

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

In re:

INDEPENDENCE CONTRACT
DRILLING, INC., et al.¹

Debtors.

Chapter 11

Case No. 24-90612 (ARP)

(Joint Administration Requested)

**DECLARATION OF J. ANTHONY GALLEGOS, JR.
IN SUPPORT OF CHAPTER 11 PETITIONS AND FIRST DAY PLEADINGS**

I, J. Anthony Gallegos, Jr., hereby declare under penalty of perjury:

1. I am the President and Chief Executive Officer (“CEO”) of Independence Contract Drilling, Inc. (“ICD”), and President and CEO of Sidewinder Drilling LLC (“Sidewinder”), each an above-captioned debtor and debtor-in-possession (collectively, the “Debtors” or the “Company”). Prior to my current role as President and CEO of ICD since October 2018, I served in multiple roles at Sidewinder, including as President and CEO from September 2017 until its merger with ICD in 2018. I became a director and the President and CEO of ICD upon the consummation of the merger on October 1, 2018. In total, I have over 25 years of industry experience in management positions. I hold a Bachelor of Business Administration degree from Texas A&M University and a Master of Business Administration from Rice University, and I am a veteran of the United States Army. I am a member of the Society of Petroleum Engineers and the International Association of Drilling Contractors.

¹ The Debtors in these chapter 11 cases, together with the last four digits of each Debtor’s federal tax identification number, are: Independence Contract Drilling, Inc. (3648) and Sidewinder Drilling LLC (1024). The Debtors’ service address is 20475 SH 249, Suite 300, Houston, Texas 77070.

2. As noted above, I have served as a director on ICD's board of directors and as President and CEO since October 1, 2018. I am familiar with the Debtors' businesses and financial affairs, debt structure, assets, contractual arrangements, day-to-day operations, restructuring efforts, and books and records. Except as otherwise indicated herein, the facts set forth in this declaration (this "Declaration") are based on my personal knowledge, my discussions with other members of the Debtors' management team and advisors, my review of relevant documents and the Debtors' books and records, information provided to me by the Debtors, or advisors to the Debtors, or my opinion based upon my experience, knowledge, and information concerning the Debtors. If called upon to testify, I would testify competently to the facts set forth in this Declaration. I am duly authorized to submit this Declaration on behalf of the Debtors.

3. On the date hereof (the "Petition Date"), the Debtors each commenced with the United States Bankruptcy Court for the Southern District of Texas (the "Court") a voluntary case (collectively, the "Chapter 11 Cases") under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code"). I understand that the Debtors are authorized to continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

4. I submit this Declaration to provide an overview of the Debtors, their businesses, and these Chapter 11 Cases, as well as to support the Debtors' petitions and the motions and applications that the Debtors have filed with the Court, including the "first-day pleadings" (the "First Day Pleadings"). In addition, the Debtors are requesting that the Court schedule a combined hearing to consider approval of the disclosure statement and confirmation of the Plan (as defined below). I believe that the relief requested in the First Day Pleadings is essential to

ensure the success of the Debtors' reorganization efforts and to minimize potential disruption to the Debtors' business operations.

5. This Declaration is divided into five sections:
 - a. Section I provides an overview of the Debtors and these Chapter 11 Cases;
 - b. Section II describes the Debtors' business, their history, and their corporate structure;
 - c. Section III summarizes the Debtors' prepetition capital structure;
 - d. Section IV describes the financial and operational circumstances leading to the need for the filing of these Chapter 11 Cases; and
 - e. Section V summarizes the relief requested in the First Day Pleadings.

I. Overview

6. For more than a decade, the Company has offered land-based contract drilling services to customers utilizing its premium fleet of rigs. In recent years, however, the Company has faced significant challenges brought on by macro-economic shifts, as well as trends within the oil and gas sector, constraints in the capital markets, and the effects of the COVID-19 pandemic. The Company operates in a historically cyclical industry, and the Company's business depends on the level of exploration and production activity by oil and gas company customers in the regions where the Company markets its contract drilling services. Starting in March 2024, the Debtors conducted a robust sale and marketing process seeking a sale transaction, led by investment bank Piper Sandler & Co. ("Piper Sandler"), and the Debtors continue to remain open to alternatives to maximize value for shareholders. Unfortunately, the result of those efforts did not yield any actionable bids or transaction proposals that would repay the Company's secured debt. As discussed more fully below, market conditions have further negatively affected the Company's sales and liquidity position. In light of the upcoming maturity of its Convertible Notes (defined below) and the Debtors' liquidity and market headwinds, the Company further evaluated strategic

alternatives in the months leading to the Chapter 11 filings. That process ultimately resulted in the Debtors agreeing to terms of a restructuring with the support of the Noteholders (as defined herein). Based on the restructuring terms, the Debtors formulated the Plan, solicited votes for the Plan prior to the Petition Date, and received unanimous approval of the Plan from the single class of impaired claims under the Plan. Meanwhile, the Debtors at all times preserved their ability to pursue any set of transactions that could develop which it considered superior to the restructuring terms. No such possibilities have developed, and the Debtors therefore have commenced these Chapter 11 Cases to implement a plan of reorganization, supported by its key stakeholders.

