

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

In re:)	
)	Chapter 11
VERTEX ENERGY, INC., <i>et al.</i> , ¹)	
)	Case No. 24-90507 (CML)
Debtors.)	(Jointly Administered)
)	

NOTICE OF FILING FIFTH AMENDED PLAN SUPPLEMENT

PLEASE TAKE NOTICE THAT, on December 13, 2024, the above-captioned debtors and debtors in possession (collectively, the “Debtors”) filed the *Notice of Filing Plan Supplement* [Docket No. 531] (the “Initial Plan Supplement”) with the United States Bankruptcy Court for the Southern District of Texas (the “Court”).

PLEASE TAKE FURTHER NOTICE THAT, on December 16, 2024, the Debtors filed the *Notice of Filing First Amended Plan Supplement* [Docket No. 540] (the “First Amended Plan Supplement”) with the Court.

PLEASE TAKE FURTHER NOTICE THAT, on December 17, 2024, the Debtors filed the *Notice of Filing Second Amended Plan Supplement* [Docket No. 544] (the “Second Amended Plan Supplement”) with the Court.

PLEASE TAKE FURTHER NOTICE THAT, on December 19, 2024, the Debtors filed the *Notice of Filing Third Amended Plan Supplement* [Docket No. 553] (the “Third Amended Plan Supplement”) with the Court.

PLEASE TAKE FURTHER NOTICE THAT, on December 20, 2024, the Debtors filed the *Notice of Filing Fourth Amended Plan Supplement* [Docket No. 569] (the “Fourth Amended Plan Supplement”) with the Court.

PLEASE TAKE FURTHER NOTICE THAT the Debtors hereby file this amendment to the Plan Supplement (this “Fifth Amended Plan Supplement,” and together with the Initial Plan Supplement, the First Amended Plan Supplement, the Second Amended Plan Supplement, the Third Amended Plan Supplement, and the Fourth Amended Plan Supplement, the “Plan Supplement”) in support of the *Second Amended Joint Chapter 11 Plan of Vertex Energy, Inc. and*

¹ A complete list of each of the Debtors in these chapter 11 cases may be obtained on the website of the Debtors’ claims and noticing agent at <https://www.veritaglobal.net/vertex>. The location of Debtor Vertex Energy, Inc.’s corporate headquarters and the Debtors’ service address in these chapter 11 cases is 1331 Gemini Street, Suite 250, Houston, Texas 77058.



its Debtor Affiliates [Docket No. 564] (as may be modified, amended, or supplemented from time to time, the “Plan”).²

PLEASE TAKE FURTHER NOTICE THAT the Fifth Amended Plan Supplement includes the Corporate Governance Term Sheet.

PLEASE TAKE FURTHER NOTICE THAT the Debtors shall have the right to alter, amend, modify, or supplement the documents contained in the Plan Supplement up to the Effective Date as set forth in the Plan. The documents contained in the Plan Supplement are integral to, and are considered part of, the Plan.

PLEASE TAKE FURTHER NOTICE THAT the hearing at which the Court will consider Confirmation of the Plan (the “Confirmation Hearing”) will commence on **December 20, 2024 at 1:00 p.m.**, prevailing Central Time, before the Honorable Christopher Lopez, in the United States Bankruptcy Court for the Southern District of Texas, located at 515 Rusk Street, Courtroom 401, Houston, Texas 77002.

PLEASE TAKE FURTHER NOTICE THAT the deadline for filing objections to the Plan was **December 18, 2024, at 4:00 p.m.**, prevailing Central Time (the “Plan Objection Deadline”).

PLEASE TAKE FURTHER NOTICE THAT if you would like to obtain a copy of the Disclosure Statement, the Plan, the Initial Plan Supplement, the First Amended Plan Supplement, the Second Amended Plan Supplement, the Third Amended Plan Supplement, the Fourth Amended Plan Supplement, the Fifth Amended Plan Supplement, or related documents, free of charge, you should you should contact KCC dba Verita Global LLC, the claims and noticing agent retained by the Debtors in these chapter 11 cases (the “Claims and Noticing Agent”), by: (a) emailing VertexEnergyInfo@veritaglobal.com; (b) calling the Claims and Noticing Agent at (877) 709-4747 (domestic, toll free) or +1 (424) 236-7228 (international); or (c) accessing the Debtors’ restructuring website at <https://www.veritaglobal.net/vertex>. You may also obtain copies of any pleadings filed in these chapter 11 cases for a fee via PACER at: <http://www.tx.uscourts.gov>.

