IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	)	Chapter 11
CHAPARRAL ENERGY, INC., *et al.*,[1]	)	Case No. 20-11947 (MFW)
Debtors.	)	(Jointly Administered)

NOTICE OF FILING SECOND AMENDED PLAN SUPPLEMENT TO THE CHAPTER 11 JOINT PREPACKAGED PLAN OF REORGANIZATION FOR CHAPARRAL ENERGY, INC. AND ITS AFFILIATED DEBTORS

PLEASE TAKE NOTICE that, on August 16, 2020, the above-captioned debtors and debtors in possession (collectively, the "**Debtors**") each filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code in the United States Bankruptcy Court for the District of Delaware (the "**Court**").

PLEASE TAKE FURTHER NOTICE that, on August 16, 2020, the Debtors filed the *Debtors' Joint Prepackaged Chapter 11 Plan of Reorganization* [Docket No. 16] (the "**Plan**")[2] and the *Disclosure Statement for the Debtors' Joint Prepackaged Chapter 11 Plan of Reorganization* [Docket No. 17].

PLEASE TAKE FURTHER NOTICE that, on September 9, 2020, the Debtors filed the *Notice of Filing Plan Supplement to the Chapter 11 Joint Prepackaged Plan of Reorganization for Chaparral Energy, Inc. and its Affiliated Debtors* [Docket No. 143] (the "**Plan Supplement Notice**"). Attached to the Plan Supplement Notice, as **Exhibits A** through **I**, were the documents which form a supplemental appendix to the Plan (collectively, and as amended, the "**Plan Supplement**").

[1] The Debtors in these cases, along with the last four digits (or five digits, in cases in which multiple Debtors have the same last four digits) of each Debtor's federal tax identification number, are: CEI Acquisition, L.L.C. (1817); CEI Pipeline, L.L.C. (6877); Chaparral Biofuels, L.L.C. (1066); Chaparral CO_2, L.L.C. (1656); Chaparral Energy, Inc. (90941); Chaparral Energy, L.L.C. (20941); Chaparral Exploration, L.L.C. (1968); Chaparral Real Estate, L.L.C. (1655); Chaparral Resources, L.L.C. (1710); Charles Energy, L.L.C. (3750); Chestnut Energy, L.L.C. (9730); Green Country Supply, Inc. (2723); Roadrunner Drilling, L.L.C. (2399); and Trabajo Energy, L.L.C. (9753). The Debtors' address is 701 Cedar Lake Boulevard, Oklahoma City, OK 73114.

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

PLEASE TAKE FURTHER NOTICE that, on September 15, 2020, the Debtors filed the *Notice of Filing Amended Plan Supplement to the Chapter 11 Joint Prepackaged Plan of Reorganization for Chaparral Energy, Inc. and its Affiliated Debtors* [Docket No. 183] (the "**Amended Plan Supplement Notice**"). Attached to the Amended Plan Supplement Notice, as **Exhibits J** and **K**, were additional documents for the Plan Supplement.

PLEASE TAKE FURTHER NOTICE that the Debtors hereby file amended versions of the Plan Supplement, as follows:

- Exhibit A – Revised version of the New Corporate Governance Documents
- Exhibit G – Revised version of the New Convertible Notes Indenture

PLEASE TAKE FURTHER NOTICE that attached hereto as **Exhibit 1** and **Exhibit 2** are blackline versions of (i) the New Corporate Governance Documents and (ii) the New Convertible Notes Indenture, respectively, showing changes from the previously-filed versions of such documents.

[*Remainder of page left intentionally blank*]

Dated: September 23, 2020
Wilmington, Delaware

/s/ Travis J. Cuomo

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Counsel for Debtors and
Debtors in Possession

EXHIBIT A

New Corporate Governance Documents

FOURTH AMENDED AND RESTATED

CERTIFICATE OF INCORPORATION

of

CHAPARRAL ENERGY, INC.

CHAPARRAL ENERGY, INC., a corporation organized and existing under the laws of the State of Delaware, hereby certifies as follows:

A. The name of the corporation is CHAPARRAL ENERGY, INC. (the "Corporation"). The Corporation was originally incorporated by the filing of a Certificate of Incorporation with the Secretary of State of the State of Delaware on September 14, 2005 (the "Incorporation Date"), which was amended and restated on September 26, 2006, again on April 12, 2010, and again on March 21, 2017 (as amended, the "Original Certificate of Incorporation").

B. This Fourth Amended and Restated Certificate of Incorporation (this "Certificate of Incorporation") has been duly adopted in accordance with Sections 242, 245 and 303 of the Delaware General Corporation Law (the "DGCL"), pursuant to the authority granted to the Corporation under Section 303 of the DGCL and in accordance with the *Debtors' Joint Prepackaged Chapter 11 Plan of Reorganization*, as confirmed by that certain order of the United States Bankruptcy Court for the District of Delaware entered on [●], 2020 (as confirmed, including any amendments and supplements thereto, the "Plan"), in *In re: Chaparral Energy, Inc., et al.*, No. 20-11947 (MFW) under Chapter 11 of the United States Bankruptcy Code (11 U.S.C. §§ 101-1330), as amended (the "Bankruptcy Code").

C. The Original Certificate of Incorporation is hereby amended and restated to read in its entirety as follows:

1. **Name.** The name of the corporation is CHAPARRAL ENERGY, INC. (the "Corporation"). Capitalized terms used and not otherwise defined in this Certificate of Incorporation shall have the meanings given to them in Section 19 hereof.

2. **Registered Office and Agent.** The address of the registered office of the Corporation in the State of Delaware is [●]. The name of the registered agent of the Corporation at such address is [●].

3. **Purpose.** The nature of the business or purposes to be conducted or promoted by the Corporation is to engage in any lawful act or activity for which corporations may be organized under the DGCL.

4. **Authorized Capital Stock; Number of Shares.** The total number of shares of all classes of capital stock that the Corporation shall have the authority to issue is [●] ([●])] shares, of which (a) [●] million ([●])] shares shall be common stock, $0.01 par value per share ("Common Stock"); and (b) [●] ([●])] shares shall be preferred stock, $0.01 par value per share ("Preferred Stock"), which may be issued in one or more series as set forth below.

Notwithstanding anything herein to the contrary, the Corporation shall not issue any non-voting equity securities to the extent prohibited by Section 1123(a)(6) of the Bankruptcy Code; *provided*, *however*, that the foregoing restriction (i) shall have no further force and effect beyond that required under Section 1123(a)(6) of the Bankruptcy Code, (ii) shall only have such force and effect to the extent and for so long as such Section 1123(a)(6) is in effect and applies to the Corporation and (iii) may be amended or eliminated in accordance with applicable law as from time to time may be in effect.

5. **Rights of Stockholders.**

5.1 ***Preferred Stock.*** Shares of Preferred Stock may be issued from time to time in one or more series. The rights, restrictions and other terms applicable to the shares of Preferred Stock of any such series shall be set forth in a Certificate of Designation for such series filed by the Corporation with the Secretary of State of the State of Delaware (each, a "Certificate of Designation"). Subject to applicable law and to the terms of the Stockholders Agreement (as defined below) and the provisions of this Certificate of Incorporation, the Board of Directors is authorized to determine the designation of any series of Preferred Stock, to fix the number of shares of any series of the Preferred Stock, and to determine the rights, powers (including voting powers, if any), preferences, privileges, limitations and restrictions granted to or imposed upon any series of Preferred Stock and, within the limits and restrictions stated in any resolution or resolutions of the Board of Directors originally fixing the number of shares constituting any series of Preferred Stock, to increase or decrease (but not below the number of shares of such series then outstanding) the number of shares of such series at any time subsequent to the designation of such series by the Board of Directors. If the number of shares of any series of Preferred Stock shall be so decreased, the shares constituting such decrease shall resume the status which they had prior to the adoption of the resolution(s) originally fixing the number of shares of such series.

5.2 ***Common Stock.***

5.2.1 *Relative Rights*. The Common Stock shall be limited by, and subject to, all of the rights, powers, preferences, privileges and priorities of any outstanding series of Preferred Stock.

5.2.2 *Dividends*. Subject to the terms of the Stockholders Agreement and the rights of any outstanding series of Preferred Stock, the Board of Directors may cause dividends to be declared and paid on outstanding shares of Common Stock out of funds legally available for the payment of dividends. When, as and if dividends on Common Stock are declared by the Board of Directors, whether payable in cash, in property, in stock or otherwise, in accordance with this Certificate of Incorporation and the Bylaws of the Corporation, as in effect from time to time (the "Bylaws"), out of the assets of the Corporation which are at law available therefor, the holders of outstanding shares of Common Stock shall be entitled to share equally in, and to

receive in accordance with the number of shares of Common Stock held by each such holder, all such dividends.

5.2.3 *Liquidation Rights*. In the event of any liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, and subject to the rights of any outstanding series of Preferred Stock, the holders of issued and outstanding shares of Common Stock shall be entitled to share, ratably according to the number of shares of Common Stock held by each such holder, in the remaining assets of the Corporation available for distribution to its stockholders after the payment, or provision for payment, of all debts and other liabilities of the Corporation.

5.2.4 *Stockholder Voting Rights*. Subject to applicable law and except as otherwise expressly provided elsewhere in this Certificate of Incorporation or the Bylaws, and subject to the voting rights, if any, of any outstanding series of Preferred Stock, each holder of record of one or more issued and outstanding shares of Common Stock shall be entitled to one vote for each share of Common Stock standing in such holder's name on the books of the Corporation.

5.3 ***Consideration*.** Subject to applicable law and except as otherwise provided in this Certificate of Incorporation and the Stockholders Agreement, the capital stock of the Corporation, regardless of class or series, may be issued for such consideration and for such corporate purposes as the Board of Directors may from time to time determine.

5.4 ***Special Approval Requirements for Certain Actions***. In addition to any other vote of stockholders or stockholder or Board of Directors approval that may be required by law or by the provisions of this Certificate of Incorporation, so long as the Stockholders Agreement is in effect, whether or not specifically provided for in this Certificate of Incorporation, neither the Corporation nor any of its subsidiaries nor their Board of Directors shall take any action that under the terms of the Stockholders Agreement first requires a vote, consent or approval from one or more holders of Common Stock and/or members of the Board of Directors to be obtained, without first obtaining such required vote, consent or approval.

Stockholders Agreement. To the fullest extent permitted by law, every holder of shares of Common Stock shall be subject to, shall be required to enter into, and shall be deemed to have entered into and to be bound by, the Stockholders Agreement of the Corporation to be entered into pursuant to the Plan and dated as of the "Effective Date" under the Plan (such date, the "Plan Effective Date"), by and among the Corporation and its stockholders (as may be amended, supplemented or otherwise modified from time to time in accordance with the provisions thereof, the "Stockholders Agreement"), including without limitation the restrictions on transfer of Common Stock set forth therein, from and after such time as such holder receives any shares of Common Stock (whether by sale, gift, inheritance or other Transfer, as a distribution under the Plan, through the exercise or conversion of options, warrants, convertible notes or other convertible securities, by operation of law or otherwise), and the Stockholders Agreement shall be deemed to be a valid and binding obligation of such stockholder, enforceable against each such holder in accordance with its terms (including any provisions thereof that require the holder to waive or refrain from exercising any appraisal, dissenters or similar rights), in each case even if such holder has not actually executed a counterpart signature page or joinder (or other written instrument pursuant to which such holder agrees to be bound thereby) to the Stockholders Agreement. In the event the Stockholders Agreement is terminated at any time in accordance

with its terms, all references to "Stockholders Agreement" contained in this Certificate of Incorporation shall, from and after the effective time of such termination, automatically cease to be of any further force or effect. If any provisions of this Section 5.5 or the application thereof to any Person or circumstance are to any extent held by a court of competent jurisdiction to be invalid or unenforceable for any reason, the applicability of the remainder of this Section 5.5 to such Person or circumstance, and the application of such provision(s) to other Persons and circumstances, shall not be affected thereby and such provisions shall be enforced to the greatest extent permitted by law. The Corporation shall furnish without charge to each holder of record of shares of Common Stock a copy of the Stockholders Agreement upon written request to the Secretary of the Corporation at the Corporation's principal executive office.

6. **Transfers of Shares.**

6.1 ***Restrictions on Transfer***. Without limiting any other provisions or restrictions or conditions of this Section 6, unless otherwise waived by the Board of Directors in its sole discretion, no shares of Common Stock or Preferred Stock shall be Transferred by any stockholder (regardless of the manner in which the Transferor initially acquired such shares of Common Stock or Preferred Stock), if such Transfer (a) would, if consummated, result in any violation of the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder or any state securities laws or regulations, or any other applicable federal or state laws or order of any Governmental Authority having jurisdiction over the Corporation or (b) is not made in accordance with the applicable provisions of the Stockholders Agreement.

6.2 ***Legends on Certificates***. All certificates (if any) evidencing shares of Common Stock or Preferred Stock shall conspicuously bear, or shall be deemed to conspicuously bear (even if such certificate does not actually bear such legends), the legends required by the Stockholders Agreement (to the extent the Stockholders Agreement requires such certificates to bear such legends) and such other legends as the Board of Directors determines are necessary or appropriate. Each stockholder shall be deemed to have actual knowledge of the terms, provisions, restrictions and conditions set forth in this Certificate of Incorporation and the Stockholders Agreement (including, without limitation, the restrictions on Transfer set forth in this Section 6 and the restrictions on Transfer set forth in the Stockholders Agreement) for all purposes of this Certificate of Incorporation, the Stockholders Agreement and applicable law (including, without limitation, the DGCL and the Uniform Commercial Code as adopted and in effect in any applicable jurisdiction), whether or not any certificate evidencing shares of Common Stock or Preferred Stock owned or held by such stockholder bear the legends required by the Stockholders Agreement or whether or not any such stockholder received a separate notice of such terms, provisions, restrictions and conditions.

6.3 ***Prohibited Transfers Void***. The Corporation shall not record upon its books any sale or other Transfer of securities except in accordance with the provisions of this Certificate of Incorporation and (to the extent applicable) the Stockholders Agreement. Any purported sale or Transfer in violation of such provisions shall be void *ab initio* and shall not be recognized by the Corporation for any purpose.

7. **Board of Directors**.

7.1 ***General***. Except as may otherwise be provided in this Certificate of Incorporation, the Bylaws, the Stockholders Agreement or the DGCL, the business of the Corporation shall be managed by the Board of Directors. This Section 7 is inserted for the management and conduct of the business and affairs of the Corporation and is intended to be in furtherance of and not in limitation or exclusion of the powers conferred on the Board of Directors by applicable law.

7.2 ***Composition of the Board of Directors; Term; Removal***.

7.2.1 The number of directors constituting the whole Board of Directors shall be fixed from time to time by a vote of a majority of the directors then in office; provided, that upon the Plan Effective Date such number shall be fixed at seven (7) and shall not subsequently be fixed at fewer than five (5) directors nor more than seven (7) directors except with the prior approval by holders of a majority of the aggregate voting power of the shares of capital stock then outstanding. Except as otherwise provided in the Stockholders Agreement, each director shall hold office until the next annual meeting of stockholders and until his or her successor is duly elected and qualified in accordance with the terms of this Certificate of Incorporation, the Bylaws and the Stockholders Agreement, or his or her earlier death, resignation or removal.

7.2.2 Except as otherwise provided by the Stockholders Agreement, and subject to the voting rights, if any, of holders of any outstanding series of Preferred Stock, at each annual meeting of stockholders, directors shall be elected for a one-year term by affirmative vote of a plurality (or such other threshold as may be specified in the Stockholders Agreement) of the aggregate combined voting power of the Corporation's then issued and outstanding shares of Common Stock, present in person or represented by proxy at a meeting called for the purpose of electing directors. Directors may also be elected by written consent of the stockholders if and to the extent provided for in the Stockholders Agreement. There shall not be cumulative voting for directors.

7.2.3 Any director may be removed at any time in accordance with the Stockholders Agreement. In the event the chief executive officer of the Corporation is serving as a director and his or her employment as chief executive officer is terminated for any reason, such Person shall automatically, upon such termination, cease to serve as a director and be deemed to have resigned from the Board of Directors.

7.2.4 Except as otherwise provided by the Stockholders Agreement, any vacancies in the Board of Directors resulting from any director's death, resignation, removal or other cause, shall be filled as provided in the Bylaws.

8. **Compromise, Arrangement or Reorganization.** Whenever a compromise or arrangement is proposed between the Corporation and its creditors or any class of them and/or between the Corporation and its stockholders or any class of them, any court of equitable jurisdiction within the State of Delaware may, on the application in a summary way of the Corporation or of any creditor or stockholder thereof or on the application of any receiver or receivers appointed for the Corporation under the provisions of Section 291 of the DGCL or on

the application of trustees in dissolution or of any receiver or receivers appointed for the Corporation under the provisions of Section 279 of the DGCL, order a meeting of the creditors or class of creditors, and/or of the stockholders or class of stockholders of the Corporation, as the case may be, to be summoned in such manner as the said court directs. If a majority in number representing three-fourths in value of the creditors or class of creditors, and/or of the stockholders or class of stockholders of the Corporation, as the case may be, agree to any compromise or arrangement and to any reorganization of the Corporation as a consequence of such compromise or arrangement, the said compromise or arrangement and the said reorganization shall, if sanctioned by the court to which the said application has been made, be binding on all the creditors or class of creditors, and/or on all the stockholders or class of stockholders, of the Corporation, as the case may be, and also on the Corporation.[1]

9. **Limitation of Liability.** To the fullest extent permitted by the DGCL, no director of the Corporation serving in such capacity (at any time, including prior to the date hereof) shall be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director arising from acts or omissions (at any time, including prior to the date hereof), including breaches resulting from such director's grossly negligent behavior, except for liability (a) for any breach of the director's duty of loyalty to the Corporation or its stockholders, (b) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (c) under Section 174 of the DGCL or (d) for any transaction from which the director derived any improper personal benefits. If the DGCL is hereafter amended to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of the Corporation arising from acts or omissions (at any time, including prior to the date hereof) shall be eliminated or limited to the fullest extent permitted by the DGCL, as so amended. Any amendment, repeal or modification of this Section 9 by the stockholders of the Corporation shall not adversely affect any right or protection of a director of the Corporation existing at or prior to the time of such amendment, repeal or modification.

10. **Corporate Opportunity.** The Corporation hereby renounces, to the fullest extent permitted by law, any interest or expectancy of the Corporation in, or in being offered an opportunity to participate in, business ventures or opportunities that are presented to any of its directors who are not employed by the Corporation or any of its subsidiaries ("Non-Employee Directors") or to any Affiliate of any such director; *provided*, *however*, that notwithstanding anything contained herein, this Section 10 shall not apply to business ventures or opportunities presented or offered to a Non-Employee Director solely in his or her capacity as a director of the Corporation (including as a member of any committee of the Board of Directors or any governing body of any subsidiary of the Corporation). Without limiting the generality of the foregoing, the Corporation specifically renounces any rights the Corporation might have in any business venture or business opportunity of any Non-Employee Director or Affiliate thereof, and no Non-Employee Director shall have any obligation to offer any interest in any such business venture or opportunity to the Corporation or otherwise account to the Corporation in respect of any such business ventures or opportunities, even if the business venture or opportunity is one that the Corporation or its subsidiaries might reasonably be deemed to have pursued or had the ability or desire to pursue if granted the opportunity to do so. Furthermore, (a) it shall not be

[1] Note to Draft: Delaware counsel reviewing.

deemed a breach of any fiduciary or other duty, whether express or implied, for any Non-Employee Director or any of its Affiliates to engage in a business venture or opportunity in preference or to the exclusion of the Corporation and (b) a Non-Employee Director or Affiliate thereof shall have no obligation to (i) disclose to the Board of Directors or the Corporation any information in the possession of such Non-Employee Director or Affiliate thereof regarding any business ventures or opportunities even if it is material and relevant to the Corporation and/or the Board of Directors or (ii) refrain from engaging in any line of business or from investing in or doing business with any Person. Any Person purchasing or otherwise acquiring any interest in capital stock of the Corporation shall be deemed to have notice of and to have consented to the provisions of this Section 10.

11. **DGCL Section 203.** The Company expressly elects not to be governed by Section 203 of the DGCL.

12. **Indemnification.**

12.1 To the fullest extent permitted by law, the Corporation shall indemnify any Person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding ("Proceeding"), whether civil, criminal, administrative or investigative (other than an action by or in the right of the Corporation) with respect to any act or omission by reason of the fact that the Person is or was a director or officer of the Corporation (at any time, including prior to the date hereof), or is or was (at any time, including prior to the date hereof) serving at the request of the Corporation as a director or officer of another corporation, partnership, joint venture, trust or other enterprise ("Other Entity"), against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by the Person in connection with such Proceeding if the Person acted in good faith and in a manner the Person reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe the Person's conduct was unlawful. The termination of any Proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the Person did not act in good faith and in a manner which the Person reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that the Person's conduct was unlawful. To the fullest extent permitted by law, the Corporation shall indemnify any Person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Corporation to procure a judgment in its favor with respect to any act or omission by reason of the fact that the Person is or was a director, officer, employee or agent of the Corporation (at any time, including prior to the date hereof), or is or was (at any time, including prior to the date hereof) serving at the request of the Corporation as a director, officer, employee or agent of an Other Entity, against expenses (including attorneys' fees) actually and reasonably incurred by the Person in connection with the defense or settlement of such action or suit if the Person acted in good faith and in a manner the Person reasonably believed to be in or not opposed to the best interests of the Corporation, except that no indemnification shall be made in respect of any claim, issue or matter as to which such Person shall have been adjudged to be liable to the Corporation unless and only to the extent that the Court of Chancery of the State of Delaware (the "Court of

Chancery") or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such Person is fairly and reasonably entitled to indemnity for such expenses which the Court of Chancery or such other court shall deem proper.

12.2 The Corporation shall, from time to time, reimburse or advance to any director or officer entitled to indemnification hereunder the funds necessary for payment of expenses, including reasonable attorneys' fees and disbursements, incurred in connection with any Proceeding, in advance of the final disposition of such Proceeding; *provided, however*, that, if required by the DGCL, such expenses incurred by or on behalf of any director or officer may be paid in advance of the final disposition of a Proceeding only upon receipt by the Corporation of an undertaking, by or on behalf of such director or officer, to repay any such amount so advanced if it shall ultimately be determined by final judicial decision from which there is no further right of appeal that such director or officer is not entitled to be indemnified for such expenses.

12.3 The rights to indemnification and reimbursement or advancement of expenses provided by, or granted pursuant to, this Section 12 shall not be deemed exclusive of any other rights to which a Person seeking indemnification or reimbursement or advancement of expenses may have or hereafter be entitled under any statute, this Certificate of Incorporation, the Bylaws, any agreement (including any policy of insurance purchased or provided by the Corporation under which directors, officers, employees and other agents of the Corporation are covered), any vote of stockholders or disinterested directors or otherwise, both as to action in his or her official capacity and as to action in another capacity while holding such office.

12.4 The rights to indemnification and reimbursement or advancement of expenses provided by, or granted pursuant to, this Section 12 shall continue as to a Person who has ceased to be a director or officer and shall inure to the benefit of the executors, administrators, legatees and distributees of such Person.

12.5 The Corporation shall maintain insurance on behalf of any Person who is or was a director or officer of the Corporation (at any time, including prior to the date hereof), or is or was (at any time, including prior to the date hereof) serving at the request of the Corporation as a director or officer of an Other Entity, against any liability asserted against such Person and incurred by such Person in any such capacity, or arising out of such Person's status as such, whether or not the Corporation would have the power to indemnify such Person against such liability under the provisions of this Section 12, the Bylaws, the Stockholders Agreement or under Section 145 of the DGCL or any other provision of law.

12.6 The provisions of this Section 12 shall be a contract between the Corporation, on the one hand, and each director and officer who serves in such capacity at any time while this Section 12 is in effect, on the other hand, pursuant to which the Corporation and each such director or officer intend to be legally bound. Notwithstanding anything to the contrary contained in this Certificate of Incorporation, no amendment, repeal or modification of this Section 12 shall affect any rights or obligations with respect to any state of facts then or theretofore existing or any proceeding theretofore or thereafter brought or threatened based in whole or in part upon any such state of facts.

12.7 The rights to indemnification and reimbursement or advancement of expenses provided by, or granted pursuant to, this Section 12 shall be enforceable by any Person entitled to such indemnification or reimbursement or advancement of expenses in any court of competent jurisdiction. Neither the failure of the Corporation (including its Board of Directors, its independent legal counsel and its stockholders) to have made a determination prior to the commencement of such action that such indemnification or reimbursement or advancement of expenses is proper in the circumstances nor an actual determination by the Corporation (including its Board of Directors, its independent legal counsel and its stockholders) that such Person is not entitled to such indemnification or reimbursement or advancement of expenses shall constitute a defense to the action or create a presumption that such Person is not so entitled. Such a Person shall also be indemnified, to the fullest extent permitted by law, for any expenses incurred in connection with successfully establishing his or her right to such indemnification or reimbursement or advancement of expenses, in whole or in part, in any such action.

12.8 Any director or officer of the Corporation serving in any capacity in (i) another corporation of which a majority of the shares entitled to vote in the election of its directors is held, directly or indirectly, by the Corporation or (ii) any employee benefit plan of the Corporation or any corporation referred to in clause (i) shall be deemed to be doing so at the request of the Corporation.

12.9 Any Person entitled to be indemnified or to reimbursement or advancement of expenses as a matter of right pursuant to this Section 12 may elect to have the right to indemnification or reimbursement or advancement of expenses interpreted on the basis of the applicable law in effect at the time of the occurrence of the event or events giving rise to the applicable Proceeding, to the extent permitted by law, or on the basis of the applicable law in effect at the time such indemnification or reimbursement or advancement of expenses is sought. Such election shall be made, by a notice in writing to the Corporation, at the time indemnification or reimbursement or advancement of expenses is sought; *provided*, *however*, that if no such notice is given, the right to indemnification or reimbursement or advancement of expenses shall be determined by the law in effect at the time indemnification or reimbursement or advancement of expenses is sought.

12.10 It is the intent that with respect to all advancement, reimbursement and indemnification obligations under this Section 12, the Corporation shall be the indemnitor of first resort (*i.e.*, its obligations to indemnitees under this Certificate of Incorporation are primary and any obligation of any stockholder (or any of its Affiliates) to provide advancement or indemnification for the same losses incurred by indemnitees are secondary), and if a stockholder pays or causes to be paid, for any reason, any amounts otherwise indemnifiable hereunder or under any other indemnification agreement (whether pursuant to this Certificate of Incorporation, the Bylaws, the Stockholders Agreement, contract, law or regulation), then (i) such stockholder (or such Affiliate, as the case may be) shall be fully subrogated to all rights hereunder of the indemnitee with respect to such payment and (ii) the Corporation shall reimburse such stockholder (or such Affiliate, as the case may be) for the payments actually made and waive any right of subrogation, reimbursement, exoneration, contribution or indemnification and any right to participate in any claim or remedy of such stockholder (or such Affiliate, as the case may be).

13. **Books and Records.** The books and records of the Corporation may be kept (subject to any provision contained in the DGCL or other applicable law) at such place or places as may be designated from time to time by the Board of Directors or in the Bylaws.

14. **Notices.** All notices, requests, waivers and other communications made pursuant to this Certificate of Incorporation shall be in writing and shall be deemed to have been effectively given or delivered (a) when personally delivered to the party to be notified; (b) if given by electronic transmission in the manner provided in Section 232 of the DGCL; (c) three (3) Business Days after deposit in the United States mail, postage prepaid, by certified or registered mail with return receipt requested, addressed to the party to be notified; or (d) one (1) Business Day after deposit with a national overnight delivery service, postage prepaid, addressed to the party to be notified with next-Business Day delivery guaranteed, in each case as follows: (i) in the case of any stockholder, to such stockholder at its address or facsimile number set forth in the stock records of the Corporation; and (ii) in the case of the Corporation, to the Secretary of the Corporation at the Corporation's principal executive office. A party may change its address for purposes of notice hereunder by giving notice of such change in the manner provided in this Section 14.

15. **Amendments.** The Corporation reserves the right to amend, alter, change or repeal any provision contained in this Certificate of Incorporation, in the manner now or hereafter prescribed by the DGCL and in accordance with the terms of the Stockholders Agreement.

16. **Forum**. Unless the Corporation consents in writing to the selection of an alternative forum, the Court of Chancery shall, to the fullest extent permitted by law, be the sole and exclusive forum for (a) any derivative action or proceeding brought on behalf of the Corporation, (b) any action asserting a claim for breach of a fiduciary duty owed by any director, officer, employee or agent of the Corporation to the Corporation or the Corporation's stockholders, (c) any action asserting a claim arising pursuant to any provision of the DGCL, this Certificate of Incorporation or the Bylaws, or (d) any action asserting a claim governed by the internal affairs doctrine, in each case subject to said Court of Chancery having personal jurisdiction over the indispensable parties named as defendants therein. Any Person purchasing or otherwise acquiring shares of capital stock of the Corporation shall be deemed to have notice of and consented to the provisions of this Section 16.

17. **Enforceability; Severability**. Each provision of this Certificate of Incorporation shall be enforceable in accordance with its terms to the fullest extent permitted by law, but in case any one or more of the provisions contained in this Certificate of Incorporation shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Certificate of Incorporation, and this Certificate of Incorporation shall be construed as if such invalid, illegal or unenforceable provision or provisions had never been contained herein.

18. **Bylaws; Inconsistent Provisions**. In furtherance and not in limitation of the powers conferred by law and except as otherwise set forth in the Stockholders Agreement, the Board of Directors is expressly authorized and empowered to adopt, amend or repeal any or all of the Bylaws without any action on the part of the stockholders of the Corporation, subject to

the power of the stockholders of the Corporation to amend or repeal any Bylaws adopted or amended by the Board of Directors. If there is any conflict between the provisions of the Stockholders Agreement and this Certificate of Incorporation, the provisions of the Stockholders Agreement will prevail unless for them to do so would be in contravention of the requirements of the DGCL.

19. **Certain Definitions.** As used in this Certificate of Incorporation, the following terms shall have the following meanings:

(i) "Affiliate" means, with respect to any Person, any other Person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the specified Person, and shall also include (i) any Related Fund of such Person and (ii) in the case of a specified Person who is an individual, any Family Member of such Person; *provided*, *however*, that a Stockholder (or any Affiliate thereof) shall not be deemed an Affiliate of any another Person solely by reason of the Stockholder's being a party to the Stockholders Agreement. For purposes hereof, the term "control" (including the terms "controlling", "controlled by" and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract, or otherwise.

(ii) "Business Day" means any day, other than a day which is a Saturday, Sunday or other day on which banks in New York City, New York are required or authorized to be closed.

(iii) "Family Member" means, with respect to any individual, (i) any of such individual's parents, spouse, siblings, children and grandchildren or (ii) any trust the sole beneficiaries of which are such individual or one or more of such individual's parents, spouse, siblings, children and grandchildren.

(iv) "Person" means an individual, partnership, corporation, unincorporated organization, joint stock company, limited liability company, association, trust or joint venture, or a governmental agency or political subdivision thereof.

(v) "Related Fund" means, with respect to any Person, any fund, account or investment vehicle that is controlled or managed by (x) such Person or an Affiliate thereof, (y) the same investment manager or advisor as such Person or (z) an Affiliate of such investment manager or advisor.

(vi) "Transfer" means any direct or indirect sale, transfer, gift, hypothecation, pledge, assignment, devise or other disposition of Common Stock or Preferred Stock (including (x) the granting of any option or entering into any agreement for the future sale, transfer or other disposition of Common Stock or Preferred Stock, or (y) the sale, transfer, assignment or other disposition of any securities or rights convertible into, or exchangeable or exercisable for, Common Stock or Preferred Stock), whether voluntary or involuntary, whether of record, constructively or beneficially and whether by operation of law or otherwise, including by recapitalization, merger, consolidation, liquidation,

dissolution, dividend, distribution or otherwise. Notwithstanding the foregoing, any transaction in which a stockholder lends or borrows any shares of Common Stock or Preferred Stock to or from brokers, banks, or other financial institutions for the purpose of effecting margin transactions, or pledges or otherwise encumbers shares of Common Stock or Preferred Stock in connection with such stockholder's financing arrangements, in any case in the ordinary course of business, shall not constitute a Transfer of shares of Common Stock or Preferred Stock for purposes of this Certificate of Incorporation; provided, however, that any foreclosure (including the retention of shares of Common Stock in satisfaction of any obligations) on shares of Common Stock or Preferred Stock by any such broker, bank or other financial institution shall be deemed a Transfer of shares of Common Stock or Preferred Stock for purposes of this Certificate of Incorporation. The terms "Transferee," "Transferor," "Transferred," and other forms of the word "Transfer" shall have the correlative meanings.

[*Remainder of Page Intentionally Left Blank*]

IN WITNESS WHEREOF, the undersigned has executed this Fourth Amended and Restated Certificate of Incorporation as of this [●] day of [●], 2020.

CHAPARRAL ENERGY, INC.

By: _____
Name:
Title:

CHAPARRAL ENERGY, INC.

STOCKHOLDERS AGREEMENT

This STOCKHOLDERS AGREEMENT (this "Agreement"), dated as of [●], 2020, is made by and among CHAPARRAL ENERGY, INC., a Delaware corporation (the "Company"), each of the Initial Stockholders (as defined below) that has executed a counterpart signature page to this Agreement or is deemed to have entered into this Agreement pursuant to the Plan (as defined below) as described in Section 12.8 hereof, and each other Person (as defined below) that hereafter becomes a Stockholder (as defined below). Capitalized terms used and not otherwise defined herein shall have the meanings set forth for such terms in Article I hereof.

W I T N E S S E T H :

WHEREAS, (a) on August 16, 2020, the Company and certain of its Subsidiaries filed voluntary petitions for relief in the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court"), commencing cases under Chapter 11 of title 11 of the United States Code (the "Bankruptcy Code"), (b) on [●], 2020, the Bankruptcy Court entered an order (*In re Chaparral Energy, Inc., et al.*, No. 20-11947 (MFW)) (the Confirmation Order") confirming the *Debtors' Joint Prepackaged Chapter 11 Plan of Reorganization* (as confirmed, including any amendments and supplements thereto, the "Plan"), and (c) the "Effective Date" of the Plan (the "Effective Date") is occurring on the date of this Agreement;

WHEREAS, pursuant to the Plan and the Confirmation Order, on the Effective Date, (a) the holders of Senior Notes Claims (as defined in the Plan) received or became entitled to receive, in partial satisfaction of such claims, shares of the Company's newly issued Common Stock, par value $0.01 per share (the "Common Stock"), representing in the aggregate one hundred percent (100%) of the Company's outstanding capital stock as of the Effective Date, and (b) the Convertible Notes were issued to the Backstop Parties and the holders of Senior Notes Claims who subscribed for Convertible Notes in the Rights Offering (as defined in the Plan);

WHEREAS, as of the Effective Date, each of the Initial Stockholders has executed and delivered to the Company a counterpart signature page to this Agreement or, pursuant to the Plan and the Confirmation Order, is bound by and is deemed to have agreed to, this Agreement; and

NOW THEREFORE, in consideration of the premises and the mutual agreements, covenants and provisions contained herein, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound hereby, agree as follows:

ARTICLE I

CERTAIN DEFINITIONS

Section 1.1 As used in this Agreement, the following terms shall have the definitions set forth below:

(a) "Accelerated Purchaser" has the meaning specified in Section 5.1(f).