II. The Company's Business, Corporate Structure and History

7. ICD, incorporated in 2011, provides land-based contract drilling services for oil and natural gas producers in the United States, focusing operations in geographic regions that the Company can efficiently support from its facilities. The Company targets unconventional oil and natural gas exploration and development projects using its fleet of technologically advanced drilling rigs, which it markets under its ShaleDriller® brand. The Company provides the drilling rig and required crews to drill and case its customers' oil and gas wells. During the three months ending September 30, 2024, the Company operated an average of 13.1 rigs and expects to operate an average of 10.7 rigs during the three months ended December 31, 2024. This is substantially below the 17.3 and 15.7 average rigs operated during the 12 months ended December 31, 2022 and December 31, 2023, respectively.

8. The Company's rig designs offer safe and efficient drilling operations for large, multi-well drilling locations. All of the Company's marketed drilling fleet is comprised of super-spec, pad optimal rigs, which means the rigs: (a) are AC programmable, which allows for precise computer control of motor speed during operations and therefore more precise drilling; (b) include pad optimized, omni-directional walking systems, which allow for the drilling of multiple wells

from a single location, resulting in cost savings and accelerated cash flows for exploration and production (“E&P”) companies; (c) can be efficiently mobilized between drilling sites, reducing cycle times so E&P companies can drill more wells in the same period; (d) include drawworks rated to at least 1500-HP, which means the rigs have a superior capability to handle extended drill string lengths required to drill long horizontal wells; and (e) are equipped with high-pressure mud pumps and piping systems to effectively pump fluids through significantly longer wellbores. Over time, the characteristics of a super-spec rig have evolved. For example, over the past ten years, third pumps, fourth engines, high-torque top drives and iron roughnecks, and enhanced racking capacity greater than 25,000 feet have become standardized features of a super-spec rig, while additional features such as drilling optimization software, larger rig floors, high-torque drill strings, enhanced walking capabilities, 2000-HP drawworks and one million pound or greater hookloads are becoming more desirable features. This continued evolution of super-spec rig expectations has required the Company to continue to invest material cash flows into capital expenditures to maintain and increase the competitiveness of its rig fleet.

9. The Company is headquartered in Houston, Texas, and employs approximately 387 full-time employees. The Company operates facilities in Houston, Texas, Midland, Texas, Odessa, Texas, and Coshatta, Louisiana, and, as of the Petition Date, rigs in the Permian Basin and the Haynesville Shale. Previously, the Company has operated rigs in Oklahoma, the Eagle Ford Shale, Mid-Continent, Bakken, Utica, Marcellus, and Eaglebine regions. The Debtors lease or own approximately 50.7 acres in connection with their field operations and their corporate headquarters in northwest Houston, Texas.

10. The Company’s rigs operate under separate drilling contracts or in some cases under drilling orders subject to a master drilling contract, and the Company performs drilling

services on a “daywork” contract basis, charging a specified rate per day. The dayrates charged are market-driven and determined by customer requirements, location, depth and complexity of the wells to be drilled, operating conditions, the duration of the contract, and overall supply and demand dynamics.

11. The Company operates in a highly competitive industry which includes much larger competitors as well as competitors of equal or smaller size. The Company’s success depends on capital spending levels by oil and natural gas companies for their exploration, development, and production activities and their need to employ drilling rigs to maintain or increase oil and natural gas production—which can be materially impacted by not only the price of oil and natural gas but also increases in drilling and production efficiencies, customers’ access to capital to fund their E&P programs, and capital return expectations of their investors. Customers for contract drilling services in the United States include major oil and natural gas companies, independent oil and natural gas companies, and numerous small to mid-sized publicly-traded and privately held oil and natural gas companies. More recently, accelerating consolidation of the industry’s E&P customer base has been an important contributing factor to overall U.S. land rig count stagnation and declines as the post-merger E&P customer has typically operated fewer combined rigs than the pre-merger stand-alone companies. Such consolidation has also increased the competitive environment for smaller drilling contractors such as the Company as larger E&P operators place a higher value on fleet size and operating scale when selecting drilling contractors for their exploration and development programs.

12. The Company operates in an industry driven by volatile commodity prices and significant swings in drilling activity. For example, at the time the Company completed its initial public offering (“IPO”) and listing of its common stock on the New York Stock Exchange in

August 2014, the U.S. land rig count as reported by Baker Hughes Company (“Baker Hughes”) was approximately 1,841 rigs. However, following completion of the Company’s IPO, oil prices began to substantially decline and continued to decline during 2015 and into 2016 due to the removal of production constraints by the Organization of Petroleum Exporting Countries, which created an oversupply of oil. The effects were devastating. For example, the closing price of oil was as high as \$105.34 per barrel during the third quarter of 2014, was \$37.04 per barrel on December 31, 2015, and fell to as low as \$26.55 during January 2016. During this period of time, the U.S. land rig count fell from a high of 1,864 rigs in November 2014 to a low of 374 rigs in May 2016 before beginning to recover from this historic industry downturn.

13. As market conditions began to improve, and in pursuit of greater operating scale, in July 2018, ICD entered into an Agreement and Plan of Merger (the “Merger Agreement”) with Patriot Saratoga Merger Sub, LLC (“Merger Sub”) and Sidewinder. On October 1, 2018, pursuant to the Merger Agreement, the Company merged with Sidewinder in a transaction in which Merger Sub merged with and into Sidewinder, with Sidewinder surviving as a wholly-owned subsidiary of the Company. In connection with the closing of the Sidewinder merger, the Company entered into a term loan credit agreement for an initial term loan in an aggregate principal amount of \$130 million and a delayed draw term loan facility in an aggregate principal amount of up to \$15.0 million (the “2018 Term Loan”) with affiliates of MSD Partners, L.P. (“MSD”) to fund the cash portion of the merger transaction and refinance outstanding debt. At the time, the merger increased the Company’s drilling fleet from 15 to 34 rigs. As of December 31, 2018, the Company was marketing a combined 32 rigs and operated an average of 30.6 rigs during the three months ended December 31, 2018. At that time, the overall U.S. land rig count had increased to approximately 1,083 rigs.