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

Houston, Texas
December 20, 2024

/s/ Jason G. Cohen

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

In re:

VERTEX ENERGY, INC., *et al.*,¹

Debtors.

)
) Chapter 11
)
) Case No. 24-90507 (CML)
)
) (Jointly Administered)
)

**FIFTH AMENDED PLAN
SUPPLEMENT FOR THE DEBTORS' SECOND AMENDED JOINT
CHAPTER 11 PLAN OF VERTEX ENERGY, INC. AND ITS DEBTOR AFFILIATES**

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<u>Exhibit</u>	<u>Description</u>
N	Corporate Governance Term Sheet

¹ A complete list of each of the Debtors in these chapter 11 cases may be obtained on the website of the Debtors' claims and noticing agent at <https://www.veritaglobal.net/vertex>. The location of Debtor Vertex Energy, Inc.'s corporate headquarters and the Debtors' service address in these chapter 11 cases is 1331 Gemini Street, Suite 250, Houston, Texas 77058.

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the *Second Amended Joint Chapter 11 Plan of Vertex Energy, Inc. and its Debtor Affiliates* [Docket No. 564] (the "Plan") or the *Order (I) Approving the Adequacy of the Disclosure Statement, (II) Approving the Solicitation and Notice Procedures with Respect to Confirmation of the Debtors' Proposed Joint Chapter 11 Plan, (III) Approving the Forms of Ballots and Notices in Connection Therewith, (IV) Scheduling Certain Dates with Respect Thereto, and (V) Granting Related Relief* [Docket No. 431] (the "Disclosure Statement Order"), as applicable.

Exhibit N

Corporate Governance Term Sheet

Certain documents, or portions thereof, contained in this **Exhibit N** and the Plan Supplement remain subject to continued review by the Debtors, the Required Consenting Term Loan Lenders, and interested parties with respect thereto. The respective rights of the Debtors and the Required Consenting Term Loan Lenders are expressly reserved, subject to the terms and conditions set forth in the Plan and the RSA, to alter, amend, modify, or supplement the Plan Supplement and any of the documents contained therein in accordance with the terms of the Plan, or by order of the Bankruptcy Court; provided that if any document in this Plan Supplement is altered, amended, modified, or supplemented in any material respect prior to the Confirmation Hearing, the Debtors will file a redline of such document with the Bankruptcy Court.

Summary Corporate Governance Term Sheet

I. Certain Defined Terms: For purposes of this term sheet:

- a) “**BLK Lender Group**” means the BlackRock Lenders and any Approved Fund thereof.
- b) “**CrowdOut Lender Group**” means CrowdOut Credit Opportunities Fund LLC, CrowdOut Capital LLC and any Approved Fund thereof.
- c) “**Highbridge Lender Group**” means the Highbridge Lenders and any Approved Fund thereof.
- d) “**Initial Lender Groups**” means each of BLK Lender Group, Whitebox Lender Group, Highbridge Lender Group, CrowdOut Lender Group and JS Lender
- e) “**JS Lender**” means the JS Lender and any Approved Fund thereof
- f) “**Stockholder Group**” means any stockholder or group of related stockholders, including funds or managed accounts Affiliated with, under control of and managed by the same Person.
- g) “**Whitebox Lender Group**” means the Whitebox Lenders and any Approved Fund thereof.
- h) Capitalized terms not otherwise defined herein shall have the meaning ascribed to such terms in the DIP Loan and Security Agreement.

II. Form of Legal Entity and Capital Structure

- a) Subject to the discussions regarding structure, the Reorganized Company (the “**Company**”) will be a Delaware corporation. The organizational documents of the Company will consist of the Certificate of Incorporation (the “**Charter**”), Bylaws of the Company (the “**Bylaws**”) and Shareholders Agreement (the “**Shareholder Agreement**” and together with the Charter and the Bylaws, the “**Governing Documents**”), dated as of the closing of the recapitalization (the “**Effective Date**”). Initially the Company’s equity capital will consist of two classes of stock, which will be identical except that (a) the class issued to DIP Lenders will be voting (“**Investor Shares**”), with holders entitled to one vote per share, and (b) the class issued to management of the Company will be non-voting and subject to the other terms and conditions of the management incentive plan (the “**MIP**”), including, among other things, vesting. Stockholders are entitled to own fractional shares.