(b) "Accelerated Sale" has the meaning specified in Section 5.1(f).

(c) "Accredited Investor" has the meaning given to such term in Rule 501 under the Securities Act.

(d) "Affiliate" means, with respect to any Person, any other Person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the specified Person, and shall also include (i) any Related Fund of such Person and (ii) in the case of a specified Person who is an individual, any Family Member of such Person; *provided*, *however*, that a Stockholder (or any Affiliate thereof) shall not be deemed an Affiliate of any another Person solely by reason of the Stockholder's being a party to this Agreement. For purposes hereof, the term "control" (including the terms "controlling", "controlled by" and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract, or otherwise.

(e) "Agreement" has the meaning specified in the preamble of this Agreement.

(f) "Amzak Stockholders" has the meaning specified in Section 6.2(b).

(g) "At-Large Director" means an independent Director who (i) is not a Designated Director, (ii) is nominated in accordance with the Bylaws and (iii) is elected by the Company's stockholders in accordance with the Bylaws.

(h) "Avenue Stockholders" has the meaning specified in Section 6.2(b).

(i) "Backstop Party" has the meaning given to such term in the Backstop Purchase Agreement.

(j) "Backstop Purchase Agreement" means the Backstop Purchase Agreement, dated as of August 15, 2020, by and among the Company, its Subsidiaries, and the Backstop Parties party thereto.

(k) "Bankruptcy Code" has the meaning specified in the recitals to this Agreement.

(l) "Bankruptcy Court" has the meaning specified in the recitals to this Agreement.

(a) "beneficial owner" (and related terms such as "beneficial ownership") shall have the meaning given to such term in Rule 13d-3 under the Exchange Act, and any Person's beneficial ownership of securities shall be calculated in accordance with the provisions of such Rule.

(b) "Board of Directors" means the Board of Directors of the Company.

(c) "Business Day" means any day other than a day which is a Saturday, Sunday or other day on which banks in New York City, New York are required or authorized to be closed.

(d) "Bylaws" means the Third Amended and Restated Bylaws of the Company in the form attached hereto as Exhibit A, as may be amended in accordance with the terms thereof and the terms of this Agreement and in effect from time to time.

(e) "CEO" means the Chief Executive Officer of the Company.

(f) "Certificate of Incorporation" means the Fourth Amended and Restated Certificate of Incorporation of the Company in the form attached hereto as Exhibit B, as filed by the Company with the Secretary of State of the State of Delaware on or prior to the date hereof, as may be amended in accordance with the terms thereof and the terms of this Agreement and in effect from time to time.

(g) "Chairman of the Board" means the Chairman of the Board of Directors.

(h) "Common Stock" has the meaning specified in the recitals to this Agreement. For purposes of this Agreement, if the Common Stock has been reclassified or changed, or if the Company pays a dividend or makes a distribution on the Common Stock in shares of capital stock, or subdivides (or combines) the outstanding shares of Common Stock into a greater (or smaller) number of shares of Common Stock, a share of Common Stock shall be deemed to be such number of shares of stock and amount of other securities to which a holder of a share of Common Stock outstanding immediately prior to such change, reclassification, exchange, dividend, distribution, subdivision or combination would be entitled to hold as a result of such change, reclassification, exchange, dividend, distribution, subdivision or combination.

(i) "Company Asset Sale" means the bona fide sale, lease, transfer, conveyance or other disposition to a Third Party Purchaser, in a single transaction or a series of related transactions, of all or substantially all of the consolidated assets of the Company and its Subsidiaries, taken as a whole, whether directly or indirectly.

(j) "Company Entities" means, collectively, the Company and all of its wholly-owned Subsidiaries.

(k) "Company Stock Sale" means the bona fide sale, transfer, conveyance or other disposition to a Third Party Purchaser, in a single transaction or a series of related transactions, of all of the outstanding shares of Common Stock, whether directly or indirectly, or by way of any merger, consolidation, statutory share exchange, recapitalization, sale of equity,

reclassification, consolidation or other business combination transaction or purchase of beneficial ownership.

(l) "Competitor" means any Person identified on a list of competitors maintained by the Board of Directors, which list shall be made available to all Stockholders upon reasonable request, and which list may be updated from time to time by the Board of Directors. The determination of whether any particular Person is a Competitor shall be made by the Company in its good faith business judgment.

(m) "Confirmation Order" has the meaning specified in the recitals to this Agreement.

(n) "Company" has the meaning specified in the preamble of this Agreement.

(o) "Company ROFO Offer" has the meaning specified in Section 10.2(b).

(p) "Convertible Notes" means the 9.0%/13.0% Second Lien Secured Convertible PIK Toggle Notes due 2025 issued pursuant to the Convertible Notes Indenture, in the initial aggregate principal amount as of the Effective Date of $35,000,000.

(q) "Convertible Notes Indenture" means the indenture governing the Convertible Notes, dated as of the Effective Date, by and among the Company, as issuer, and the New Convertible Notes Trustee (as defined in the Plan).

(r) "Data Room" has the meaning specified in Section 7.1(a).

(s) "Designated Director" means, with respect to any Designating Stockholder (x) any Director for whom the Designating Stockholder is identified as such in Schedule 6.2 and (y) any other Director who was elected as a result of being nominated or designated pursuant to such Designating Stockholder's exercise of its Designation Right, in each case for so long as such individual continues to serve as a Director.

(t) "Designating Stockholders" means, collectively, the Millstreet Stockholders, the Avenue Stockholders, the Amzak Stockholders, and, if applicable, any other Stockholder to whom a Designation Right has been Transferred in accordance with this Agreement, in each case so long as it has a Designation Right. A Designating Stockholder shall automatically cease to be a Designating Stockholder if and when it ceases to have any Designation Rights.

(u) "Designation Right" means any of the following: (i) the exclusive right of the Millstreet Stockholders to nominate one or more Directors pursuant to Section 6.2(b)(i), (ii) the exclusive right of the Avenue Stockholders to nominate a Director pursuant to Section 6.2(b)(ii), (iii) the exclusive right of the Amzak Stockholders to nominate a Director pursuant to Section 6.2(b)(iii), (iv) if applicable, the right of any Designating Stockholder to whom any of the foregoing rights have been Transferred in accordance with this Agreement and (v) the right of the Designating Stockholders to collectively nominate an independent Director pursuant to Section 6.2(b)(iv), in each case together with the exclusive right to remove, at any time, the

Director serving in such Designated Director seat and to fill vacancies with respect to such Designated Director seat in accordance with Section 6.3.

(v) "Director" means, at any time of determination, any director then serving on the Board of Directors .

(w) "Disinterested Director Approval" means, with respect to any particular matter, the affirmative vote at a duly held meeting of the Board of Directors (at which a quorum is present) of a majority of the Directors then in office who are "disinterested" with respect to such matter, or the unanimous written consent of all Directors then in office so long as at least one of the Directors is "disinterested" with respect to such matter.

(x) "DGCL" means the General Corporation Law of the State of Delaware.

(y) "Drag-Along Closing" has the meaning specified in Section 3.1(a).

(z) "Drag-Along Notice" has the meaning specified in Section 3.1(a).

(aa) "Drag-Along Purchaser" has the meaning specified in Section 3.1(a).

(bb) "Drag-Along Sale" has the meaning specified in Section 3.1(b).

(cc) "Dragged Holders" has the meaning specified in Section 3.1(a).

(dd) "Effective Date" has the meaning specified in the recitals to this Agreement.

(ee) "Electing Tag-Along Seller" has the meaning specified in Section 4.1(a).

(ff) "Exchange Act" means the Securities Exchange Act of 1934, as amended, and the rules and regulations of the SEC promulgated thereunder.

(gg) "Excluded Issuance" means (i) the issuance and distribution of shares of Common Stock pursuant to and in accordance with the Plan; (ii) any issuance of shares of Common Stock upon conversion of Convertible Notes or upon exercise of New Warrants (as defined in the Plan), (iii) any issuance of shares of Common Stock by means of a *pro rata* distribution to all Stockholders; (iv) any issuance of shares of Common Stock or other equity awards pursuant to the Management Incentive Plan or any future director or employee equity plan approved by the Board of Directors, including shares of Common Stock issued upon the vesting of awards issued pursuant thereto; (v) any issuance of shares of Common Stock as purchase price consideration in a merger or acquisition transaction approved by the Board of Directors, or as an "equity kicker" to the lenders in a bona fide debt financing transaction approved by the Board of Directors and (vi) the issuance of shares of Common Stock in an initial Public Offering.

(hh) "Family Member" means, with respect to any individual, (i) any of such individual's parents, spouse, siblings, children and grandchildren or (ii) any trust the sole beneficiaries of which are such individual or one or more of such individual's parents, spouse, siblings, children and grandchildren.

(ii) "Final Tag-Along Percentage" has the meaning specified in Section 4.1(a).

(jj) "GAAP" means United States generally accepted accounting principles.

(kk) "Holder ROFO Offer" has the meaning specified in Section 10.2(b).

(ll) "Information" has the meaning specified in Section 12.3(a).

(mm) "Initial Stockholder" means any Person that has received or is entitled to receive a distribution of shares of Common Stock pursuant to the Plan and has duly executed and delivered to the Company a counterpart signature page to this Agreement, or is deemed to have entered into this Agreement pursuant to the Plan as further specified in Section 12.8 hereof and in Section IV.C(3) of the Plan and the Confirmation Order.

(nn) "Initiating Drag-Along Holders" has the meaning specified in Section 3.1(a).

(oo) "Initiating Tag-Along Holders" has the meaning specified in Section 4.1(a).

(pp) "Joinder Agreement" means a Joinder Agreement in the form attached hereto as Exhibit C, or otherwise in form and substance acceptable to the Board of Directors in its discretion, pursuant to which a Person agrees to become bound as a Stockholder party to this Agreement.

(qq) "Key Action" means any of the following:

(i) any direct or indirect sale or other disposition (including by way of equity sale, asset sale, lease, merger, consolidation or similar transaction), in one transaction or a series of related transactions, of all or substantially all of the consolidated assets of the Company and its Subsidiaries, taken as a whole; *provided, however*, that any such transaction that is solely between two or more Company Entities (excluding any Company Entity that is not a wholly-owned Subsidiary) shall not constitute a Key Action;

(ii) the dissolution and/or winding up of the Company;

(iii) any material amendment or modification to the Certificate of Incorporation or the Bylaws;

(iv) any change to the size of the Board of Directors;

(v) the incurrence of indebtedness, by the Company and its Subsidiaries on a consolidated basis, in an aggregate principal amount greater than fifty million dollars ($50,000,000), excluding any indebtedness incurred in an amount necessary to refinance amounts outstanding (at the time of such refinancing) under the Exit Revolving Facility (as defined in the Plan), the Second Out Term Loan Facility (as defined in the Plan) and/or any other indebtedness previously approved as a Key Action;

(vi) hiring or terminating the CEO;

(vii) declaring or making dividends or distributions to, or redeeming or repurchasing shares from, the Company's stockholders, other than (A) repurchases or redemptions contemplated by the terms of this Agreement or the terms of any employment or similar agreement entered into with the Company or any of its Subsidiaries (including the Management Incentive Plan) or (B) dividends or other distributions by a wholly owned Subsidiary of the Company to the Company or another wholly owned Subsidiary of the Company;

(viii) any acquisition, disposition or sale of assets by any Company Entity outside the ordinary course of business for a purchase price that exceeds fifty million dollars ($50,000,000); *provided, however*, that any such transaction that is solely between two or more Company Entities (excluding any Company Entity that is not a wholly-owned Subsidiary) shall not constitute a Key Action; or

(ix) entering into any binding agreement or commitment to do any of the foregoing.

(rr) "Lien" means any lien, encumbrance, claim, right, demand, charge, option, pledge, security interest or similar interest, title defect, hypothecation, right of first refusal, preemptive right, judgment, and all other impositions, imperfections, defects, limitations or restrictions of any nature or kind whatsoever.

(ss) "Majority Stockholder Approval" means the approval of one or more Stockholders holding, in the aggregate, more than fifty percent (50.0%) of the outstanding shares of Common Stock, which approval is obtained (i) by the affirmative vote of such Stockholders at a duly convened stockholder meeting or (ii) by the written consent of such Stockholders in accordance with the Bylaws.

(tt) "Management Incentive Plan" means the management incentive plan to be established and implemented with respect to the Company (and/or its Subsidiaries) by the Board of Directors after the Effective Date, as provided for in the Plan.

(uu) "MD&A" has the meaning specified in Section 7.1(b).

(vv) "Millstreet Stockholders" has the meaning specified in Section 6.2(b).

(ww) "New Securities" has the meaning specified in Section 5.1(a).

(xx) "New Securities Issuance" has the meaning specified in Section 5.1(a).

(yy) "Non-Employee Director" has the meaning specified in Section 6.5.

(zz) "Offering Holder" has the meaning specified in Section 10.2(a).

(aaa) "Permitted Lien" means any Liens that are imposed (i) by this Agreement or (ii) under applicable securities laws.

(bbb) "Person" means any natural person, corporation, limited liability, partnership, unincorporated organization, joint stock company, association, joint venture, trust, or other legal entity, or a governmental agency or political subdivision thereof.

(ccc) "Plan" has the meaning specified in the recitals to this Agreement.

(ddd) "Preemptive Rights Election Notice" has the meaning specified in Section 5.1(b).

(eee) "Preemptive Rights Offer Notice" has the meaning specified in Section 5.1(a).

(fff) "Preemptive Rights Offer Period" has the meaning specified in Section 5.1(b).

(ggg) "Pro Rata Portion" means, for any Significant Stockholder with respect to any New Securities Issuance, (x) the total amount of New Securities offered in the New Securities Issuance, *multiplied by* (y) a fraction in which the numerator is the total number of shares of Common Stock then held by such Significant Stockholder and the denominator is the total number of shares of Common Stock then held, in the aggregate, by all Significant Stockholders, in each case as of the date of the applicable Preemptive Rights Offer Notice.

(hhh) "Public Offering" means a public offering of Common Stock or other capital stock of the Company pursuant to an effective registration statement under the Securities Act (other than on Form S-4, Form S-8 or any successor to such forms).

(iii) "Qualified Institutional Buyer" has the meaning given to such term in Rule 144A under the Securities Act.

(jjj) "Qualified Public Offering" means (A) a bona fide, marketed underwritten Public Offering of Common Stock after the closing of which the Common Stock is listed or quoted on the New York Stock Exchange, the NASDAQ Stock Market or any other national securities exchange or (B) a "direct listing" of the Common Stock on any such exchange, in the case of clause (A) which satisfies at least one of the following two criteria: (i) the gross cash proceeds of such offering exceed seventy-five million dollars ($75,000,000) or (ii) at least twenty percent (20%) of the outstanding shares of Common Stock shall have been issued or sold to the public in such offering.

(kkk) "Related Fund" means, with respect to any Person, any fund, account or investment vehicle that is controlled or managed by (x) such Person or an Affiliate thereof, (y) the same investment manager or advisor as such Person or (z) an Affiliate of such investment manager or advisor.

(lll) "Related Party" means: (i) any Director or member of a Subsidiary Governing Body, any executive officer of a Company Entity, or an immediate family member of

any such Person; (ii) any Person (other than a Company Entity) of which an individual described in clause (i) hereof is a partner, director or executive officer; (iii) any Person (or any Affiliate thereof) that beneficially owns, or otherwise controls (or shares control of), at least ten percent (10.0%) of the Total Equity Interests; or (iv) any director or executive officer of a Person described in clause (iii) hereof (or an immediate family member of any such director or executive officer).

(mmm)"Related Party Transaction" means any transaction, contract, agreement, understanding, arrangement, loan, advance or guarantee (or series of related transactions, contracts, agreements, understandings, arrangements, loans, advances or guarantees) between any Company Entity and a Related Party, but shall exclude the following: (i) any purchase of conventional insurance products from national insurance companies for the benefit of the Company and its Subsidiaries in the ordinary course of the Company's business; (ii) any dividend payments or distributions to all holders of Common Stock that are approved by the Board of Directors; (iii) any payment of reasonable and customary compensation and fees to, and indemnities provided for the benefit of, and reimbursement of expenses incurred by, officers, directors, employees or consultants of any Company Entity in the ordinary course of the Company's business, in each case, as approved by the Board of Directors; (iv) any employment agreements, benefit plans (including the Management Incentive Plan) and similar arrangements for employees and directors of any Company Entity (including the issuance of Common Stock or other equity interests thereunder) which, in each case, are approved by the Board of Directors; (v) any advances and loans to officers, employees or consultants of any Company Entity in an amount less than one hundred thousand dollars ($100,000) in the aggregate outstanding at any time, in each case, in connection with the anticipated incurrence of business expenses by such officers, employees or consultants or the relocation of such officers, employees or consultant in connection with such individual's services to the Company; (vi) transactions with Related Parties that were the subject of a competitive bidding process involving multiple third-party bidders in the ordinary course consistent with past practice; and (vii) any transactions wholly between or among two or more Company Entities.

(nnn) "Representative" means, with respect to any Person, any and all directors, officers, employees, consultants, financial advisors, counsel, accountants and other agents of such Person.

(ooo) "ROFO Acceptance Notice" has the meaning specified in Section 10.2(d).

(ppp) "ROFO Holder" has the meaning specified in Section 10.2(a).

(qqq) "ROFO Offer" has the meaning specified in Section 10.2(e).

(rrr) "ROFO Sale" has the meaning specified in Section 10.2(a).

(sss) "ROFO Sale Notice" has the meaning specified in Section 10.2(b).

(ttt) "ROFO Shares" has the meaning specified in Section 10.2(a).

(uuu) "Securities Act" means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

(vvv) "Significant Stockholder" means each Stockholder that (i) was a Backstop Party (or is an Affiliate of a Backstop Party) and (ii) at the time of determination holds (including shares held by its Affiliates) at least the lesser of (x) five percent (5.0%) of the Total Equity Interests and (y) fifty percent (50.0%) of the Total Equity Interests that such Stockholder (together with its Affiliates) received or was entitled to receive on the Effective Date.

(www) "Specified Tag-Along Shares" has the meaning specified in Section 4.1(a).

(xxx) "Stockholders" means, collectively, (i) the Initial Stockholders and (ii) all other Persons who (A) become a holder of shares of Common Stock (*provided*, that the Transfer or issuance by which such Person acquired such shares was made in accordance with the applicable provisions of this Agreement) and (B) become a party to this Agreement by duly executing and delivering to the Company a Joinder Agreement or are deemed or required by the Plan, the Confirmation Order, this Agreement or the Certificate of Incorporation to become a party hereto.

(yyy) "Subsidiary" means any Person in which the Company, directly or indirectly through one or more Subsidiaries or otherwise, beneficially owns more than fifty percent (50.0%) of either the equity interests in, or the voting control of, such Person.

(zzz) "Subsidiary Governing Body" means the board of directors, board of managers or other governing body of any wholly-owned Subsidiary of the Company.

(aaaa) "Supermajority Stockholder Approval" means the approval of one or more Stockholders holding, in the aggregate, more than sixty-six and two-thirds percent (66-2/3%) of the outstanding shares of Common Stock, which approval is obtained (i) by the affirmative vote of such Stockholders at a duly convened stockholder meeting or (ii) by the written consent of such Stockholders in accordance with the Bylaws.

(bbbb) "Tag-Along Buyer" has the meaning specified in Section 4.1(a).

(cccc) "Tag-Along Closing" has the meaning specified in Section 4.1(c).

(dddd) "Tag-Along Election Deadline" has the meaning specified in Section 4.1(a).

(eeee) "Tag-Along Percentage" means, with respect to any Tag-Along Sale, the quotient, expressed as a percentage, of (x) the total number of shares of Common Stock that the Initiating Tag-Along Holders are proposing to Transfer to the Tag-Along Buyer pursuant to the Tag-Along Sale, divided by (y) the total number of shares of Common Stock held by the Initiating Tag-Along Holders.

(ffff) "Tag-Along Sale" has the meaning specified in Section 4.1(a).

(gggg) "Tag-Along Sale Notice" has the meaning specified in Section 4.1(a).

(hhhh) "Tag-Along Sellers" has the meaning specified in Section 4.1(a).

(iiii) "Tag-Along Share Cap" has the meaning specified in Section 4.1(a).

(jjjj) "Third Party Purchaser" means, with respect to any Drag-Along Sale, any Person (other than the Company, the Initiating Drag-Along Holders, or any Affiliate thereof or any Related Party) or group of such Persons that is the purchaser in such Drag-Along Sale.

(kkkk) "Total Equity Interests" means, at any time of determination, a number of shares of Common Stock equal to the sum of (w) the total shares of Common Stock then outstanding *plus* (x) the total shares of Common Stock issuable upon conversion of all Convertible Notes then outstanding. For any Person, the percentage of the Total Equity Interests held by such Person at any time of determination shall be equal to the quotient (expressed as a percentage) of (y) the sum of the shares of Common Stock then held by such Person *plus* the shares of Common Stock issuable upon conversion of all Convertible Notes then held by such Person, *divided by* (z) the Total Equity Interests.

(llll) "Transfer" means any direct or indirect sale, transfer, gift, hypothecation, pledge, assignment, devise or other disposition of Common Stock (including (x) the granting of any option or entering into any agreement for the future sale, transfer or other disposition of Common Stock, or (y) the sale, transfer, assignment or other disposition of any securities or rights convertible into, or exchangeable or exercisable for, Common Stock), whether voluntary or involuntary, whether of record, constructively or beneficially and whether by operation of law or otherwise, including by recapitalization, merger, consolidation, liquidation, dissolution, dividend, distribution or otherwise. Notwithstanding the foregoing, the following transactions shall not constitute a Transfer of Common Stock for purposes of this Agreement: (i) the issuance, sale or other Transfer of publicly traded equity securities in any Person that is a Stockholder or the direct or indirect parent of a Stockholder (for purposes hereof, "publicly traded equity interests" means equity interests of a class that is registered under Section 12(b) or 12(g) of the Securities Act and is actively traded on a national securities exchange or any of the OTC markets), and (ii) any transaction in which a Stockholder lends or borrows any shares of Common Stock to or from brokers, banks, or other financial institutions for the purpose of effecting margin transactions, or pledges or otherwise encumbers shares of Common Stock in connection with such Stockholder's internal financing arrangements, in any case in the ordinary course of such Stockholder's business; *provided*, *however*, that any redemption or foreclosure (including the retention of shares of Common Stock in satisfaction of any obligations) on shares of Common Stock by any such broker, bank or other financial institution shall be deemed a Transfer of shares of Common Stock for purposes of this Agreement. The terms "Transferee," "Transferor," "Transferred," and other forms of the word "Transfer" shall have the correlative meanings.

(mmmm) "Transfer Notice" has the meaning specified in Section 10.1(c).

(nnnn) "Unsubscribed New Securities" has the meaning specified in Section 5.1(d).

(oooo) "Whole Board" means, at any time of determination, the total number of Directors which the Company would have at such time if there were no vacancies on the Board of Directors.

(pppp) "Whole Board Approval" has the meaning specified in Section 8.1.

Section 1.2 Interpretation. The definitions in this Article I shall apply equally to both the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. All references herein to Articles, Sections, Schedules and Exhibits shall be deemed to be references to Articles and Sections of, and Schedules and Exhibits to, this Agreement unless the context shall otherwise require. All Schedules and Exhibits attached hereto shall be deemed incorporated herein as if set forth in full herein and, unless otherwise defined therein, all terms used in any Schedule or Exhibit shall have the meaning ascribed to such term in this Agreement. The words "include," "includes" and "including" shall be deemed to be followed by the phrase "without limitation." All accounting terms not defined in this Agreement shall have the meanings determined by GAAP. The words "hereof," "herein" and "hereunder" and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. Unless otherwise expressly provided herein, any agreement, instrument or statute defined or referred to herein or in any agreement or instrument that is referred to herein means such agreement, instrument or statute as from time to time amended, modified or supplemented, including (in the case of agreements or instruments) by waiver or consent and (in the case of statutes) by succession of comparable successor statutes and references to all attachments thereto and instruments incorporated therein. Any reference in this Agreement to "$" or "dollars" shall mean United States dollars. In calculating any Stockholder's ownership of Common Stock or Total Equity Interests for the purposes of determining whether such Stockholder shall have certain rights under this Agreement that are subject to a minimum ownership threshold, all shares of Common Stock and (for purposes of determining ownership of Total Equity Interests) shares of Common Stock issuable upon conversion of Convertible Notes held by such Stockholder and by Affiliates of such Stockholder shall be aggregated for the purposes of such determination.

ARTICLE II

STOCKHOLDERS; VOTING RIGHTS

Section 2.1 Stockholders; Voting Rights.

(a) Each share of Common Stock shall be entitled to one (1) vote on all matters for which Stockholders are entitled to vote under the terms of this Agreement, the Certificate of Incorporation or under applicable law. Except as expressly set forth herein, no Stockholder shall have any special or preferential voting or blocking rights.

(b) A Person shall automatically cease to be a Stockholder for all purposes of this Agreement upon the disposition of all of such Person's shares of Common Stock in accordance with Article X hereof; *provided*, *however*, that such Person shall continue to be bound by the provisions of Section 12.3.

Section 2.2 Limited Liability for Stockholders. Without prejudice to any additional or further limitations on liability applicable to Stockholders, no Stockholder shall be personally liable to any other Stockholder or to the Company or any Affiliate or creditor of any of the foregoing or to any other Person for any losses, claims, damages, debts, obligations, or liabilities incurred by such other Stockholder or the Company or any Affiliate or creditor of any of the foregoing or to

any other Person, whether such losses, claims, damages, debts, liabilities or obligations arise in contract, tort, or otherwise, solely by reason of being a Stockholder.

ARTICLE III

DRAG-ALONG SALE

Section 3.1 Drag-Along Sale.

(a) If at any time after the date that is twelve (12) months after the Effective Date any one or more Stockholders then holding, in the aggregate, more than fifty percent (50.0%) of the outstanding shares of Common Stock desire to effectuate a Company Stock Sale or (subject to subsection (h)) a Company Asset Sale, then such Stockholder(s) (collectively, the "Initiating Drag-Along Holders") shall have the right to elect to require that all Stockholders (including Stockholders holding shares of Common Stock issued or deemed issued prior to or concurrently with the closing of the Drag-Along Sale (the "Drag-Along Closing"), whether pursuant to any actual or deemed conversion of Convertible Notes or otherwise) participate in such transaction (a "Drag-Along Sale") on the terms and conditions set forth in this Article III, by delivering written notice of such election to the Company, and the Company shall promptly deliver a copy of such notice to all the other Stockholders (collectively, the "Dragged Holders") in accordance with Section 12.2 , and to all holders of New Convertible Notes in accordance with the Convertible Notes Indenture. Any such notice (a "Drag-Along Notice") shall contain a reasonably detailed summary of the material terms and conditions of the Drag-Along Sale, including the identity of the applicable Third Party Purchaser (the "Drag-Along Purchaser"), the amount and form of the consideration to be paid by the Drag-Along Purchaser (stated on both an aggregate basis and, for any Drag-Along Sale that is a Company Stock Sale, on a per-share basis based on the number of shares of Common Stock outstanding when the Drag-Along Notice is delivered).

(b) In connection with any Drag-Along Sale, each of the Dragged Holders shall be obligated to do each of the following, in each case to the extent applicable to such transaction and subject in all cases to Section 3.1(c): (i) at the closing of such Drag-Along Sale, sell or transfer to the Drag-Along Purchaser, for the same type and amount of per-share consideration and on the same terms as the Initiating Drag-Along Holders (except that if any Stockholder is given an option as to the form of consideration to be received in respect of its Common Stock, each other Stockholder shall be given the same option), all of such Dragged Holder's shares of Common Stock free and clear of any Liens (other than Permitted Liens) and duly endorsed for transfer, or accompanied by duly endorsed stock powers; (ii) to the extent such Dragged Holder is entitled to vote thereon, vote all such Dragged Holder's shares of Common Stock, whether by proxy, voting agreement or otherwise, in favor of the Drag-Along Sale; (iii) use commercially reasonable efforts to obtain any consents necessary for such Dragged Holder to consummate the Drag-Along Sale; (iv) waive and refrain from exercising any appraisal or dissenters rights with respect to such Drag-Along Sale; (v) effectuate the allocation and distribution of the aggregate consideration upon the Drag-Along Sale as set forth below; (vi) refrain from directly or indirectly taking (or causing any other Person to take) any action that is prejudicial to or inconsistent with such Drag-Along Sale; and (vii) take any and all reasonably necessary action in furtherance of the foregoing, to the extent requested by the Initiating Drag-Along Holders or the Board of Directors, at the Company's sole expense.

(c) Notwithstanding anything to the contrary in this Article III, no Dragged Holder shall be required to agree to any covenants that do not also apply to the Initiating Drag-Along Holders, make any representations or warranties with respect to the Company or its Subsidiaries or their respective businesses or assets, or provide any indemnity in connection with any Drag-Along Sale, except that each Dragged Holder may be required to (x) provide customary representations, warranties, covenants and agreements (and customary indemnification with respect thereto) with respect to itself and its Common Stock (in respect of which such Dragged Holder may be required to bear 100% of the damages resulting from such Dragged Holder's breach thereof) and/or (y) bear its *pro rata* share (in proportion to its ownership of Common Stock) of any escrows, holdbacks or adjustments in respect of the purchase price related obligations or, in the case of representations and warranties with respect to the Company or its Subsidiaries or their respective businesses or assets or covenants or other agreements of the Company or its Subsidiaries, any indemnification obligations (*provided*, in the case of any damages resulting from such Dragged Holder's breach, such Dragged Holder may be required to bear 100% of such damages); *provided*, that no Dragged Holder shall be obligated (A) to indemnify any Person in connection with a breach by any other Stockholder of its representations, warranties, covenants or other agreements, (B) in the case of representations and warranties with respect to the Company or its Subsidiaries or their respective businesses or assets, to incur liability to any Person in connection with the Drag-Along Sale, including under any indemnity, in excess of the lesser of (1) such Dragged Holder's *pro rata* share of such liability based on the relative amount of proceeds payable to the Stockholders in such sale (other than in the case of fraud or willful breach of such Dragged Holder) and (2) the proceeds payable to such Dragged Holder in such Drag-Along Sale (other than in the case of fraud or willful breach of such Dragged Holder), (C) to agree to any non-competition, non-solicitation, non-disparagement or non-hire covenants or similar restrictive covenants or (D) provide any representations, warranties, covenants or agreements the terms of which are more onerous (on a per-share basis) with respect to the Dragged Holders than the Initiating Drag-Along Holders.

(d) In connection with any Drag-Along Sale:

(i) The Initiating Drag-Along Holders in their sole discretion may elect to require (by so specifying in the Drag-Along Notice) that the Company exercise its right under the Convertible Notes Indenture to redeem the Convertible Notes at a redemption price equal to 100% of the aggregate principal amount plus all accrued and unpaid interest, such that all Convertible Notes that have not been converted or deemed converted and are outstanding immediately prior to the Drag-Along Closing will be redeemed, with such redemption to be effective upon (and contingent upon the occurrence of) the Drag-Along Closing; *provided*, that the Drag-Along Closing shall be expressly conditioned upon the redemption price being paid in full in accordance with the Convertible Notes Indenture prior to or contemporaneously therewith.

(ii) The Company shall take such actions and provide such cooperation as may reasonably be requested by the Initiating Drag-Along Holder in connection with seeking consents or elections from holders of Convertible Notes to cause all Convertible Notes outstanding immediately prior to the Drag-Along Closing to be converted into Shares of Common Stock pursuant to the Convertible Notes Indenture's mandatory conversion provision. Any such mandatory conversion shall be deemed effective

immediately prior to (but shall be contingent upon the occurrence of) the Drag-Along Closing, and each holder of such mandatorily converted Convertible Notes will receive, in lieu of each share of Common Stock that would otherwise be issued upon conversion of such Convertible Notes (which shares of Common Stock will be issued at the time of the Drag-Along Closing directly to or at the direction of the Drag-Along Buyer), the same per-share consideration as is received by the other Dragged Holders in the Drag-Along Sale, and each such noteholder's receipt of such consideration shall be conditioned on the converting noteholder's written agreement to be bound as a Stockholder and Dragged Holder by the applicable provisions of the Stockholders Agreement. For purposes of this Section 3.1 as it applies to such Drag-Along Sale, the shares of Common Stock that would be issuable upon a conditional election to convert in connection with a Drag-Along Sale pursuant to the Convertible Note Indenture or which are to be converted pursuant to the Convertible Note Indenture's mandatory conversion provision shall, subject to such holder's written agreement to be bound as a Stockholder and Dragged Holder hereunder, be treated as if such shares of Common Stock are outstanding, and the holder of the underlying Convertible Notes shall be treated as a Stockholder and Dragged Holder hereunder.

(e) Each Initiating Drag-Along Holder and each Dragged Holder will bear its *pro rata* share (based upon the net proceeds received by each such holder in the Drag-Along Sale) of the costs of any Drag-Along Sale to the extent such costs are incurred for the benefit of all such holders and are not otherwise paid by the Company or the Drag-Along Purchaser. Costs incurred by such holders on their own behalf will not be considered costs of the Drag-Along Sale.

(f) The Company shall take, and shall use commercially reasonable efforts to cause the Board of Directors to take, any such actions as may reasonably be required or requested by the Initiating Drag-Along Holder to ensure that the Drag-Along Sale is consummated in accordance with the terms and conditions set forth in this Article III and any other applicable provisions of the Agreement, including by using commercially reasonable efforts to cause its officers, employees, agents, contractors and others under its control to cooperate in any proposed Drag-Along Sale and not to take any action which might impede any such Drag-Along Sale; *provided*, *however*, that in the case of a Drag-Along Sale that is structured as a merger or a Company Asset Sale, the Board of Directors shall act in accordance with its duties under applicable law. Pending the completion of any proposed Drag-Along Sale, the Company shall use commercially reasonable efforts to operate in the ordinary course of business and to maintain all existing business relationships in good standing.

(g) The Initiating Drag-Along Holders shall have power and authority, subject to the requisite Board of Directors approval in the case of a Drag-Along Sale that is structured as a merger or a Company Asset Sale, to cause the Company to enter into the definitive agreement for such Drag-Along Sale and to take any and all such further action in connection therewith as the Initiating Drag-Along Holders may reasonably deem necessary or appropriate in order to consummate or abandon any such Drag-Along Transaction; *provided*, *however*, that in the case of a Company Asset Sale or merger, the Board of Directors shall act in accordance with its duties under applicable law; *provided further*, *however*, that to the fullest extent permitted by law, the Initiating Drag-Along Holders shall not have any liability to any other Person if a Drag-Along Sale is not consummated for any reason (except due to the Initiating Drag-Along Holders' breach of

any of their obligations under any definitive written agreement entered into in connection therewith, but subject to the limitations set forth therein). Subject to any required approval by the Board of Directors (in the case of a Drag-Along Sale that is structured as a merger or a Company Asset Sale), the issuance of the Drag-Along Notice and the other provisions of this Section 3.1, the Initiating Drag-Along Holders, in exercising their rights under this Section 3.1, shall have complete discretion over the terms and conditions of the Drag-Along Sale effected thereby, including per-share price, payment terms, conditions to closing, representations, warranties, affirmative covenants, negative covenants, indemnification, holdbacks and escrows.

