

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

<p>In re:</p> <p>CHESAPEAKE ENERGY CORPORATION, <i>et al.</i>,¹</p> <p style="text-align: center;">Reorganized Debtors.</p>	<p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p>	<p>Chapter 11</p> <p>Case No. 20-33233 (DRJ)</p>
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**STIPULATION AND AGREED ORDER, SETTLEMENT
AGREEMENT AND GENERAL RELEASE REGARDING SCHLUMBERGER**

Chesapeake Appalachia, L.L.C. (herein referred to as “Debtor” before the Effective Date of the Plan, and after the Effective Date of the Plan as the “Reorganized Debtor,” and together with Chesapeake Energy Corporation and related debtors, the “Reorganized Debtors”), and Schlumberger Technology Corporation (“Schlumberger” and together with the Reorganized Debtors, collectively, the “Parties,” and individually as each “Party”) hereby enter into this Stipulation and Agreed Order, Settlement Agreement and General Release (this “Settlement”) and state as follows:

RECITALS

WHEREAS, on June 28, 2020 (the “Petition Date”), Debtor and related debtors filed voluntary petitions for relief under title 11 of the United States Code in the United States Bankruptcy Court for the Southern District of Texas (the “Bankruptcy Court”), commencing the above-captioned jointly administered cases;

¹ A complete list of each of the Reorganized Debtors in these chapter 11 cases may be obtained on the website of the Debtors’ claims and noticing agent at <https://dm.epiq11.com/chesapeake>. The location of Reorganized Debtor Chesapeake Energy Corporation’s principal place of business and the Reorganized Debtors’ service address in these chapter 11 cases is 6100 North Western Avenue, Oklahoma City, Oklahoma 73118.

WHEREAS, the Reorganized Debtor and Schlumberger entered that certain Master Services Agreement, dated January 17, 2007 (the “Schlumberger MSA”). Pursuant to the Schlumberger MSA, the Debtor agreed to indemnify certain obligations of Schlumberger, including any obligations incurred or owed pursuant to the Litigation, as defined and described herein;

WHEREAS, on June 28, 2012, Michael J. Mudra, Sr. commenced an action against Schlumberger fashioned *Mudra v. Schlumberger Technology Corporation*, Case No. 12-cv-000283 before the Court of Common Pleas in Bradford County, Pennsylvania asserting a claim or claims relating to a workplace injury (the “Mudra Litigation”);

WHEREAS, on April 26, 2013, Schlumberger demanded that the Debtor defend and indemnify it in the Mudra Litigation pursuant to Section 9.3 of the Schlumberger MSA;

WHEREAS, on November 4, 2020, a jury returned a verdict in favor of Mudra and against Schlumberger in the Mudra Litigation in the amount of \$1,767,827.84, which was reduced by Mudra’s forty-five percent (45%) comparative negligence, for a final award of \$972,305.31.

WHEREAS, it is the position of Reorganized Debtor and Schlumberger that Select Energy Services, LLC (“Select”) has successor liability for the defense and contractual indemnity obligations owed to Schlumberger under, *inter alia*, the Schlumberger MSA because it expressly agreed to assume this liability from another entity who owed such defense and contractual indemnity obligations to the Debtor (*i.e.*, Water Providers, LTD d/b/a Sweetwater) under that certain Asset Purchase and Contribution Agreement (the “Asset Purchase Agreement”) with Sweetwater, dated March 1, 2011;²

² On or about March 28, 2008, Chesapeake Operating, Inc. (predecessor to debtor Chesapeake Operating, L.L.C.) (“Chesapeake Operating”) and Water Providers, LTD d/b/a Sweetwater and any present or future subsidiaries or affiliates named directly or indirectly by them entered into a Master Services Agreement on behalf of themselves and their “present or future subsidiaries or affiliates” whereby Sweetwater agreed “to defend [and] indemnify...[COI and