14. The industry and the Company experienced a slight slowdown in 2019 due to commodity price volatility. The COVID downturn in 2020 had further material negative implications for the industry and the Company's active rig count, which declined to a low of five average operating rigs during the three months ended September 30, 2020. During this period of time, the overall U.S. land rig count fell to an all-time low of 230 rigs in August 2020. As the industry emerged from the COVID pandemic, the Company steadily increased its rig count and began investing capital to increase the operating capabilities of its drilling rigs by adding third pumps and fourth engines to all of its operating rigs and increasing racking capacity to 25,000 feet or more, which was rapidly becoming the industry standard for super-spec rigs in the post-pandemic U.S. land market.

15. In order to gain greater access to capital resources required to reactivate drilling rigs post-pandemic and complete necessary capital expenditures, and in light of the impending maturity of the 2018 Term Loan, on March 18, 2022, the Company refinanced the 2018 Term Loan with the issuance of convertible secured PIK toggle notes due 2026 (the "Convertible Notes"). The issuance of the Convertible Notes added immediate liquidity to the Company. In addition, the Convertible Notes permitted payment of interest in-kind throughout the term of the Convertible Notes, which the Company intended to utilize to enhance liquidity to fund rig reactivations and make capital expenditures.

16. By December 2022, the U.S. rig count as reported by Baker Hughes had recovered to approximately 762 drilling rigs, which was well below the rig count highs reported in 2014 and 2018. The reason this post-pandemic rig count high was substantially less than previous rig count highs experienced in 2014 and 2018 was not driven by lower commodity prices. In fact, natural gas prices had reached a high of \$9.85 during 2022 and oil prices had risen to as high as \$123.64

per barrel during 2022 as well, which historically would have driven much higher rig counts during prior industry cycles. Rather, the rig count was driven by the changing landscape of the U.S. land contract drilling industry. The acceleration of drilling and production efficiencies has meant that E&P customers can produce more oil and natural gas while using fewer rigs. In addition, fiscal discipline on behalf of the industry's E&P customer base, driven by lessons learned from overproduction during prior cycles, as well as reduced access to capital markets and investor requirements for return of capital, has caused these customers to favor cash flow generation over investments in production growth through the drill bit. Significantly, at the end of 2022, the acceleration of the industry's E&P customer base was only at its beginning and had not yet impacted the overall U.S. land rig count.

17. Following the issuance of the Convertible Notes, the Company was successful in reactivating rigs and securing favorable contracts in this improving environment that existed during 2022. During the three months ended March 31, 2023, the Company averaged 19.4 average working rigs and ended the quarter with 21 contracted rigs. Of these rigs, 11 were located in the Permian Basin and ten were located in the Haynesville Shale. As a result of these efforts, during the first quarter of 2023, the Company reported record quarterly earnings before interest, taxes, and depreciation ("EBITDA") of \$19.5 million.

18. During the fourth quarter of 2022, natural gas prices began to rapidly decline driven by warm winter conditions in the Northern Hemisphere and delays in forecasted Liquefied Natural Gas ("LNG") projects, which created an oversupplied natural gas market that materially impacted demand for drilling rigs in the natural-gas-driven Haynesville Shale beginning in the first quarter of 2023. Consequentially, the overall land rig count in the Haynesville Shale fell from a high of 72 rigs in December 2022 to 37 rigs in October 2023. As approximately half of the Company's

rigs were operating in the Haynesville Shale at this time, this market backdrop materially negatively impacted the Company's operating rig count. For example, the Company's largest customer in the Haynesville Shale (a private-equity owned E&P operating five of the Company's Haynesville Shale rigs) completely shut down its entire drilling program by the end of May 2023, thereby releasing all five of the Company's rigs. As a result, by June 30, 2023, the Company's Haynesville Shale rig count had fallen from ten contracted rigs to four contracted rigs. Demand for rigs in the Haynesville Shale continues to remain depressed as natural gas prices remain low and LNG projects continue to confront a variety of project delays.

19. In response to the rapid and material decline in Haynesville Shale activity in early 2023, the Company began relocating rigs into the Permian Basin where drilling activities are directed more toward oil reserves. Rigs in the Permian Basin were not materially impacted by the rapid decline in natural gas prices that occurred beginning in late 2022. As a result, the Company was able to increase its Permian Basin average operating rig count during the second and third quarters of 2023 compared to first quarter 2023 levels and was optimistic about increases in the overall Permian rig count as it approached 2024. However, driven by a combination of customer consolidation, moderating and fluctuating oil prices, increased associated-gas takeaway constraints, continued fiscal discipline by E&P customers, and increasing operating efficiencies, demand for drilling rigs in the Permian Basin did not increase as anticipated but rather moderated and began to decline.