ARTICLE IV

TAG-ALONG SALE

Section 4.1 Tag-Along Sale.

(a) In the event of any proposed Transfer by one or more Stockholders (the "Initiating Tag-Along Holders") of more than fifty percent (50.0%) of the outstanding shares of Common Stock to a single Person or group of related Persons (the "Tag-Along Buyer"), in a single transaction or series of related transactions (a "Tag-Along Sale"), the Initiating Tag-Along Holders shall first give written notice of such proposed Transfer to the Company, and the Company shall promptly deliver a copy of such notice to each of the other Stockholders, in accordance with Section 12.2. Such notice (a "Tag-Along Sale Notice") shall offer to each of the other Stockholders that that is a Significant Stockholder or holds at least two percent (2%) of the total outstanding shares of Common Stock (collectively, the "Tag-Along Sellers") the option to participate in such Tag-Along Sale on the same terms and conditions as the Initiating Tag-Along Holders, and at the same per-share sale price and in the same form of consideration as the Initiating Tag-Along Holders, and shall set forth (i) the names of the Tag-Along Buyer and the Initiating Tag-Along Holders, (ii) the number of shares of Common Stock that the Initiating Tag-Along Holder is proposing to Transfer to the Tag-Along Buyer pursuant to the Tag-Along Sale (the "Specified Tag-Along Shares"), (iii) the Tag-Along Percentage, and (iv) a reasonably detailed summary of the material terms and conditions of the proposed Tag-Along Sale, including the proposed amount and form of consideration per share of Common Stock. Each Tag-Along Seller may irrevocably elect, by written notice delivered to the Initiating Tag-Along Holders (or their designated representative) within ten (10) calendar days after delivery of the Tag-Along Sale Notice (the "Tag-Along Election Deadline"), to sell up to the Tag-Along Percentage of its shares of Common Stock in such Tag-Along Sale, on the terms and conditions set forth in the Tag-Along Sale Notice; *provided*, *however*, that if the Tag-Along Buyer is not willing to purchase on such terms and conditions an aggregate number of shares of Common Stock equal to the Specified Tag-Along Shares plus all shares of Common Stock that the Tag-Along Sellers irrevocably elect to sell in the Tag-Along Sale, then the Initiating Tag-Along Holders in their sole discretion may elect to either (A) terminate such Tag-Along Sale or (B) consummate the Tag-Along Sale with respect to the total such number of shares as the Tag-Along Buyer is willing to purchase on such terms and conditions (such number of shares, the "Tag-Along Share Cap"), and in such event (1) each of the Tag-Along Sellers that irrevocably elected to sell shares in the Tag-Along Sale (each, an "Electing Tag-Along Seller") shall each be permitted to sell to the Tag-Along Buyer a number of shares of Common Stock owned by such Electing Tag-Along Seller equal to the Final Tag-Along Percentage (as defined below) of the shares that it irrevocably elected to sell in the Tag-Along

Sale, and (2) the Initiating Tag-Along Holders shall be permitted to sell to the Tag-Along Buyer a number of shares of Common Stock owned by the Tag-Along Holders equal to the Final Tag-Along Percentage of the Specified Tag-Along Shares. As used herein, "Final Tag-Along Percentage" means, with respect to any Tag-Along Sale, the quotient, expressed as a percentage, of (x) the Tag-Along Share Cap ***divided by*** (y) an aggregate number of shares of Common Stock equal to the Specified Tag-Along Shares plus all shares of Common Stock that the Tag-Along Sellers irrevocably elect to sell in the Tag-Along Sale.

(b) Whether a Stockholder qualifies as an Tag-Along Seller shall be determined based on such Stockholder's ownership of shares of Common Stock and the number of shares of Common Stock outstanding as of the Tag-Along Election Deadline; *provided*, *however*, that for the purposes of such calculation, any shares of Common Stock issuable upon conversion of Convertible Notes to such holder (although not, for the avoidance of doubt, issuable to any other holder) for which an irrevocable conversion election is submitted by the Tag-Along Election Deadline in accordance with the Convertible Notes Indenture, shall be deemed outstanding as of such date, and, for purposes of this Section 4.1 as it applies to such Tag-Along Sale, the shares of Common Stock that would be issuable upon such conversion shall, subject to such holder's written agreement to be bound as a Stockholder and Tag-Along Seller hereunder, be treated as if such shares of Common Stock are outstanding, and the holder of the underlying Convertible Notes shall be treated as a Stockholder and Tag-Along Seller hereunder. The number of shares of Common Stock that each Tag-Along Seller may elect to sell pursuant to this Section 4.1 shall be determined based on the ownership of Common Stock and the number of shares of Common Stock outstanding as of the Tag-Along Election Deadline (on an as-converted basis inclusive of any Common Shares issuable to all holders upon conversion of Convertible Notes for which an irrevocable conversion election is submitted by the Tag-Along Election Deadline in accordance with the Convertible Notes Indenture).

(c) In no event shall any Tag-Along Seller have any rights under this Section 4.1 or otherwise with respect to a sale by any Initiating Tag-Along Holders of any securities of the Company other than the Common Stock. In connection with any Tag-Along Sale, no Tag-Along Seller shall be required to agree to any covenants that do not also apply to the Initiating Tag-Along Holders, make any representations or warranties with respect to the Company or its Subsidiaries or their respective businesses or assets, or provide any indemnity in connection with any Tag-Along Sale, except such Tag-Along Seller may be required to (x) provide customary representations, warranties, covenants and agreements (and customary indemnification with respect thereto) with respect to itself and its Common Stock (in respect of which such Tag-Along Seller may be required to bear 100% of damages resulting from such Tag-Along Seller's breach thereof) and/or (y) bear its *pro rata* share (in proportion to its ownership of Common Stock) of any escrows, holdbacks or adjustments in respect of the purchase price related obligations or, in the case of representations and warranties with respect to the Company or its Subsidiaries or their respective businesses or assets or covenants or other agreements of the Company or its Subsidiaries, any indemnification obligations (*provided*, in the case any damages resulting from such Tag-Along Seller's breach, such Tag-Along Seller may be required to bear 100% of such damages); *provided*, that no Tag-Along Seller shall be obligated (A) to indemnify any Person in connection with a breach by any other Stockholder of its representations, warranties, covenants or other agreements, (B) in the case of representations and warranties with respect to the Company or its Subsidiaries or their respective businesses or assets, to incur liability to any Person in

connection with the Tag-Along Sale, including under any indemnity, in excess of the lesser of (1) such Tag-Along Seller's *pro rata* share of such liability based on the relative amount of proceeds payable to the Stockholders in such sale (other than in the case of fraud or willful breach of such Tag-Along Seller) and (2) the proceeds payable to such Tag-Along Seller in such Tag-Along Sale (other than in the case of fraud or willful breach of such Tag-Along Seller), (C) to agree to any non-competition, non-solicitation, non-disparagement or non-hire covenants or similar restrictive covenants or (D) provide any representations, warranties, covenants or agreements the terms of which are more onerous (on a per-share basis) with respect to the Tag-Along Sellers than the Initiating Tag-Along Holders. The election by any Tag-Along Seller to sell or not to sell all or any portion of such Tag-Along Seller's Common Stock in any Tag-Along Sale shall be irrevocable (except with the express consent of the Initiating Tag-Along Holders in their sole discretion) and shall not adversely affect such Tag-Along Seller's right to participate in any future Tag-Along Sale.

(d) At the closing of any Tag-Along Sale (the "Tag-Along Closing"), each Initiating Tag-Along Holder and Tag-Along Seller shall deliver, against payment of the purchase price therefor, certificates (or other evidence thereof reasonably acceptable to the transferee of such Common Stock) representing their Common Stock to be sold, duly endorsed for Transfer or accompanied by duly endorsed stock powers, evidence of good title to the Common Stock to be sold, the absence of Liens (other than Permitted Liens), encumbrances and adverse claims with respect thereto and such other documents as are deemed reasonably necessary by the Initiating Tag-Along Holders and the Company for the proper Transfer of such Common Stock on the books of the Company.

(e) The provisions of this Section 4.1 shall not apply to any proposed Transfer (i) between Significant Stockholders, (ii) by a Stockholder to any of its Affiliates or Related Funds, or (iii) pursuant to Section 3.1.

ARTICLE V

PREEMPTIVE RIGHTS

Section 5.1 Preemptive Rights.

(a) The Company shall not sell or issue to any Person (including any then-current Stockholder) after the Effective Date any shares of Common Stock, or other equity securities or debt convertible into or exchangeable for shares of Common Stock, or options, warrants conferring any right to acquire Common Stock or other rights to acquire Common Stock, or any debt securities (any of the foregoing, the "New Securities" and such sale or issuance, the "New Securities Issuance"), unless the Company first delivers a written notice thereof (the "Preemptive Rights Offer Notice") to each Significant Stockholder in accordance with Section 12.2. The Preemptive Rights Offer Notice shall set forth the terms of the New Securities (including the price, number or aggregate principal amount and type of securities, and all other material terms) and offer to each Significant Stockholder the opportunity to purchase up to its Pro Rata Portion of the New Securities (prior to giving effect to such offering) and its Pro Rata Portion of any New Securities not purchased by other Significant Stockholders, in each case on terms and conditions, including price, not less favorable to the Significant Stockholders than those on which

the Company is proposing to sell or issue the New Securities, as set forth in this Section 5.1. Notwithstanding anything contained herein, an Excluded Issuance shall not constitute a New Securities Issuance and shall not be subject to this Section 5.1.

(b) The Company's offer to each Significant Stockholder pursuant to the Preemptive Rights Offer Notice shall remain open until 5:00 p.m. New York City Time on the date that is twenty (20) days after the Company's delivery of the Preemptive Rights Offer Notice (or such later date and time as the Company may specify in the Preemptive Rights Offer Notice), during which time (the "Preemptive Rights Offer Period") the Significant Stockholder may irrevocably elect to accept such offer by delivering to the Company, in accordance with Section 12.2 or as otherwise specified in the Preemptive Rights Offer Notice, a duly executed written notice (a "Preemptive Rights Election Notice") that (i) refers to and expressly accepts the offer set forth in the Preemptive Rights Offer Notice, (ii) sets forth the maximum number of such New Securities that the Significant Stockholder is electing to purchase, (iii) includes a representation that the Significant Stockholder is a Qualified Institutional Buyer or an Accredited Investor, and (iv) provides such other information as may be reasonably requested in the Preemptive Rights Offer Notice.

(c) With respect to any New Securities Issuance, each Significant Stockholder who does not timely elect to purchase any New Securities by delivering a Preemptive Rights Offer Notice to the Company during the Preemptive Rights Offer Period shall be deemed to have irrevocably waived its rights under this Section 5.1 with respect to such New Securities Issuance. Each Significant Stockholder who timely elects to purchase New Securities as provided in Section 5.1(b) shall be allocated a number of New Securities equal to the aggregate number of New Securities to be issued in such New Securities Issuance multiplied by such Significant Stockholder's Pro Rata Portion (or, if less, the number of New Securities that the Significant Stockholder elected to purchase as set forth in such Significant Stockholder's Preemptive Rights Election Notice) and, if fewer than all of the Significant Stockholders elect to purchase all of their respective Pro Rata Portions of the New Securities to be issued in such New Securities Issuance, the unallocated New Securities shall be allocated to those Significant Stockholders who elected in their Preemptive Rights Election Notice to purchase more than their Pro Rata Portions (pro rata based on their respective Pro Rata Portions, subject to any limitations specified by the applicable Significant Stockholder in its Preemptive Rights Election Notice).

(d) In the event the total number of New Securities offered in the New Securities Issuance exceeds the aggregate number of shares that Significant Stockholders elect to purchase pursuant to this Section 5.1 (the "Unsubscribed New Securities"), the Company or its applicable Subsidiary will have sixty (60) days after expiration of the Preemptive Rights Offer Period to sell such Unsubscribed New Securities, at a price no less than the price set forth in the Preemptive Rights Offer Notice and on other terms and conditions not more favorable, in the aggregate, to the purchaser thereof, than those specified in the Preemptive Rights Offer Notice. Following the date of the expiration of the sixty (60) day period referred to in the immediately preceding sentence, the Company will not, and the Company shall cause its Subsidiaries not to, issue or sell any Unsubscribed New Securities without again complying with this Section 5.1, which shall be treated as a new New Securities Issuance hereunder.

(e) Any Significant Stockholder shall have the right to assign, to any one or more of its Affiliates, its right to purchase and/or receive delivery of all or any portion of the New Securities that such Significant Stockholder elects to purchase pursuant to this Section 5.1, by written notice to the Company, which notice (i) shall be duly executed by the Significant Stockholder and the assignee and shall include representations, in form and substance satisfactory to the Company, that the assignee is a Qualified Institutional Buyer or an Accredited Investor and (ii) if the assignee is not already a party hereto, shall be accompanied by a Joinder Agreement, duly executed by the assignee. Notwithstanding the foregoing, no such assignment shall relieve the Significant Stockholder from its obligations under this Section 5.1 with respect to the New Securities that it elected to purchase pursuant to this Section 5.1, and no such assignment shall be permitted if the assignee's purchase of such New Securities would result in any of the consequences described in Section 10.1(a).

(f) Notwithstanding the foregoing provisions of this Section 5.1, the Company may proceed with any issuance or sale of New Securities (including to any Significant Stockholder) to any Person (an "Accelerated Purchaser") prior to having complied with such foregoing provisions (an "Accelerated Sale") if the Board of Directors determines in good faith that it is in the best interests of the Company to consummate such issuance or sale without having first complied with such provisions; *provided* that:

(i) the Company shall provide each Significant Stockholder with prompt written notice of such Accelerated Sale, specifying the actual price per share paid for such New Securities;

(ii) the Company shall offer to issue to each Significant Stockholder additional New Securities up to the amount that, if purchased by each Significant Stockholder, would, (A) with respect to shares of Common Stock, result in each such Significant Stockholder maintaining the same percentage (or increasing such percentage by the maximum amount any other Person increased its percentage) of the total number of shares of Common Stock then held by such Significant Stockholder (relative to the total number of shares of Common Stock then held, in the aggregate, by all Significant Stockholders) that such Significant Stockholder owned immediately prior to the issuance or sale of additional shares of Common Stock pursuant to this Section 5.1(g)(ii) and (B) with respect to any other additional New Securities, be equal to the amount that such Significant Stockholder would have been entitled to purchase pursuant to Section 5.1(a) if the Company complied with the foregoing provisions of this Section 5.1 with respect to the Accelerated Sale, in each case at the same price per share and on the same terms applicable to the Accelerated Sale;

(iii) the Company shall keep such offer available to each Significant Stockholder for a period of twenty (20) days after the delivery of such notice, during which period, each Significant Stockholder may accept such offer by delivering a notice to the Company to purchase New Securities in an amount no greater than the amount offered by the Company to such Significant Stockholder pursuant to Section 5.1(f)(ii);

(iv) if one or more Significant Stockholders exercise their right to accept such offer to purchase New Securities, the Company shall give effect to each such

exercise by (A) requiring that the Accelerated Purchaser sell down a portion of its New Securities, (B) issuing additional new Securities to such Significant Stockholder or (C) a combination of (A) and (B), so long as such action effectively provides such Significant Stockholder with the opportunity to hold the same percentage of the total outstanding New Securities (after giving effect to the issuance of New Securities to all Significant Stockholders exercising such right) that such Significant Stockholder would have been entitled to purchase had this Section 5.1(f) not been invoked; and

(v) any dilution in any Significant Stockholder's percentage ownership of Common Stock or Total Equity Interests resulting from an Accelerated Issuance shall not be given effect for purposes of any provision of this Agreement of any rights under this Agreement that are tied to such percentage ownership Agreement until the Company has complied with its obligations under this Section 5.1(f) and issued the New Securities, if any, to be issued to the Significant Stockholders pursuant to this Section 5.1(f).

Any offer, issuance or sale of New Securities to Significant Stockholders pursuant to this Section 5.1(f) shall be conducted in accordance with the provisions applicable to New Securities acquired pursuant to a Preemptive Rights Election Notice under Sections 5.1(b), 5.1(c), 5.1(d) and 5.1(e), mutatis mutandis.

ARTICLE VI

BOARD OF DIRECTORS

Section 6.1 Agreement to Vote. Each Stockholder hereby agrees to hold all of the shares of Common Stock registered in its name (and any other voting securities of the Company issued with respect to, upon conversion of, or in exchange or substitution of any Common Stock, and any other voting securities of the Company subsequently acquired by such Stockholder) subject to the provisions of this Article VI, and to vote all such securities at regular or special meetings of stockholders, and give written consents with respect to all such securities, as necessary to give full effect to the Designation Rights and the provisions of this Article VI, and to cause the Board of Directors to at all times be constituted as provided in this Article VI. The Company shall use commercially reasonable efforts to cause the Board of Directors to at all times be constituted as provided in this Article VI, and to give full effect to the Designation Rights and the provisions of this Article VI.

Section 6.2 Composition of the Board of Directors.

(a) The Board of Directors shall at all times consist of seven (7) Directors, unless the size of the Board of Directors is increased or decreased by the Board of Directors pursuant to the affirmative vote of a majority of the Directors then in office; *provided, however*, that the size of the Board of Directors shall not be decreased to fewer than five (5) Directors nor increased to more than seven (7) Directors except with Majority Stockholder Approval. The Board

of Directors, as of the Effective Date, shall be comprised of the seven (7) individuals listed in Schedule 6.2 attached hereto[1].

(b) Following the Effective Date, and notwithstanding anything to the contrary in this Agreement or in the Bylaws:

(i) for so long as Millstreet Capital Management LLC and its Affiliates and Related Funds (collectively, the "Millstreet Stockholders") own, in the aggregate, (A) at least fifty percent (50.0%) of the Total Equity Interests that the Millstreet Stockholders received on the Effective Date pursuant to the Plan and the Backstop Purchase Agreement, the Millstreet Stockholders shall have a designation right with respect to two (2) seats on the Board of Directors, pursuant to which the Millstreet Stockholders shall have the exclusive right to nominate individuals for election to such Director seats, and (B) at least twenty-five percent (25.0%) (but less than fifty percent (50.0%)) of the Total Equity Interests that the Millstreet Stockholders received on the Effective Date pursuant to the Plan and the Backstop Purchase Agreement, the Millstreet Stockholders shall have a designation right with respect to one (1) seat on the Board of Directors, pursuant to which the Millstreet Stockholders shall have the exclusive right to nominate an individual for election to such Director seat;

(ii) for so long as Avenue Energy Opportunities Fund, L.P. and its Affiliates and Related Funds (collectively, the "Avenue Stockholders") own, in the aggregate, at least fifty percent (50.0%) of the Total Equity Interests that the Avenue Stockholders received on the Effective Date pursuant to the Plan and the Backstop Purchase Agreement, the Avenue Stockholders shall have a designation right with respect to one (1) seat on the Board of Directors, pursuant to which the Avenue Stockholders shall have the exclusive right to nominate an individual for election to such Director seat;

(iii) for so long as Amzak Capital Management, LLC and its Affiliates and Related Funds (collectively, the "Amzak Stockholders") own, in the aggregate, at least fifty percent (50.0%) of the Total Equity Interests that the Amzak Stockholders received on the Effective Date pursuant to the Plan and the Backstop Purchase Agreement, the Amzak Stockholders shall have a designation right with respect to one (1) seat on the Board of Directors, pursuant to which the Amzak Stockholders shall have the exclusive right to nominate an individual for election to such Director seat;

(iv) for so long as the Designating Stockholders have, in the aggregate, Designation Rights with respect to at least two (2) Director seats, the Designating Stockholders shall collectively have a designation right with respect to one (1) seat on the Board of Directors, pursuant to which the Designating Stockholders shall have the exclusive right to nominate an individual for election to such Director seat;

(v) the Board of Directors shall include at least one At-Large Director; and

[1] Note to Draft: These 7 Directors will be the individuals named as initial Directors in the Plan Supplement or otherwise selected in accordance with the Plan and Governance Term Sheet (as defined in the Plan).

(vi) at all times the individual then serving as the CEO, if any, shall automatically be a Director (the "CEO Director"), *provided*, that any such individual's status as a director shall automatically terminate upon their ceasing to be the CEO.

(c) If at any time a Designating Stockholder loses a Designation Right because it ceases to satisfy the applicable Total Equity Interest ownership threshold set forth in subsection (b) of this Section 6.2, then the term of the Designated Director then serving on the Board of Directors as a result of such terminated Designation Right shall expire at the next annual meeting of stockholders following such termination, and thereafter such Director seat shall be an At-Large Director seat and that (including at such annual meeting) is subject to election by the Company's stockholders at such annual meeting or by written consent. Notwithstanding anything to the contrary in this Section 6.2, the then-current term of a Designated Director shall not be affected solely by the applicable Designating Stockholder's loss of its Designation Right.

(d) A Designating Stockholder may not assign or otherwise Transfer its Designation Rights to any Person, except that (i) any Designating Stockholder may freely assign Designation Rights to any of its controlled Affiliates or Related Funds, (ii) any Designating Stockholder may assign its Designation Rights to the Transferee in connection with any Transfer of all (but not less than all) of the shares of Common Stock and Convertible Notes that such Designating Stockholder received or was entitled to receive on the Effective Date pursuant to the Plan and the Backstop Purchase Agreement, and (iii) any Designating Stockholder may assign its Designation Rights with respect to one (1) Director seat, to the Transferee in connection with any Transfer of shares of Common Stock and/or Convertible Notes representing at least ten percent (10.0%) of the Total Equity Interests, *provided*, that in each case the Designating Stockholder provides the Company with prior written notice of such assignment, and *provided further*, that in the case of (ii) and (iii), (x) the Transfer of Common Stock and/or Convertible Notes complies with all applicable provisions of this Agreement and the Transferee (if not already a signatory hereto) executes and delivers a Joinder Agreement and (y) the applicable Transferee shall only retain such Designation Rights so long as Transferee owns, in the aggregate, the minimum amount of Total Equity Interests that the Transferor would have been required to own pursuant to this Agreement in order to retain such Designation Rights in lieu of the Transfer to Transferee.

Section 6.3 Removal; Vacancies. At any time, a Director may be removed with or without cause by Majority Stockholder Approval. In the event of the death, resignation or removal of a Director, or if there is a vacancy on the Board of Directors for any other reason, the vacancy shall be promptly filled by the remaining Directors, in accordance with the Bylaws, subject (in the case of any Director seat that is subject to a Designation Right) to the exclusive right of the Designating Stockholder to designate the individual to fill such vacancy. Notwithstanding anything to the contrary in this Article VI, a Designating Stockholder shall have the exclusive right (exercisable at any time in its sole discretion) to remove its respective Designated Director and to fill any vacancy with respect to the Director seat to which its Designation Right relates.

Section 6.4 Voting. Except as otherwise provided in this Agreement, approval of the Board of Directors of any action or decision will require unanimous written consent of all Directors then in office or approval of a majority of the Directors present at a validly convened meeting of the Board of Directors at which a quorum is present.

Section 6.5 Director Compensation. From and after the Effective Date, each Director who is not an employee of the Company or any of its Subsidiaries (each, a "Non-Employee Director") shall be entitled to such market-rate compensation (which may include cash and/or equity awards) from the Company, as shall have been determined by the Required Backstop Parties (as defined in the Backstop Purchase Agreement) and the Company prior to the Effective Date and set forth in a written notice given to the Company prior to the Effective Date, subject to such changes as may be approved from time to time by the Board of Directors; *provided*, *however*, that such compensation shall not be increased (other than reasonable annual cost of living increases) unless such increase shall have been approved by Majority Stockholder Approval. Any equity awards granted to Non-Employee Directors shall be in addition to the equity awards provided under the Management Incentive Plan. All Directors will be reimbursed by the Company for all reasonable and documented expenses incurred in connection with his or her service as a Director and (as applicable) committee member, and will be entitled to customary indemnification/advancement and exculpation provisions and directors' and officers' liability insurance coverage.

Section 6.6 Chairman of the Board. The initial Chairman of the Board, as of the Effective Date, shall be the Director identified as such in Schedule 6.2. Following each annual meeting of the stockholders, the Board of Directors shall elect the Chairman of the Board from among the Directors.

Section 6.7 Committees of the Board of Directors. The Board of Directors shall establish and maintain an Audit Committee and a Compensation Committee. In addition, the Board of Directors may, by a majority vote of the Whole Board, establish one or more additional committees from time to time, in each case in accordance with the Certificate of Incorporation and the Bylaws.

Section 6.8 Subsidiary Boards. The Company shall (except as otherwise determined by the Required Backstop Parties prior to the Effective Date) use commercially reasonable efforts to cause the size and composition of the board of directors, board of managers or similar governing body of each of the Company's wholly-owned Subsidiaries to at all times be identical to that of the Board of Directors; *provided*, *however*, that the foregoing requirement shall not apply to any wholly-owned Subsidiary which is (i) a limited liability company that is managed by its members, (ii) a limited partnership that is managed by its general partner, or (iii) required by law or contract to have a different composition.

ARTICLE VII

INFORMATION RIGHTS

Section 7.1 Information Rights.

(a) For so long as the Company is not required to file periodic reports under the Exchange Act, the Company shall provide to each Stockholder who is not a Competitor the information, reports and other materials that Stockholders are entitled to receive under this Article VII, within the time periods and subject to the applicable terms and conditions set forth in this Article VII; *provided*, *however*, that notwithstanding anything contained in this Article VII, any

Stockholder that has not duly executed and delivered to the Company a counterpart signature page to this Agreement or a Joinder Agreement (and has not otherwise entered into a confidentiality agreement, in form and substance acceptable to the Board of Directors in its sole discretion, with respect to such information, reports and other materials) shall not be entitled to receive any such information, reports or other materials, or access to the Data Room. All information, reports and other materials that the Company is required to provide to Stockholders under this Article VII shall be posted to an electronic data room on a secure website or electronic data room to which all Stockholders entitled to receive such information, reports and other materials are given access (the "Data Room"). The Company shall also provide access to the Data Room, upon request by any Stockholder entitled to such access, to any Transferee or potential Transferee of shares of Common Stock to whom such Stockholder would be entitled to disclose Information pursuant to Section 12.3, *provided*, that such Transferee or potential Transferee is a Qualified Institutional Buyer or Accredited Investor (or is otherwise acceptable to the Board of Directors, in its reasonable discretion). All information provided by the Company to Stockholders pursuant to this Article VII (including all information provided to or obtained by any Significant Stockholder pursuant to Section 7.1(d)) shall be subject to the confidentiality provisions set forth in Section 12.3.

(b) Each Stockholder who is not a Competitor shall have the right to receive, (i) within ninety (90) days after the end of each fiscal year of the Company, audited consolidated financial statements of the Company for such fiscal year (including balance sheets, statements of operations and statements of cash flows), certified by a national accounting firm and prepared in accordance with GAAP, along with a reasonably detailed management's discussion and analysis, in narrative form, commenting on the audited consolidated financial statements ("MD&A"), (ii) within sixty (60) days after the end of each of the first three fiscal quarters of each fiscal year of the Company, unaudited condensed consolidated financial statements of the Company for such quarter and the year-to-date period and the comparable period of the prior fiscal year (including balance sheets, statements of operations and statements of cash flows, prepared in accordance with GAAP, along with an MD&A with respect thereto.

(c) Within a reasonable time after it provides quarterly or annual financial statements to Stockholders pursuant to Section 7.1(b), the Company shall hold quarterly conference calls with the Stockholders (and reasonable prior notice and dial-in information will be provided to each Stockholder entitled to participate in such call) to discuss the Company's results of operations and financial performance for the immediately preceding fiscal quarter and year-to-date, including a reasonable question and answer session. Notwithstanding the foregoing, the Company in its sole discretion may exclude from any such calls any Stockholder who is a Competitor.

(d) If at any time following the Effective Date the Company is required to register the Common Stock or any other class of equity security under Section 12(g) of the Exchange Act because the number of holders of record of such class exceeds any of the applicable thresholds, the Company shall provide a minimum of thirty (30) days prior written notice of such registration to all Stockholders, and the Company shall not otherwise register the Common Stock or any class of equity security under Section 12 of the Exchange Act at any time prior to consummation of a Qualified Public Offering. The Common Stock will not be listed or quoted on the New York Stock Exchange, the NASDAQ Stock Market or any other national securities exchange at any time prior to the consummation of a Qualified Public Offering.

ARTICLE VIII

KEY ACTIONS

Section 8.1 Approval Requirements for Key Actions. In addition to any vote of stockholders of the Company that may be required by applicable law or by the provisions of the Certificate of Incorporation, the Company shall not directly or indirectly take (and, as applicable, the Company shall cause its Subsidiaries to refrain from taking) any Key Action without first obtaining approval of such Key Action by the Board of Directors pursuant to either (i) the affirmative vote, at a duly held meeting, of Directors that constitute a majority of the Whole Board or (ii) the unanimous written consent of all Directors then in office ("Whole Board Approval"). Notwithstanding the foregoing, Whole Board Approval shall not be required with respect to any Company Stock Sale or Company Asset Sale effectuated pursuant to the terms and conditions set forth in Article III hereof.

ARTICLE IX

RELATED PARTY TRANSACTIONS

Section 9.1 Approval Requirements for Related Party Transactions. In addition to any other vote of Stockholders of the Company that may be required by law or by the provisions of the Certificate of Incorporation, the Company shall not enter into, or permit any other Company Entity to enter into, any Related Party Transaction (or series of Related Party Transactions) that requires or (as determined by the disinterested members of the Board of Directors) would reasonably be expected to involve more than five million dollars ($5,000,000) in cash payments or other consideration or value, without first (i) obtaining approval of such Related Party Transaction(s) by Disinterested Director Approval, and (ii) (A) prior to obtaining Disinterested Director Approval described in clause (i) above, obtaining a fairness opinion from with respect to such proposed Related Party Transaction from a nationally recognized investment banking or valuation firm, or (B) obtaining prior approval of the Stockholders by Majority Stockholder Approval (excluding for such purpose any shares held by the applicable Related Party or any of its Affiliates).

ARTICLE X

TRANSFERS

Section 10.1 Restrictions on Transfer.

(a) Each Stockholder covenants and agrees that it shall not Transfer any shares of Common Stock except in accordance with the provisions of this Section 10.1 and the other applicable provisions of this Agreement. The Board of Directors, in its sole discretion, may at any time and from time to time waive any of the restrictions or requirements set forth in this Section 10.1, other than clause (i) of Section 10.1(b). The Board of Directors may delegate, to one or more specified officers of the Company, all or any portion of its authority to make decisions and determinations pursuant to this Section 10.1. Any Transfer must comply with Section 3.1, Section 4.1 and Section 5.1, as applicable.

(b) Shares of Common Stock shall not be Transferred by any Stockholder in any Transfer that, if consummated, (i) would result in a violation of the Securities Act or any state securities laws or regulations, or any other applicable federal or state laws or order of any Governmental Authority having jurisdiction over the Company or (ii) would result in the Company's having a number of "holders of record" (as such concept is understood for purposes of Section 12(g) of the Exchange Act) of Common Stock that (A) is three hundred (300) or more (except to the extent the Board of Directors determines, at any time after January 1, 2021 based on advice of outside counsel, that such threshold is not applicable for purposes of determining whether the Company will be subject to periodic reporting obligations under the Exchange Act), (B) exceeds the applicable threshold for the Company's having to register the Common Stock under Section 12(g) of the Exchange Act or (C) would otherwise subject the Company to reporting obligations under Section 13 or Section 15 of the Exchange Act (if, at any time after January 1, 2021, it is not already subject to such reporting obligations). In calculating the number of holders of record of Common Stock for purposes of the immediately preceding sentence, (x) any pending Transfers for which a Transfer Notice (as defined below) has previously been given to the Company shall be taken into account and (y) all then-outstanding Convertible Notes shall be treated as if they were fully converted into shares of Common Stock with all such shares issued to and held by the holders of such Convertible Notes.

(c) It shall be a condition precedent to any Stockholder's Transfer of shares of Common Stock that, prior to the consummation thereof, the Stockholder provide written notice of such Transfer to the Company (a "Transfer Notice"). A Transfer Notice shall be delivered to the Company in accordance with Section 12.2 and, except as determined otherwise by the Board of Directors in its sole discretion, shall include (A) the name, address, telephone number and email address of the Transferor and the Transferee, (B) the number of shares of Common Stock proposed to be Transferred (C) the total shares of Common Stock then held by the Transferor, (D) the date on which the Transfer is expected to take place and (E) such additional information and documentation as may be reasonably requested by the Company and the Company's stock transfer agent. So long as the applicable provisions of this Agreement and the Certificate of Incorporation shall have been fully satisfied and complied with to the satisfaction of the Board, the Company shall, within seven (7) Business Days after delivery of the Transfer Notice (including, without limitation, the provision of any information and documentation requested pursuant to the foregoing clause (E) and, if applicable, the Joinder Agreement and/or legal opinion required by subsection (d) below), cause the Transfer to be registered on the books of the Company, unless the Board of Directors determines that the Transfer is not permitted pursuant to the terms of this Section 10.1, in which case the Company shall promptly inform the Transferor of such determination.

(d) It shall be a condition precedent to any Stockholder's Transfer of shares of Common Stock that the Transferee shall have delivered to the Company a Joinder Agreement, duly completed and executed by the Transferee, if the Transferee was not an original signatory to this Agreement and has not previously executed and delivered a Joinder Agreement. It shall also be a condition precedent to any Stockholder's Transfer of shares of Common Stock that, if requested by the Board of Directors in its sole discretion, the Transferor shall have delivered to the Company a legal opinion reasonably acceptable to the Board of Directors, stating that registration of the shares of Common Stock that are the subject of such proposed Transfer is not required under the Securities Act. Notwithstanding the foregoing, such a legal opinion shall not be required for any Transfer of shares of Common Stock that were issued under the Plan in reliance

on the registration exemption provided by Section 1145 of the Bankruptcy Code, unless the Company has reason to believe that such shares are "restricted securities" as such term is defined in Rule 144 under the Securities Act or that the Transferor may be an Affiliate of the Company or an "underwriter" (as such term is defined in Section 1145(b) of the Bankruptcy Code) with respect to such shares.