WHEREAS, it is the position of Reorganized Debtor and Schlumberger that Select’s predecessor acquired insurance from, *inter alia*, First Mercury Insurance Company (“First Mercury”) which made “Chesapeake Operating, Inc. and any present or future subsidiaries or affiliates named directly or indirectly” certificate holders to insure Select’s indemnity obligation;

WHEREAS, it is the position of the Parties that Select and/or First Mercury have duties to defend and indemnify Schlumberger in connection with the Mudra Litigation. Accordingly, on or about May 30, 2017 and June 23, 2017, respectively, debtor Chesapeake Operating commenced actions by writ of summons fashioned *Chesapeake Operating, Inc. v. Select Energy Services LLC* (Civ. Action No. 2017-CV-0161) and *Chesapeake Operating, Inc. v. First Mercury Insurance Co.* (Civ. Action No. 2017-CV-0121 in the Court of Common Pleas of Bradford County, Pennsylvania (collectively, the “Indemnification and Coverage Litigation”). On February 4, 2021, Chesapeake Operating filed a complaint against Select in Civ. Action No. 2017-CV-0161, seeking declaratory relief and asserting a count for breach of contract based on Select’s failure to defend and indemnify Schlumberger.

WHEREAS, on or about October 30, 2020, Schlumberger filed a proof of claim, Claim No. 13157 (the “Claim”), in the above-captioned jointly administered cases, against the Debtor, seeking recovery on account of its defense and contractual indemnity rights.

WHEREAS, the Parties desire to amicably resolve their disputes regarding the Indemnification Litigation, the Mudra Litigation, and the Claim without the expenditure of further time and expense by the Debtors’ estates;

its present or future affiliates and their]...invitees...from and against all claims, demands, and causes of action of every kind and character without limit and without regard to the cause or causes thereof...arising in connection herewith in favor of [Sweetwater’s] employees, [Sweetwater’s] subcontractors or their employees, or [Sweetwater’s] invitees on account of bodily injury” (the “Sweetwater MSA”). The Reorganized Debtor and Chesapeake Operating are affiliate companies wholly-owned by the same parent company, Chesapeake Energy Corporation (“CEC”), as evidenced by their common namesake and the publicly available Form 10-K Annual Report. The Sweetwater MSA therefore applies with equal force to the Reorganized Debtors.

NOW, THEREFORE, in consideration of the promises and mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is stipulated and agreed by and between the Parties, as follows:

1. Recitals. The recitals set forth above are hereby incorporated by reference into this Settlement and made a part hereof as if set forth in their entirety in this paragraph.

2. Settlement. As is set forth in more detail herein, in exchange for the withdrawal of the Claim and exchange of mutual releases as set forth in this Settlement, the Reorganized Debtor assigns, abandons, and/or transfers to Schlumberger any and all of its rights, title, and interest in the claims relating to the Indemnification and Coverage Litigation, including without limitation any rights that arise out of the Sweetwater MSA or any related agreement or policy of insurance setting forth the liability by Select and/or First Mercury to cover and/or indemnify Schlumberger in connection with the Mudra Litigation. To the extent that Schlumberger recovers at trials, in negotiated settlements or otherwise resolves the Indemnity and Coverage Litigation for amounts in the aggregate that exceed the verdict in the Mudra Litigation, plus interest, plus amounts spent by Schlumberger to defend itself through trial in the Mudra Litigation (hereinafter, the “Mudra Obligation”), all additional amounts shall be paid over by Schlumberger to the Reorganized Debtor.

3. Conditions Precedent; Court Approval. It is agreed and understood by the Parties that this Settlement, including all terms, conditions, and releases herein, shall be of no force and effect unless and until this Settlement is approved by a final non-appealable order entered by the Bankruptcy Court, which such date is deemed the “Effective Date.”