III. Board of Directors

- a) The Board initially will be comprised of five directors, appointed as follows:
 - The CEO at any given time;
 - Four directors to be appointed by DIP Lenders (two to be appointed by the BLK Lender Group, one to be appointed by Whitebox Lender Group and one to be appointed collectively by majority vote based on share count of Highbridge Lender Group, CrowdOut Lender Group and JS Lender); and
 - One observer seat for each Initial Lender Group (separate and apart from any other representation on the Board); provided, that such seats will be subject to customary restrictions on attendance, including with respect to potential conflicts and breach of privilege.
- b) After the Effective Date:
 - Each Initial Lender Group will be entitled to maintain its right, as applicable, to appoint (a) two directors to the Board as long as it continues to own at least 40% of the

outstanding Investor Shares (the “**Double Director Threshold**”), and (b) one director to the Board as long as it continues to own at least 20% of the outstanding Investor Shares (or a group of Initial Lender Groups not otherwise represented holding such threshold) (the “**Single Director Threshold**”);

- Each Stockholder Group (other than the Initial Lender Groups) that is a transferee of shares will be entitled to appoint (a) one director to the Board as long as it continues to own at least the Single Director Threshold; and (b) two directors to the Board as long as it continues to own at least the Double Director Threshold; provided, that such transferee satisfies criteria to be set forth in the Governing Documents; and
 - Neither an Initial Lender Group nor, except following a drag-along or other sale of the Company, a transferee of an Initial Lender Group, will have the right to appoint more than two directors to the Board absent approval of the parties required to amend the Charter.
 - Changes to the size of the Board shall require approval of each Initial Lender Group meeting at least the Single Director Threshold; provided that (i) no such changes shall result in the removal of any director appointed by any Initial Lender Group so long as such Initial Lender Group continues to own the applicable Double Director Threshold or Single Director Threshold and (ii) without limiting (i), any stockholder who acquires at least [60]% of the outstanding shares shall be entitled to appoint a majority of the Board.
- c) The Governing Documents will provide that, immediately following a transfer that changes the aggregate director appointment rights of the stockholders, the Board will automatically be changed in size to correspond to the aggregate director appointment rights then in effect, without any action by a director or stockholder.
 - d) Each director will be entitled to one vote. An act of the Board will require the affirmative vote (at any meeting of the Board at which a quorum is present) of the majority of the entire Board then in attendance; provided, that the affirmative approval of the BLK Lender Group appointed director that is an employee of the BLK Lender Group, or the direct approval of the BLK Lender Group, shall be required for certain actions of the Company or any of its Subsidiaries, including but not limited to, those actions as set forth in Exhibit A hereto.¹
 - e) The Board may act by unanimous written consent in lieu of a meeting.
 - f) A quorum of any meeting of the Board will require attendance, in person, or by other permitted means of attendance, or via an Alternate Director, of a majority of the directors then appointed.
 - g) Meetings of the Board may be called by any director on not less than 48 hours’ notice.
 - h) Board members who serve in management capacities or are affiliated with the stockholders that appointed them will serve on the Board and any committees to which they are appointed without compensation but will be entitled to be reimbursed for documented out-of-pocket expenses and costs reasonably incurred for in-person attendance at meetings. All non-lender group affiliated directors will be eligible for participation in the Company’s equity compensation program.
 - i) Affiliate transactions will require approval of a majority of disinterested directors (for the avoidance of doubt, disinterested directors do not include directors appointed by an interested party) on the Board, except for (a) arm’s-length transactions entered into in the ordinary course of business consistent with the Company’s past practice that are not otherwise subject to the purview

¹ Note: Scope of BLK Lender Group consents to be determined but shall include at least those Stockholder Reserved Matters set forth on Exhibit A hereto.

of the Board, (b) issuances of debt and equity which are subject to preemptive rights and (c) customary D&O insurance, indemnification and related advancement of expenses.

- j) Management of the Company will be by the Board and any officers duly appointed thereby. The Board's authority will be subject to specified stockholders' approval rights Governing Documents and as per applicable law.
- k) Any Director may appoint another person to serve as his or her alternate director (an "**Alternate Director**") to attend any meeting of the Board or any committee of the Board and may remove such person as an Alternate Director, in each case, at any time and from time to time, by prior written notice to the Board. Any such appointment or removal must be made in writing by the relevant Director and such appointment or removal will take effect on and from the date of that written notice or such subsequent effective date as may be specified in the notice and be for the period specified in the notice or until further written notice by the appointing director.