(e) Certificates. All certificates (if any) evidencing shares of Common Stock shall conspicuously bear the applicable legends set forth below, with such changes as the Board of Directors, in its discretion, deems to be necessary and appropriate, and any other legends required by the Certificate of Incorporation. Each Stockholder shall be deemed to have actual knowledge of the terms, provisions, restrictions and conditions set forth in the Certificate of Incorporation and this Agreement (including the restrictions on Transfer set forth in this Section 10.1), whether or not any certificate evidencing shares of Common Stock owned or held by such Stockholder bear the legends set forth below and whether or not any such Stockholder received a separate notice of such terms, provisions, restrictions and conditions.[2]

Each certificate, if any, representing shares of Common Stock issued under the Plan in reliance on the Securities Act exemption provided by Section 1145 of the Bankruptcy Code shall include a legend substantially to the following effect:

> "THE SHARES REPRESENTED BY THIS CERTIFICATE (THE "SECURITIES") WERE ORIGINALLY ISSUED IN RELIANCE UPON AN EXEMPTION FROM THE REGISTRATION REQUIREMENT OF SECTION 5 OF THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT"), PROVIDED BY SECTION 1145 OF THE U.S. BANKRUPTCY CODE. THE SECURITIES HAVE NOT BEEN REGISTERED UNDER THE ACT OR ANY STATE SECURITIES LAW, AND TO THE EXTENT THE HOLDER OF THE SECURITIES IS AN "UNDERWRITER", AS DEFINED IN SECTION 1145(B)(1) OF THE BANKRUPTCY CODE, MAY NOT BE SOLD OR TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR AN EXEMPTION THEREFROM. THE SECURITIES ARE ALSO SUBJECT TO THE PROVISIONS OF THE COMPANY'S STOCKHOLDERS AGREEMENT DATED AS OF [•], 2020, INCLUDING RESTRICTIONS ON TRANSFER. THE SECURITIES ARE TRANSFERABLE ONLY IN ACCORDANCE WITH THE PROVISIONS OF THE STOCKHOLDERS AGREEMENT, AND ALL HOLDERS OF SHARES OF THE COMPANY (WHETHER ACQUIRED UPON ISSUANCE OR TRANSFER) SHALL BE, AND BE DEEMED TO BE, A PARTY TO AND BOUND BY SUCH AGREEMENT. A COPY OF THE STOCKHOLDERS AGREEMENT WILL BE FURNISHED WITHOUT CHARGE BY THE COMPANY TO THE HOLDER HEREOF UPON WRITTEN REQUEST."

Each certificate, if any, representing shares of Common Stock issued in reliance on the Securities Act exemption provided by Section 4(a)(2) of the Securities Act shall include a legend substantially to the following effect:

[2] Note to Draft: Consider inserting language regarding the removal of legends.

"THE SHARES REPRESENTED BY THIS CERTIFICATE (THE "SECURITIES") WERE ORIGINALLY ISSUED IN RELIANCE UPON AN EXEMPTION FROM THE REGISTRATION REQUIREMENT OF SECTION 5 OF THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT"), PROVIDED BY SECTION 4(a)(2) OF THE SECURITIES ACT. THE SECURITIES HAVE NOT BEEN REGISTERED UNDER THE ACT OR ANY STATE SECURITIES LAW, AND MAY NOT BE SOLD OR TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR AN EXEMPTION THEREFROM. THE SECURITIES ARE ALSO SUBJECT TO THE PROVISIONS OF THE COMPANY'S STOCKHOLDERS AGREEMENT DATED AS OF [•], 2020, INCLUDING RESTRICTIONS ON TRANSFER. THE SECURITIES ARE TRANSFERABLE ONLY IN ACCORDANCE WITH THE PROVISIONS OF THE STOCKHOLDERS AGREEMENT, AND ALL HOLDERS OF SHARES OF THE COMPANY (WHETHER ACQUIRED UPON ISSUANCE OR TRANSFER) SHALL BE, AND BE DEEMED TO BE, A PARTY TO AND BOUND BY SUCH AGREEMENT. A COPY OF THE STOCKHOLDERS AGREEMENT WILL BE FURNISHED WITHOUT CHARGE BY THE COMPANY TO THE HOLDER HEREOF UPON WRITTEN REQUEST."

Each certificate, if any, representing other shares of Common Stock shall contain such legends as the Board of Directors, in its discretion, deems to be necessary and appropriate.

(f) Certain Restricted Transfers. Shares of Common Stock shall not be Transferred by any Stockholder to a Competitor, except with the prior written approval of the Board of Directors in its sole discretion. Shares of Common Stock shall not be Transferred by any Stockholder pursuant to any Transfer (other than to an Affiliate of the Transferor) that would, if consummated, result in the Transferee (together with its Affiliates) becoming the holder of more than five percent (5%) of the outstanding shares of Common Stock , except with the prior written approval of the Board of Directors in its sole discretion, *provided, however*, that such restriction shall not apply to any Transfer to a Significant Stockholder, or if the Transferee (together with its Affiliates) already holds more than five percent (5%) of the outstanding shares of Common Stock and was the Transferee in another Transfer approved pursuant to this Section 10.1(f). The foregoing restrictions shall not apply to Transfers (i) between Significant Stockholders, (ii) in a Drag-Along Sale pursuant to Article III hereof, or (iii) by any Tag-Along Seller in a Tag-Along Sale pursuant to Article IV hereof.

(g) Transfers Not in Compliance. Any Transfer or attempted Transfer of any shares of Common Stock that does not fully comply with the applicable provisions of this Agreement shall be null and void ab initio and of no force or effect whatsoever, and shall not be recognized by the Company. Any such Transfer or attempted Transfer shall not be recorded on the Company's books and the purported Transferee shall not be treated as the owner of such shares of Common Stock for any purpose. The Company may institute legal proceedings to force rescission of any Transfer made in violation of any provision of this Agreement and to seek any other remedy available to it at law, in equity or otherwise, including an injunction prohibiting any such Transfer.

Section 10.2 Right of First Offer.

(a) In the event that any Stockholder proposes to Transfer shares of Common Stock that represent more than five percent (5%) of the outstanding shares of Common Stock in a single transaction or series of related transactions (such shares, the "ROFO Shares", and such Stockholder, the "Offering Holder"), the Company shall have a right of first offer with respect to such proposed Transfer of the ROFO Shares (a "ROFO Sale") and, if the Company does not exercise such right to purchase all the ROFO Shares, each Significant Stockholder (excluding the Offering Holder and its Affiliates, to the extent any of them is a Significant Stockholder) (a "ROFO Holder") shall have a right of first offer with respect to the ROFO Shares, which rights of first offer shall be subject to, and be exercised in accordance with, the provisions of this Section 10.2.

(b) With respect to any proposed ROFO Sale, the Offering Holder shall first deliver written notice thereof to the Company and each of the ROFO Holders in accordance with Section 12.2 (a "ROFO Sale Notice"), which ROFO Sale Notice shall set forth the number of ROFO Shares proposed to be Transferred. The Company shall have the right, exercisable within five (5) Business Days following delivery of the ROFO Sale Notice to make a written offer to the Offering Holder (a "Company ROFO Offer") to purchase (either directly or through one or more Affiliates) all, but not less than all, of the ROFO Shares at a cash purchase price specified in the Company ROFO Offer. If the Company does not exercise such right within the five (5) Business Days following delivery of the ROFO Transfer Notice or expressly declines to exercise such right, the Company shall give prompt written notice thereof to each the ROFO Holders, and each ROFO Holder shall have the right, exercisable within five (5) Business Days following the Company's delivery of such notice to the ROFO Holders, to make a written offer (a "Holder ROFO Offer") to purchase (either directly or through one or more Affiliates) all, but not less than all, of the ROFO Shares at a cash price specified in the Holder ROFO Offer. For the avoidance of doubt, if the Company exercises its right to make a ROFO Offer, then the ROFO Holders shall not be entitled to any rights described in this Section 10.2.

(c) If the Company makes a Company ROFO Offer and the Offering Holder accepts such Company ROFO Offer, subject to Section 10.2(e) below, the Company shall be irrevocably obligated to purchase (either directly or through one or more Affiliates, as applicable), and the offering Holder shall be irrevocably obligated to sell, all, but not less than all, of the ROFO Shares at the price specified in the Company ROFO Offer, and on the terms and subject to the conditions set forth in this Section 10.2.

(d) If the Company does not exercise its right to make a Company ROFO Offer, and the Offering Holder receives Holder ROFO Offers from one or more ROFO Holders, then the Offering Holder shall have the right, exercisable within five (5) Business Days following the last day a timely Holder ROFO Offer could have been made by a ROFO Holder for the ROFO Shares, to accept the highest Holder ROFO Offer by sending written notice of its acceptance to the ROFO Holder making such Holder ROFO Offer (a "ROFO Acceptance Notice"); *provided*, that if two or more Holder ROFO Offers provide for the same purchase price and the Offering Holder wishes to accept a ROFO Offer at such price, then the Offering Holder shall accept each such Holder ROFO Offer in part, with each such ROFO Offer to be accepted by allocating the ROFO Shares proportionately in accordance with the respective ownership of Common Stock (calculated as of the date of the ROFO Sale Notice) by each of the ROFO Holders making such Holder ROFO

Offers. Upon the Offering Holder's acceptance of a one or more Holder ROFO Offers in accordance with this Section 10.2(d), the ROFO Holder(s) making such Holder ROFO Offer(s) shall be irrevocably obligated to purchase (either directly or through one or more Affiliates), and the Offering Holder shall be irrevocably obligated to sell, in each case the ROFO Holder Shares with respect to which such Holder ROFO Offer(s) was accepted, at the price specified in such Holder ROFO Offer(s), and on the terms and subject to the conditions set forth in this Section 10.2.

(e) In the event the Offering Holder accepts a Company ROFO Offer or one or more Holder ROFO Offers (each, a "ROFO Offer"), the closing for such purchase and sale of the ROFO Shares pursuant thereto shall take place within ten (10) Business Days after the Offering Holder's delivery of the applicable ROFO Acceptance Notice, and at such closing, (i) the Offering Holder shall deliver, against payment of the purchase price therefor, certificates (if any) or other documentation (or other evidence thereof reasonably acceptable to the purchaser) representing such ROFO Shares, duly endorsed for transfer or accompanied by duly endorsed instruments of transfer, and such other documents as are deemed reasonably necessary by the purchaser for the proper transfer of such ROFO Shares on the books of the Company free and clear of any Liens (other than Permitted Liens) and (ii) the purchasers shall deliver to the Offering Holder the purchase price for such ROFO Shares. The Offering Holder shall not be required to provide any representations or warranties in the definitive Transfer documentation for such purchase and sale of the ROFO Shares, other than with respect to (i) the authority of the Offering Holder to execute the relevant Transfer documents and Transfer the ROFO Shares pursuant thereto, (ii) the due execution and delivery of the relevant Transfer documents by the Offering Holder and (iii) the Offering Holder's ownership of the ROFO Shares free and clear of adverse interests and other liens.

(f) If the Offering Holder does not receive a timely ROFO Offer, the Offering Holder shall have the right to Transfer the ROFO Shares, in whole or in part, to one or more third parties at such price as it so determines. If the Offering Holder receives one or more timely ROFO Offers but the Offering Holder elects not to accept any such ROFO Offer, the Offering Holder shall have the right, within 180 days thereafter, to Transfer all, but not less than all, of its ROFO Shares to one or more third parties; *provided, however*, that no such Transfers shall be made at a price that is less than 110% of the highest price set forth in any timely ROFO Offer not accepted by the Offering Holder. If the Offering Holder desires to Transfer the ROFO Shares at a price less than 110% of the highest price set forth in any timely ROFO Offer, or more than 180 days after a ROFO Offer was received, then it shall not be permitted to do so without re-commencing the right of first offer process set forth in this Section 10.2.

(g) The foregoing restrictions shall not apply to Transfers (i) between Significant Stockholders, (ii) by a Stockholder to any of its Affiliates, (iii) in a Drag-Along Sale pursuant to Article III hereof, or (iv) by any Tag-Along Seller in a Tag-Along Sale pursuant to Article IV hereof.

ARTICLE XI
REPRESENTATIONS AND WARRANTIES

Section 11.1 Stockholder Representations and Warranties. Each Stockholder executing or otherwise becoming a party to this Agreement, severally and not jointly, hereby represents and

warrants to the Company that as of the date of such execution or its becoming a party hereto, (a) such Stockholder is duly organized and validly existing under the laws of the jurisdiction of its organization and is in good standing thereunder, (b) such Stockholder and its signatories have the requisite power and authority to enter into, deliver and perform its obligations under this Agreement and (c) this Agreement constitutes the valid and binding obligation of such Stockholder, enforceable in accordance with its terms (except as limited by applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance and other laws relating to or affecting creditors' rights generally and the effect and application of general principles of equity and the availability of equitable remedies).

ARTICLE XII

MISCELLANEOUS

Section 12.1 Term and Termination.

(a) This Agreement shall terminate automatically upon consummation of a Qualified Public Offering, a Company Asset Sale or Company Stock Sale, subject to compliance with all applicable provisions of this Agreement relating to rights of Stockholders in connection with such transaction; *provided,* Section 12.3 (and any other provisions of this Agreement necessary to give effect to Section 12.3) shall survive any termination hereof.

(b) Notwithstanding anything to the contrary in this Agreement, in the event of any termination of this Agreement, (i) the provisions of this Agreement shall survive to the extent necessary for any Party to enforce any right of such Party that accrued hereunder prior to or on account of such termination and (ii) Section 12.3 shall survive such termination.

Section 12.2 Notices. All notices, requests, waivers and other communications made pursuant to this Agreement shall be in writing and shall be deemed to have been effectively given (a) when personally delivered to the party to be notified; (b) when sent by confirmed facsimile or electronic mail to the party to be notified; (c) three (3) Business Days after deposit in the United States mail, postage prepaid, by certified or registered mail with return receipt requested, addressed to the party to be notified; or (d) one (1) Business Day after deposit with a national overnight delivery service, postage prepaid, addressed to the party to be notified with next-Business Day delivery guaranteed, in each case as follows:

In the case of any Stockholder, to such Stockholder at its address, electronic mail address or facsimile number set forth in the stock records of the Company; *provided*, that any Stockholder may change its address for purposes of notice hereunder at any time by giving notice of such change to the Company in the manner provided in this Section 12.2. Pursuant to Section 7.1, a copy of any notice or other written communication given by or on behalf of the Company to the Stockholders generally shall be posted to the Data Room on the same date as such notice or other written communication is given.

In the case of the Company, as follows (provided, that the Company may change its address for purposes of notice hereunder at any time by giving notice of such change to all other parties in the manner provided in this Section 12.2):

Chaparral Energy, Inc.
701 Cedar Lake Blvd.
Oklahoma City, OK 73114
Attn: Charles Duginski, Chief Executive Officer,
Justin Byrne, Vice President and General Counsel
E-mail: chuck.duginski@chaparralenergy.com
justin.byrne@chaparralenergy.com

Section 12.3 Confidentiality.

(a) Each Stockholder shall, and shall cause its Representatives to, keep confidential and not divulge any information (including all budgets, business plans and analyses) concerning the Company and its Subsidiaries, including its assets, business, operations, financial condition, liabilities or business prospects ("Information"), and shall use, and cause its Representatives to use, such Information only in connection with the operation of the Company and its investment in the Company; *provided, however,* that nothing herein shall prevent any Stockholder from disclosing such Information (i) upon the order of any court or administrative agency, (ii) upon the request or demand of any regulatory agency or authority having jurisdiction over such Stockholder, (iii) to the extent compelled by legal process or required or requested pursuant to subpoena, interrogatories or other discovery requests, (iv) to the extent necessary in connection with the exercise of any remedy hereunder, (v) to other Stockholders who have entered into this Agreement, (vi) to such Stockholder's Representatives that in the reasonable judgment of such Stockholder need to know such Information and have an obligation to maintain the confidentiality of such Information, (vii) to any Related Party as long as the Related Party agrees in writing to be bound by the provisions of this Section 12.3 as if it were a Stockholder, (viii) to a potential Transferee of shares of Common Stock, to the extent reasonably necessary in connection with an actual or potential Transfer to such Person that would be permitted by this Agreement, *provided* that such potential Transferee is not a Competitor and (prior to such disclosure) enters into a non-disclosure agreement in a form approved by the Board of Directors pursuant to which the potential Transferee agrees in writing to maintain the confidential nature of such Information in accordance with the terms of this Section 12.3, or (ix) with the prior written consent of the Company; *provided further, that* in the case of clause (i), (ii) or (iii), the applicable Stockholder shall notify the Company in writing of the proposed disclosure as far in advance of such disclosure as practicable and use reasonable efforts to ensure that any Information so disclosed is accorded confidential treatment, when and if available.

(b) The restrictions set forth in Section 12.3(a) shall not apply to any information that (i) is or becomes generally available to the public other than as a result of a disclosure by a Stockholder or any of its Representatives in violation of this Agreement; (ii) is or becomes available to a Stockholder or any of its Representatives on a non-confidential basis prior to its disclosure by or on behalf of the Company to the receiving Stockholder and any of its Representatives, (iii) is or has been independently developed or conceived by such Stockholder or any of its Representatives without use of the Company's Information or (iv) becomes available to the receiving Stockholder or any of its Representatives on a non-confidential basis from a source other than the Company, any other Stockholder or any of their respective Representatives, *provided*, that such source is not known by the recipient of the information to be bound by a confidentiality agreement with the disclosing party or any of its Representatives.

Section 12.4 Binding Effect; No Assignment. This Agreement shall be binding upon and inure to the benefit of the respective successors and permitted assigns of the parties hereto. Except as expressly provided otherwise in this Agreement, no party to this Agreement may assign any of its respective rights (including Significant Stockholder status and/or any rights resulting from such status) or delegate any of its respective obligations under this Agreement, and any attempted assignment or delegation in violation of the foregoing shall be null and void *ab initio*. Notwithstanding the foregoing, (a) any Person to whom shares of Common Stock are Transferred in accordance with the provisions of Article X hereof will (by virtue of having executed a Joinder Agreement) have the rights and obligations of a Stockholder hereunder (b) any Significant Stockholder may freely assign, by written notice to the Company, Significant Stockholder rights to any of its Affiliates that are Stockholders.

Section 12.5 Entire Agreement. Subject to Section 12.13, this Agreement supersedes all prior discussions and agreements among any of the parties hereto (and their Affiliates) with respect to the subject matter hereof and contains the sole entire understanding of the parties with respect to the subject matter hereof.

Section 12.6 Amendments.

(a) This Agreement may not be amended or modified without first obtaining Majority Stockholder Approval and Whole Board Approval. In addition, any amendment or modification to this Agreement shall, if applicable, require the following additional approvals in the circumstances set forth below:

(i) Supermajority Stockholder Approval shall be required for any amendment or modification to this Section 12.6, or any provisions of Article II (Stockholders; Voting Rights), Article III (Drag-Along Sale), Article IV (Tag-Along Sale), Article V (Preemptive Rights), Section 6.6 (Management), Article VII (Information Rights), Article VIII (Key Actions), Article IX (Related Party Transactions), Section 12.1 (Termination), Section 12.3 (Confidentiality) and Article I (Certain Definitions), to the extent relating to any of the foregoing Articles or Sections, in each case to the extent that such amendment or modification adversely affects, in any material respect, the rights or obligations of the Stockholders under any of the foregoing provisions;

(ii) any amendment or modification to the provisions of this Agreement that apply specifically to Significant Stockholders (including the definition thereof) shall require the prior written consent of all such Significant Stockholders, and any amendment or modification to the provisions of this Agreement that apply specifically to Designating Stockholders or Designation Rights shall require the prior written consent of such Designating Stockholders, in each case to the extent such amendment or modification would adversely affect such Significant Stockholders, Designating Stockholders or Designation Rights, as the case may be; and

(iii) any provision of this Agreement that by its terms confers consent or approval rights on a specified number or percentage of the Stockholders (or a specified subset of the Stockholders) shall not be amended without the prior written consent of such number or percentage of the Stockholders (or subset of the Stockholders, as applicable).

(b) Notwithstanding anything to the contrary in this Section 12.6, the Board of Directors, in its sole discretion and without the need for any Stockholder approval, may amend or modify this Agreement to correct any typographical or ministerial error as long as such amendment or modification does not have an adverse impact on the rights or obligations of any of the Stockholders.

(c) Each Stockholder agrees to vote all of its Common Stock or execute proxies or written consents, as the case may be, and to take all other actions necessary, to ensure that the Certificate of Incorporation or the Bylaws (i) facilitate, and do not at any time conflict with, any provision of this Agreement and (ii) permit each Stockholder to receive the benefits to which each such Stockholder is entitled under this Agreement. Each of the Parties agrees that it will not authorize or consent to any amendment, modification or repeal of any provision of the Certificate of Incorporation or the Bylaws that affects, in any material respect any of the provisions of this Agreement that apply specifically to Significant Stockholders (including the definition thereof) without the prior written consent of all Significant Stockholders, and any amendment or modification to the provisions of this Agreement that apply specifically to Designating Stockholders or Designation Rights shall require the prior written consent of all Designating Stockholders, in each case to the extent such amendment, modification or repeal would adversely affect the Significant Stockholders, Designating Stockholders or Designation Rights, as the case may be.

Section 12.7 No Third Party Beneficiary. The terms and provisions of this Agreement are intended solely for the benefit of each party hereto and its successors and permitted assigns, and it is not the intention of the parties to confer third-party beneficiary rights upon any other Person.

Section 12.8 Deemed Execution; Effective Date. On the Effective Date, pursuant to [the Confirmation Order and] Article IV Section C.3 of the Plan, the Company and each holder of Common Stock then outstanding shall be deemed to be parties to this Agreement, and this Agreement shall be binding on the Company and all Persons receiving Common Stock and all holders of Common Stock, in each case regardless of whether such Person actually executes this Agreement. This Agreement shall take effect immediately and automatically on the Effective Date.

Section 12.9 Headings. The headings of the various sections of this Agreement have been inserted for convenience of reference only and shall not be deemed to be a part of this Agreement.

Section 12.10 Governing Law; Consent to Jurisdiction and Service of Process. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, without regard to its conflicts of law doctrine. The Company and each Stockholder hereby submits to the exclusive jurisdiction of (i) the Bankruptcy Court, and (ii) the courts of the State of Delaware, and any judicial proceeding brought against the Company or any Stockholder with respect to any dispute arising out of this Agreement or any matter related hereto shall be brought only in such courts. The Company and each Stockholder hereby irrevocably waives, to the fullest extent permitted by law, any objection it may have or hereafter have to the laying of the venue of any such proceeding brought in such a court and any claim that any such proceeding

brought in such a court has been brought in an inconvenient forum. The Company and each Stockholder hereby consents to process being served in any such proceeding by the mailing of a copy thereof by registered or certified mail, postage prepaid, to the address specified in Section 12.2, or in any other manner permitted by law. THE COMPANY AND EACH STOCKHOLDER HEREBY KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVES ANY RIGHTS IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY SUCH ACTION OR PROCEEDING.

Section 12.11 Injunctive Relief. It is hereby agreed and acknowledged that it will be impossible to measure in money the damages that would be suffered if the parties to this Agreement fail to comply with any of the obligations imposed on them by this Agreement and that in the event of any such failure, an aggrieved Person will be irreparably damaged and will not have an adequate remedy at law. Any such Person shall, therefore, be entitled to injunctive relief, including specific performance, to enforce such obligations, and if any action should be brought in equity to enforce any of the provisions of this Agreement, none of the parties hereto shall raise the defense that there is an adequate remedy at law. The parties hereby waive, and cause their respective representatives to waive, any requirement for the securing or posting of any bond in connection with any action brought for injunctive relief hereunder.

Section 12.12 Severability. The invalidity or unenforceability of any provisions of this Agreement in any jurisdiction shall not affect the validity, legality or enforceability of the remainder of this Agreement in such jurisdiction or the validity, legality or enforceability of any provision of this Agreement in any other jurisdiction, it being intended that all rights and obligations of the parties hereunder shall be enforceable to the fullest extent permitted by law.

Section 12.13 Conflicts. In the event that any of the terms or provisions of this Agreement conflict with any of the terms or provisions of the Certificate of Incorporation, the terms and provisions of the Certificate of Incorporation shall control. In the event that any of the terms or provisions of this Agreement conflict with any of the terms or provisions of the Plan, the terms and provisions of this Agreement shall control.

Section 12.14 Recapitalization, etc. In the event that any capital stock or other securities are issued in respect of, in exchange for, or in substitution of, shares of capital stock of the Company by reason of any reorganization, recapitalization, reclassification, merger, consolidation, spin-off, partial or complete liquidation, stock dividend, split-up, sale of assets, distribution to Stockholders or combination of Common Stock or any other change in the Company's capital structure, appropriate adjustments shall be made to the provisions of this Agreement so as to fairly and equitably preserve, as far as practicable, the original rights and obligations of the parties hereto under this Agreement.

Section 12.15 Withholding. All actual or constructive payments, dividends and distributions on, or in redemption of, the Common Stock and all Common Stock delivered upon exercise or conversion of the New Warrants or New Convertible Notes shall be subject to withholding and backup withholding of tax to the extent required by law, and amounts withheld, if any, shall be treated as received by the holders of such Common Stock, New Warrants, or New Convertible Notes, as the case may be, in respect of which such amounts were withheld. Without limiting the forgoing, if the Company is required by applicable law to pay withholding tax, the

Company may, at its option, (a) apply a portion of any cash distribution or consideration to be made or paid to the applicable holder to pay such withholding taxes and/or (b) liquidate a portion of any non-cash distribution or consideration to be made or delivered to the applicable holder to generate sufficient funds to pay such withholding taxes.

[*Signature Page Follows*]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first written above.

CHAPARRAL ENERGY, INC.

By: _____
Name:
Title:

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first written above.

STOCKHOLDERS:

[NAME OF STOCKHOLDER]

By: _____
Name:
Title:

Schedule 6.2

INITIAL BOARD OF DIRECTORS

Director Name		**Designating Stockholder (if applicable)**
[●]		Millstreet Stockholders
[●]		Millstreet Stockholders
[●]		Avenue Stockholders
[●]		Amzak Stockholders
[●]		All Designating Stockholders
[●]		N/A (CEO Director)
[●]		N/A (At-Large Director)

* Initial Chairman of the Board

Exhibit A

Bylaws

Exhibit B

Certificate of Incorporation

Exhibit C

Form of Joinder to Stockholders Agreement

The undersigned hereby (a) acknowledges that it has received and reviewed a complete copy of the Stockholders Agreement, dated as of [•], 2020 (as may be amended from time to time, the "Agreement"), by and among CHAPARRAL ENERGY, INC., a Delaware corporation (the "Company"), and the equity holders of the Company party thereto and (b) agrees that, effective as of the date hereof, the undersigned (i) shall become a party to the Agreement and be subject to and fully bound by the Agreement and all of the provisions thereof that are applicable to Stockholders (and entitled to all the rights incidental thereto), as though an original party to the Agreement and (ii) shall be included within the term "Stockholder" for all purposes under the Agreement. Capitalized terms used but not otherwise defined herein shall have the meanings given to them in the Agreement.

The undersigned hereby makes the representations and warranties set forth in Section 11.1 of the Agreement, and represents and warrants to the Company that the undersigned (a) is a Qualified Institutional Buyer or an Accredited Investor and (b) is not a Competitor.

The mailing address, e-mail address and (if applicable) facsimile number to which notices and other communications made pursuant to the Agreement, the Certificate of Incorporation or the Bylaws may be sent to the undersigned are as follows:

Mailing address:

E-mail address:
Facsimile number:

Date:

_____
Name:

EXHIBIT G

New Convertible Notes Indenture

CHAPARRAL ENERGY, INC.,
as the Issuer,

EACH OF THE GUARANTORS PARTY HERETO

and

WILMINGTON SAVINGS FUND SOCIETY FSB,
as Trustee and Collateral Agent

INDENTURE[1]

Dated as of [__], 2020

9.0%/13.0% Second Lien Secured Convertible PIK Toggle Notes due 2025

[1] NTD: This draft Indenture is subject to further review and comment in all respects, including pending review of draft RBL Credit Agreement, by local counsel, by Trustee's counsel and by subject matter specialists.

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ARTICLE IV.

ARTICLE V.

ARTICLE VI.

INDENTURE, dated as of [__], 2020, among Chaparral Energy, Inc., a Delaware corporation (the "Issuer"), the Subsidiary Guarantors (as defined herein) from time to time party hereto and Wilmington Savings Fund Society FSB, a federal savings bank, as Trustee (together with its successors and assigns in such capacity, the "Trustee") and as Collateral Agent (together with its successors and assigns in such capacity, the "Collateral Agent").

The Issuer has duly authorized the creation of an original issue of $35,000,000.00 aggregate initial principal amount of 9.0%/13.0% Second Lien Secured Convertible PIK Toggle Notes due 2025 (the "Notes") and, to provide therefor, the Issuer and the Subsidiary Guarantors have duly authorized the execution and delivery of this Indenture. All things necessary to make the Notes, when duly issued and executed by the Issuer, and authenticated and delivered under this Indenture, the valid obligations of the Issuer, and to make this Indenture a valid and binding agreement of the Issuer, have been done.

Each party hereto agrees as follows for the benefit of the other party and for the equal and ratable benefit of the Holders of the Notes.

ARTICLE I.

DEFINITIONS AND INCORPORATION BY REFERENCE

SECTION 1.1. ***Definitions***.

"144A Global Note" means a Global Note substantially in the form of Exhibit A hereto bearing the Global Note Legend and the Private Placement Legend and deposited with or on behalf of, and registered in the name of, the Depository or its nominee that will be issued in a denomination equal to the outstanding principal amount of the Notes sold in reliance on Rule 144A.

"Acquired Indebtedness" means Indebtedness (i) of a Person or any of its Subsidiaries existing at the time such Person becomes, or is merged with and into, a Restricted Subsidiary or (ii) assumed in connection with the acquisition of assets from such Person, in each case whether or not Incurred by such Person in connection with, or in anticipation or contemplation of, such Person becoming a Restricted Subsidiary or such acquisition. Acquired Indebtedness shall be deemed to have been Incurred, with respect to clause (i) of the preceding sentence, on the date such Person becomes, or is merged with and into, a Restricted Subsidiary and, with respect to clause (ii) of the preceding sentence, on the date of consummation of such acquisition of assets.

"Additional Assets" means:

(1) any properties or assets to be used by the Issuer or a Restricted Subsidiary in the Oil and Gas Business;

(2) capital expenditures by the Issuer or a Restricted Subsidiary in the Oil and Gas Business;

(3) the Capital Stock of a Person that becomes a Restricted Subsidiary as a result of the acquisition of such Capital Stock by the Issuer or a Restricted Subsidiary; or

(4) Capital Stock constituting a minority interest in any Person that at such time is a Restricted Subsidiary;

provided, *however*, that, in the case of clauses (3) and (4), such Restricted Subsidiary is primarily engaged in the Oil and Gas Business.

"Additional Notes" means Notes, in addition to, and having identical terms (except for a date of original issuance different than the Issue Date) as, the $35.0 million aggregate initial principal amount of Notes issued on the Issue Date, issued pursuant to Article II and in compliance with Section 4.12.

"Adjusted Consolidated Net Tangible Assets" of a Person means (without duplication), as of the date of determination, the remainder

(a) the sum of:

(i) discounted future net revenues from Proved Reserves of such Person and its Restricted Subsidiaries calculated in accordance with SEC guidelines before any state or federal income taxes, as estimated in a reserve report prepared as of the end of such Person's most recently completed fiscal year (or, if such date of determination is within 45 days after the end of such most recently completed fiscal year and no reserve report as of the end of such fiscal year has at the time been prepared or audited by independent petroleum engineers, the Person's second preceding fiscal year) or, at such Person's option, such Person's most recently completed fiscal quarter for which internal financial statements are available, in each case, which reserve report is prepared or audited by independent petroleum engineers as to Proved Reserves accounting for at least 80% of all such discounted future net revenues and by such Person's petroleum engineers with respect to any other Proved Reserves covered by such report, as increased by, as of the date of determination, the estimated discounted future net revenues from:

(A) estimated Proved Reserves of such Person and its Restricted Subsidiaries acquired since such year-end, which reserves were not reflected in such year-end or quarterly reserve report, as applicable, and

(B) estimated Proved Reserves of such Person and its Restricted Subsidiaries attributable to extensions, discoveries and other additions and upward revisions of estimates of Proved Reserves (including previously estimated development costs Incurred during the period and the accretion of discount since the prior period end) since the date of such year-end or quarterly reserve report, as applicable, due to exploration, development or exploitation, production or other activities, which would, in accordance with standard industry practice, cause such revisions, in each case calculated in accordance with SEC guidelines (utilizing the prices for the fiscal quarter ending prior to the date of determination), and decreased by, as of the date of determination, the estimated discounted future net revenues from:

(C) estimated Proved Reserves of such Person and its Restricted Subsidiaries reflected in such reserve report produced or disposed of since the date of such year-end or quarterly reserve report, as applicable, and

(D) estimated Proved Reserves of such Person and its Restricted Subsidiaries reflected in such reserve report attributable to downward revisions of estimates of Proved Reserves since the date of such year-end or quarterly reserve report, as applicable, due to changes in geological conditions or other factors which would, in accordance with standard industry practice, cause such revisions, in each case calculated on a pre-tax basis and substantially in accordance with SEC guidelines (utilizing the prices for the fiscal quarter ending prior to the date of determination); *provided*, *however*, that in the case of each of the determinations made pursuant to clauses

(E) through (D) above, such increases and decreases shall be as estimated by the Issuer's petroleum engineers;

(ii) the capitalized costs that are attributable to oil and gas properties of such Person and its Restricted Subsidiaries to which no Proved Reserves are attributable, based on such Person's books and records as of a date no earlier than the date of such Person's latest available annual or quarterly financial statements;

(iii) the Net Working Capital of such Person on a date no earlier than the date of such Person's latest annual or quarterly financial statements; and

(iv) the greater of:

(A) the net book value of other tangible assets of such Person and its Restricted Subsidiaries, as of a date no earlier than the date of such Person's latest annual or quarterly financial statement, and

(B) the appraised value, as estimated by independent appraisers, of other tangible assets of such Person and its Restricted Subsidiaries, as of a date no earlier than the date of such Person's latest audited financial statements;

minus

(b) the sum of:

(i) Minority Interests;

(ii) any net gas balancing liabilities of such Person and its Restricted Subsidiaries reflected in such Person's latest audited balance sheet;

(iii) to the extent included in clause (a)(i) above, the discounted future net revenues, calculated in accordance with SEC guidelines (utilizing the prices utilized in such Person's year-end reserve report), attributable to reserves which are required to be delivered to

third parties to fully satisfy the obligations of the Issuer and its Restricted Subsidiaries with respect to Volumetric Production Payments (determined, if applicable, using the schedules specified with respect thereto); and

(iv) the discounted future net revenues, calculated in accordance with SEC guidelines, attributable to reserves subject to Dollar- Denominated Production Payments which, based on the estimates of production and price assumptions included in determining the discounted future net revenues specified in clause (a)(i) above, would be necessary to fully satisfy the payment obligations of such Person and its Subsidiaries with respect to Dollar-Denominated Production Payments (determined, if applicable, using the schedules specified with respect thereto).

If the Issuer changes its method of accounting from the full cost method of accounting to the successful efforts or a similar method, "Adjusted Consolidated Net Tangible Assets" will continue to be calculated as if the Issuer were still using the full cost method of accounting.

"Affiliate" of any specified Person means any other Person, directly or indirectly, controlling or controlled by or under direct or indirect common control with such specified Person. For the purposes of this definition, "control" when used with respect to any Person means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms "controlling" and "controlled" have meanings correlative to the foregoing; *provided* that beneficial ownership of 10% or more of the Voting Stock of a Person shall be deemed to be control.

"Affiliate Transaction" has the meaning provided in Section 4.11.

"Agent" means any Registrar, Collateral Agent, Paying Agent, Conversion Agent or co-Registrar.

"Allowed Notes" has the meaning provided in Section 10.2(c).

"Applicable Percentage" has the meaning provided in Section 10.2(c).

"Applicable Procedures" means, with respect to any transfer or exchange of or for beneficial interests in any Global Note, the rules and procedures of the Depository, Euroclear and/or Clearstream that apply to such transfer or exchange.