4. Withdrawal and Expungement of Claims. On the Effective Date, any and all claims related to the Mudra Litigation, filed, eligible to be filed or otherwise, against the Debtor by

Schlumberger, including but not limited to the Claim, shall be deemed withdrawn, with prejudice, and expunged in their entirety, without any further action. The claims agent and/or clerk of the Bankruptcy Court is directed to remove the Claim from the claims register.

5. Transfer of Indemnification and Coverage Litigation. Within 14 business days of the Effective Date, the Reorganized Debtors and Schlumberger shall cause to be filed any and all requisite documentation with the Court of Common Pleas of Bradford County, Pennsylvania to effectuate the assignment, substitution and/or transfer of all of the rights, title and interest of the Reorganized Debtor and Chesapeake Operating in the Indemnification and Coverage Litigation, including, to the extent necessary, petitions pursuant to Pa. R. Civ. P. 2004 and/or requests to substitute Schlumberger as plaintiff in the Indemnification and Coverage Litigation.

6. Mutual Releases.

- a. Schlumberger, on behalf of itself and/or Schlumberger's officers, directors, members, employees, parents, subsidiaries, agents, successors and assigns fully, finally, and forever releases, acquits and forever discharges the Debtors and Reorganized Debtors, their respective agents, officers, directors, managing agents, shareholders, members, employees, and attorneys of and from any and all claims, causes of action, demands, liabilities, damages, attorneys' fees, court costs, or any other form of claim or compensation known or unknown, suspected or unsuspected, whether at law or in equity, arising out of and/or relating to the Mudra Litigation and the Indemnification and Coverage Litigation.
- b. The Debtors and Reorganized Debtors fully, finally, and forever release, acquit and forever discharge Schlumberger and Schlumberger's agents, officers, directors, managing agents, shareholders, members, employees, and attorneys of and from

any and all claims, causes of action, demands, liabilities, damages, attorneys' fees, court costs, or any other form of claim or compensation known or unknown, suspected or unsuspected, whether at law or in equity, arising out of and/or relating to the Mudra Litigation and the Indemnification Litigation.

- c. It is expressly agreed by the Parties that, to the extent Schlumberger recovers at trials, in negotiated settlements or otherwise resolves the Indemnity and Coverage Litigation for amounts in the aggregate that exceed the Mudra Obligation, any such amount shall be paid over by Schlumberger to the Reorganized Debtor.

7. Notices; Written Confirmation. All communications or notices required under this Settlement, including written confirmations, shall be in writing, will reference this Settlement and will be deemed given: (i) when delivered personally; (ii) when received, if sent by registered or certified mail, return receipt requested, postage prepaid; or (iii) one (1) day after deposit with a commercial overnight carrier, with written verification of receipt. All communications or notices will be sent to the addresses set forth below, with courtesy copy sent via email, or to such other contact information as may be designated by a Party by giving written notice to all other Parties.

Notices to Schlumberger:

Denise Scofield
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800 Capitol Street, 24th Floor
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dscofield@winston.com
Tel.: (713) 651-2600

Notices to Reorganized Debtors:

John B. Dempsey
MYERS, BRIER & KELLY, LLP
425 Spruce Street, Suite 200
Scranton, Pennsylvania 18503
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Tel.: (570) 342-6100

8. Adequate Consideration. The consideration received in connection with this Settlement is fair, adequate and substantial, and consists only of the terms set forth in this Agreement.

9. Expenses, Liens, Fees and Costs. Each Party will bear its own expenses, including any costs or attorneys' fees, incurred in connection with the negotiation and execution of this Settlement.

10. Valid Entire Agreement; Reliance; Modification. This Settlement constitutes the entire agreement among the Parties pertaining to the subject matter hereof, and supersedes and embodies, merges and integrates all prior and current agreements and understandings of the Parties, whether written or oral, with respect to the subject matter of this Settlement. The Parties acknowledge that there are no other warranties, promises, assurances or representations of any kind, express or implied, upon which such Party has relied in entering into this Settlement, unless expressly set forth herein. This Settlement shall not be clarified, modified, changed or amended except by written agreement signed by the Party or an authorized representative of the Party against whom modification is sought and such modification shall be subject to court approval if required.