20. Customer consolidation also impacted the competitive landscape of the post-pandemic U.S. land contract drilling industry, in particular during the last 18 months. For example, at the beginning of 2023, the 15 largest E&P customers measured by operating rig count in the Company's primary target markets of Texas, New Mexico, and Louisiana controlled

approximately 43% of the total operating rig count in such target markets.² As a result of E&P industry consolidation, the percentage of rigs controlled by the top 15 E&P customers increased to approximately 62% as of November 2024. Additionally, larger E&P customers prefer to minimize their vendor community size and therefore place a greater value on scale and fleet uniformity favoring the largest contract drilling competitors. As of January 2023, the five largest contract drillers competing against the Company in the Company's target markets had approximately 80% market share of rigs operating for the 15 largest E&P customers. Following increased industry consolidation impacts in 2024, these five largest contract drillers increased their market share to approximately 84%. Thus, as overall rig counts fell in 2024, competition became more intense, in particular for smaller drilling contractors such as the Company who do not have the competitive advantage of scale when competing for drilling opportunities with the largest E&P customers who were utilizing an increasing share of the drilling rigs in the overall market.

21. The Company's operations were materially impacted in 2024 due to this accelerating industry consolidation. During 2024, the Company received six rig release notices from customers engaged in consolidation activities, including three release notices in late September 2024 following the merger of two of the Company's Permian Basin customers, including its largest customer.

22. As a result of the factors described above, the Company's average rig count fell from a post-pandemic high of 19.4 average rigs during the first quarter of 2023 to 14.9 average rigs during the fourth quarter of 2023 and to 13.1 rigs during the third quarter of 2024 and is expected to average 10.7 rigs during the fourth quarter of 2024. In addition to an overall decrease in rig operating levels, market forces also negatively impacted the Company's gross margin per

² Market share data excludes mechanical rigs.

operating rig. For example, the Company's margin per day fell from \$15,665 during the first quarter of 2023 to \$12,313 during the fourth quarter of 2023 and to \$7,726 during the third quarter of 2024, and is expected to fall sequentially during the fourth quarter of 2024.

23. An illustrative chart of the Company's corporate structure as of the Petition Date is below.



III. The Debtors' Prepetition Capital Structure

24. As of the Petition Date, the Debtors have approximately \$221.1 million in total funded secured debt obligations. The approximate outstanding principal amounts and collateral of the existing secured debt obligations are as follows:

Funded Debt	Maturity	Outstanding Principal Amount	Collateral
Convertible Notes	March 18, 2026	Approx. \$206.8 million	First priority lien on substantially all assets other than ABL Priority Collateral (as defined below) (the " <u>Notes Priority Collateral</u> ") and a second priority lien on the ABL Priority Collateral
Revolving ABL Credit Facility	September 30, 2025	Approx. \$14.3 million	First priority lien on accounts receivable, deposit accounts, and other related collateral (the " <u>ABL Priority Collateral</u> ") and a second priority lien on the Notes Priority Collateral
Total Funded Secured Debt		\$221.1 million	

1. Convertible Notes

25. In order to refinance the 2018 Term Loan and add additional financial liquidity, on March 18, 2022, the Company entered into that certain Convertible Note Subscription Agreement with affiliates of MSD and an affiliate of Glendon Capital Management L.P. for the placement of \$157.5 million aggregate principal amount of the Convertible Notes (and the holders thereof, including their successors and assigns, the “Noteholders”). The Convertible Notes were issued pursuant to that certain Indenture, dated as of March 18, 2022, as amended by the First Supplemental Indenture, dated July 21, 2022, Second Supplemental Indenture dated February 24, 2023, and Third Supplemental Indenture, dated February 27, 2024 (as so amended, the “Indenture”), by and among ICD as issuer and U.S. Bank Trust Company, National Association (“U.S. Bank”) as trustee (the “Notes Trustee”) and collateral agent.³

26. The Convertible Notes will mature on March 18, 2026. Obligations arising under the Indenture are secured by a first priority lien on the Notes Priority Collateral. The Convertible Notes have a second priority lien on ABL Priority Collateral under the Revolving ABL Credit Facility (as defined below). The Convertible Notes have a cash interest rate of the Secured Overnight Financing Rate (“SOFR”) with a floor of 1% (collectively, “Notes SOFR”) plus 12.5%. The Convertible Notes have a PIK interest rate of Notes SOFR plus 9.5%. Each Noteholder has a right to convert the Convertible Notes into shares of ICD common stock at any time after issuance through maturity. The conversion price is \$4.51 per share. As of close of trading on November 26, 2024, the Company’s stock price was \$0.08 (OTC as “ICDI” following New York Stock Exchange (“NYSE”) delisting earlier this year).

27. The Indenture includes a mandatory redemption offer requirement. On

³ Sidewinder is a guarantor to the Indenture.

September 13, 2024, the Company entered into a Limited Waiver Agreement (the “Waiver Agreement”),⁴ by and among ICD, U.S. Bank as trustee and collateral agent, and the holders signatory thereto (the “Holders”). Pursuant to the Waiver Agreement, among other things, the Holders agreed to defer until December 31, 2024 the Company’s requirement to repurchase \$3.5 million of Convertible Notes pursuant to its mandatory offer to repurchase Convertible Notes on September 30, 2024 subject to the terms of the Indenture and confirmation request given by the Company. The Waiver Agreement also temporarily waives interest and/or liquidated damages under the registration rights provision of the Indenture that could be due and owing as a result of the Company’s delisting from the NYSE, which is further discussed below.