"ASC" means the Financial Accounting Standards Board's Accounting Standards Codification, as in effect from time to time.

"Asset Disposition" means any direct or indirect sale, lease (other than an operating lease entered into in the ordinary course of the Oil and Gas Business), transfer, issuance or other disposition, or a series of related sales, leases, transfers, issuances or dispositions that are part of a common plan, of (A) shares of Capital Stock of a Restricted Subsidiary (other than directors' qualifying shares or shares required by applicable law to be held by a Person other than the

Issuer or a Restricted Subsidiary), (B) all or substantially all the assets of any division or line of business of the Issuer or any Restricted Subsidiary, or (C) any other assets of the Issuer or any Restricted Subsidiary outside of the ordinary course of business of the Issuer or such Restricted Subsidiary (each referred to for the purposes of this definition as a "disposition"), in each case by the Issuer or any of its Restricted Subsidiaries, including any disposition by means of a merger, consolidation or similar transaction.

Notwithstanding the preceding, the following items shall not be deemed to be Asset Dispositions:

(1) a disposition by a Restricted Subsidiary to the Issuer or by the Issuer or a Restricted Subsidiary to a Wholly Owned Subsidiary;

(2) the sale of Cash Equivalents in the ordinary course of business;

(3) a disposition of Hydrocarbons or mineral products inventory in the ordinary course of business;

(4) a disposition of damaged, unserviceable, obsolete or worn out equipment or equipment that is no longer necessary for the proper conduct of the business of the Issuer and its Restricted Subsidiaries or other equipment otherwise disposed of in each case in the ordinary course of business;

(5) transactions in accordance with Section 5.1;

(6) an issuance of Capital Stock by a Restricted Subsidiary to the Issuer or to a Wholly Owned Subsidiary;

(7) for purposes of Section 4.16 only, the making of a Permitted Investment or a Restricted Payment (or a disposition that would constitute a Restricted Payment but for the exclusions from the definition thereof) permitted in Section 4.10;

(8) an Asset Swap;

(9) any single transaction or series of related transactions that involves assets with a Fair Market Value in each case of less than $10.0 million;

(10) Permitted Liens;

(11) dispositions of receivables in connection with the compromise, settlement or collection thereof in the ordinary course of business or in bankruptcy or similar proceedings and exclusive of factoring or similar arrangements;

(12) the licensing or sublicensing of intellectual property or other general intangibles and licenses, leases or subleases of other property in the ordinary course of business which do not materially interfere with the business of the Issuer and its Restricted Subsidiaries;

(13) foreclosure on assets;

(14) any Production Payments and Reserve Sales; *provided* that any such Production Payments and Reserve Sales, other than incentive compensation programs on terms that are reasonably customary in the Oil and Gas Business for geologists, geophysicists and other providers of technical services to the Issuer or a Restricted Subsidiary, shall have been created, Incurred, issued, assumed or Guaranteed in connection with the financing of, and within 60 days after the acquisition of, the property that is subject thereto;

(15) [reserved];

(16) surrender or waiver of contract rights, oil and gas leases, concessions or the settlement, release or surrender of contract, tort or other claims of any kind;

(17) the abandonment, farm-out, lease or sublease of developed or undeveloped oil and gas properties in the ordinary course of business; and

(18) the sale or transfer (whether or not in the ordinary course of business) of any oil and gas property or interest therein to which no proved reserves are attributable at the time of such sale or transfer.

"Asset Disposition Offer" has the meaning set forth in Section 4.16.

"Asset Disposition Offer Amount" has the meaning set forth in Section 4.16.

"Asset Disposition Offer Period" has the meaning set forth in Section 4.16.

"Asset Disposition Purchase Date" has the meaning set forth in Section 4.16.

"Asset Swap" means any substantially contemporaneous (and in any event occurring within 180 days of each other) purchase and sale or exchange of any oil or natural gas property used or useful in the Oil and Gas Business, an interest therein or equity interest in an entity that owns only such property between the Issuer or any of its Restricted Subsidiaries and another Person; *provided* that the Fair Market Value of the properties or assets traded or exchanged by the Issuer or such Restricted Subsidiary (together with any cash) is reasonably equivalent to the Fair Market Value of the properties or assets (together with any cash) to be received by the Issuer or such Restricted Subsidiary; and *provided, further*, that any cash received in connection with such purchase and sale or exchange must be applied in accordance with Section 4.16 as if the Asset Swap were an Asset Disposition.

"Authenticating Agent" has the meaning provided in Section 2.2.

"Authentication Order" has the meaning provided in Section 2.2.

"Average Life" means, as of the date of determination, with respect to any Indebtedness or Preferred Stock, the quotient obtained by dividing (1) the sum of the products of the numbers of years from the date of determination to the dates of each successive scheduled principal

payment of such Indebtedness or redemption or similar payment with respect to such Preferred Stock multiplied by the amount of such payment by (2) the sum of all such payments.

"Bankruptcy Court" means the United States Bankruptcy Court for the District of Delaware.

"Bankruptcy Law" means Title 11, U.S. Code or any similar federal, state or foreign law for the relief of debtors.

"Bankruptcy Proceedings" means the bankruptcy proceedings of the Issuer and certain of its Subsidiaries in the Bankruptcy Court under Chapter 11 of the United States Bankruptcy Code, commenced by the voluntary petitions for relief filed by the Issuer and such Subsidiaries on August 16, 2020.

"Beneficial Owner" has the meaning assigned to such term in Rule 13d-3 and Rule 13d-5 under the Exchange Act, except that in calculating the beneficial ownership of any particular "person" (as that term is used in Section 13(d)(3) of the Exchange Act), such "person" will be deemed to have beneficial ownership of all securities that such "person" has the right to acquire by conversion or exercise of other securities, whether such right is currently exercisable or is exercisable only after the passage of time. The terms "Beneficially Owns" and "Beneficially Owned" have a corresponding meaning.

"Board of Directors" means, as to any Person that is a corporation, the board of directors of such Person or any duly authorized committee thereof or as to any Person that is not a corporation, the board of managers or such other individual or group serving a similar function.

"Book-Entry Note" means an uncertificated Note evidenced by a book entry on the records maintained by the Registrar and registered in the name of the Holder thereof.

"Borrowing Base" means, with respect to borrowings under the Senior Secured Credit Agreement and any amendment to and/or modification or replacement of the foregoing in the form of a reserve-based borrowing base credit facility, in each case with lenders that include commercial banks regulated by the U.S. Office of the Comptroller of the Currency, the maximum amount determined or re-determined by the lenders thereunder as the aggregate lending value to be ascribed to the Oil and Gas Properties and other assets of the Issuer and its Restricted Subsidiaries against which such lenders are prepared to provide loans, letters of credit or other Indebtedness to the credit parties, using customary practices and standards for determining reserve-based borrowing base loans and which are generally applied to borrowers in the Oil and Gas Business by commercial lenders, as determined semi-annually during each year and/or on such other occasions as may be required or provided for therein.

"Business Day" means each day that is not a Saturday, Sunday or other day on which commercial banking institutions in New York, New York or Dallas/Fort Worth, Texas are authorized or required by law to close.

"Capital Stock" of any Person means any and all shares, interests, rights to purchase, warrants, options, participations or other equivalents of or interests in (however designated) equity of such Person, including any Preferred Stock, but excluding any debt securities convertible into such equity.

"Capitalized Lease Obligations" means an obligation that is required to be classified and accounted for as a capital lease for financial reporting purposes in accordance with GAAP, and the amount of Indebtedness represented by such obligation will be the capitalized amount of such obligation at the time any determination thereof is to be made as determined in accordance with GAAP, and the Stated Maturity thereof will be the date of the last payment of rent or any other amount due under such lease prior to the first date such lease may be terminated without penalty.

"Cash Equivalents" means:

(1) securities issued or directly and fully guaranteed or insured by the United States Government or any agency or instrumentality of the United States (*provided* that the full faith and credit of the United States is pledged in support thereof), having maturities of not more than one year from the date of acquisition;

(2) marketable general obligations issued by any state of the United States of America or any political subdivision of any such state or any public instrumentality thereof maturing within one year from the date of acquisition (*provided* that the full faith and credit of the United States is pledged in support thereof) and, at the time of acquisition, having a credit rating of "A" (or the equivalent thereof) or better from either S&P or Moody's;

(3) certificates of deposit, time deposits, eurodollar time deposits, overnight bank deposits or bankers' acceptances having maturities of not more than one year from the date of acquisition thereof issued by any commercial bank the long-term debt of which is rated at the time of acquisition thereof at least "A-2" or the equivalent thereof by S&P or "P-2" or the equivalent thereof by Moody's and having combined capital and surplus in excess of $500.0 million;

(4) repurchase obligations with a term of not more than seven days for underlying securities of the types described in clauses (1), (2) and (3) entered into with any bank meeting the qualifications specified in clause (3) above;

(5) commercial paper rated at the time of acquisition thereof at least "A-2" or the equivalent thereof by S&P or "P-2" or the equivalent thereof by Moody's, or carrying an equivalent rating by a nationally recognized rating agency, if both of the two named rating agencies cease publishing ratings of investments, and in any case maturing within one year after the date of acquisition thereof; and

(6) interests in any investment company or money market fund which invests 95% or more of its assets in instruments of the type specified in clauses (1) through (5) above.

"Cash Interest" has the meaning provided in Section 4.1(d).

"Catch-Up Mechanism" has the meaning provided in Section 10.2(c).

"Change of Control" means:

(1) any "person" or "group" of related persons (as such terms are used in Sections 13(d) and 14(d) of the Exchange Act), other than Parent, is or becomes the Beneficial Owner, directly or indirectly, of more than 50% of the total voting power of the Voting Stock of the Issuer (or its successor by merger, consolidation or purchase of all or substantially all of its assets) (for the purposes of this clause (1), such person or group shall be deemed to Beneficially Own any Voting Stock of the Issuer held by a parent entity, if such person or group Beneficially Owns, directly or indirectly, more than 50% of the total voting power of the Voting Stock of such parent entity);

(2) the sale, lease, transfer, conveyance or other disposition (other than by way of merger or consolidation), in one or a series of related transactions, of all or substantially all of the assets of the Issuer and its Restricted Subsidiaries taken as a whole to any "person" (as such term is used in Sections 13(d) and 14(d) of the Exchange Act);

(3) the adoption by the stockholders of the Issuer of a plan or proposal for the liquidation or dissolution of the Issuer; or

(4) [the first day on which Parent ceases to own 100% of the outstanding Capital Stock of the Issuer (after having acquired such Capital Stock).][2]

"Change of Control Offer" has the meaning provided in Section 4.15.

"Change of Control Payment" has the meaning provided in Section 4.15.

"Change of Control Payment Date" has the meaning provided in Section 4.15.

"Clearstream" means Clearstream Banking, s*ociété anonyme*.

"Code" means the Internal Revenue Code of 1986, as amended.

"Collateral" means collateral as such term is defined in the Security Documents, and any other property, whether now owned or hereafter acquired, upon which a Lien securing the Note Obligations, the Security Documents, the Notes or the Note Guarantees is granted under any Security Document.

"Collateral Agent" means Wilmington Savings Fund Society FSB, acting in its capacity as the collateral agent for the Holders until a successor replaces it in accordance with the provisions of this Indenture and thereafter means any such successor.

"Commodity Agreements" means, in respect of any Person, any forward contract, commodity swap agreement, commodity option agreement or other similar agreement or

[2] NTD: Subject to final review of capital structure.

arrangement in respect of Hydrocarbons used, produced, processed or sold by such Person that is customary in the Oil and Gas Business and designed to protect such Person against fluctuation in Hydrocarbon prices and not for speculative purposes.

"Common Stock" means with respect to any Person, any and all shares, interests or other participations in, and other equivalents (however designated and whether voting or nonvoting) of such Person's common stock whether or not outstanding on the Issue Date, and includes, without limitation, all series and classes of such common stock.

"Competitor" has the meaning set forth in the Stockholders Agreement.

"Conditional Voluntary Conversion" has the meaning set forth in Section 10.2(b).

"Consolidated Coverage Ratio" means as of any date of determination, the ratio of (x) the aggregate amount of Consolidated EBITDA of such Person for the period of the most recent four consecutive fiscal quarters ending prior to the date of such determination for which internal financial statements are in existence to (y) Consolidated Interest Expense for such four fiscal quarters; *provided*, *however*, that:

(1) if the Issuer or any Restricted Subsidiary:

(a) has Incurred any Indebtedness since the beginning of such period that remains outstanding on such date of determination or if the transaction giving rise to the need to calculate the Consolidated Coverage Ratio is an Incurrence of Indebtedness, Consolidated EBITDA and Consolidated Interest Expense for such period will be calculated after giving effect on a pro forma basis to such Indebtedness and the use of proceeds thereof as if such Indebtedness had been Incurred on the first day of such period and such proceeds had been applied as of such date (except that in making such computation, (x) the amount of Indebtedness under any revolving credit facility outstanding on the date of such calculation will be deemed to be (i) the average daily balance of such Indebtedness during such four fiscal quarters or such shorter period for which such facility was outstanding or (ii) if such facility was created after the end of such four fiscal quarters, the average daily balance of such Indebtedness during the period from the date of creation of such facility to the date of such calculation, in each case, provided that such average daily balance shall take into account any repayment of Indebtedness under such facility as provided in clause (b) below and (y) Indebtedness Incurred or issued on the date of determination pursuant to the second paragraph of Section 4.12, shall not be given pro forma effect); or

(b) has repaid, repurchased, defeased or otherwise discharged any Indebtedness since the beginning of the period, including with the proceeds of such new Indebtedness, that is no longer outstanding on such date of determination or if the transaction giving rise to the need to calculate the Consolidated Coverage Ratio involves a discharge of Indebtedness (in each case other than Indebtedness Incurred under any revolving credit facility unless such Indebtedness has been permanently repaid and the related commitment terminated), Consolidated EBITDA and Consolidated Interest Expense for such period will be calculated after giving effect on a pro

forma basis to such discharge of such Indebtedness as if such discharge had occurred on the first day of such period;

(2) if, since the beginning of such period, the Issuer or any Restricted Subsidiary will have made any Asset Disposition or if the transaction giving rise to the need to calculate the Consolidated Coverage Ratio is such an Asset Disposition, Consolidated EBITDA for such period will be reduced by an amount equal to the Consolidated EBITDA (if positive) directly attributable to the assets which are the subject of such Asset Disposition for such period or increased by an amount equal to the Consolidated EBITDA (if negative) directly attributable thereto for such period and Consolidated Interest Expense for such period shall be reduced by an amount equal to the Consolidated Interest Expense directly attributable to any Indebtedness of the Issuer or any Restricted Subsidiary repaid, repurchased, defeased or otherwise discharged with respect to the Issuer and its continuing Restricted Subsidiaries in connection with or with the proceeds from such Asset Disposition for such period (or, if the Capital Stock of any Restricted Subsidiary is sold, the Consolidated Interest Expense for such period directly attributable to the Indebtedness of such Restricted Subsidiary to the extent the Issuer and its continuing Restricted Subsidiaries are no longer liable for such Indebtedness after such sale);

(3) if since the beginning of such period the Issuer or any Restricted Subsidiary (by merger or otherwise) will have made an Investment in any Restricted Subsidiary (or any Person which becomes a Restricted Subsidiary or is merged with or into the Issuer or a Restricted Subsidiary) or an acquisition (or will have received a contribution) of assets, including any acquisition or contribution of assets occurring in connection with a transaction causing a calculation to be made hereunder, which constitutes all or substantially all of a company, division, operating unit, segment, business, group of related assets or line of business, Consolidated EBITDA and Consolidated Interest Expense for such period will be calculated after giving pro forma effect thereto (including the Incurrence of any Indebtedness) as if such Investment or acquisition or contribution had occurred on the first day of such period; and

(4) if since the beginning of such period any Person (that subsequently became a Restricted Subsidiary or was merged with or into the Issuer or any Restricted Subsidiary since the beginning of such period) made any Asset Disposition or any Investment or acquisition of assets that would have required an adjustment pursuant to clause (2) or (3) above if made by the Issuer or a Restricted Subsidiary during such period, Consolidated EBITDA and Consolidated Interest Expense for such period will be calculated after giving pro forma effect thereto as if such Asset Disposition or Investment or acquisition of assets had occurred on the first day of such period.

For purposes of this definition, whenever pro forma effect is to be given to any calculation under this definition, the pro forma calculations will be determined in good faith by a responsible financial or accounting Officer of the Issuer (including pro forma expense and cost reductions calculated on a basis consistent with Regulation S-X under the Securities Act). If any Indebtedness bears a floating rate of interest and is being given pro forma effect, the interest expense on such Indebtedness will be calculated as if the average rate in effect from the beginning of such period to the date of determination had been the applicable rate for the entire

period (taking into account any Interest Rate Agreement applicable to such Indebtedness, but if the remaining term of such Interest Rate Agreement is less than 12 months, then such Interest Rate Agreement shall only be taken into account for that portion of the period equal to the remaining term thereof). If any Indebtedness that is being given pro forma effect bears an interest rate at the option of the Issuer, the interest rate shall be calculated by applying such optional rate chosen by the Issuer. Interest on Indebtedness that may optionally be determined at an interest rate based upon a factor of a prime or similar rate, a eurocurrency interbank offered rate, or other rate, shall be deemed to have been based upon the rate actually chosen, or, if none, then based upon such optional rate chosen as the Issuer may designate.

"Consolidated EBITDA" for any period means, without duplication, the Consolidated Net Income for such period, *plus* the following, without duplication and to the extent deducted (and not added back) in calculating such Consolidated Net Income:

(1) Consolidated Interest Expense;

(2) Consolidated Income Taxes of the Issuer and its Restricted Subsidiaries;

(3) consolidated depletion and depreciation expense of the Issuer and its Restricted Subsidiaries;

(4) consolidated amortization expense or impairment charges of the Issuer and its Restricted Subsidiaries recorded in connection with the application of Statement of Financial Accounting Standard No. 142—ASC Topic 350 Intangibles—Goodwill and Other, and Statement of Financial Accounting Standard No. 144—ASC Topic 360 Property, Plant & Equipment;

(5) other non-cash charges of the Issuer and its Restricted Subsidiaries (including non-cash losses from the adoption of fresh start accounting in connection with the consummation of the Plan of Reorganization but excluding any such non-cash charge to the extent it represents an accrual of or reserve for cash charges in any future period or amortization of a prepaid cash expense that was paid in a prior period not included in the calculation);

(6) consolidated exploration expense of the Issuer and its Restricted Subsidiaries, if applicable for such period;

(7) actual fees and transaction costs incurred by the Issuer and the Subsidiary Guarantors in connection with the closing of the Senior Secured Credit Agreement on or about the date hereof, the borrowings and issuance of letters of credit thereunder and the granting of Liens with respect thereto occurring on or about such date (other than, for the avoidance of doubt, severance payments and consulting fees paid to former officers and employees);

(8) severance payments and consulting fees paid to former officers and employees not later than ten (10) days following the consummation of the Plan of Reorganization in connection with the Bankruptcy Proceedings in an amount not to exceed $5.0 million; and

(9) any fees and expenses or charges incurred in connection with the implementation of fresh start accounting in an amount not to exceed $2.0 million,

and less, to the extent included in calculating such Consolidated Net Income and in excess of any costs or expenses attributable thereto that were deducted (and not added back) in calculating such Consolidated Net Income, the sum of (x) the amount of deferred revenues that are amortized during such period and are attributable to reserves that are subject to Volumetric Production Payments, (y) amounts recorded in accordance with GAAP as repayments of principal and interest pursuant to Dollar-Denominated Production Payments and (z) other non-cash gains (excluding any non-cash gain to the extent it represents the reversal of an accrual or reserve for a potential cash item that reduced Consolidated EBITDA in any prior period).

Notwithstanding the preceding sentence, clauses (2) through (6) relating to amounts of a Restricted Subsidiary of a Person will be added to Consolidated Net Income to compute Consolidated EBITDA of such Person only to the extent (and in the same proportion) that the net income (loss) of such Restricted Subsidiary was included in calculating the Consolidated Net Income of such Person and, to the extent the amounts set forth in clauses (2) through (6) are in excess of those necessary to offset a net loss of such Restricted Subsidiary or if such Restricted Subsidiary has net income for such period included in Consolidated Net Income, only if a corresponding amount would be permitted at the date of determination to be paid by dividend to the Issuer by such Restricted Subsidiary without prior approval (that has not been obtained), pursuant to the terms of its charter and all agreements, instruments, judgments, decrees, orders, statutes, rules and governmental regulations applicable to that Restricted Subsidiary or its stockholders.

"Consolidated Income Taxes" means, with respect to any Person for any period, taxes imposed upon such Person or other payments required to be made by such Person to any governmental authority which taxes or other payments are calculated by reference to the income, profits or capital of such Person or such Person and its Restricted Subsidiaries (to the extent such income or profits were included in computing Consolidated Net Income for such period), regardless of whether such taxes or payments are required to be remitted to any governmental authority.

"Consolidated Interest Expense" means, for any period, the total consolidated interest expense of the Issuer and its Restricted Subsidiaries, whether paid or accrued, *plus*, to the extent not included in such interest expense and without duplication:

(1) interest expense attributable to Capitalized Lease Obligations and the interest component of any deferred payment obligations;

(2) amortization of debt discount and debt issuance cost (*provided* that any amortization of bond premium will be credited to reduce Consolidated Interest Expense unless, pursuant to GAAP, such amortization of bond premium has otherwise reduced Consolidated Interest Expense);

(3) non-cash interest expense;

(4) commissions, discounts and other fees and charges owed with respect to letters of credit and bankers' acceptance financing;

(5) the interest expense on Indebtedness of another Person that is Guaranteed by the Issuer or one of its Restricted Subsidiaries or secured by a Lien on assets of the Issuer or one of its Restricted Subsidiaries;

(6) costs associated with Interest Rate Agreements (including amortization of fees); *provided*, *however*, that if Interest Rate Agreements result in net benefits rather than costs, such benefits shall be credited to reduce Consolidated Interest Expense unless, pursuant to GAAP, such net benefits are otherwise reflected in Consolidated Net Income;

(7) the consolidated interest expense of such Person and its Restricted Subsidiaries that was capitalized during such period;

(8) all dividends paid or payable in cash, Cash Equivalents or Indebtedness or accrued during such period on any series of Disqualified Stock of the Issuer or on Preferred Stock of its Restricted Subsidiaries payable to a party other than the Issuer or a Wholly Owned Subsidiary; and

(9) the cash contributions to any employee stock ownership plan or similar trust to the extent such contributions are used by such plan or trust to pay interest or fees to any Person (other than the Issuer) in connection with Indebtedness Incurred by such plan or trust;

minus, to the extent included above, write-off of deferred financing costs and interest attributable to Dollar-Denominated Production Payments.

For the purpose of calculating the Consolidated Coverage Ratio in connection with the Incurrence of any Indebtedness described in the final paragraph of the definition of "Indebtedness," the calculation of Consolidated Interest Expense shall include all interest expense (including any amounts described in clauses (1) through (9) above) relating to any Indebtedness of the Issuer or any Restricted Subsidiary described in the final paragraph of the definition of "Indebtedness."

"Consolidated Net Income" means, for any period, the aggregate net income (loss) (excluding non-controlling interests) of the Issuer and its consolidated Subsidiaries determined in accordance with GAAP and before any reduction in respect of preferred stock dividends of such Person; *provided*, *however*, that there will not be included in such Consolidated Net Income:

(1) any net income (loss) of any Person (other than the Issuer) if such Person is not a Restricted Subsidiary, except that:

(a) subject to the limitations contained in clauses (3), (4) and (5) below, the Issuer's equity in the net income of any such Person for such period will be included in such Consolidated Net Income up to the aggregate amount of cash actually distributed by such Person during such period to the Issuer or a Restricted Subsidiary as a dividend or other distribution

(subject, in the case of a dividend or other distribution to a Restricted Subsidiary, to the limitations contained in clause (2) below); and

(b) the Issuer's equity in a net loss of any such Person for such period will be included in determining such Consolidated Net Income to the extent such loss has been funded with cash from the Issuer or a Restricted Subsidiary during such period;

(2) any net income (but not loss) of any Restricted Subsidiary if such Subsidiary is subject to restrictions, directly or indirectly, on the payment of dividends or the making of distributions by such Restricted Subsidiary, directly or indirectly, to the Issuer, except that:

(a) subject to the limitations contained in clauses (3), (4) and (5) below, the Issuer's equity in the net income of any such Restricted Subsidiary for such period will be included in such Consolidated Net Income up to the aggregate amount of cash that could have been distributed by such Restricted Subsidiary during such period to the Issuer or another Restricted Subsidiary as a dividend or other distribution (subject, in the case of a dividend or other distribution paid to another Restricted Subsidiary, to the limitation contained in this clause); and

(b) the Issuer's equity in a net loss of any such Restricted Subsidiary for such period will be included in determining such Consolidated Net Income;

(3) any gain (loss) realized upon the sale or other disposition of any property, plant or equipment of the Issuer or its consolidated Subsidiaries (including pursuant to any Sale/Leaseback Transaction) which is not sold or otherwise disposed of in the ordinary course of business and any gain (loss) realized upon the sale or other disposition of any Capital Stock of any Person;

(4) any extraordinary or nonrecurring gains or losses, together with any related provision for taxes on such gains or losses and all related fees and expenses;

(5) the cumulative effect of a change in accounting principles;

(6) any asset impairment writedowns on Oil and Gas Properties of the Issuer and the Restricted Subsidiaries under GAAP or SEC guidelines;

(7) any unrealized non-cash gains or losses or charges in respect of Hedging Obligations (including those resulting from the application of FASB ASC 815);

(8) income or loss attributable to discontinued operations (including, without limitation, operations disposed of during such period whether or not such operations were classified as discontinued); and

(9) any non-cash compensation charge arising from any grant of stock, stock options or other equity-based awards; *provided* that the proceeds resulting from any such grant will be excluded from Section 4.10(c)(ii).

Consolidated Net Income will be reduced by the amount of Permitted Payments to Parent paid during such period to the extent that the related taxes have not reduced Consolidated Net Income by at least such amount.

"Consolidated Total Debt" means, at any date, (a) all Indebtedness of the Issuer and its Restricted Subsidiaries on a consolidated basis, excluding (i) non-cash obligations under FASB ASC 815, (ii) accounts payable and other accrued liabilities (for the deferred purchase price of property or services) from time to time incurred in the ordinary course of business (A) which are not greater than ninety (90) days past the date of receipt of the invoice or delinquent or (B) which are being contested in good faith by appropriate action and for which adequate reserves have been maintained in accordance with GAAP, (iii) Indebtedness with respect to letters of credit to the extent such letters of credit have not been drawn, (iv) obligations with respect to surety or performance bonds and similar instruments entered into in the ordinary course of business in connection with the operation of Oil and Gas Properties and (v) Indebtedness of the type described in clauses (6), (7), (8) and (10) of the definition of "Indebtedness," less (b), so long as there are no loans outstanding under the Senior Secured Credit Agreement on such date, the lesser of (i) the unrestricted cash and cash equivalents of the Issuer and its Restricted Subsidiaries on such date and (ii) $35.0 million.

"Consolidated Total Debt Ratio" means, as of any date, the ratio of (a) Consolidated Total Debt of the Issuer and the Restricted Subsidiaries as of such date to (b) the aggregate amount of EBITDA of the Issuer and the Restricted Subsidiaries for the period of the most recently completed four consecutive full fiscal quarters for which internal financial statements are available, with such pro forma adjustments to Consolidated Total Debt and Consolidated EBITDA as are appropriate and consistent with the pro forma adjustment provisions set forth in the definition of "Consolidated Coverage Ratio."

"Conversion Agent" has the meaning set forth in Section 2.3 hereof.

"Conversion Date" has the meaning set forth in Section 10.2(c) hereof.

"Conversion Rate" means the conversion rate of [_____][3] shares of New Common Stock (subject to adjustment as provided in Article 10 hereof) per $1,000 of Converting Amount.

"Converting Amount" has the meaning set forth in Section 10.1(b) hereof.

"Corporate Trust Office" means the office of the Trustee at which at any particular time its corporate trust business shall be principally administered, which office at the date of execution of this Indenture is located at [__],[4] or at any other time at such other address as the Trustee may designate from time to time by notice to the Holders and the Issuer, or the principal

[3] NTD: To be a number of shares of New Common Stock equal to 50% of the total shares of New Common Stock issued and outstanding as of the Effective Date (before any interest accrues thereon and after giving effect to conversions of all Notes).

[4] NTD: Trustee to confirm current contact information.

corporate trust office of any successor Trustee (or such other address as such successor Trustee may designate from time to time by notice to the Holders and the Issuer).

"Covenant Defeasance" has the meaning set forth in Section 8.1.

"Credit Facility" means, with respect to the Issuer or any Subsidiary Guarantor, one or more debt facilities (including, without limitation, the Senior Secured Credit Agreement), indentures or commercial paper facilities providing for revolving credit loans, term loans, term debt, debt securities, receivables financing (including through the sale of receivables to such lenders or to special purpose entities formed to borrow from such lenders against such receivables) or letters of credit, in each case, as amended, restated, amended and restated, modified, renewed, refunded, replaced or refinanced in whole or in part from time to time (and whether or not with the original administrative agent and lenders or another administrative agent or agents or other lenders and whether provided under the original Senior Secured Credit Agreement or any other credit or other agreement or indenture).

"Currency Agreement" means in respect of a Person any foreign exchange contract, currency swap agreement, futures contract, option contract or other similar agreement as to which such Person is a party or a beneficiary.

"Custodian" means any receiver, trustee, assignee, liquidator, sequestrator or similar official under any Bankruptcy Law.

"Default" means any event which is, or after notice or passage of time or both would be, an Event of Default.

"Default Interest Payment Date" has the meaning provided in Section 2.12.

"Definitive Note" means a certificated Note registered in the name of the Holder thereof and issued in accordance with Section 2.6(c) hereof, substantially in the form of Exhibit A hereto, except that such Note shall not bear the Global Note Legend.

["Depository" or "DTC" means The Depository Trust Company, its nominees and any successors thereto.][5]

"Designated Non-cash Consideration" means the Fair Market Value of non-cash consideration received by the Issuer or a Restricted Subsidiary in connection with an Asset Disposition that is so designated as Designated Non-cash Consideration pursuant to an Officers' Certificate, setting forth the basis of such valuation and executed by the chief financial officer or treasurer and one other officer of the Issuer, less the amount of cash or Cash Equivalents received in connection with a subsequent sale of or collection on such Designated Non-cash Consideration.

[5] NTD: Notes will not be traded through DTC. Holders of New Second Lien Notes shall not be permitted to transfer any such notes to the extent such transfer would cause the total pro forma Stockholders of the Company to exceed 300 in number (including all current Stockholders and Noteholders that would become Stockholders upon a conversion of the New Second Lien Notes).

"Disqualified Stock" means, with respect to any Person, any Capital Stock of such Person which by its terms (or by the terms of any security into which it is convertible or for which it is exchangeable) at the option of the holder of the Capital Stock or upon the happening of any event:

(1) matures or is mandatorily redeemable (other than redeemable only for Capital Stock of such Person which is not itself Disqualified Stock) pursuant to a sinking fund obligation or otherwise;

(2) is convertible or exchangeable for Indebtedness or Disqualified Stock (excluding Capital Stock which is convertible or exchangeable solely at the option of the Issuer or a Restricted Subsidiary); or

(3) is redeemable at the option of the holder of the Capital Stock in whole or in part, in each case on or prior to the date that is 91 days after the earlier of the date (a) of the Stated Maturity of the Notes or (b) on which there are no Notes outstanding; *provided* that only the portion of Capital Stock which so matures or is mandatorily redeemable, is so convertible or exchangeable or is so redeemable at the option of the holder thereof prior to such date will be deemed to be Disqualified Stock; *provided, further,* that any Capital Stock that would constitute Disqualified Stock solely because the holders thereof have the right to require the Issuer to repurchase such Capital Stock upon the occurrence of a change of control or asset sale (each defined in a substantially identical manner to the corresponding definitions in this Indenture) shall not constitute Disqualified Stock if the terms of such Capital Stock (and all such securities into which it is convertible or for which it is exchangeable) provide that (i) the Issuer may not repurchase or redeem any such Capital Stock (and all such securities into which it is convertible or for which it is exchangeable) pursuant to such provision prior to compliance by the Issuer with the provisions of this Indenture described under Section 4.15 and Section 4.16 and (ii) such repurchase or redemption will be permitted solely to the extent also permitted in accordance with the provisions of this Indenture described under Section 4.10.

The amount of any Disqualified Stock that does not have a fixed redemption, repayment or repurchase price will be calculated in accordance with the terms of such Disqualified Stock as if such Disqualified Stock were redeemed, repaid or repurchased on any date on which the amount of such Disqualified Stock is to be determined pursuant to this Indenture; *provided, however,* that if such Disqualified Stock could not be required to be redeemed, repaid or repurchased at the time of such determination, the redemption, repayment or repurchase price will be the book value of such Disqualified Stock as reflected in the most recent financial statements of such Person.

"Dollar-Denominated Production Payments" means production payment obligations recorded as liabilities in accordance with GAAP, together with all undertakings and obligations in connection therewith.

"Drag-Along Closing" has the meaning set forth in the Stockholders Agreement.

"Drag-Along Notice" has the meaning set forth in the Stockholders Agreement.

"Drag-Along Sale" has the meaning set forth in the Stockholders Agreement.

"Dragged Holder" has the meaning set forth in the Stockholders Agreement.

"Equity Offering" means (i) a public offering for cash by the Issuer of Capital Stock (other than Disqualified Stock) made pursuant to a registration statement, other than public offerings registered on Form S-4 or S-8, and (ii) a private offering for cash by the Issuer of its Capital Stock (other than Disqualified Stock) (except that prior to the first underwritten public offering of the New Common Stock, such private offering may only be made to non-Affiliates).

"Euroclear" means Euroclear S.A./N.V., as operator of the Euroclear system.

"Event of Default" has the meaning provided in Section 6.1.

"Excess Notes" has the meaning specified in Section 10.2(c).

"Excess Proceeds" has the meaning set forth in Section 4.16.

"Exchange Act" means the Securities Exchange Act of 1934, as amended, and the rules and regulations of the SEC promulgated thereunder.

"Excluded Assets" has the meaning set forth in the Security Documents.

"Fair Market Value" means, with respect to any asset or property, the sale value that would be obtained in an arm's-length transaction between an informed and willing seller under no compulsion to sell and an informed and willing buyer under no compulsion to buy, in the case of any asset or property other than cash (whose Fair Market Value shall be the face amount thereof), as determined in good faith by the Board of Directors of the Issuer, whose determination shall be conclusive.

"FASB ASC 815" means Financial Accounting Standards Board Accounting Standards Codification Topic No. 815, Derivatives and Hedging.

"Foreign Subsidiary" means any Restricted Subsidiary that is not organized under the laws of the United States of America or any state thereof or the District of Columbia.

"Fulfillment Date" has the meaning set forth in Section 10.2(c).