IV. Stockholder Reserved Matters

- a) Stockholder Groups holding outstanding Investor Shares at material thresholds to receive stockholder consent rights over material actions of the Company ("**Stockholder Reserved Matters**")² approved by the Board commensurate with such ownership threshold. Thresholds are anticipated to be 40%, 20% and 10% of outstanding Investor Shares. Individual Stockholder Group consents may be given in writing (email acceptable) or at a stockholder meeting. For the avoidance of doubt, the Stockholder Reserved Matters, include but are not limited to those set forth in Exhibit A hereto and will be more fully set forth in definitive documentation agreed between the parties.

V. Meetings of Stockholders

- a) The quorum for a general meeting will require holders of a majority of the issued and outstanding Investor Shares being present in person or by proxy at a general meeting. Any director or stockholders representing at least 20% of the outstanding Investor Shares will have the right to requisition a general meeting and to bring business before a general meeting.

VI. Preemptive Rights

- a) Prior to an IPO, each Initial Lender Group will have a preemptive right to participate pro rata in any "Eligible Issuance", meaning an issuance or sale of by the Company or any of its subsidiaries of equity securities to any Person or Persons (including any of the Initial Lender Group or their Affiliates) or indebtedness issued by the Company or any of its subsidiaries in a primary transaction to any Person or Persons (so long as any Initial Lender Group or their Affiliates has been offered the right to participate), subject to customary exclusions. For the avoidance of doubt, there shall be no pre-emptive right on indebtedness of the Company or any of its subsidiaries that is syndicated or arranged by a third party.

VII. Transfers of Equity

- a) Prior to an IPO, a drag-along sale in accordance with the organizational documents in connection with a sale of the entire Company to an unaffiliated party:³
 - o Must be approved by holders of 80.0% of the outstanding Investor Shares reduced to (i) 60.0% following the first anniversary of the Effective Date and (ii) a majority of the outstanding Investor Shares upon the earlier of (A) the fifth anniversary of the Effective Date and (B) a sale resulting in a specified minimum return to the stockholders;

² Note: List of Stockholder Reserved Matters for each group to be determined in final documentation.

³ Note: Appropriate mechanics to be added to the drag to adequately address a situation and make effective the drag where the majority holder does not have a majority of the Board.

- the aggregate consideration receivable by all securityholders will be allocated among the securityholders in the manner specified by the organizational documents and otherwise, for a given class of securities, securityholders will receive same form and amount of consideration, pro rata; and
 - if any securityholder is given an option as to the form of consideration to be received in respect of a given class of securities, all other securityholders will be given the same option on the same terms.
- b) Prior to an IPO, tag-along rights for all holders of Investor Shares (the “**Tag-Along Stockholders**”), on any transfer by any stockholder or stockholders (the “**Initiating Stockholders**”), other than for customary “Permitted Transfers” or a drag-along sale in accordance with the organizational documents.
- c) Customary demand and piggyback registration rights post IPO.
- d) Pro rata ROFO on transfers by Initial Lender Group to other members of the Initial Lender Group.

VIII. No Side Agreements

- a) All stockholders will represent as of the Effective Date that all agreements with respect to the governance of the Company are as set forth in the Company’s organizational documents and no other agreements or understandings (whether oral or written) with respect to any such matters or the relationship between and among the Company, its directors and any stockholder in its capacity as stockholder have been entered into or made.

IX. Additional Stockholder Consent Rights

- a) Any proposed amendment to the organizational documents (including the Shareholders Agreement) will, to the extent permitted by applicable law, require the prior written consent of each Initial Lender Group that owns at least the Single Director Threshold and each investor to the extent adverse/disproportional.
- b) Subject to Section (III.i)i) above, the Company may not repurchase equity of any class not *pro rata* to shareholding (other than (i) customary exceptions for repurchases of equity from management upon termination of employment and (ii) as approved by the Board).

X. Information Rights

- a) Each member of the Initial Lender Groups and any Stockholder Group with at least 5.0% of the outstanding Investor Shares will be entitled to receive (i) annual audited financial statements within 150 days following the end of the first fiscal year ended after the Effective Date, and within 120 days following the end of each fiscal year thereafter and (ii) quarterly financial statements within 90 days following the end of the first two fiscal quarters ended after the Effective Date and 60 days following the end of each fiscal quarter thereafter (other than the last fiscal quarter of a fiscal year).
- b) Within 60 days after the delivery of the annual audited financial statements, the Company’s management will host a conference call at a reasonable time during normal business hours for the Initial Lender Groups to discuss such financial statements. At least three days prior to each conference call, the Company will notify Initial Lender Groups of the time and date and access instructions for such conference call.