28. The Indenture includes an uncommitted accordion (the “Accordion”) for the issuance of an additional \$7.5 million aggregate principal amount of the Convertible Notes (the “Additional Notes”) to the Noteholders, which are issuable at the request of the Company and option to purchase by the Noteholders. Pursuant to the Accordion, and at the request of the Company, the Noteholders agreed to purchase additional Convertible Notes pursuant to the Accordion, and on November 25, 2024, the Company issued all \$7.5 million aggregate principal amount of Additional Notes to the Noteholders. The Additional Notes have the same terms and rights as the Convertible Notes issued in March 2022.

29. As of the Petition Date, the amount outstanding under the Convertible Notes is approximately \$206.8 million in unpaid aggregate principal amount, plus accrued and unpaid interest.

⁴ Sidewinder is a guarantor to the Waiver Agreement.

2. Revolving ABL Credit Facility

30. On October 1, 2018, ICD, ICD Operating, LLC,⁵ and Merger Sub entered into that certain Credit Agreement, which was subsequently amended by that certain Amendment No. 1, dated as of April 27, 2020, Amendment No. 2, dated as of January 21, 2022, Amendment No. 3, dated as of March 18, 2022, Amendment No. 4, dated as of July 31, 2022, Amendment No. 5, dated as of September 22, 2022, and Amendment No. 6, dated as of April 18, 2024 and as may be further amended, supplemented or otherwise modified from time to time (as so amended, the “Revolving ABL Credit Agreement”), with the lenders party thereto from time to time, and Wells Fargo Bank, National Association (“Wells Fargo”), as administrative agent (in such capacity, the “Revolving ABL Agent”). The Revolving ABL Credit Agreement provides for a revolving ABL credit facility of \$40.0 million, including a sublimit for letters of credit in an aggregate amount at any time outstanding not to exceed \$7.5 million (the “Revolving ABL Credit Facility”). Availability under the Revolving ABL Credit Facility is subject to a borrowing base calculated based on 85% of the net amount of the Company’s eligible accounts receivable, minus reserves.

31. The Revolving ABL Credit Facility will mature on September 30, 2025. Obligations arising under the Revolving ABL Credit Facility are secured by a first priority lien on ABL Priority Collateral and a second priority lien on the Notes Priority Collateral, and are unconditionally guaranteed by all the Company’s current and future direct and indirect domestic subsidiaries other than Excluded Subsidiaries (as defined in the Revolving ABL Credit Agreement).

32. Interest under the Revolving ABL Credit Facility is determined by reference to

⁵ ICD Operating, LLC is the former name of Sidewinder. As noted above, Sidewinder was merged with the Merger Sub pursuant to the terms of the merger, with Sidewinder as the surviving entity (the “Surviving Entity”). The Surviving Entity changed its name to ICD Operating, LLC, but this entity name was subsequently changed to Sidewinder—a Debtor in the Chapter 11 Cases.

either (a) a “base rate” equal to the higher of (i) the federal funds effective rate plus 0.05%, (ii) term SOFR for a one month tenor (subject to a 0.0% floor) plus 1.0%, and (iii) the prime rate of Wells Fargo, plus in each case, an applicable base rate margin ranging from 1.5% to 2.0% based on average quarterly availability, or (b) term SOFR for the applicable interest period plus an applicable SOFR margin ranging from 2.36% to 2.86% based on average quarterly availability.

33. As of the Petition Date, the amount outstanding under the Revolving ABL Credit Facility is approximately \$14.3 million in outstanding principal amount of loans and approximately \$0.4 million of issued but undrawn letters of credit and reserves. As of the Petition Date, the borrowing base under the Revolving ABL Credit Facility was approximately \$19.9 million, and the Company had approximately \$5.3 million of availability remaining of the \$40.0 million commitment.

3. Intercreditor Agreement

34. The Notes Trustee and the Revolving ABL Agent, together with ICD and Sidewinder, are parties to that certain Intercreditor Agreement, dated as of March 18, 2022, pursuant to which the parties thereto agreed to the relative priority of liens in respect of the Convertible Notes and the Revolving ABL Credit Facility on collateral and certain other rights, priorities, and interests as provided therein.

4. Trade and Related Debt

35. As of the Petition Date, the Debtors estimate that they have approximately between \$9-12 million in obligations to trade and other general unsecured creditors. These amounts consist

primarily of accounts payable and accrued obligations to various trade creditors, utility providers, and other third-party service providers.

5. Equity Interests

36. As of November 15, 2024, ICD has approximately 15,186,780 shares of common stock outstanding and approximately 189,593 shares held as treasury stock. ICD is publicly traded on the OTCQX Best Market. ICD previously traded on the NYSE. On August 28, 2024, the NYSE notified the Company that it was no longer compliant with the NYSE's minimum market capitalization rule, which requires the Company to maintain an average market capitalization of \$15 million over a consecutive 30-day trading period. As there is no cure period permitted by the NYSE with respect to its minimum market capitalization rule, the NYSE immediately suspended trading of ICD's common stock and delisted ICD from the NYSE. ICD's common stock began trading on the OTCQX Best Market on August 29, 2024. As discussed above, in order to avoid potential additional interest and liquidated damages under the registration rights agreement provision of the Indenture as a result of the delisting, the Company requested, and the Noteholders granted, a temporary waiver from the application of these provisions pursuant to the terms of the Waiver Agreement.