"GAAP" means generally accepted accounting principles in the United States of America as in effect from time to time; *provided* that any leases shall be accounted for under GAAP as in effect on the Issue Date. All ratios and computations based on GAAP contained in this Indenture will be computed in conformity with GAAP. At any time after the Issue Date, the Issuer may elect to apply IFRS accounting principles in lieu of GAAP and, upon any such election, references herein to GAAP shall thereafter be construed to mean IFRS (except as otherwise provided in this Indenture); *provided* that any such election, once made, shall be irrevocable, unless otherwise required by the SEC; *provided*, *further*, that any calculation or determination in this Indenture that requires the application of GAAP for periods that include fiscal quarters

ended prior to the Issuer's election to apply IFRS shall remain as previously calculated or determined in accordance with GAAP. The Issuer shall give notice of any such election made in accordance with this definition to the Trustee and the Holders of the Notes.

"Global Note" has the meaning provided in Section 2.1.

"Global Note Legend" means the legend set forth in Section 2.15(a)(ii) hereof, which is required to be placed on all Global Notes issued under this Indenture.

"Guarantee" means any obligation, contingent or otherwise, of any Person directly or indirectly guaranteeing any Indebtedness of any other Person and any obligation, direct or indirect, contingent or otherwise, of such Person:

(1) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness of such other Person (whether arising by virtue of partnership arrangements, or by agreement to keep-well, to purchase assets, goods, securities or services, to take-or-pay, or to maintain financial statement conditions or otherwise); or

(2) entered into for purposes of assuring in any other manner the obligee of such Indebtedness of the payment thereof or to protect such obligee against loss in respect thereof (in whole or in part);

provided, *however*, that the term "Guarantee" will not include endorsements for collection or deposit in the ordinary course of business or any obligation to the extent it is payable only in Capital Stock of the Subsidiary Guarantor that is not Disqualified Stock. The term "Guarantee" used as a verb has a corresponding meaning.

"Guarantor Subordinated Obligation" means, with respect to a Subsidiary Guarantor, any Indebtedness of such Subsidiary Guarantor (whether outstanding on the Issue Date or thereafter Incurred) which is expressly subordinate in right of payment to the obligations of such Subsidiary Guarantor under its Subsidiary Guarantee pursuant to a written agreement.

"Hedging Obligations" of any Person means the obligations of such Person pursuant to any Interest Rate Agreement, Currency Agreement or Commodity Agreement.

"Holder" means a Person in whose name a Note is registered on the registrar's books.

"Hydrocarbons" means oil, natural gas, casing head gas, drip gasoline, natural gasoline, condensate, distillate, liquid hydrocarbons, gaseous hydrocarbons and all other hydrocarbons and all constituents, elements or compounds thereof and products refined or processed therefrom.

"IFRS" means the International Financial Reporting Standards as adopted by the International Accounting Standards Board.

"Immaterial Subsidiary" means, as of any date, any Restricted Subsidiary if and for so long as (a) such Restricted Subsidiary has total assets having a Fair Market Value of $2.0 million

or less and (b) such Restricted Subsidiary, together with all other Immaterial Subsidiaries, does not have total assets having a Fair Market Value at any time exceeding $5.0 million; *provided* that a Restricted Subsidiary will not be considered to be an Immaterial Subsidiary if it, directly or indirectly, Guarantees or otherwise provides direct credit support for any Indebtedness of the Issuer.

"Incur" means issue, create, assume, Guarantee, incur or otherwise become directly or indirectly liable for, contingently or otherwise; *provided*, *however*, that any Indebtedness or Capital Stock of a Person existing at the time such Person becomes a Restricted Subsidiary (whether by merger, consolidation, acquisition or otherwise) will be deemed to be Incurred by such Restricted Subsidiary at the time it becomes a Restricted Subsidiary; and the terms "Incurred" and "Incurrence" have meanings correlative to the foregoing.

"Indebtedness" means, with respect to any Person on any date of determination (without duplication, whether or not contingent):

(1) the principal of and premium (if any) in respect of indebtedness of such Person for borrowed money;

(2) the principal of and premium (if any) in respect of obligations of such Person evidenced by bonds, debentures, notes or other similar instruments;

(3) the principal component of all obligations of such Person in respect of letters of credit, bankers' acceptances or other similar instruments (including reimbursement obligations with respect thereto except to the extent such reimbursement obligation relates to a trade payable, to the extent such letters of credit are not drawn upon or, if and to the extent drawn upon, such obligation is satisfied within 30 days of payment on the letter of credit);

(4) the principal component of all obligations of such Person (other than obligations payable solely in Capital Stock that is not Disqualified Stock) to pay the deferred and unpaid purchase price of property (except accrued expenses and accounts payable and other accrued liabilities (for the deferred purchase price of property or services) from time to time incurred in the ordinary course of business which are not greater than ninety (90) days past the date of receipt of the invoice or delinquent or (B) which are being contested in good faith by appropriate action and for which adequate reserves have been maintained in accordance with GAAP), which purchase price is due more than six months after the date of placing such property in service or taking delivery and title thereto to the extent such obligations would appear as liabilities upon the consolidated balance sheet of such Person in accordance with GAAP;

(5) Capitalized Lease Obligations of such Person to the extent such Capitalized Lease Obligations would appear as liabilities on the consolidated balance sheet of such Person in accordance with GAAP;

(6) the principal component or liquidation preference of all obligations of such Person with respect to the redemption, repayment or other repurchase of any Disqualified Stock

or, with respect to any Subsidiary that is not a Subsidiary Guarantor, any Preferred Stock (but excluding, in each case, any accrued dividends);

(7) the principal component of all Indebtedness of other Persons secured by a Lien on any asset of such Person, whether or not such Indebtedness is assumed by such Person; *provided*, *however*, that the amount of such Indebtedness will be the lesser of (a) the Fair Market Value of such asset at such date of determination and (b) the amount of such Indebtedness of such other Persons;

(8) the principal component of Indebtedness of other Persons to the extent Guaranteed by such Person;

(9) to the extent not otherwise included in this definition, net obligations of such Person under Commodity Agreements, Currency Agreements and Interest Rate Agreements (the amount of any such obligations to be equal at any time to the termination value of such agreement or arrangement giving rise to such obligation that would be payable by such Person at such time); and

(10) any Guarantee by such Person of production or payment with respect to a Production Payment (but, for the avoidance of doubt, excluding all other obligations associated with such Production Payments, such as guarantees with respect to operation and maintenance of the related oil and gas properties in a prudent manner, delivery of the associated production (if required) and other such contractual obligations);

provided, *however*, that any indebtedness which has been defeased in accordance with GAAP or defeased pursuant to the deposit of cash or Cash Equivalents (in an amount sufficient to satisfy all such indebtedness obligations at maturity or redemption, as applicable, and all payments of interest and premium, if any) in a trust or account created or pledged for the sole benefit of the holders of such indebtedness, and subject to no other Liens, shall not constitute "Indebtedness." Subject to the preceding sentence, neither Dollar-Denominated Production Payments nor Volumetric Production Payments shall be deemed to be Indebtedness.

The amount of Indebtedness of any Person at any date will be the outstanding balance at such date of all unconditional obligations as described above and the maximum liability, upon the occurrence of the contingency giving rise to the obligation, of any contingent obligations at such date.

Notwithstanding the preceding, "Indebtedness" shall not include:

(1) [reserved];

(2) any obligation of a Person in respect of a farm-in agreement or similar arrangement whereby such Person agrees to pay all or a share of the drilling, completion or other expenses of an exploratory or development well (which agreement may be subject to a maximum payment obligation, after which expenses are shared in accordance with the working or participation interest therein or in accordance with the agreement of the parties) or perform the

drilling, completion or other operation on such well in exchange for an ownership interest in an oil or gas property;

(3) any obligations under Currency Agreements, Commodity Agreements and Interest Rate Agreements; *provided*, that such Agreements are entered into for bona fide hedging purposes of the Issuer or its Restricted Subsidiaries (as determined in good faith by the Board of Directors or senior management of the Issuer, whether or not accounted for as a hedge in accordance with GAAP) and, in the case of Currency Agreements or Commodity Agreements, such Currency Agreements or Commodity Agreements are related to business transactions of the Issuer or its Restricted Subsidiaries entered into in the ordinary course of business and, in the case of Interest Rate Agreements, such Interest Rate Agreements substantially correspond in terms of notional amount, duration and interest rates, as applicable, to Indebtedness of the Issuer or its Restricted Subsidiaries Incurred without violation of this Indenture;

(4) any obligation arising from agreements of the Issuer or a Restricted Subsidiary providing for indemnification, Guarantees, adjustment of purchase price, holdbacks, contingency payment obligations or similar obligations (other than Guarantees of Indebtedness), in each case, Incurred or assumed in connection with the acquisition or disposition of any business, assets or Capital Stock of a Restricted Subsidiary; *provided* that such Indebtedness is not reflected on the face of the balance sheet of the Issuer or any Restricted Subsidiary;

(5) any obligation arising from the honoring by a bank or other financial institution of a check, draft or similar instrument (except in the case of daylight overdrafts) drawn against insufficient funds in the ordinary course of business; *provided*, *however*, that such Indebtedness is extinguished within five business days of Incurrence;

(6) in-kind obligations relating to net oil or natural gas balancing positions arising in the ordinary course of business; and

(7) all contracts and other obligations, agreements, instruments or arrangements described in clauses (20), (21), (22), (29)(a) or (30) of the definition of "Permitted Liens."

In addition, "Indebtedness" of any Person shall include Indebtedness described in the first paragraph of this definition of "Indebtedness" that would not appear as a liability on the balance sheet of such Person if:

(1) such Indebtedness is the obligation of a partnership or joint venture that is not a Restricted Subsidiary (a "Joint Venture");

(2) such Person or a Restricted Subsidiary of such Person is a general partner of the Joint Venture or otherwise liable for all or a portion of the Joint Venture's liabilities (a "General Partner"); and

(3) there is recourse, by contract or operation of law, with respect to the payment of such Indebtedness to property or assets of such Person or a Restricted Subsidiary of such Person; and then such Indebtedness shall be included in an amount not to exceed:

(a) the lesser of (i) the net assets of the General Partner and (ii) the amount of such obligations to the extent that there is recourse, by contract or operation of law, to the property or assets of such Person or a Restricted Subsidiary of such Person; or

(b) if less than the amount determined pursuant to subclause (a) immediately above, the actual amount of such Indebtedness that is recourse to such Person or a Restricted Subsidiary of such Person, if the Indebtedness is evidenced by a writing and is for a determinable amount.

"Indenture" means this Indenture, as amended or supplemented from time to time in accordance with the terms hereof.

"Indirect Participant" means a Person who holds a beneficial interest in a Global Note through a Participant.

"Initial Lien" has the meaning provided in Section 4.18.

"Initiating Drag-Along Holders" has the meaning provided in the Stockholders Agreement.

"Intercreditor Agreement" means an intercreditor agreement establishing the priority of the Liens securing any priority lien obligations over the Liens securing the Note Obligations, in form and substance reasonably acceptable to Holders of a majority in aggregate principal amount of the then-outstanding Notes, as it may be amended, restated, supplemented or otherwise modified from time to time.

"interest" when used with respect to any Note means the amount of all interest accruing on such Note, including any applicable defaulted interest pursuant to Section 2.12.

"Interest Make-Whole Premium" means, in respect of any event described in Section 4.1(i) herein with respect to any Notes, a make-whole premium with respect to such Notes in an amount equal to the sum of the value (as set forth in the immediately succeeding sentence) of all interest payments that would have been payable on the principal amount of such Notes (including all interest that has previously been paid in kind by increasing the principal amount of the Notes and any interest that would have been payable on interest that would have been added to such principal) from the last Interest Payment Date on which interest was paid on such Notes immediately prior to the date of the relevant acceleration or Interest Make-Whole Trigger Event, as the case may be, through, and including, the Maturity Date as though such Notes had remained outstanding through the Maturity Date. The Interest Make-Whole Premium shall be calculated on a net present value basis as of the date of the payment of principal or repurchase following such acceleration or Interest Make-Whole Trigger Event, as the case may be, using a discount rate equal to the Treasury Rate, plus 50 basis points.

"Interest Make-Whole Trigger Event" means, with respect to any Note, a bankruptcy or insolvency event with respect to the Issuer.

"Interest Payment Date" means the stated maturity of an installment of interest on the Notes.

"Interest Rate" has the meaning set forth in Section 4.1(b).

"Interest Rate Agreement" means, with respect to any Person, any interest rate protection agreement, interest rate future agreement, interest rate option agreement, interest rate swap agreement, interest rate cap agreement, interest rate collar agreement, interest rate hedge agreement or other similar agreement or arrangement as to which such Person is party or a beneficiary.

"Investment" means, with respect to any Person, all investments by such Person in other Persons (including Affiliates) in the form of any direct or indirect advance, loan or other extensions of credit (including by way of Guarantee or similar arrangement, but excluding any debt or extension of credit represented by a bank deposit other than a time deposit and advances or extensions of credit to customers in the ordinary course of business) or capital contribution to (by means of any transfer of cash or other property to others or any payment for property or services for the account or use of others), or any purchase or acquisition of Capital Stock, Indebtedness or other similar instruments (excluding any interest in a crude oil or natural gas leasehold to the extent constituting a security under applicable law) issued by, such other Person and all other items that are or would be classified as investments on a balance sheet prepared in accordance with GAAP; *provided* that none of the following will be deemed to be an Investment:

(1) Hedging Obligations entered into in the ordinary course of business and in compliance with this Indenture;

(2) endorsements of negotiable instruments and documents in the ordinary course of business; and

(3) an acquisition of assets, Capital Stock or other securities by the Issuer or a Subsidiary for consideration to the extent such consideration consists of New Common Stock.

The amount of any Investment shall not be adjusted for increases or decreases in value, write-ups, writedowns or write-offs with respect to such Investment.

For purposes of the definition of "Unrestricted Subsidiary" and Section 4.10,

(1) "Investment" will include the portion (proportionate to the Issuer's equity interest in a Restricted Subsidiary to be designated as an Unrestricted Subsidiary) of the Fair Market Value of the net assets of such Restricted Subsidiary at the time that such Restricted Subsidiary is designated an Unrestricted Subsidiary; *provided, however,* that upon a redesignation of such Subsidiary as a Restricted Subsidiary, the Issuer will be deemed to continue to have a permanent "Investment" in an Unrestricted Subsidiary in an amount (if positive) equal to (a) the Issuer's "Investment" in such Subsidiary at the time of such redesignation less (b) the portion (proportionate to the Issuer's equity interest in such Subsidiary) of the Fair Market Value of the

net assets of such Subsidiary at the time that such Subsidiary is so redesignated a Restricted Subsidiary; and

(2) any property transferred to or from an Unrestricted Subsidiary will be valued at its Fair Market Value at the time of such transfer.

"Investment Grade Rating" means a rating equal to or higher than Baa3 (or the equivalent) by Moody's and BBB- (or the equivalent) by S&P (or the equivalent rating by any successor rating agency).

"Investment Grade Status" shall occur when the Notes receive an Investment Grade Rating from both Moody's and S&P (or, if any such entity ceases to rate the Notes for reasons outside of the control of the Issuer, the equivalent investment grade credit rating from any other "nationally recognized statistical rating organization" registered under Section 15E of the Exchange Act selected by the Issuer as a replacement agency).

"Issue Date" means [____], 2020, the date of the original issuance of the Notes under this Indenture.

"Issuer" has the meaning assigned to such term in the introductory paragraph of this Indenture.

"Joinder Agreement" has the meaning provided in Section 10.2(a).

"Legal Defeasance" has the meaning set forth in Section 8.1.

"Legal Holiday" has the meaning provided in Section 11.7.

"Lien" means, with respect to any asset, any mortgage, lien (statutory or otherwise), pledge, hypothecation, charge, security interest, preference, priority or encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected under applicable law, including any conditional sale or other title retention agreement, any lease in the nature thereof, any option or other agreement to sell or give a security interest in and any filing of or agreement to give any financing statement under the Uniform Commercial Code (or equivalent statutes) of any jurisdiction; *provided* that in no event shall an operating lease be deemed to constitute a Lien.

"Liquidity" means at any date the Issuer's cash and Cash Equivalents plus all funds available to the Issuer within 30 days under any credit agreement.

"Mandatory Conversion Date" means the Conversion Date for any Note that results in satisfaction of the Mandatory Conversion Trigger.

"Mandatory Conversion Trigger" has the meaning set forth in Section 10.3(a).

"Maturity Date" means [____][6], 2025.

"Minimum Liquidity" has the meaning set forth in Section 4.23.

"Minority Interest" means the percentage interest represented by any shares of any class of Capital Stock of a Restricted Subsidiary that are not owned by the Issuer or a Restricted Subsidiary.

"Moody's" means Moody's Investors Service, Inc. or any successor to the rating agency business thereof.

"Net Available Cash" from an Asset Disposition means cash payments received (including any cash payments received by way of deferred payment of principal pursuant to a note or installment receivable or otherwise and net proceeds from the sale or other disposition of any securities received as consideration, but only as and when received, but excluding any other consideration received in the form of assumption by the acquiring Person of Indebtedness or other obligations relating to the properties or assets that are the subject of such Asset Disposition or received in any other non-cash form) therefrom, in each case net of:

(1) all legal, accounting, investment banking, title and recording tax expenses, commissions and other fees and expenses Incurred, and all federal, state, provincial, foreign and local taxes required to be paid or accrued as a liability under GAAP (after taking into account any available tax credits or deductions and any tax sharing agreements), as a consequence of such Asset Disposition;

(2) all payments made on any Indebtedness which is secured by any assets subject to such Asset Disposition, in accordance with the terms of any Lien upon such assets, or which must by its terms, or in order to obtain a necessary consent to such Asset Disposition, or by applicable law be repaid out of the proceeds from such Asset Disposition;

(3) all distributions and other payments required to be made to minority interest holders in Subsidiaries or joint ventures or to holders of royalty or similar interests as a result of such Asset Disposition; and

(4) the deduction of appropriate amounts to be provided by the seller as a reserve, in accordance with GAAP, against any liabilities associated with the assets disposed of in such Asset Disposition and retained by the Issuer or any Restricted Subsidiary after such Asset Disposition.

"Net Cash Proceeds," with respect to any issuance or sale of Capital Stock or any contribution to equity capital, means the cash proceeds of such issuance, sale or contribution net of attorneys' fees, accountants' fees, underwriters' or placement agents' fees, listing fees, discounts or commissions and brokerage, consultant and other fees and charges actually Incurred in connection with such issuance, sale or contribution and net of taxes paid or payable as a result

[6] NTD: To be the earlier of (i) May 31, 2025 and (ii) the date that is fifty-two (52) months after the Effective Date.

of such issuance or sale (after taking into account any available tax credit or deductions and any tax sharing arrangements).

"Net Working Capital" means (a) all current assets of the Issuer and its Restricted Subsidiaries except current assets from commodity price risk management activities arising in the ordinary course of the Oil and Gas Business, less (b) all current liabilities of the Issuer and its Restricted Subsidiaries, except current liabilities included in Indebtedness and any current liabilities from commodity price risk management activities arising in the ordinary course of the Oil and Gas Business, in each case as set forth in the consolidated financial statements of the Issuer prepared in accordance with GAAP.

"New Common Stock" means the common stock of the Issuer, par value $[_.__] per share, at the date of this Indenture, subject to Section 10.12.

"Non-Recourse Debt" means Indebtedness of a Person:

(1) as to which neither the Issuer nor any Restricted Subsidiary (a) provides any Guarantee or credit support of any kind (including any undertaking, guarantee, indemnity, agreement or instrument that would constitute Indebtedness) or (b) is directly or indirectly liable (as a guarantor or otherwise);

(2) no default with respect to which (including any rights that the holders thereof may have to take enforcement action against an Unrestricted Subsidiary) would permit (upon notice, lapse of time or both) any holder of any other Indebtedness of the Issuer or any Restricted Subsidiary to declare a default under such other Indebtedness or cause the payment thereof to be accelerated or payable prior to its stated maturity; and

(3) the explicit terms of which provide there is no recourse against any of the assets of the Issuer or its Restricted Subsidiaries.

"Non-U.S. Person" means a person who is not a U.S. person, as defined in Regulation S.

"Note Documents" means (a) this Indenture, the Notes, the Note Guarantees, the Security Documents and each of the other agreements, documents or instruments evidencing or governing any Note Obligations and (b) any other related documents or instruments executed and delivered pursuant to any Note Document described in clause (a) above evidencing or governing any obligations thereunder (including Note Obligations), in each case, as amended, restated, modified, renewed, refunded, replaced (whether upon or after termination or otherwise) or refinanced (including by means of sales of debt securities to institutional investors) in whole or in part from time to time.

"Note Guarantee" means the guarantee by each Subsidiary Guarantor of the Issuer's obligations under this Indenture and the Notes executed pursuant to the provisions of this Indenture.

"Note Obligations" means, without duplication, any principal, interest (including any interest accruing subsequent to the filing of a petition in bankruptcy, reorganization or similar proceeding at the rate provided for in the documentation with respect thereto, whether or not such interest is an allowed claim under applicable state, federal or foreign law), premium (including, without limitation, any Interest Make-Whole Premium), penalties, fees, indemnifications, reimbursements (including, without limitation, reimbursement obligations with respect to letters of credit and banker's acceptances), damages and other liabilities, and guarantees of payment of such principal, interest, premium (including, without limitation, any Interest-Make Whole Premium), penalties, fees, indemnifications, reimbursements, damages and other liabilities, in each case, payable under this Indenture, the Notes or any other Note Documents.

"Note Transfer Notice" has the meaning provided in Section 2.6(h)(xi).

"Notes" has the meaning provided in the preamble to this Indenture.

"Notice of Conversion" has the meaning provided in Section 10.2(a).

"Officer" means the Chairman of the Board, the Chief Executive Officer, the President, the Chief Financial Officer, Chief Operating Officer, any Vice President, the Treasurer or the Secretary of the Issuer. Officer of any Subsidiary Guarantor has a correlative meaning.

"Officers' Certificate" means a certificate signed by two Officers of the Issuer.

"Oil and Gas Business" means: (1) the business of acquiring, exploring, exploiting, developing, producing, operating and disposing of interests in oil, natural gas, liquid natural gas and other Hydrocarbon and mineral properties or products produced in association with any of the foregoing; (2) the business of gathering, marketing, distributing, treating, processing, storing, refining, selling and transporting of any production from such interests or properties and products produced in association therewith and the marketing of oil, natural gas, other Hydrocarbons and minerals obtained from unrelated Persons; (3) any business or activity relating to exploration for or development, production, treatment, processing, refining, storage, transportation or marketing of oil, natural gas, Hydrocarbons and other minerals and products produced in association therewith; (4) any other related energy business, including power generation and electrical transmission business, directly or indirectly, from oil, natural gas and other Hydrocarbons and minerals produced substantially from properties in which the Issuer or its Restricted Subsidiaries, directly or indirectly, participates; (5) any business relating to oil field sales and service and any other business providing assets or services used or useful in connection with the activities described in clauses (1) through (4) of this definition, including the sale, leasing, ownership or operation of drilling rigs, fracturing units or other assets used or useful in any such business; and (6) any business or activity relating to, ancillary to, arising from, or necessary, appropriate or incidental to the activities described in the foregoing clauses (1) through (5) of this definition.

"Oil and Gas Properties" means all properties, including equity or other ownership interest therein, owned by such Person or any of its Restricted Subsidiaries which contain or are believed to contain Proved Reserves.

"Opinion of Counsel" means a written opinion from legal counsel who is acceptable to the Trustee. The counsel may be an employee of or counsel to the Issuer or the Trustee.

"Parent" means any entity that acquires 100% of the outstanding Capital Stock of the Issuer in a transaction in which the Beneficial Owners of the Issuer immediately prior to such transaction are Beneficial Owners in the same proportion of the Issuer immediately after such transaction.

"Pari Passu Indebtedness" means Indebtedness that ranks equally in right of payment to the Notes.

"Pari Passu Notes" has the meaning provided in Section 4.16.

"Participant" means, with respect to the Depository, Euroclear or Clearstream, a Person who has an account with the Depository, Euroclear or Clearstream, respectively (and, with respect to DTC, shall include Euroclear and Clearstream).

"Paying Agent" has the meaning provided in Section 2.3. "payment default" has the meaning provided in Section 6.1(6)(a).

"Permitted Business Investment" means any Investment made in the ordinary course of, and of a nature that is or shall have become customary in, the Oil and Gas Business including investments or expenditures for actively exploiting, exploring for, acquiring, developing, producing, processing, gathering, marketing or transporting oil, natural gas or other Hydrocarbons and minerals through agreements, transactions, interests or arrangements which permit one to share risks or costs, comply with regulatory requirements regarding local ownership or satisfy other objectives customarily achieved through the conduct of the Oil and Gas Business jointly with third parties, including, without limitation:

(1) ownership interests in oil, natural gas, other Hydrocarbons and minerals properties or any interest therein or liquid natural gas facilities, processing facilities, gathering systems, transportation systems, pipelines, storage facilities or related systems or ancillary real property interests;

(2) Investments in the form of or pursuant to operating agreements, working interests, royalty interests, mineral leases, processing agreements, farm-in agreements, farm-out agreements, contracts for the sale, transportation or exchange of oil, natural gas, other hydrocarbons and minerals, production sharing agreements, participation agreements, development agreements, area of mutual interest agreements, unitization agreements, pooling agreements, joint bidding agreements, service contracts, joint venture agreements, partnership agreements (whether general or limited), subscription agreements, stock purchase agreements,

stockholder agreements and other similar agreements (including for limited liability companies) with third parties (including Unrestricted Subsidiaries); and

(3) direct or indirect ownership interests in drilling rigs, fracturing units and related equipment, including, without limitation, transportation equipment, or in Persons that own or provide such equipment.

"Permitted Investment" means an Investment by the Issuer or any Restricted Subsidiary in:

(1) the Issuer, a Restricted Subsidiary or a Person which will, upon the making of such Investment, become a Restricted Subsidiary; *provided*, *however*, that the primary business of such Restricted Subsidiary is the Oil and Gas Business;

(2) another Person whose primary business is the Oil and Gas Business if as a result of such Investment such other Person becomes a Restricted Subsidiary or is merged or consolidated with or into, or transfers or conveys all or substantially all its assets to, the Issuer or a Restricted Subsidiary and, in each case, any Investment held by such Person; *provided* that such Investment was not acquired by such Person in contemplation of such acquisition, merger, consolidation or transfer;

(3) cash and Cash Equivalents;

(4) receivables owing to the Issuer or any Restricted Subsidiary created or acquired in the ordinary course of business and payable or dischargeable in accordance with customary trade terms; *provided*, *however*, that such trade terms may include such concessionary trade terms as the Issuer or any such Restricted Subsidiary deems reasonable under the circumstances;

(5) payroll, commission, travel, relocation and similar advances to cover matters that are expected at the time of such advances ultimately to be treated as expenses for accounting purposes and that are made in the ordinary course of business;

(6) loans or advances to employees made in the ordinary course of business consistent with past practices of the Issuer or such Restricted Subsidiary not in excess of $5.0 million outstanding at any one time, in the aggregate;

(7) Capital Stock, obligations or securities received in settlement of debts created in the ordinary course of business and owing to the Issuer or any Restricted Subsidiary or in satisfaction of judgments;

(8) Investments made as a result of the receipt of non-cash consideration from an Asset Disposition that was made pursuant to and in compliance with Section 4.16;

(9) Investments in existence on the Issue Date;

(10) Commodity Agreements, Currency Agreements, Interest Rate Agreements and related Hedging Obligations, which transactions or obligations are Incurred in compliance with Section 4.12;

(11) Guarantees issued in accordance with Section 4.12;

(12) any Asset Swap or acquisition of Additional Assets made in accordance with Section 4.16;

(13) Investments in any Unrestricted Subsidiary having an aggregate Fair Market Value, taken together with all other Investments made pursuant to this clause (13) that are at the time outstanding, not to exceed $5.0 million (with the Fair Market Value of such Investment being measured at the time such Investment is made and without giving effect to subsequent changes in value); *provided* that no Default or Event of Default exists at the time of such Investment or would result therefrom;

(14) Permitted Business Investments;

(15) any Person where such Investment was acquired by the Issuer or any of its Restricted Subsidiaries (a) in exchange for any other Investment or accounts receivable held by the Issuer or any such Restricted Subsidiary in connection with or as a result of a bankruptcy, workout, reorganization or recapitalization of the issuer of such other Investment or accounts receivable or (b) as a result of a foreclosure by the Issuer or any of its Restricted Subsidiaries with respect to any secured Investment or other transfer of title with respect to any secured Investment in default;

(16) any Person to the extent such Investments consist of prepaid expenses, negotiable instruments held for collection and lease, utility and workers' compensation, performance and other similar deposits made in the ordinary course of business by the Issuer or any Restricted Subsidiary;

(17) Guarantees of performance or other obligations (other than Indebtedness) arising in the ordinary course in the Oil and Gas Business, including obligations under oil and natural gas exploration, development, joint operating, and related agreements and licenses or concessions related to the Oil and Gas Business;

(18) acquisitions of assets, Capital Stock or other securities by the Issuer for consideration consisting of common equity securities of the Issuer;

(19) Investments in the Notes; and

(20) Investments by the Issuer or any of its Restricted Subsidiaries, together with all other Investments pursuant to this clause (20), in an aggregate amount outstanding at any one time not to exceed the greater of (x) $10.0 million and (y) 2.5% of the Issuer's Adjusted Consolidated Net Tangible Assets determined as of the date such Investment is made after giving

effect to such Investment (with the Fair Market Value of such Investment being measured at the time such Investment is made and without giving effect to subsequent changes in value).

"Permitted Liens" means, with respect to any Person:

(1) Liens securing Indebtedness and other obligations under, and related Hedging Obligations and Liens on assets of Restricted Subsidiaries securing Guarantees of Indebtedness and other obligations of the Issuer under, any Credit Facility permitted to be Incurred under this Indenture under the provisions described in clause (1) of the second paragraph of Section 4.12;

(2) pledges or deposits by such Person under workmen's compensation laws, unemployment insurance laws, social security or old age pension laws or similar legislation, or good faith deposits in connection with bids, tenders, contracts (other than for the payment of Indebtedness) or leases to which such Person is a party, or deposits (which may be secured by a Lien) to secure public or statutory obligations of such Person including letters of credit and bank guarantees required or requested by the United States, any State thereof or any foreign government or any subdivision, department, agency, organization or instrumentality of any of the foregoing in connection with any contract or statute (including lessee or operator obligations under statutes, governmental regulations, contracts or instruments related to the ownership, exploration and production of oil, natural gas, other hydrocarbons and minerals on State, Federal or foreign lands or waters), or deposits of cash or United States government bonds to secure indemnity performance, surety or appeal bonds or other similar bonds to which such Person is a party, or deposits as security for contested taxes or import or customs duties or for the payment of rent, in each case Incurred in the ordinary course of business;

(3) statutory and contractual Liens of landlords and Liens imposed by law, including carriers', warehousemen's, mechanics', materialmen's and repairmen's Liens, in each case for sums not yet due or being contested in good faith by appropriate proceedings if a reserve or other appropriate provisions, if any, as shall be required by GAAP shall have been made in respect thereof;

(4) Liens for taxes, assessments or other governmental charges or claims not yet delinquent or which are being contested in good faith by appropriate proceedings; *provided* that adequate reserves, if any, required pursuant to GAAP have been made in respect thereof;

(5) Liens in favor of issuers of surety or performance bonds or letters of credit or bankers' acceptances issued pursuant to the request of and for the account of such Person in the ordinary course of its business; *provided*, *however*, that such letters of credit do not constitute Indebtedness;

(6) survey exceptions, encumbrances, ground leases, easements or reservations of, or rights of others for, licenses, rights of way, sewers, electric lines, telegraph and telephone lines and other similar purposes, or zoning, building codes or other restrictions (including, without limitation, minor defects or irregularities in title and similar encumbrances) as to the use of real properties or Liens incidental to the conduct of the business of such Person or to the ownership of its properties which do not in the aggregate materially adversely affect the value of the assets

of such Person and its Restricted Subsidiaries, taken as a whole, or materially impair their use in the operation of the business of such Person;

(7) Liens securing Hedging Obligations (excluding Hedging Obligations not entered into in the ordinary course of business) so long as the related Indebtedness is, and is permitted to be under this Indenture, secured by a Lien on the same property securing such Hedging Obligation;

(8) leases, licenses, subleases and sublicenses of assets (including, without limitation, real property and intellectual property rights) which do not materially interfere with the ordinary conduct of the business of the Issuer or any of its Restricted Subsidiaries;

(9) prejudgment Liens and judgment Liens not giving rise to an Event of Default so long as such Lien is adequately bonded and any appropriate legal proceedings which may have been duly initiated for the review of such judgment have not been finally terminated or the period within which such proceedings may be initiated has not expired;

(10) Liens for the purpose of securing the payment of all or a part of the purchase price of, or Capitalized Lease Obligations, purchase money obligations or other payments Incurred to finance the acquisition, lease, improvement or construction of or repairs or additions to, assets or property acquired or constructed in the ordinary course of business; *provided* that:

(a) the aggregate principal amount of Indebtedness secured by such Liens is otherwise permitted to be Incurred under this Indenture; and

(b) such Liens are created within 180 days of the later of the acquisition, lease, completion of improvements, construction, repairs or additions or commencement of full operation of the assets or property subject to such Lien and do not encumber any other assets or property of the Issuer or any Restricted Subsidiary other than such assets or property and assets affixed or appurtenant thereto;

(11) Liens arising solely by virtue of any statutory or common law provisions relating to banker's Liens, rights of set-off or similar rights and remedies as to deposit accounts or other funds maintained with a depositary institution; *provided* that:

(a) such deposit account is not a dedicated cash collateral account and is not subject to restrictions against access by the Issuer in excess of those set forth by regulations promulgated by the Federal Reserve Board; and

(b) such deposit account is not intended by the Issuer or any Restricted Subsidiary to provide collateral to the depository institution;

(12) Liens arising from Uniform Commercial Code financing statement filings regarding operating leases entered into by the Issuer and its Restricted Subsidiaries in the ordinary course of business;

(13) Liens existing on the Issue Date (other than Liens securing Indebtedness under the Senior Secured Credit Facility);

(14) Liens on property or shares of Capital Stock of a Person at the time such Person becomes a Subsidiary; *provided*, *however*, that such Liens are not created, Incurred or assumed in connection with, or in contemplation of, such other Person becoming a Subsidiary; *provided further*, *however*, that any such Lien may not extend to any other property owned by the Issuer or any Restricted Subsidiary (other than assets or property affixed or appurtenant thereto);

(15) Liens on property at the time the Issuer or any of its Subsidiaries acquired the property, including any acquisition by means of a merger or consolidation with or into the Issuer or any of its Subsidiaries; *provided*, *however*, that such Liens are not created, Incurred or assumed in connection with, or in contemplation of, such acquisition; *provided further*, *however*, that such Liens may not extend to any other property owned by the Issuer or any Restricted Subsidiary (other than assets or property affixed or appurtenant thereto);

(16) [reserved];

(17) Liens securing the Notes, Subsidiary Guarantees and other obligations under this Indenture;

(18) Liens securing Refinancing Indebtedness Incurred to refinance Indebtedness that was previously so secured; *provided* that any such Lien is limited to all or part of the same property or assets (*plus* improvements, accessions, proceeds or dividends or distributions in respect thereof) that secured (or, under the written arrangements under which the original Lien arose, could secure) the Indebtedness being refinanced or is in respect of property or assets that is the security for a Permitted Lien hereunder;

(19) any interest or title of a lessor under any Capitalized Lease Obligation or operating lease;

(20) Liens in respect of Production Payments and Reserve Sales, which Liens shall be limited to the property that is the subject of such Production Payments and Reserve Sales;

(21) Liens arising under oil and gas leases or subleases, assignments, farm-out agreements, farm-in agreements, division orders, contracts for the sale, purchase, exchange, transportation, gathering or processing of Hydrocarbons, unitizations and pooling designations, declarations, orders and agreements, development agreements, joint venture agreements, partnership agreements, operating agreements, royalties, working interests, net profits interests, joint interest billing arrangements, participation agreements, production sales contracts, area of mutual interest agreements, gas balancing or deferred production agreements, injection, repressuring and recycling agreements, salt water or other disposal agreements, seismic or geophysical permits or agreements, licenses, sublicenses and other agreements which are customary in the Oil and Gas Business; *provided*, *however*, in all instances that such Liens are limited to the assets that are the subject of the relevant agreement, program, order or contract;

(22) Liens on pipelines or pipeline facilities that arise by operation of law;

(23) Liens securing Indebtedness (other than Subordinated Obligations and Guarantor Subordinated Obligations) in an aggregate principal amount outstanding at any one time, added together with all other Indebtedness secured by Liens Incurred pursuant to this clause (23), not to exceed the greater of (x) $2.0 million and (y) 3.0% of the Issuer's Adjusted Consolidated Net Tangible Assets determined as of the date of the Incurrence of such Lien;

(24) Liens in favor of the Issuer or any Subsidiary Guarantor;

(25) deposits made in the ordinary course of business to secure liability to insurance carriers;

(26) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods in the ordinary course of business;

(27) Liens deemed to exist in connection with Investments in repurchase agreements permitted in Section 4.12; *provided* that such Liens do not extend to any assets other than those that are the subject of such repurchase agreement;

(28) Liens encumbering reasonable customary initial deposits and margin deposits and similar Liens attaching to commodity trading accounts or other brokerage accounts incurred in the ordinary course of business and not for speculative purposes;

(29) any (a) interest or title of a lessor or sublessor under any lease, liens reserved in oil, gas or other Hydrocarbons, minerals, leases for bonus, royalty or rental payments and for compliance with the terms of such leases; (b) restriction or encumbrance that the interest or title of such lessor or sublessor may be subject to (including, without limitation, ground leases or other prior leases of the demised premises, mortgages, mechanics' liens, tax liens, and easements); or (c) subordination of the interest of the lessee or sublessee under such lease to any restrictions or encumbrance referred to in the preceding clause (b);

(30) Liens (other than Liens securing Indebtedness) on, or related to, assets to secure all or part of the costs incurred in the ordinary course of the Oil and Gas Business for the exploration, drilling, development, production, processing, transportation, marketing, storage or operation thereof;

(31) Liens upon specific items of inventory or other goods and proceeds of any Person securing such Person's obligations in respect of bankers' acceptances issued or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or other goods;

(32) Liens arising under this Indenture in favor of the Trustee for its own benefit and similar Liens in favor of other trustees, agents and representatives arising under instruments governing Indebtedness permitted to be incurred under this Indenture; *provided*, *however*, that

such Liens are solely for the benefit of the trustees, agents or representatives in their capacities as such and not for the benefit of the holders of such Indebtedness;

(33) Liens arising from the deposit of funds or securities in trust for the purpose of decreasing or defeasing Indebtedness so long as such deposit of funds or securities and such decreasing or defeasing of Indebtedness are permitted under Section 4.10;

(34) Liens in favor of collecting or payer banks having a right of setoff, revocation, or charge back with respect to money or instruments of the Issuer or any Subsidiary of the Issuer on deposit with or in possession of such bank; and

(35) Liens on the Capital Stock of an Unrestricted Subsidiary held by the Issuer or its Restricted Subsidiaries in favor of any lender to such Unrestricted Subsidiary.