XI. Other Terms

- a) Customary provisions concerning indemnification, advancement of expenses and insurance of directors.

- b) To the extent permitted by applicable law, waiver of corporate opportunity doctrine for directors appointed by the Initial Lender Groups.

Exhibit A

Stockholder Reserved Matters

So long as the BLK Lender Group holds not less than 40% of the total outstanding Investor Shares, the affirmative vote of any BLK Lender Group appointed director that is an employee of the BLK Lender Group shall be required, or a direct consent of the BLK Lender Group will be required, for the Board actions set forth below. At all times, the consent of at least two Initial Lender Groups (which may include the BLK Lender Group) holding in excess of 10% of the total outstanding Investor Shares, or the consent of the appointed director that is an employee of such Initial Lender Groups, shall be required for the below Board actions that include “*”.

1. Other than intercompany debt, issuance of debt for borrowed money by the Company and its Subsidiaries that exceeds \$[●] in principal amount *;
2. Issuance of any equity securities of the Company or any Subsidiary, other than (a) equity pursuant to any MIP, which will be a maximum of [●]% of the Company or (b) equity securities by a subsidiary within the Company group to its parent entity within the Company group;
3. An acquisition of any assets, equity securities or business (other than an acquisition of assets in the ordinary course of business) by the Company or any of its Subsidiaries where the consideration exceeds \$[●] in any fiscal year;
4. any change to the fiscal year of the Company;
5. (i) Any sale, license or other disposition of any assets, equity securities or businesses by the Company or any of its Subsidiaries (other than a disposition or obsolete assets in the ordinary course of business) for aggregate consideration in excess of, with respect to any single transaction or series of related transactions, \$[●] or (ii) any change of control or merger of the Company and (iii) any IPO;
6. Entering into any transaction or arrangement with a stockholder and/or its affiliates;
7. Entering into or making material amendments to any cash incentive compensation plan, equity incentive plan or retirement benefit plan for employees, directors, consultants or other service providers;
8. Entering into or making material amendments to any cash incentive compensation plan, equity incentive plan or retirement benefit plan for employees, directors, consultants or other service providers, including to amend the number or type of equity securities authorized pursuant to the Company’s incentive plan;
9. Other than dividends by a subsidiary within the Company group to its parent entity within the Company group, declaring or payment of dividends;
10. Offers to make redemptions, repurchases or other acquisitions by the Company or any of its Subsidiaries of any equity securities of the Company or any of its Subsidiaries;
11. Approval of (i) a new strategic alliance or other commercial or business relationship with a third party, (ii) an amendment to an existing strategic alliance or other commercial or business relationship, or (iii) any material joint venture;
12. Approval of the Company’s strategic plan, annual, and quarterly budgets and material deviations from the budget; material capital expenditures not set forth in the approved budget ;
13. Entering into a new material line of business, including by acquisition of a business from a third party, in whatever form of transaction, or discontinuing an existing material line of business (to be defined in the definitive agreements);

14. any material changes to the nature of the Company's and its Subsidiaries' business, taken as a whole*;
15. Guaranteeing obligations of a third party;
16. any settlement or compromise of any suit, action or legal, administrative, regulatory or arbitral proceeding that either (A) would require payments by the Company or any of its Subsidiaries in excess of \$[•] in the aggregate or (B) imposes a material limitation or obligation on the operation of, or otherwise imposes a material equitable or criminal remedy against, Initial Lender Group, the Company and/or any of its Subsidiaries;
17. Hiring, terminating or approving the compensation of the CEO;
18. Amendments to the equity securities authorized under any MIP and granting more than 5% of the securities available under all MIPs to any individual recipient;
19. Entering into, materially amending, waiving any material right under, terminating, cancelling or otherwise materially modifying certain categories of material contract (to be defined in the definitive agreements);
20. Changes to material tax elections of the Company, except as required by GAAP or applicable law*;
21. Appointing and replacing an independent auditor*;
22. Commencing a voluntary liquidation, winding-up or dissolution for any subsidiary of the Company;
23. Filing any petition in bankruptcy for the Company or any subsidiary of the Company*;
24. Forming one or more Advisory Committees (which committees may be delegated the powers of a Board Committee to the extent of the Directors among its members)*; and
25. enter into any agreement or understanding to do any of the foregoing.