IV. Circumstances Leading to Commencement of These Chapter 11 Cases

A. Market Conditions

37. As more fully described in Section II of this Declaration, the overall U.S. land rig count is volatile and is impacted by a multitude of factors, including the volatility of oil and natural gas prices, increased production and drilling efficiencies, customer fiscal discipline, and customer consolidation.

38. As noted in Section II of this Declaration, all of these factors have caused the current U.S. land rig count to steadily decline from the previous rig count highs experienced in

2014 and 2018 and the post-pandemic rig count high that existed in 2022 and limit the overall opportunities for material increases in overall rig counts.

39. All of these market trends have manifested themselves in significant declines in the Company's average quarterly operating rig count and operating profits and cash flows. The Company's average quarterly operating rig count has fallen from a high of 19.4 rigs during the first quarter of 2023 to 13.1 rigs in the third quarter of 2024 and is expected to average 10.7 rigs during the fourth quarter of 2024. Similarly, the Company's gross margin per rig operating day has declined from an all-time high during the first quarter of 2023 of \$15,665 to \$12,313 during the fourth quarter of 2023 and to a post-pandemic quarterly low of \$7,726 during the third quarter of 2024. As a result, the Company's quarterly EBITDA has declined from an all-time high during the first quarter of 2023 of \$19.5 million to \$8.6 million during the fourth quarter of 2023 and to a post-pandemic quarterly low of \$5.4 million during the third quarter of 2024.

40. As the Company's operating rigs counts and cash flows have declined, the Company has continued to pay interest in-kind under the Convertible Notes in order to maintain liquidity, which has resulted in a continued increase in the Company's debt levels. Overall the Company's debt levels have increased from \$200.6 million as of March 31, 2023 to approximately \$221.1 million as of the Petition Date.

41. Overall, as previously noted, since the time of the Sidewinder merger in October 2018 through the Petition Date, the overall U.S. land rig count has fallen from a high of 1,018 rigs at December 31, 2018 to a post pandemic high of 762 rigs in 2022 to its current level of approximately 570 rigs. Significantly, while the Company is optimistic about improvement in demand for drilling rigs in its Haynesville market once LNG takeaway capacity issues are alleviated, the Company is not aware of any third-party research groups today that predict the

overall U.S. land rig count will return to post-pandemic highs as the market forces discussed in this Declaration, including E&P operator fiscal discipline, increasing drilling and production efficiencies, and industry consolidation, continue to limit the need for material rig count increases.

42. More importantly, while the Company expects to increase its operating rig count and margins in 2025 above current levels, due to the most recent declines in its operating rig count and cash flows it currently does not have the liquidity (and is not forecasting to have the liquidity needed) to meet its obligations and comply with its financial covenants contained in its borrowing arrangements or to make investments in its rigs it believes are necessary in order to compete in a consolidating E&P customer environment.

B. Exploration of Strategic Alternatives

43. As the Convertible Notes mature in March 2026, and in light of other liquidity concerns and market headwinds—in particular that the optimism for 2024 market improvements that existed during the fourth quarter of 2023 was becoming more subdued—the Company sought to be proactive in the process to review potential refinancing and other strategic opportunities. On February 28, 2024, the board of directors of the Company appointed a special committee of independent directors (the “Strategic Alternatives Committee”) to evaluate such process and all strategic opportunities.

1. Board Hires Advisors

44. As part of its formal review process of strategic alternatives, the Strategic Alternatives Committee of ICD engaged Piper Sandler in March 2024 as investment banker and financial advisor to the Strategic Alternatives Committee to assist in the evaluation process. At the direction of the Strategic Alternatives Committee, Piper Sandler reviewed alternatives to refinance the Convertible Notes with third-party debt or equity financing, but such refinancing or

equity financing alternatives were not considered viable by Piper Sandler due to the level of the Company's debt and its declining cash flow profile.

45. In addition, Piper Sandler was instructed by the Strategic Alternatives Committee to perform a broad outreach to a variety of industry participants to assess interest in a potential purchase of the Company or a strategic combination. As a result of this process, no offer or indication of interest was received that did not require the Noteholders to accept less than their secured claim. One indication of interest, which required the Noteholders to accept less than their secured claim, was explored further by the Strategic Alternatives Committee in consultation with the Noteholders. However, in June 2024, this interested party withdrew its interest, referencing the decline in market conditions and uncertainty around the Company's future contract status and declining financial performance. No other actionable offer or indication of interest was identified by Piper Sandler.

46. Following this evaluation process, the Company began discussions with the Noteholders regarding their willingness to address the Company's leverage and liquidity challenges. At the same time, the Company's liquidity profile and cash flow prospects continued to decline, which impacted the Company's ability and prospects to comply with mandatory offer requirements and minimum liquidity and other covenants contained in the Convertible Notes Indenture and ABL Credit Facility documents. Ultimately, this manifested in the Company including a going concern disclosure in its Form 10-Q for the three months ended September 30, 2024. The scope of engagement with Piper Sandler was thus expanded in October 2024 to include an evaluation of a restructuring of the Company's capital structure. In October 2024, the Strategic Alternatives Committee also directed Piper Sandler to reach out again to potential third parties to analyze a sale or business combination transaction that would address the Company's financial

issues, including parties who had been previously contacted by Piper Sandler and had executed a non-disclosure agreement or who were otherwise identified as potential consolidators in the U.S. land drilling sector. This outreach has remained ongoing, however, no actionable offer or indication of interest has been identified by Piper Sandler. The Company also hired Riveron Consulting, LLC in October 2024 to serve as financial advisor and assist with liquidity management and other related financial advisory services. Sidley Austin LLP's ("Sidley") existing engagement also was expanded to include assisting the Company in its contingency planning efforts.