In each case set forth above, notwithstanding any stated limitation on the assets that may be subject to such Lien, a Permitted Lien on a specified asset or group or type of assets may include Liens on all improvements, additions and accessions thereto and all products and proceeds thereof (including dividends, distributions and increases in respect thereof).

"Permitted Payments to Parent" means, for any taxable period ending after the Issue Date for which the Issuer and/or any of the Issuer's Subsidiaries is a member of a group filing a consolidated, combined or similar income tax return of which a direct or indirect parent of the Issuer is the common parent (a "Tax Group"), payments to the direct or indirect parent in respect of the portion of any such consolidated, combined or similar income taxes for such taxable period that is attributable to the taxable income of the Issuer and its Subsidiaries ("Tax Payments"). The Tax Payments in respect of any taxable period shall not exceed the amount of any such income taxes that the Issuer and/or its applicable Subsidiaries would have been required to pay in respect of such taxable period if they had been stand-alone corporate taxpayers or a stand-alone Tax Group for all applicable taxable periods ending after the Issue Date; *provided* that the portion of any such payments attributable to any taxes of an Unrestricted Subsidiary shall be limited to the amount actually paid by such Unrestricted Subsidiary to the Issuer or any Subsidiary Guarantor for the purpose of paying such consolidated or combined income taxes. Any Tax Payments received from the Issuer shall be paid over to the appropriate taxing authority within 30 days of the direct or indirect parent's receipt of such Tax Payments or refunded to the Issuer.

"Person" means any individual, corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated organization, limited liability company, government or any agency or political subdivision hereof or any other entity.

"PIK Interest" means interest paid in the form of (i) an increase in the outstanding principal amount of the Notes or (ii) the issuance of PIK Notes.

"PIK Interest Payment" means the payment of PIK Interest.

"PIK Notes" has the meaning set forth in Section 2.01(d) hereof.

"Plan of Reorganization" means the *Debtors' Joint Prepackaged Chapter 11 Plan of Reorganization*, dated August 15, 2020 (together with all exhibits and schedules thereto), filed with the Bankruptcy Court, which was confirmed pursuant to an Order entered by the Bankruptcy Court on [_____], 2020.

"Preferred Stock" as applied to the Capital Stock of any corporation, means Capital Stock of any class or classes (however designated) which is preferred as to the payment of dividends, or as to the distribution of assets upon any voluntary or involuntary liquidation or dissolution of such corporation, over shares of Capital Stock of any other class of such corporation.

"principal" of any Indebtedness (including the Notes) means the principal amount of such Indebtedness.

"Private Placement Legend" means the legend initially set forth on the Notes in the form set forth in Section 2.15(a)(i).

"pro forma" means, with respect to any calculation made or required to be made pursuant to the terms of this Indenture, a calculation in accordance with Article 11 of Regulation S-X under the Securities Act, as determined by the Board of Directors of the Issuer in consultation with its independent public accountants.

"Production Payments" means Dollar-Denominated Production Payments and Volumetric Production Payments, collectively. "Production Payments and Reserve Sales" means the grant or transfer by the Issuer or a Restricted Subsidiary to any Person of a royalty, overriding royalty, net profits interest, Production Payment, partnership or other interest in Oil and Gas Properties, reserves or the right to receive all or a portion of the production or the proceeds from the sale of production attributable to such properties where the holder of such interest has recourse solely to such production or proceeds of production, subject to the obligation of the grantor or transferor to operate and maintain, or cause the subject interests to be operated and maintained, in a reasonably prudent manner or other customary standard or subject to the obligation of the grantor or transferor to indemnify for environmental, title or other matters customary in the Oil and Gas Business, including any such grants or transfers pursuant to incentive compensation programs on terms that are reasonably customary in the Oil and Gas Business for geologists, geophysicists or other providers of technical services to the Issuer or a Restricted Subsidiary.

"Property" means, with respect to any Person, any interests of such Person in any kind of property or asset, whether real, personal or mixed, or tangible or intangible, including, without limitation, Capital Stock, partnership interests and other equity or ownership interests in any other Person.

"Proved Reserves" means crude oil and natural gas reserves (including natural gas liquids) constituting ''proved oil and gas reserves'' as defined in Rule 4-10 of Regulation S-X of the Securities Act.

"Rating Agencies" means Moody's and S&P or if Moody's or S&P or both cease to rate the Notes for reasons outside of the control of the Issuer, a nationally recognized statistical rating organization or organizations, as the case may be, registered under Section 15E of the Exchange Act, selected by the Issuer which shall be substituted for Moody's or S&P or both, as the case may be.

"Qualified Institutional Buyer" or "QIB" shall have the meaning specified in Rule 144A.

"Record Date" means, with respect to the Notes, the Record Dates specified in the Notes and, with respect to any dividend, distribution or other transaction or event in which the holders of Common Stock have the right to receive any cash, securities or other property or in which the Common Stock is exchanged for or converted into any combination of cash, securities or other property, the date fixed for determination of stockholders entitled to receive such cash, securities or other property (whether such date is fixed by the Board of Directors of the Issuer or by statute, contract or otherwise).

"Redemption Date," when used with respect to any Note to be redeemed, means the date fixed for such redemption pursuant to this Indenture and the Notes.

"Redemption Price," when used with respect to any Note to be redeemed, means the price fixed for such redemption, including principal and premium, if any, pursuant to this Indenture and the Notes.

"Reference Property" has the meaning specified in Section 10.12.

"Refinancing Indebtedness" means Indebtedness that is Incurred to refund, refinance, replace, exchange, renew, repay, extend, prepay, redeem or retire (including pursuant to any defeasance or discharge mechanism) (collectively, "refinance," "refinances" and "refinanced" shall have correlative meanings) any Indebtedness (including Indebtedness of the Issuer that refinances Indebtedness of any Restricted Subsidiary and Indebtedness of any Restricted Subsidiary that refinances Indebtedness of another Restricted Subsidiary, but excluding Indebtedness of a Subsidiary that is not a Restricted Subsidiary that refinances Indebtedness of the Issuer or a Restricted Subsidiary), including Indebtedness that refinances Refinancing Indebtedness; *provided*, *however*, that:

(1) (a) if the Stated Maturity of the Indebtedness being refinanced is earlier than the Stated Maturity of the Notes, the Refinancing Indebtedness has a Stated Maturity no earlier than the Stated Maturity of the Indebtedness being refinanced or (b) if the Stated Maturity of the Indebtedness being refinanced is later than the Stated Maturity of the Notes, the Refinancing Indebtedness has a Stated Maturity at least 91 days later than the Stated Maturity of the Notes;

(2) the Refinancing Indebtedness has an Average Life at the time such Refinancing Indebtedness is Incurred that is equal to or greater than the Average Life of the Indebtedness being refinanced;

(3) such Refinancing Indebtedness is Incurred in an aggregate principal amount (or if issued with original issue discount, an aggregate issue price) that is equal to or less than the sum of the aggregate principal amount (or if issued with original issue discount, the aggregate accreted value) then outstanding of the Indebtedness being refinanced (*plus*, without duplication, any additional Indebtedness Incurred to pay interest, premiums or defeasance costs required by the instrument governing such existing Indebtedness and fees and expenses Incurred in connection therewith); and

(4) if the Indebtedness being refinanced is subordinated in right of payment to the Notes or the Subsidiary Guarantee, such Refinancing Indebtedness is subordinated in right of payment to the Notes or the Subsidiary Guarantee on terms at least as favorable to the Holders as those contained in the documentation governing the Indebtedness being refinanced.

For the avoidance of doubt, Refinancing Indebtedness shall not include Indebtedness Incurred under a Credit Facility pursuant to clause (1) of the second paragraph of Section 4.12.

"Registrar" has the meaning provided in Section 2.3.

"Regulation S" means Regulation S under the Securities Act.

"Regulation S Global Note" means a Regulation S Temporary Global Note or Regulation S Permanent Global Note, as applicable.

"Regulation S Permanent Global Note" means a permanent Global Note in the form of Exhibit A hereto bearing the Global Note Legend and the Private Placement Legend and deposited with or on behalf of and registered in the name of the Depository or its nominee, issued in a denomination equal to the outstanding principal amount of the Regulation S Temporary Global Note upon expiration of the Restricted Period.

"Regulation S Temporary Global Note" means a temporary Global Note in the form of Exhibit A hereto bearing the Global Note Legend, the Private Placement Legend and the Regulation S Temporary Global Note Legend and deposited with or on behalf of and registered in the name of the Depository or its nominee, issued in a denomination equal to the outstanding principal amount of the Notes initially sold in reliance on Rule 903.

"Regulation S Temporary Global Note Legend" means the legend set forth in Section 2.15(a)(iii) hereof.

"Restricted Definitive Note" means a Definitive Note bearing the Private Placement Legend.

"Restricted Global Note" means a Global Note bearing the Private Placement Legend.

"Restricted Investment" means any Investment other than a Permitted Investment.

"Restricted Payment" has the meaning set forth in Section 4.10.

"Restricted Period" means the 40-day distribution compliance period as defined in Regulation S.

"Restricted Subsidiary" means any Subsidiary of the Issuer other than an Unrestricted Subsidiary.

"Reversion Date" has the meaning set forth in Section 4.21.

"Rule 144" means Rule 144 promulgated under the Securities Act.

"Rule 144A" means Rule 144A promulgated under the Securities Act.

"Rule 903" means Rule 903 promulgated under the Securities Act.

"Rule 904" means Rule 904 promulgated under the Securities Act.

"S&P" means S&P Global Ratings, a division of The McGraw-Hill Companies, Inc., or any successor to the rating agency business thereof.

"Sale/Leaseback Transaction" means an arrangement relating to property now owned or hereafter acquired whereby the Issuer or a Restricted Subsidiary transfers such property to a Person and the Issuer or a Restricted Subsidiary leases it from such Person.

"SEC" means the United States Securities and Exchange Commission.

"Securities Act" means the Securities Act of 1933, as amended, and the rules and regulations of the SEC promulgated thereunder.

"Security Agreement" means the security agreement, dated as of the Issue Date, among the Issuer, the other parties thereto from time to time, and the Collateral Agent, as such agreement may be amended, supplemented, restated, amended and restated, or otherwise modified from time to time.

"Security Documents" means the Mortgages, the Security Agreement and the security agreements, pledge agreements, mortgages, deeds of trust, deeds to secure debt, collateral assignments, control agreements, any Intercreditor Agreement and related agreements (including, without limitation, financing statements under the Uniform Commercial Code of the relevant states), as amended, supplemented, restated, renewed, refunded, replaced, restructured, repaid, refinanced or otherwise modified from time to time, under which rights or remedies with respect to any Lien are governed.

"Senior Secured Credit Agreement" means that certain Eleventh Restated Credit Agreement, dated as of the date hereof, among the Issuer, as borrower, Royal Bank of Canada, as administrative agent, and the lenders party thereto from time to time, including any guarantees, collateral documents, instruments and agreements executed in connection therewith, and any amendments, supplements, modifications, extensions, renewals, restatements, refundings or refinancings thereof and any indentures or credit facilities or commercial paper facilities with

banks or other institutional lenders or investors that replace, refund or refinance any part of the loans, notes, other credit facilities or commitments thereunder, including any such replacement, refunding or refinancing facility or indenture that increases the amount borrowable thereunder or alters the maturity thereof (*provided* that such increase in borrowings is permitted in Section 4.12).

"Share Exchange Event" has the meaning specified in Section 10.12.

"Significant Subsidiary" means any Restricted Subsidiary that would be a "Significant Subsidiary" of the Issuer within the meaning of Rule 1-02 under Regulation S-X promulgated by the SEC, as in effect on the Issue Date.

"Stated Maturity" means, with respect to any security, the date specified in such security as the fixed date on which the payment of principal of such security is due and payable, including pursuant to any mandatory redemption provision, but shall not include any contingent obligations to repay, redeem or repurchase any such principal prior to the date originally scheduled for the payment thereof.

"Stockholder" has the meaning provided in the Stockholders Agreement.

"Stockholders Agreement" means that certain shareholders agreement dated as of the date hereof, by and among the Issuer and the holders listed therein, as may be amended from time to time.

"Subordinated Obligation" means any Indebtedness of the Issuer or a Subsidiary Guarantor (whether outstanding on the Issue Date or thereafter Incurred) that is subordinate or junior in right of payment to the Notes pursuant to a written agreement.

"Subsidiary" of any Person means (a) any corporation, association or other business entity (other than a partnership, joint venture, limited liability company or similar entity) of which more than 50% of the total ordinary voting power of shares of Capital Stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof (or Persons performing similar functions) or (b) any partnership, joint venture, limited liability company or similar entity of which more than 50% of the capital accounts, distribution rights, total equity and voting interests or general or limited partnership interests, as applicable, is, in the case of clauses (a) and (b), at the time owned or controlled, directly or indirectly, by (1) such Person, (2) such Person and one or more Subsidiaries of such Person or (3) one or more Subsidiaries of such Person. Unless otherwise specified herein, each reference to a Subsidiary (other than in this definition) will refer to a Subsidiary of the Issuer.

"Subsidiary Guarantee" means, individually, any Guarantee of payment of the Notes by a Subsidiary Guarantor pursuant to the terms of this Indenture and any supplemental indenture thereto, and, collectively, all such Guarantees. Each such Subsidiary Guarantee will be in the form prescribed by this Indenture.

"Subsidiary Guarantor" means CEI Acquisition, L.L.C., a Delaware limited liability company, CEI Pipeline, L.L.C., a Texas limited liability company, Chaparral Biofuels, L.L.C., an Oklahoma limited liability company, Chaparral CO2, L.L.C., an Oklahoma limited liability company, Chaparral Energy, L.L.C., an Oklahoma limited liability company, Chaparral Exploration, L.L.C., a Delaware limited liability company, Chaparral Real Estate, L.L.C., an Oklahoma limited liability company, Chaparral Resources, L.L.C., an Oklahoma limited liability company, Charles Energy, L.L.C., an Oklahoma limited liability company, Chestnut Energy, L.L.C., an Oklahoma limited liability company, Trabajo Energy, L.L.C., an Oklahoma limited liability company, and each other Restricted Subsidiary that guarantees the Indebtedness pursuant to Section 4.20.

"Suspended Covenants" has the meaning set forth in Section 4.21.

"Suspension Period" has the meaning set forth in Section 4.21.

"Tag-Along Closing" has the meaning set forth in the Stockholders Agreement.

"Tag-Along Notice" has the meaning set forth in the Stockholders Agreement.

"Tag-Along Sale" has the meaning set forth in the Stockholders Agreement.

"Tag-Along Seller" has the meaning set forth in the Stockholders Agreement.

"TIA" means the Trust Indenture Act of 1939 (15 U.S.C. §§ 77aaa-77bbbb), as in effect on the date of this Indenture; *provided* that in the event the Trust Indenture Act of 1939 is amended after such date, "TIA" means, to the extent required by any such amendment, the Trust Indenture Act of 1939 as so amended.

"Transfer Notice" means any "Transfer Notice" (as defined in the Stockholders Agreement) or Note Transfer Notice.

"Treasury Rate" means, as of the date of any payment of principal or repurchase of the Notes following the occurrence of an Interest Make-Whole Trigger Event, the yield to maturity at the time of computation of United States Treasury securities with a constant maturity (as compiled and published in the most recent Federal Reserve Statistical Release H.15 (519) which has become publicly available at least two Business Days prior to such date (or, if such Statistical Release is no longer published or the relevant information does not appear thereon, any publicly available source of similar market data)) most nearly equal to the period from such date to the Maturity Date; provided, however, that if the period from such date to the Maturity Date is not equal to the constant maturity of a United States Treasury security for which a weekly average yield is given, the Treasury Rate shall be obtained by linear interpolation (calculated to the nearest one-twelfth of a year) from the weekly average yields of United States Treasury securities for which such yields are given, except that if the period from such date to the Maturity Date is less than one year, the weekly average yield on actually traded United States Treasury securities adjusted to a constant maturity of one year shall be used. The Issuer shall (1) calculate the Treasury Rate as of the second Business Day preceding the applicable date of any

payment of principal or repurchase of the Notes following the occurrence of an Interest Make-Whole Trigger Event and (2) prior to such date file with the Trustee an Officers' Certificate setting forth the Interest Make-Whole Premium and the Treasury Rate and showing the calculation in reasonable detail; provided that the Trustee shall not be responsible for such calculation.

"Trust Officer" means any officer within the Corporate Trust Office including any Vice President, Managing Director, Director, Assistant Vice President, Associate, or any other officer of the Trustee customarily performing functions similar to those performed by any of the above designated officers and also, with respect to a particular matter, any other officer to whom such matter is referred because of such officer's knowledge and familiarity with the particular subject and who shall have direct responsibility for the administration of this Indenture, or in the case of a successor trustee, an officer assigned to the department, division or group performing the corporation trust work of such successor and assigned to administer this Indenture.

"Trustee" means the party named as such in this Indenture until a successor replaces it in accordance with the provisions of this Indenture and thereafter means such successor.

"unit of Reference Property" has the meaning specified in Section 10.12.

"Unrestricted Subsidiary" means:

(1) any Subsidiary of the Issuer that at the time of determination shall be designated an Unrestricted Subsidiary by the Board of Directors of the Issuer in the manner provided below; and

(2) any Subsidiary of an Unrestricted Subsidiary.

The Board of Directors of the Issuer may designate any Subsidiary of the Issuer (including any newly acquired or newly formed Subsidiary or a Person becoming a Subsidiary through merger or consolidation or Investment therein) to be an Unrestricted Subsidiary only if:

(1) such Subsidiary or any of its Subsidiaries does not own any Capital Stock or Indebtedness of or have any Investment in, or own or hold any Lien on any property of, any other Subsidiary of the Issuer which is not a Subsidiary of the Subsidiary to be so designated or otherwise an Unrestricted Subsidiary;

(2) all the Indebtedness of such Subsidiary and its Subsidiaries shall, at the date of designation, and will at all times thereafter, consist of Non-Recourse Debt;

(3) on the date of such designation, such designation and the Investment of the Issuer in such Subsidiary complies with Section 4.10;

(4) such Subsidiary is a Person with respect to which neither the Issuer nor any of its Restricted Subsidiaries has any direct or indirect obligation:

(a) to subscribe for additional Capital Stock of such Person; or

(b) to maintain or preserve such Person's financial condition or to cause such Person to achieve any specified levels of operating results; and

(5) on the date such Subsidiary is designated an Unrestricted Subsidiary, such Subsidiary is not a party to any agreement, contract, arrangement or understanding with the Issuer or any Restricted Subsidiary with terms substantially less favorable to the Issuer than those that might have been obtained from Persons who are not Affiliates of the Issuer.

Any such designation by the Board of Directors of the Issuer shall be evidenced to the Trustee by filing with the Trustee a certified copy of a resolution of the Board of Directors of the Issuer giving effect to such designation and an Officers' Certificate certifying that such designation complies with the foregoing conditions. If, at any time, any Unrestricted Subsidiary would fail to meet the foregoing requirements as an Unrestricted Subsidiary, it shall thereafter cease to be an Unrestricted Subsidiary for purposes of this Indenture and any Indebtedness of such Subsidiary shall be deemed to be Incurred as of such date.

The Board of Directors of the Issuer may designate any Unrestricted Subsidiary to be a Restricted Subsidiary; *provided* that immediately after giving effect to such designation, (a) no Default or Event of Default shall have occurred and be continuing or would occur as a consequence thereof and (b) either (i) the Issuer could Incur at least $1.00 of additional Indebtedness under the first paragraph of Section 4.12 or (ii) the Consolidated Coverage Ratio for the Issuer and its Restricted Subsidiaries would be equal to or greater than immediately prior to such designation, in either case on a pro forma basis taking into account such designation.

"U.S. Government Obligations" means securities that are (a) direct obligations of the United States of America for the timely payment of which its full faith and credit is pledged or (b) obligations of a Person controlled or supervised by and acting as an agency or instrumentality of the United States of America the timely payment of which is unconditionally guaranteed as a full faith and credit obligation of the United States of America, which, in either case, are not callable or redeemable at the option of the issuer thereof, and shall also include a depositary receipt issued by a bank (as defined in Section 3(a)(2) of the Securities Act), as custodian with respect to any such U.S. Government Obligations or a specific payment of principal of or interest on any such U.S. Government Obligations held by such custodian for the account of the holder of such depositary receipt; *provided* that (except as required by law) such custodian is not authorized to make any deduction from the amount payable to the holder of such depositary receipt from any amount received by the custodian in respect of the U.S. Government Obligations or the specific payment of principal of or interest on the U.S. Government Obligations evidenced by such depositary receipt.

"U.S. Legal Tender" means such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts.

"Unrestricted Definitive Note" means one or more Definitive Notes that do not bear and are not required to bear the Private Placement Legend.

"Unrestricted Global Note" means a permanent Global Note, substantially in the form of Exhibit A attached hereto, that bears the Global Note Legend and that is deposited with or on behalf of and registered in the name of the Depository, representing Notes that do not bear the Private Placement Legend.

"Volumetric Production Payments" means production payment obligations recorded as deferred revenue in accordance with GAAP, together with all undertakings and obligations in connection therewith.

"Voting Stock" of an entity means all classes of Capital Stock of such entity then outstanding and normally entitled to vote in the election of members of such entity's Board of Directors.

"Wholly Owned Subsidiary" means a Restricted Subsidiary, all of the Capital Stock of which (other than directors' qualifying shares) is owned by the Issuer or another Wholly Owned Subsidiary.

SECTION 1.2. ***No Incorporation by Reference of TIA***.

This Indenture is not qualified under the TIA, and the TIA shall not apply to or in any way govern the terms of this Indenture. As a result, no provisions of the TIA are incorporated into this Indenture unless expressly incorporated pursuant to this Indenture.

SECTION 1.3. ***Rules of Construction***.

Unless the context otherwise requires:

(1) a term has the meaning assigned to it;

(2) an accounting term not otherwise defined has the meaning assigned to it in accordance with GAAP;

(3) "or" is not exclusive;

(4) words in the singular include the plural, and words in the plural include the singular;

(5) "herein," "hereof" and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision;

(6) any reference to a statute, law or regulation means that statute, law or regulation as amended and in effect from time to time and includes any successor statute, law or regulation; *provided*, *however*, that any reference to the Bankruptcy Law shall mean the Bankruptcy Law as applicable to the relevant case;

(7) unless the context requires otherwise, references to "Notes" for all purposes of this Indenture shall include any PIK Notes that are actually issued and any increase in the

principal amount of the outstanding Notes (including PIK Notes) as a result of a PIK Interest Payment, and references to "principal amount" of the Notes include any increase in the principal amount of the outstanding Notes (including PIK Notes) as a result of a PIK Interest Payment;

(8) all references to "interest" on the Notes means Cash Interest or PIK Interest as the context may require;

(9) all references to unpaid accrued interest on the Notes in respect of an interest period for which the Issuer has not yet made an election (or deemed election) as to the method of payment for such interest, shall assume such interest accrues at the Interest Rate for Cash Interest; and

(10) references to sections of or rules under the Securities Act or the Exchange Act will be deemed to include substitute, replacement of successor sections enacted into law or rules adopted by the SEC, as the case may be, from time to time.

ARTICLE II.

THE NOTES

SECTION 2.1. ***Form and Dating***.

(a) General. The Notes and the Trustee's certificate of authentication relating thereto shall be substantially in the form of Exhibit A hereto, which is incorporated in and expressly made a part of this Indenture, or may be in the form of Book-Entry Notes (in the case of all Notes issued on the Issue Date, and if otherwise agreed in writing by the applicable Holder or Holders). The Notes may have notations, legends or endorsements required by law, stock exchange rule or depository rule or usage. The Issuer shall approve the form of the Notes and any notation, legend or endorsement on them. Each Note shall be dated the date of its issuance and shall show the date of its authentication.

The terms and provisions contained in the Notes, a form of which is annexed hereto as Exhibit A, shall constitute, and are hereby expressly made, a part of this Indenture and, to the extent applicable, the Issuer, the Subsidiary Guarantors and the Trustee, by their execution and delivery of this Indenture, expressly agree to such terms and provisions and to be bound thereby. However, to the extent any provision of any Note conflicts with the express provisions of this Indenture, the provisions of this Indenture shall govern and be controlling.

The aggregate principal amount of the Notes which may be authenticated and delivered under this Indenture is $35,000,000.00 in principal amount of Notes, plus any PIK Notes or any increases in the principal amount of the outstanding Notes as a result of a PIK Interest Payment (or otherwise pursuant to this Indenture), and Notes authenticated and delivered upon registration of transfer of, or in exchange for, or in lieu of, other Notes pursuant to the terms of this Indenture. The proceeds of the Notes shall be used only to fund certain payments and distributions as expressly set forth in the Plan of Reorganization and to provide the Issuer with

working capital for operations and for other general corporate purposes, in each case, after the effective date of the Plan of Reorganization.

(b) Global Notes. Notes issued in global form shall be substantially in the form of Exhibit A (the "Global Note") attached hereto (including the Global Note Legend thereon), which is incorporated in and expressly made a part of this Indenture. Notes issued in definitive form shall be substantially in the form of Exhibit A attached hereto (but without the Global Note Legend thereon). Each Global Note shall provide that it shall represent up to the aggregate principal amount of Notes from time to time endorsed thereon and that the aggregate principal amount of outstanding Notes represented thereby may from time to time be reduced or increased, as applicable, to reflect exchanges and redemptions. Any endorsement of a Global Note to reflect the amount of any increase or decrease in the aggregate principal amount of outstanding Notes represented thereby shall be made by the Trustee or the custodian, at the direction of the Trustee, in accordance with instructions given by the Holder thereof as required by Section 2.6 hereof.

(c) PIK Notes. In connection with the payment of PIK Interest in respect of the Notes (including the PIK Notes), the Issuer shall be entitled, without the consent of the Holders, to increase the outstanding principal amount of the Notes or issue additional Notes (the "PIK Notes") under this Indenture on the same terms and conditions as the Notes issued on the Issue Date (other than the issuance dates and the date from which interest will accrue). The Notes and any PIK Notes subsequently issued under this Indenture shall be treated as a single class for all purposes under this Indenture, including waivers, amendments, redemptions and offers to purchase. Unless the context requires otherwise, references to "Notes" for all purposes of this Indenture shall include any PIK Notes that are actually issued and any increase in the principal amount of the outstanding Notes (including PIK Notes) as a result of a PIK Interest Payment, and references to "principal amount" of the Notes include any increase in the principal amount of the outstanding Notes (including PIK Notes) as a result of a PIK Interest Payment.

(d) Temporary Global Notes. Notes offered and sold in reliance on Regulation S shall be issued initially in the form of the Regulation S Temporary Global Note, which shall be deposited on behalf of the purchasers of the Notes represented thereby with the Trustee, as custodian for the Depository, and registered in the name of the Depository or the nominee of the Depository for the accounts of designated agents holding on behalf of Euroclear or Clearstream, duly executed by the Issuer and authenticated by the Trustee as hereinafter provided. The Restricted Period shall be terminated upon the receipt by the Trustee of:

(i) a written certificate from the Depository, together with copies of certificates from Euroclear and Clearstream certifying that they have received certification of non-United States beneficial ownership of 100% of the aggregate principal amount of the Regulation S Temporary Global Note (except to the extent of any beneficial owners thereof who acquired an interest therein during the Restricted Period pursuant to another exemption from registration under the Securities Act and who shall take delivery of a beneficial ownership interest in a 144A Global Note bearing a Private Placement Legend, all as contemplated by Section 2.6(b) hereof); and

(ii) an Officers' Certificate from the Issuer.

Following the termination of the Restricted Period, beneficial interests in the Regulation S Temporary Global Note shall be exchanged for beneficial interests in the Regulation S Permanent Global Note pursuant to the Applicable Procedures. Simultaneously with the authentication of the Regulation S Permanent Global Note, the Trustee shall cancel the Regulation S Temporary Global Note. The aggregate principal amount of the Regulation S Temporary Global Note and the Regulation S Permanent Global Note may from time to time be increased or decreased by adjustments made on the records of the Trustee and the Depository or its nominee, as the case may be, in connection with transfers of interest as hereinafter provided.

(e) Terms. The aggregate principal amount of Notes that may be authenticated and delivered under this Indenture is unlimited.

The Notes shall be subject to repurchase by the Issuer pursuant to a Change of Control Offer as provided in Section 4.15 hereof or an Asset Disposition Offer as provided under Section 4.16 hereof. The Notes shall not be redeemable, other than as provided in Article III.

Additional Notes ranking *pari passu* with the Notes issued on the Issue Date may be created and issued from time to time by the Issuer without notice to or consent of the Holders and shall be consolidated with and form a single class with the Notes issued on the Issue Date and shall have the same terms as to status, redemption or otherwise as the Notes issued on the Issue Date; *provided* that the Issuer's ability to issue Additional Notes shall be subject to the Issuer's compliance with Section 4.12 hereof. Any Additional Notes shall be issued with the benefit of an indenture supplemental to this Indenture.

(f) Euroclear and Clearstream Procedures Applicable. The provisions of the "Operating Procedures of the Euroclear System" and "Terms and Conditions Governing Use of Euroclear" and the "General Terms and Conditions of Clearstream Banking" and "Customer Handbook" of Clearstream shall be applicable to transfers of beneficial interests in the Regulation S Temporary Global Note and the Regulation S Permanent Global Notes that are held by Participants through Euroclear or Clearstream.

SECTION 2.2. ***Execution and Authentication; Aggregate Principal Amount***.

At least one Officer shall execute the Notes for the Issuer by manual or facsimile signature (including by means of an electronic transmission of a pdf or similar file).

If an Officer whose signature is on a Note or a Subsidiary Guarantee was an Officer at the time of such execution but no longer holds that office or position at the time the Trustee authenticates the Note, the Note shall nevertheless be valid.

A Note shall not be valid until an authorized signatory of the Trustee manually or by facsimile signs the certificate of authentication on the Note. The signature shall be conclusive evidence that the Note has been authenticated under this Indenture.

The Trustee shall authenticate (i) Notes for original issue on the Issue Date in the aggregate principal amount not to exceed $35.0 million, (ii) any PIK Notes and (iii) subject to Section 4.12, Additional Notes, in each case, upon a written order of the Issuer in the form of an Officers' Certificate (an "Authentication Order"). Each Authentication Order shall specify the amount of Notes to be authenticated and the date on which the Notes are to be authenticated, whether the Notes are to be Notes or Additional Notes and whether the Notes are to be issued as Book-Entry Notes, Definitive Notes or Global Notes or such other information as the Trustee may reasonably request. Any Additional Notes shall be part of the same issue as the Notes being issued on the Issue Date and will vote on all matters as one class with the Notes being issued on the Issue Date, including, without limitation, waivers, amendments, redemptions, Change of Control Offers and Asset Disposition Offers; *provided* that Additional Notes will not be issued with the same CUSIP or ISIN, as applicable, as the Notes issued on the Issue Date unless such Additional Notes are fungible with the Notes issued on the Issue Date for U.S. federal income tax purposes. For the purposes of this Indenture, except for Section 4.12, references to the Notes include Additional Notes, if any. In addition, with respect to authentication pursuant to clause (iii) of the first sentence of this paragraph, such written order from the Issuer shall be accompanied by an Opinion of Counsel of the Issuer in a form reasonably satisfactory to the Trustee stating that the issuance of the Additional Notes does not give rise to an Event of Default, complies with this Indenture and has been duly authorized by the Issuer.