11. Reservation of Rights. This Settlement is entered into for the purposes of consensually resolving and settling certain disputed matters described herein without further cost, expense or risk to any Party. The Parties agree that this Settlement, its terms, and the negotiations surrounding this Settlement, shall be governed by Rule 408 of the Federal Rules of Evidence. In addition, the Parties agree that neither this Settlement nor any documents related to, or arising out of, this Settlement (including, without limitation, any documents submitted to any court in respect to this Settlement) may be used or admitted into evidence at any trial, hearing or proceeding to the

prejudice of any Party, except to the extent necessary to seek approval of this Settlement or to enforce any provision of this Settlement.

12. Binding Effect. This Settlement shall be binding upon and inure to the benefit of the Parties hereto and all of their officers, directors, members, shareholders, employees, partners, attorneys, affiliates, representatives, spouses, trustees, administrators, heirs, successors, and assigns.

13. Warranties. Each Party warrants (i) that the person executing this Settlement on its behalf has the authority to do so and if this Settlement is executed by an attorney on behalf of a Party, such attorney represents that he or she is duly authorized to execute this Settlement on behalf of his or her client and that such client has full knowledge of and has consented to this Settlement, and (ii) that it has not heretofore assigned, transferred or granted, or purported to assign, transfer or grant any of the claims, demands or causes of action disposed of by this Settlement.

14. Informed Consent. The Parties have read and understand the terms of this Settlement, have consulted with their respective counsel, and understand and acknowledge the significance and consequence of each such term. The Parties hereto agree that they enter into this Settlement voluntarily after having received full advice from counsel of their choice with respect to this Settlement and all other matters related thereto.

15. Negotiated Agreement. This Settlement shall not be deemed to have been drafted by any one of the Parties, and, therefore, the doctrine of *contra proferentem* shall not be available.

16. Governing Law. This Settlement shall be construed, interpreted, governed, and enforced in accordance with the laws of the State of Texas.

17. Headings. The headings contained in this Settlement are for convenience or reference only and are not a material part of this Settlement.

18. Jurisdiction. The Parties agree that the Bankruptcy Court shall retain jurisdiction to decide disputes concerning this Settlement and the Parties hereby submit to the core jurisdiction of the Bankruptcy Court for that purpose. The foregoing disputes shall include, without limitation, any motion for an order required to compel performance of the terms and provisions of this Settlement. The Parties hereby expressly consent to the exercise by the Bankruptcy Court of jurisdiction with respect to approval of this Settlement. No Party to this Settlement shall assert in any future proceeding or dispute that the Bankruptcy Court lacked jurisdiction to approve this Settlement.

19. Specific Performance. The Parties agree that in the event of a breach of the terms of this Settlement there will be no adequate remedy at law to remedy such breach and, accordingly, the Parties hereby agree that specific performance may be awarded to enforce the terms hereof.

20. Counterparts. This Settlement may be executed in counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument. Facsimile or scanned signatures shall be treated in all manners and respects as an original signature.

21. Bankruptcy Rules 6004(h) and 9014. Notwithstanding the possible applicability of Bankruptcy Rules 6004(h), 9014 or otherwise, the terms and conditions of this Settlement shall be immediately effective and enforceable upon entry of an order by the Bankruptcy Court approving this Settlement.

[SIGNATURE PAGE FOLLOWS]

It is so **ORDERED**.

Signed on this 21ST day of September, 2021.

DAVID R. JONES
UNITED STATES BANKRUPTCY JUDGE

AGREED:

**SCHLUMBERGER
TECHNOLOGY CORPORATION**

REORGANIZED DEBTORS

By: /s/ Carrie V. Hardman

Carrie V. Hardman
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