2. Restructuring Terms

47. Acting on behalf of the Company, Sidley engaged with Latham & Watkins LLP, counsel to the Noteholders, providing them (after execution of confidentiality and non-disclosure agreements with each of the Noteholders) with certain diligence materials and otherwise negotiating with the Noteholders to create a path forward for a reorganization.

48. Following extensive, arm's-length negotiations, the Debtors and the Noteholders agreed to the terms of a restructuring. The Debtors formulated their joint prepackaged plan of reorganization (the "Plan") which provides, among other things, that the Noteholders will exchange their Noteholder claims for equity securities of the reorganized company. The equity of the Reorganized Debtors (as defined in the Plan) will not be listed for public trading on any national securities exchange. The Noteholders agreed with the Company to treat all unsecured claims as unimpaired under the Bankruptcy Code and for the Company to maintain a robust fiduciary out until approval of the Plan. The Debtors solicited votes on the Plan prior to the filing of these Chapter 11 Cases, and the Plan has been unanimously approved.

49. The Plan contemplates the following treatment of classified claims and interests:

- a. claims under the Revolving ABL Credit Agreement shall be paid in full from the proceeds of the DIP Facility (as defined in the Plan) or otherwise treated in such a manner as to be unimpaired;
- b. the Noteholders shall receive (a) 100% of the equity interests in Reorganized ICD (as defined in the Plan), subject to dilution on account of the management incentive plan and (b) on account of the Accordion, solely \$7.5 million, plus the amount of accrued and unpaid interest on the Accordion, in principal amount of the loans under the Exit Term Loan Facility (as defined in the Plan);
- c. those other secured creditors and those other priority claims shall receive (a) payment in full in cash of their allowed claims, (b) reinstatement of their allowed claims, or (c) such other treatment that renders their claims unimpaired in accordance with section 1124 of the Bankruptcy Code;
- d. holders of general unsecured claims shall receive payment in full in cash on account of their allowed claims or such other treatment as would render their claims unimpaired;
- e. intercompany claims shall be reinstated or canceled, released, and extinguished, and will be of no further force or effect without any distribution, with the consent of the Noteholders;
- f. all Existing Equity Interests (as defined in the Plan) shall be canceled, released, and extinguished, and will be of no further force or effect; and
- g. all Existing ICD Subsidiary Equity Interests (as defined in the Plan) shall be reinstated.

50. The Reorganized Debtors will be funded by cash on hand and proceeds of the Exit Facilities (as defined in the Plan).

51. The Debtors are seeking confirmation of the Plan with the goal of emerging from Chapter 11 by January 2025.

3. Post Petition Financing

52. The current cash balance is insufficient to operate the Debtors' enterprises in the immediate term. As such, the Noteholders agreed to provide a postpetition DIP Facility (as defined in the Plan). The DIP Facility consists of a \$32.5 million senior secured, super-priority term loan credit facility and contains certain milestones requiring an expedited exit from chapter 11. The

Debtors intend to pay the outstanding amount under the Revolving ABL Credit Facility with the proceeds of the DIP Facility. The Debtors will be permitted to continue using prepetition collateral and cash collateral subject to the terms of the Court's order approving the DIP Facility and use of cash collateral, which shall be in form and substance acceptable to the Noteholders and Wells Fargo, as Revolving ABL Agent. As stated in the DIP Declaration,⁶ the Debtors worked with the Noteholders on financing terms designed to minimize any disruption, both in the lead up to these Chapter 11 Cases and with respect to the Debtors' postpetition operations. Under the Plan, the DIP Facility will be refinanced with the Exit Term Loan Facility (as defined in the Plan). The Noteholders will also receive a distribution of loans under the Exit Term Loan Facility equal to the amount that is the sum of \$7.5 million (which is the same amount as the amount of principal new money funding pursuant to the recent Accordion transaction) plus the amount of accrued and unpaid interest on the Accordion.

53. In the days leading up to the Petition Date, the Debtors and their advisors engaged in negotiations with the Noteholders around the terms of the DIP Facility. The parties engaged in serious arm's-length negotiations to reach the best available material terms under the circumstances. Piper Sandler solicited other market participants for post-petition financing and reported that the DIP Facility represents the best option available to address the Debtors' near-term liquidity needs and provide near-term runway for the Debtors' reorganization.

V. First Day Pleadings

54. Contemporaneously herewith, the Debtors have filed a number of First Day Pleadings seeking orders granting various forms of relief intended to stabilize the Debtors'

⁶ "DIP Declaration" shall mean the *Declaration of Joseph Denham in Support of the Debtors' Motion to Obtain Postpetition Financing*.

business operations, facilitate the efficient administration of these Chapter 11 Cases, and expedite a swift and smooth restructuring of the Debtors' balance sheet, including the following:

