the original Cure Amount listed for such particular Specified Contract, (iii) a limitation or waiver on the Debtors' ability to seek to reject any Specified Contract or (iv) an admission that any Specified Contract is, in fact, an executory contract or unexpired lease under Section 365 of the Bankruptcy Code. The Debtors reserve all their rights, claims, and causes of action with respect to the contracts and leases listed on the Contract Schedule.

11. All documents filed with the Court in connection with the above-captioned chapter 11 cases (the "**Chapter 11 Cases**"), including the Plan, are available for free on the website of the Court-appointed notice and claims agent in the Chapter 11 Cases, Kurtzman Carson Consultants LLC, at <http://www.kccllc.net/EmergeEnergy>

Wilmington, Delaware  
[\_\_\_\_], 2019

<b>LATHAM &amp; WATKINS LLP</b> Attn: George A. Davis Attn: Keith A. Simon Attn: Hugh K. Murtagh Attn: Liza L. Burton 885 Third Avenue New York, New York 10022-4834 Fax: 212-751-4864	<b>RICHARDS, LAYTON &amp; FINGER, P.A.</b> Attn: John H. Knight Attn: Paul N. Heath Attn: Zachary I. Shapiro Attn: Brett M. Haywood One Rodney Square 920 North King Street Wilmington, Delaware 19801 Fax: 302-651-7701
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*Co-Counsel to the Debtors*

**Exhibit 1**

Contract Schedule

<b>Contract Counterparty</b>	<b>Debtor</b>	<b>Title of Contract or Lease</b>	<b>Cure Amount</b>	<b>Identity of Assignee (if applicable)</b>