- "All Trade Motion:" Debtors' Emergency Motion for Entry of an Order Authorizing the Debtors to Continue Their Prepetition business Operations, Policies, and Practices and Pay Related Claims in the Ordinary Course of business on a Postpetition Basis;
- "Cash Management Motion:" Debtors' Emergency Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Continue to Operate The Cash Management System, (B) Maintain Existing Bank Accounts and Business Forms, and (C) Honor Certain Prepetition Obligations Related thereto, and (II) Granting Related Relief;
- "Creditor Matrix Motion:" Debtors' Emergency Motion for Entry of an Order (A) Authorizing the Debtors to (I) File a Consolidated Creditor Matrix and (II) File a Consolidated List of 30 Largest Unsecured Creditors; (B) Waiving the Requirement to File a List of Equity Security Holders for Independence Contract Drilling Inc.; (C) Authorizing the Debtors to Redact Certain Personal Identifying Information; and (D) Granting Related Relief;
- "DIP Financing Motion:" Debtors' Emergency Motion for Entry of Interim and Final Orders (A) Authorizing the Debtors to (I) Obtain Senior Secured Superpriority Postpetition Financing, and (II) Use Cash Collateral; (B) Granting Liens and Providing Claims with Superpriority Administrative Expense Status; (C) Modifying the Automatic Stay; (D) Scheduling a Final Hearing; and (E) Granting Related Relief;
- "Disclosure Statement and Scheduling Motion:" Debtors' Emergency Motion for Entry of an Order (I) Scheduling a Combined Disclosure Statement Approval and Plan Confirmation Hearing, (II) Establishing Plan and Disclosure Statement Objection and Reply Deadlines and Related Procedures, (III) Approving the Solicitation Procedures, (IV) Approving the Combined Notice, and (V) Conditionally Waiving the Requirements that the U.S. Trustee Convene a Meeting of Creditors and the Debtors File Schedules and SOFAs;
- "Insurance Motion:" Debtors' Emergency Motion for Entry of an Order (I) Authorizing the Debtors to (A) Continue Their Prepetition Insurance Coverage and Satisfy Prepetition Obligations Related Thereto, (B) Renew, Supplement, or Enter Into New Insurance Policies, (C) Continue Their Workers' Compensation Program, (D) Maintain, Modify, Renew, and Supplement Letters of Credit, and (E) Maintain, Modify, Renew, Supplement, or Enter into New Premium Financing Agreements and Satisfy Obligations Related Thereto; and (II) Granting Related Relief;
- "Joint Administration Motion:" Debtors' Emergency Motion for Entry of an Order (I) Directing Joint Administration of Chapter 11 Cases and (II) Granting Related Relief;

- “Kroll Retention Application:” *Emergency Application for Entry of an Order Authorizing the Employment and Retention of Kroll Restructuring Administration LLC as Claims, Noticing, and Solicitation Agent;*
- “NOL Motion:” *Debtors’ Emergency Motion for Entry of an Order (I) Approving Notification and Hearing Procedures for Certain Transfers of and Declarations of Worthlessness with Respect to Common Stock and (II) Granting Related Relief;*
- “Taxes Motion:” *Debtors’ Emergency Motion for Entry of an Order (I) Authorizing the Debtors to Pay Certain Taxes and Fees and (II) Granting Related Relief;*
- “Utilities Motion:” *Debtors’ Emergency Motion for Entry of an Order (I) Approving the Debtors’ Proposed Adequate Assurance of Payment for Future Utility Services, (II) Prohibiting Utility Companies From Altering, Refusing, or Discontinuing Services, (III) Approving the Debtors’ Proposed Procedures for Resolving Additional Assurance Requests, and (IV) Granting Related Relief; and*
- “Wages and Benefits Motion:” *Debtors’ Emergency Motion for Entry of an Order (I) Authorizing the Debtors to (A) Pay Prepetition Wages, Salaries, and Employee Benefits and (B) Continue the Postpetition Maintenance of Employee Benefit Programs, Policies, and Procedures in the Ordinary Course, and (II) Granting Related Relief.*

55. Several of the First Day Pleadings request authority to pay certain prepetition claims. I understand that Federal Rule of Bankruptcy Procedure 6003 provides, in relevant part, that the Court shall not consider motions to pay prepetition claims during the first 21 days following the filing of a chapter 11 petition, “except to the extent relief is necessary to avoid immediate and irreparable harm.” In light of this requirement, the Debtors have narrowly tailored its requests for immediate authority to pay certain prepetition claims to those circumstances where the failure to pay such claims would cause immediate and irreparable harm to the Debtors and their estates. Other relief will be deferred for consideration at a later hearing.

56. I have consulted with the Debtors’ advisors regarding the relief requested in the First Day Pleadings and understand each of the First Day Pleadings and the relief requested therein. To the best of my knowledge and belief, the factual statements contained in each of the First Day

Pleadings are true and accurate, and each such factual statement is incorporated herein by reference.

57. I believe that the relief requested in the First Day Pleadings is necessary, in the best interests of the Debtors' estates, their creditors, and all other parties in interest, and will allow the Debtors to operate with minimal disruption and maximize value preservation during the pendency of these Chapter 11 Cases. Failure to grant the relief requested in any of the First Day Pleadings may result in immediate and irreparable harm to the Debtors, their businesses, and their estates. Accordingly, for the reasons set forth herein and in each respective First Day Pleading, the Court should grant the relief requested in each of the First Day Pleadings.

[Remainder of page intentionally left blank.]

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing statements are true and correct to the best of my knowledge, information, and belief.

Dated this second day of December, 2024

/s/ J. Anthony Gallegos, Jr.

J. Anthony Gallegos, Jr.
President and Chief Executive Officer
Independence Contract Drilling, Inc.