The Trustee may appoint an authenticating agent (the "Authenticating Agent") reasonably acceptable to the Issuer to authenticate Notes. Unless otherwise provided in the appointment, an Authenticating Agent may authenticate Notes whenever the Trustee may do so. Each reference in this Indenture to authentication by the Trustee includes authentication by such Authenticating Agent. An Authenticating Agent has the same rights as an Agent to deal with the Issuer or with any Affiliate of the Issuer.

[The Notes shall be issuable in fully registered form only, without coupons, in denominations of at least $1,000 and any integral multiple of $1.00 thereafter (except, for the avoidance of doubt, as set forth in Section 2.3 in respect of PIK Interest Payments).][7]

SECTION 2.3. ***Registrar, Paying Agent and Conversion Agent***.

The Issuer shall maintain an office or agency where (a) Notes may be presented or surrendered for registration of transfer or for exchange ("Registrar"), (b) Notes may be presented or surrendered for payment ("Paying Agent") and (c) Notes may be presented for conversion ("Conversion Agent"). The Registrar shall keep a register of the Notes and of their transfer and exchange. The Issuer, upon prior written notice to the Trustee, may have one or more co-Registrars and one or more additional paying agents and one or more additional conversion agents each reasonably acceptable to the Trustee. The term "Paying Agent" includes any additional Paying Agent and the term "Conversion Agent" includes any additional Conversion Agent. The Issuer may act as Paying Agent, Registrar or Conversion Agent, except that, for the purposes of payments on the Notes pursuant to Sections 4.15 and 4.16, neither the Issuer nor any Affiliate of the Issuer may act as Paying Agent. The Issuer shall notify the Trustee in writing of

[7] NTD: Trustee to confirm whether Notes can be initially issued in $1.00 increments over $1,000.

the name and address of any Agent not a party to this Indenture. If the Issuer fails to appoint or maintain another entity as Paying Agent, Registrar or Conversion Agent, the Trustee shall act as such.

In authenticating any Notes under this Indenture, and accepting the additional responsibilities under this Indenture in relation to such Notes, the Trustee shall be entitled to receive, and shall be fully protected in relying upon an Opinion of Counsel stating:

(1) that the form or forms of such Notes have been established in conformity with the provisions of this Indenture; and

(2) that the terms of such Notes have been established in conformity with the provisions of this Indenture.

The Trustee shall not be required to authenticate the Notes if the issue of such Notes pursuant to this Indenture will affect the Trustee's own rights, duties, obligations or immunities under the Notes and this Indenture or otherwise in a manner that is not reasonably acceptable to the Trustee.

On any Interest Payment Date on which the Issuer pays PIK Interest with respect to a Global Note and/or one or more Book-Entry Notes, upon receipt of an Officers' Certificate stating the amount of PIK Interest due, directing the Trustee to increase the principal amount of the Global Note or Book-Entry Notes, the Trustee shall increase the aggregate principal amount of such Global Note or Book-Entry Notes by an amount equal to the interest payable, rounded to the nearest $1.00, for the relevant interest period on the aggregate principal amount of such Global Note or Book-Entry Notes as of the relevant Record Date for such Interest Payment Date. The foregoing notwithstanding, PIK Interest on a Global Note may be paid on an Interest Payment Date in the form of PIK Notes should the Applicable Procedures of the Depository, if any, so require or the Issuer so elects, in which case PIK Notes in a principal amount equal to the interest payable, rounded up to the nearest $1.00, for the relevant interest period will be issued to the Holders on the Record Date for such Interest Payment Date, *pro rata* in accordance with their interests, as provided in the Authentication Order from the Issuer to the Trustee pursuant to this Section 2.3.

On any Interest Payment Date on which the Issuer pays PIK Interest with respect to a Definitive Note, PIK Notes in a principal amount equal to the interest payable, rounded to the nearest $1.00, for the relevant interest period on the aggregate principal amount of such Definitive Notes as of the relevant Record Date for such Interest Payment Date will be issued to the Holders of such Definitive Notes as of such Record Date.

The Issuer shall enter into an appropriate agency agreement with any Agent not a party to this Indenture, which agreement shall implement the provisions of this Indenture that relate to such Agent. The Issuer shall notify the Trustee, in advance, of the name and address of any such Agent. If the Issuer fails to maintain a Registrar or Paying Agent, or fails to give the foregoing notice, the Trustee shall act as such.

The Issuer initially appoints the Trustee as Registrar, Paying Agent and Conversion Agent and agent for service of demands and notices in connection with the Notes, until such time as the Trustee has resigned or a successor has been appointed. Any of the Registrar, the Paying Agent, the Conversion Agent or any other agent may resign upon 30 days' prior written notice to the Issuer. The Conversion Agent shall act solely as an agent of the Issuer, and will not thereby assume any obligation towards or relationship of agency or trust for or with any Holder.

SECTION 2.4. ***Paying Agent To Hold Assets in Trust***.

The Issuer shall require each Paying Agent other than the Trustee to agree in writing that such Paying Agent shall hold in trust for the benefit of the Holders or the Trustee all assets held by the Paying Agent for the payment of principal of, premium, if any, or interest on, the Notes (whether such assets have been distributed to it by the Issuer or any other obligor on the Notes), and the Issuer and the Paying Agent shall notify the Trustee of any Default by the Issuer (or any other obligor on the Notes) in making any such payment. The Issuer at any time may require a Paying Agent to distribute all assets held by it to the Trustee and account for any assets disbursed and the Trustee may at any time during the continuance of any payment Default, upon written request to a Paying Agent, require such Paying Agent to distribute all assets held by it to the Trustee and to account for any assets distributed. If the Issuer acts as Paying Agent, it shall segregate and hold in a separate trust fund for the benefit of the Holders all assets held by it as Paying Agent. Upon distribution to the Trustee of all assets that shall have been delivered by the Issuer to the Paying Agent, the Paying Agent (if other than the Issuer) shall have no further liability for such assets.

SECTION 2.5. ***Holder Lists***.

The Trustee shall preserve in as current a form as is reasonably practicable the most recent list available to it of the names and addresses of the Holders and shall otherwise comply with TIA § 312(a). If the Trustee is not the Registrar, the Issuer shall furnish or cause the Registrar to furnish to the Trustee before each Record Date and at such other times as the Trustee may request in writing a list as of such date and in such form as the Trustee may reasonably require of the names and addresses of the Holders, which list may be conclusively relied upon by the Trustee.

SECTION 2.6. ***Transfer and Exchange***.

(a) Transfer and Exchange of Global Notes. Except as otherwise set forth in this Section 2.6, a Global Note may be transferred, in whole and not in part, only to another nominee of the Depository or to a successor Depository or a nominee of such successor Depository. A beneficial interest in a Global Note may not be exchanged for a Definitive Note or a Book-Entry Note unless (i) the Depository (x) notifies the Issuer that it is unwilling or unable to continue as Depository for such Global Note or (y) has ceased to be a clearing agency registered under the Exchange Act and, in either case, a successor Depository is not appointed by the Issuer within 90 days, (ii) the Issuer, at its option, notifies the Trustee in writing that the Issuer elects to cause the issuance of Definitive Notes or Book-Entry Notes or (iii) there shall have occurred and be

continuing a Default with respect to the Notes and the Depository notifies the Trustee of its decision to cause the issuance of Definitive Notes or Book-Entry Notes. Upon the occurrence of any of the preceding events in clause (i) or (ii) above, Definitive Notes or Book-Entry Notes delivered in exchange for any Global Note or beneficial interests therein will be registered in the names, and issued in any approved denominations, requested by or on behalf of the Depository (in accordance with its customary procedures). Global Notes also may be exchanged or replaced, in whole or in part, as provided in Sections 2.7 and 2.10 hereof. Every Note authenticated and delivered in exchange for, or in lieu of, a Global Note or any portion thereof, pursuant to this Section 2.6 or Section 2.7 or 2.10 hereof, shall be authenticated and delivered in the form of, and shall be, a Global Note, except for Definitive Notes or Book-Entry Notes issued subsequent to any of the preceding events in clause (i) or (ii) above and pursuant to Section 2.6(c) hereof. A Global Note may not be exchanged for another Note other than as provided in this Section 2.6 (a); *provided, however*, beneficial interests in a Global Note may be transferred and exchanged as provided in Section 2.6(b) or (c) hereof.

(b) Transfer and Exchange of Beneficial Interests in the Global Notes. The transfer and exchange of beneficial interests in the Global Notes shall be effected through the Depository, in accordance with the provisions of this Indenture and the Applicable Procedures. Beneficial interests in the Restricted Global Notes shall be subject to restrictions on transfer comparable to those set forth herein to the extent required by the Securities Act. Transfers of beneficial interests in the Global Notes also shall require compliance with either subparagraph (i) or (ii) below, as applicable, as well as one or more of the other following subparagraphs, as applicable:

(i) Transfer of Beneficial Interests in the Same Global Note. Beneficial interests in any Restricted Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in the same Restricted Global Note in accordance with the transfer restrictions set forth in the Private Placement Legend; *provided, however*, that prior to the expiration of the Restricted Period, transfers of beneficial interests in the Regulation S Temporary Global Note may not be made to a U.S. Person or for the account or benefit of a U.S. Person. Beneficial interests in any Unrestricted Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in an Unrestricted Global Note. No written orders or instructions shall be required to be delivered to the Registrar to effect the transfers described in this Section 2.6(b)(i).

(ii) All Other Transfers and Exchanges of Beneficial Interests in Global Notes. In connection with all transfers and exchanges of beneficial interests that are not subject to Section 2.6(b)(i) hereof, the transferor of such beneficial interest must deliver to the Registrar either (A) (1) a written order from a Participant or an Indirect Participant given to the Depository in accordance with the Applicable Procedures directing the Depository to credit or cause to be credited a beneficial interest in another Global Note in an amount equal to the beneficial interest to be transferred or exchanged and (2) instructions given in accordance with the Applicable Procedures containing information regarding the Participant account to be credited with such increase or (B) (1) a written order from a Participant or an Indirect Participant given to the Depository in accordance with the Applicable Procedures directing the Depository to cause to be issued a Definitive Note or a Book-Entry Note in an amount equal to the beneficial interest to be

transferred or exchanged and (2) instructions given by the Depository to the Registrar containing information regarding the Person in whose name such Definitive Note or Book-Entry Note shall be registered to effect the transfer or exchange referred to in (1) above; *provided* that in no event shall Definitive Notes or Book-Entry Notes be issued upon the transfer or exchange of beneficial interests in the Regulation S Temporary Global Note prior to (A) the expiration of the Restricted Period and (B) the receipt by the Registrar of any certificates required pursuant to Rule 903. Upon satisfaction of all of the requirements for transfer or exchange of beneficial interests in Global Notes contained in this Indenture and the Notes or otherwise applicable under the Securities Act, the Trustee shall adjust the principal amount of the relevant Global Note(s) pursuant to Section 2.6(g) hereof.

(iii) Transfer of Beneficial Interests to Another Restricted Global Note. A beneficial interest in any Restricted Global Note may be transferred to a Person who takes delivery thereof in the form of a beneficial interest in another Restricted Global Note if the transfer complies with the requirements of Section 2.6(b)(ii) hereof and the Registrar receives the following:

(A) if the transferee will take delivery in the form of a beneficial interest in the 144A Global Note, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications in item (1) thereof; or

(B) if the transferee will take delivery in the form of a beneficial interest in the Regulation S Global Note, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications in item (2) thereof.

(iv) Transfer and Exchange of Beneficial Interests in a Restricted Global Note for Beneficial Interests in an Unrestricted Global Note. A beneficial interest in any Restricted Global Note may be exchanged by any holder thereof for a beneficial interest in an Unrestricted Global Note or transferred to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note if the exchange or transfer complies with the requirements of Section 2.6(b)(ii) hereof and the Registrar receives the following:

(A) if the holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a beneficial interest in an Unrestricted Global Note, a certificate from such Holder substantially in the form of Exhibit C hereto, including the certifications in item (1)(a) thereof; or

(B) if the holder of such beneficial interest in a Restricted Global Note proposes to transfer such beneficial interest to a Person who shall take delivery thereof in the form of a beneficial interest in an Unrestricted Global Note, a certificate from such holder in the form of Exhibit B hereto, including the certifications in item (4) thereof;

and, in each case set forth in this Section 2.6(b)(iv), if the Registrar so requests or if the Applicable Procedures so require, an Opinion of Counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and

that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

If any such transfer is effected pursuant to this Section 2.6(b)(iv) at a time when an Unrestricted Global Note has not yet been issued, the Issuer shall issue and, upon receipt of an Authentication Order in accordance with Section 2.2 hereof, the Trustee shall authenticate one or more Unrestricted Global Notes in an aggregate principal amount equal to the aggregate principal amount of beneficial interests transferred pursuant to this Section 2.6(b)(iv).

Beneficial interests in an Unrestricted Global Note cannot be exchanged for, or transferred to Persons who take delivery thereof in the form of, a beneficial interest in a Restricted Global Note.

(c) Transfer or Exchange of Beneficial Interests for Definitive Notes or Book-Entry Notes.

(i) Beneficial Interests in Restricted Global Notes to Restricted Definitive Notes or Restricted Book-Entry Notes. If any holder of a beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a Restricted Definitive Note or a Restricted Book-Entry Note or to transfer such beneficial interest to a Person who takes delivery thereof in the form of a Restricted Definitive Note or a Restricted Book-Entry Note, then, upon the occurrence of any of the events in paragraph (i) or (ii) of Section 2.6(a) hereof and receipt by the Registrar of the following documentation:

(A) if the holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a Restricted Definitive Note or a Restricted Book-Entry Note, a certificate from such holder substantially in the form of Exhibit C hereto, including the certifications in item (2)(a) thereof;

(B) if such beneficial interest is being transferred to a QIB in accordance with Rule 144A, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (1) thereof;

(C) if such beneficial interest is being transferred to a Non-U.S. Person in an offshore transaction in accordance with Rule 903 or Rule 904, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (2) thereof;

(D) if such beneficial interest is being transferred pursuant to an exemption from the registration requirements of the Securities Act other than in accordance with Rule 144, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (3)(a) thereof;

(E) if such beneficial interest is being transferred to the Issuer or any of its Restricted Subsidiaries, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (3)(b) thereof; or

(F) if such beneficial interest is being transferred pursuant to an effective registration statement under the Securities Act, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (3)(c) thereof, the Trustee shall cause the aggregate principal amount of the applicable Global Note to be reduced accordingly pursuant to Section 2.6(g) hereof, and the Issuer shall execute and, upon receipt of an Authentication Order in accordance with Section 2.2 hereof, the Trustee shall authenticate and send or create a book entry and credit, as applicable, to the Person designated in the instructions a Definitive Note or a Book-Entry Note in the applicable principal amount. Any Definitive Note or Book-Entry Note issued in exchange for a beneficial interest in a Restricted Global Note pursuant to this Section 2.6(c) shall be registered in such name or names and in such authorized denomination or denominations as the holder of such beneficial interest shall instruct the Registrar through instructions from the Depository and the Participant or Indirect Participant. The Trustee shall send or credit such Definitive Notes or Book-Entry Notes, as applicable, to the Persons in whose names such Notes are so registered. Any Definitive Note or Book-Entry Note issued in exchange for a beneficial interest in a Restricted Global Note pursuant to this Section 2.6(c)(i) (except transfers pursuant to clause (F) above) shall bear the Private Placement Legend and shall be subject to all restrictions on transfer contained therein.

(ii) Beneficial Interests in Regulation S Temporary Global Note to Definitive Notes or Book-Entry Notes. Notwithstanding Sections 2.6(c)(i)(A) and (C) hereof, a beneficial interest in the Regulation S Temporary Global Note may not be exchanged for a Definitive Note or a Book-Entry Note or transferred to a Person who takes delivery thereof in the form of a Definitive Note or a Book-Entry Note prior to (A) the expiration of the Restricted Period and (B) the receipt by the Registrar of any certificates required pursuant to Rule 903(b)(3)(ii)(B) of the Securities Act, except in the case of a transfer pursuant to an exemption from the registration requirements of the Securities Act other than Rule 903 or Rule 904.

(iii) Beneficial Interests in Restricted Global Notes to Unrestricted Definitive Notes or Book-Entry Notes. A holder of a beneficial interest in a Restricted Global Note may exchange such beneficial interest for an Unrestricted Definitive Note or an Unrestricted Book-Entry Note or may transfer such beneficial interest to a Person who takes delivery thereof in the form of an Unrestricted Definitive Note or an Unrestricted Book-Entry Note only upon the occurrence of any of the events in subsection (i) or (ii) of Section 2.6(a) hereof and if the Registrar receives the following:

(A) if the holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for an Unrestricted Definitive Note or an Unrestricted Book-Entry Note, a certificate from such holder substantially in the form of Exhibit C hereto, including the certifications in item (1)(b) thereof; or

(B) if the holder of such beneficial interest in a Restricted Global Note proposes to transfer such beneficial interest to a Person who shall take delivery thereof in the form of an Unrestricted Definitive Note or an Unrestricted Book-Entry Note, a certificate from such holder substantially in the form of Exhibit B hereto, including the certifications in item (4) thereof;

and, in each case set forth in this Section 2.6(c)(iii), if the Registrar so requests or if the Applicable Procedures so require, an Opinion of Counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

(iv) Beneficial Interests in Unrestricted Global Notes to Unrestricted Definitive Notes or Unrestricted Book-Entry Notes. If any holder of a beneficial interest in an Unrestricted Global Note proposes to exchange such beneficial interest for a Definitive Note or a Book-Entry Note or to transfer such beneficial interest to a Person who takes delivery thereof in the form of a Definitive Note or a Book-Entry Note, then, upon the occurrence of any of the events in subsection (i) or (ii) of Section 2.6(a) hereof and satisfaction of the conditions set forth in Section 2.6(b)(ii) hereof, the Trustee shall cause the aggregate principal amount of the applicable Global Note to be reduced accordingly pursuant to Section 2.6(g) hereof, and, upon receipt of an Authentication Order in accordance with Section 2.2 hereof, the Issuer shall execute and the Trustee shall authenticate and send or create a book entry and credit, as applicable, to the Person designated in the instructions a Definitive Note or a Book-Entry Note in the applicable principal amount. Any Definitive Note issued in exchange for a beneficial interest pursuant to this Section 2.6(c)(iv) shall be registered in such name or names and in such authorized denomination or denominations as the holder of such beneficial interest shall instruct the Registrar through instructions from or through the Depository and the Participant or Indirect Participant. The Trustee shall send or credit such Definitive Notes or Book-Entry Notes, as applicable, to the Persons in whose names such Notes are so registered. Any Definitive Note or Book-Entry Note issued in exchange for a beneficial interest pursuant to this Section 2.6(c)(iv) shall not bear the Private Placement Legend.

(d) Transfer and Exchange of Definitive Notes or Book-Entry Notes for Beneficial Interests.

(i) Restricted Definitive Notes or Restricted Book-Entry Notes to Beneficial Interests in Restricted Global Notes. If any Holder of a Restricted Definitive Note or a Restricted Book-Entry Note proposes to exchange such Note for a beneficial interest in a Restricted Global Note or to transfer such Restricted Definitive Note or Restricted Book-Entry Note to a Person who takes delivery thereof in the form of a beneficial interest in a Restricted Global Note, then, upon receipt by the Registrar of the following documentation:

(A) if the Holder of such Restricted Definitive Note or Restricted Book-Entry Note proposes to exchange such Note for a beneficial interest in a Restricted Global Note, a certificate from such Holder substantially in the form of Exhibit C hereto, including the certifications in item (2)(b) thereof;

(B) if such Restricted Definitive Note or Restricted Book-Entry Note is being transferred to a QIB in accordance with Rule 144A, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (1) thereof;

(C) if such Restricted Definitive Note or Restricted Book-Entry Note is being transferred to a Non-U.S. Person in an offshore transaction in accordance with Rule 903 or Rule 904, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (2) thereof;

(D) if such Restricted Definitive Note or Restricted Book-Entry Note is being transferred pursuant to an exemption from the registration requirements of the Securities Act other than in accordance with Rule 144, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (3)(a) thereof;

(E) if such Restricted Definitive Note or Restricted Book-Entry Note is being transferred to the Issuer or any of its Restricted Subsidiaries, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (3)(b) thereof; or

(F) if such Restricted Definitive Note or Restricted Book-Entry Note is being transferred pursuant to an effective registration statement under the Securities Act, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (3)(c) thereof,

the Trustee shall cancel the Restricted Definitive Note or Restricted Book-Entry Note to be reduced, increase or cause to be increased the aggregate principal amount of, in the case of clause (A) above, the applicable Restricted Global Note, in the case of clause (B) above, the applicable 144A Global Note, and in the case of clause (C) above, the applicable Regulation S Global Note.

(ii) Restricted Definitive Notes or Restricted Book-Entry Note to Beneficial Interests in Unrestricted Global Notes. A Holder of a Restricted Definitive Note or a Restricted Book-Entry Note may exchange such Note for a beneficial interest in an Unrestricted Global Note or transfer such Restricted Definitive Note or Restricted Book-Entry Note to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note only if the Registrar receives the following:

(A) if the Holder of such Definitive Notes or Restricted Book-Entry Notes proposes to exchange such Notes for a beneficial interest in the Unrestricted Global Note, a certificate from such Holder substantially in the form of Exhibit C hereto, including the certifications in item (1)(c) thereof; or

(B) if the Holder of such Definitive Notes or Book-Entry Notes proposes to transfer such Notes to a Person who shall take delivery thereof in the form of a beneficial interest in the Unrestricted Global Note, a certificate from such Holder substantially in the form of Exhibit B hereto, including the certifications in item (4) thereof;

and, in each such case set forth in this Section 2.6(d)(ii), if the Registrar so requests or if the Applicable Procedures so require, an Opinion of Counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

Upon satisfaction of the applicable conditions of this Section 2.6(d)(ii), the Trustee shall cancel the Definitive Notes or the Book-Entry Notes and increase or cause to be increased the aggregate principal amount of the Unrestricted Global Note.

(iii) Unrestricted Definitive Notes or Unrestricted Book-Entry Notes to Beneficial Interests in Unrestricted Global Notes. A Holder of an Unrestricted Definitive Note or Unrestricted Book-Entry Note may exchange such Note for a beneficial interest in an Unrestricted Global Note or transfer such Definitive Notes or Book-Entry Notes to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note at any time. Upon receipt of a request for such an exchange or transfer, the Trustee shall cancel the applicable Unrestricted Definitive Note or Unrestricted Book-Entry Note and increase or cause to be increased the aggregate principal amount of one of the Unrestricted Global Notes.

If any such exchange or transfer from a Definitive Note or a Book-Entry Note to a beneficial interest is effected pursuant to Section 2.6(d)(ii) or (iii) above at a time when an Unrestricted Global Note has not yet been issued, the Issuer shall issue and, upon receipt of an Authentication Order in accordance with Section 2.2 hereof, the Trustee shall authenticate one or more Unrestricted Global Notes in an aggregate principal amount equal to the principal amount of Definitive Notes or Book-Entry Notes so transferred.

(e) Transfer and Exchange of Definitive Notes for Definitive Notes or Book-Entry Notes. Upon request by a Holder of Definitive Notes and such Holder's compliance with the provisions of this Section 2.6(e), the Registrar shall register the transfer or exchange of Definitive Notes. Prior to such registration of transfer or exchange, the requesting Holder shall present or surrender to the Registrar the Definitive Notes duly endorsed or accompanied by a written instruction of transfer or exchange in form satisfactory to the Registrar duly executed by such Holder or by its attorney, duly authorized in writing. In addition, the requesting Holder shall provide any additional certifications, documents and information, as applicable, required pursuant to the following provisions of this Section 2.6(e):

(i) Restricted Definitive Notes to Restricted Definitive Notes or Restricted Book-Entry Notes. Any Restricted Definitive Note may be transferred to and registered in the name of Persons who take delivery thereof in the form of a Restricted Definitive Note or Restricted Book-Entry Note if the Registrar receives the following:

(A) if the transfer will be made to a QIB in accordance with Rule 144A, then the transferor must deliver a certificate substantially in the form of Exhibit B hereto, including the certifications in item (1) thereof;

(B) if the transfer will be made pursuant to Rule 903 or Rule 904, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications in item (2) thereof; or

(C) if the transfer will be made pursuant to any other exemption from the registration requirements of the Securities Act, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications required by item (3) thereof, if applicable.

(ii) Restricted Definitive Notes to Unrestricted Definitive Notes or Unrestricted Book-Entry Notes. Any Restricted Definitive Note may be exchanged by the Holder thereof for an Unrestricted Definitive Note or an Unrestricted Book-Entry Note or transferred to a Person or Persons who take delivery thereof in the form of an Unrestricted Definitive Note or an Unrestricted Book-Entry Note if the Registrar receives the following:

(A) if the Holder of such Restricted Definitive Notes proposes to exchange such Notes for an Unrestricted Definitive Note or an Unrestricted Book-Entry Note, a certificate from such Holder substantially in the form of Exhibit C hereto, including the certifications in item (1)(d) thereof; or

(B) if the Holder of such Restricted Definitive Notes proposes to transfer such Notes to a Person who shall take delivery thereof in the form of an Unrestricted Definitive Note or an Unrestricted Book-Entry Note, a certificate from such Holder substantially in the form of Exhibit B hereto, including the certifications in item (4) thereof;

and, in each case set forth in this Section 2.6(e)(ii), if the Registrar so requests, an Opinion of Counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

(iii) Unrestricted Definitive Notes to Unrestricted Definitive Notes or Unrestricted Book-Entry Notes. A Holder of Unrestricted Definitive Notes may transfer such Notes to a Person who takes delivery thereof in the form of an Unrestricted Definitive Note or an Unrestricted Book-Entry Note. Upon receipt of a request to register such a transfer, the Registrar shall register the Unrestricted Definitive Notes pursuant to the instructions from the Holder thereof.

(f) Transfer and Exchange of Book-Entry Notes for Definitive Notes or Book-Entry Notes. Upon request by a Holder of Book-Entry Notes and such Holder's compliance with the provisions of this Section 2.6(f), the Registrar shall register the transfer or exchange of Book-Entry Notes. Prior to such registration of transfer or exchange, the requesting Holder shall provide a written instruction of transfer or exchange in form satisfactory to the Registrar duly executed by such Holder or by its attorney, duly authorized in writing. In addition, the requesting Holder shall provide any additional certifications, documents and information, as applicable, required pursuant to the following provisions of this Section 2.6(f):

(i) Restricted Book-Entry Notes to Restricted Definitive Notes or Restricted Book-Entry Notes. Any Restricted Book-Entry Note may be transferred to and registered in the name of Persons who take delivery thereof in the form of a Restricted Definitive Note or a Restricted Book-Entry Note if the Registrar receives the following:

(A) if the transfer will be made to a QIB in accordance with Rule 144A, then the transferor must deliver a certificate substantially in the form of Exhibit B hereto, including the certifications in item (1) thereof;

(B) if the transfer will be made pursuant to Rule 903 or Rule 904, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications in item (2) thereof; or

(C) if the transfer will be made pursuant to any other exemption from the registration requirements of the Securities Act, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications required by item (3) thereof, if applicable.

(ii) Restricted Book-Entry Notes to Unrestricted Definitive Notes or Unrestricted Book-Entry Notes. Any Restricted Book-Entry Note may be exchanged by the Holder thereof for an Unrestricted Definitive Note or an Unrestricted Book-Entry Note or transferred to a Person or Persons who take delivery thereof in the form of an Unrestricted Definitive Note or an Unrestricted Book-Entry Note if the Registrar receives the following:

(A) if the Holder of such Restricted Book-Entry Notes proposes to exchange such Notes for an Unrestricted Definitive Note or an Unrestricted Book-Entry Note, a certificate from such Holder substantially in the form of Exhibit C hereto, including the certifications in item (1)(d) thereof; or

(B) if the Holder of such Restricted Book-Entry Notes proposes to transfer such Notes to a Person who shall take delivery thereof in the form of an Unrestricted Definitive Note or an Unrestricted Book-Entry Note, a certificate from such Holder substantially in the form of Exhibit B hereto, including the certifications in item (4) thereof;

and, in each case set forth in this Section 2.6(e)(ii), if the Registrar so requests, an Opinion of Counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

(iii) Unrestricted Book-Entry Notes to Unrestricted Definitive Notes or Unrestricted Book-Entry Notes. A Holder of Unrestricted Book-Entry Notes may transfer such Notes to a Person who takes delivery thereof in the form of an Unrestricted Definitive Note or an Unrestricted Book-Entry Note. Upon receipt of a request to register such a transfer, the Registrar shall register the Unrestricted Definitive Notes or Unrestricted Book-Entry Notes pursuant to the instructions from the Holder thereof.

(g) Cancellation and/or Adjustment of Global Notes. At such time as all beneficial interests in a particular Global Note have been exchanged for Definitive Notes or Book-Entry Notes or a particular Global Note has been redeemed, repurchased or canceled in whole and not in part, each such Global Note shall be returned to or retained and canceled by the Trustee in accordance with Section 2.11 hereof. At any time prior to such cancellation, if any beneficial interest in a Global Note is exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note or for Definitive Notes or for Book-Entry Notes, the principal amount of Notes represented by such Global Note shall be

reduced accordingly and an endorsement shall be made on such Global Note by the Trustee or by the Depository at the direction of the Trustee to reflect such reduction; and if the beneficial interest is being exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note, such other Global Note shall be increased accordingly and an endorsement shall be made on such Global Note by the Trustee or by the Depository at the direction of the Trustee to reflect such increase.

(h) General Provisions Relating to Transfers and Exchanges.

(i) To permit registrations of transfers and exchanges, the Issuer shall execute and the Trustee shall authenticate Global Notes and Definitive Notes upon receipt of an Authentication Order in accordance with Section 2.2 hereof or at the Registrar's request.

(ii) No service charge shall be made to a holder of a beneficial interest in a Global Note or to a Holder of a Definitive Note for any registration of transfer or exchange, but the Issuer may require payment of a sum sufficient to cover any transfer tax or similar governmental charge payable in connection therewith (other than any such transfer taxes or similar governmental charge payable upon exchange or transfer pursuant to Sections 2.7, 2.10, 3.7, 4.15, 4.16 and 9.5 hereof).

(iii) Neither the Registrar nor the Issuer shall be required to register the transfer of or exchange any Note selected for redemption in whole or in part, except the unredeemed portion of any Note being redeemed in part; *provided* that new Notes will only be issued in minimum denominations of $1,000 and integral multiples of $[1.00] thereafter.

(iv) All Global Notes and Definitive Notes issued upon any registration of transfer or exchange of Global Notes or Definitive Notes shall be the valid obligations of the Issuer, evidencing the same debt, and entitled to the same benefits under this Indenture, as the Global Notes or Definitive Notes surrendered upon such registration of transfer or exchange.

(v) The Issuer shall not be required (A) to issue, to register the transfer of or to exchange any Notes during a period beginning at the opening of business 15 days before the day of any selection of Notes for redemption under Section 3.2 hereof and ending at the close of business on the day of selection, (B) to register the transfer of or to exchange any Note so selected for redemption or tendered (and not withdrawn) for repurchase in connection with a Change of Control Offer, an Asset Disposition Offer or other tender offer in whole or in part, except the unredeemed portion of any Note being redeemed in part or (C) to register the transfer of or to exchange a Note between a Record Date and the next succeeding Interest Payment Date.

(vi) Prior to due presentment for the registration of a transfer of any Note, the Trustee, any Agent and the Issuer may deem and treat the Person in whose name any Note is registered as the absolute owner of such Note for the purpose of receiving payment of principal of (and premium, if any) and interest on such Notes and for all other purposes, and none of the Trustee, any Agent or the Issuer shall be affected by notice to the contrary.

(vii) Upon surrender for registration of transfer of any Note at the office or agency of the Issuer designated pursuant to Section 4.2 hereof, the Issuer shall execute, and the Trustee shall authenticate and send, in the name of the designated transferee or transferees, one or more replacement Notes of any authorized denomination or denominations of a like aggregate principal amount.

(viii) At the option of the Holder, Notes may be exchanged for other Notes of any authorized denomination or denominations of a like aggregate principal amount upon surrender of the Notes to be exchanged at such office or agency. Whenever any Global Notes or Definitive Notes are so surrendered for exchange, the Issuer shall execute, and the Trustee shall authenticate and send, the replacement Global Notes and Definitive Notes which the Holder making the exchange is entitled to in accordance with the provisions of Section 2.2 hereof.

(ix) All certifications, certificates and Opinions of Counsel required to be submitted to the Registrar pursuant to this Section 2.6 to effect a registration of transfer or exchange may be submitted by facsimile.

(x) Neither the Trustee nor the Registrar shall have any duty to monitor the Issuer's compliance with or have any responsibility with respect to the Issuer's compliance with any federal or state securities laws in connection with registrations of transfers and exchanges of the Notes. The Trustee shall have no obligation or duty to monitor, determine or inquire as to compliance with any restrictions on transfer imposed under this Indenture or under applicable law with respect to any transfer of any interest in any Notes (including any transfers between or among the Depository's participants or beneficial owners of interests in any Global Note) other than to require delivery of such certificates and other documentation, as is expressly required by, and to do so if and when expressly required by, the terms of this Indenture or the Notes and to examine the same to determine substantial compliance as to form with the express requirements hereof.

(xi) The Issuer, the Trustee, and the Registrar reserve the right to require the delivery by any Holder or purchaser of a Note of such legal opinions, certifications or other evidence as may reasonably be required in order to determine that the proposed transfer of any Restricted Global Note or Restricted Definitive Note is being made in compliance with the Securities Act or the Exchange Act, or rules or regulations adopted by the SEC from time to time thereunder, and applicable state securities laws.

(xii) [Notes shall not be transferred by any Holder in any transfer that, if consummated, would result in the Issuer's having a number of "holders of record" (as such concept is understood for purposes of Section 12(g) of the Exchange Act) of New Common Stock that (A) is three hundred (300) or more (except to the extent the Board of Directors determines, at any time after January 1, 2021 based on advice of outside counsel, that such threshold is not applicable for purposes of determining whether the Issuer will be subject to periodic reporting obligations under the Exchange Act), (B) exceeds the applicable threshold for the Issuer's having to register the New Common Stock under Section 12(g) of the Exchange Act or (C) would otherwise subject the Issuer to reporting obligations under Section 13 or Section 15

of the Exchange Act (if, at any time after January 1, 2021, it is not already subject to such reporting obligations). In calculating the number of holders of record of New Common Stock for purposes of the immediately preceding sentence, (x) any pending transfers of New Common Stock or Notes for which a Transfer Notice has previously been given to the Issuer shall be taken into account and (y) all then-outstanding Notes shall be treated as if they were fully converted into shares of New Common Stock with all such shares issued to and held by the holders of such Notes. It shall be a condition precedent to any Holder's transfer of Notes that, prior to the consummation thereof, the Holder provide written notice of such transfer to the Issuer (a "Note Transfer Notice"). A Note Transfer Notice shall be delivered to the Issuer in accordance with Section 12.2 and, except as determined otherwise by the Board of Directors of the Issuer in its sole discretion, shall include (A) the name, address, telephone number and email address of the transferor and the transferee, (B) the aggregate principal amount of Notes proposed to be transferred, (C) the total shares of New Common Stock and aggregate principal amount of Notes then held by the transferor, (D) the date on which the transfer is expected to take place and (E) such additional information and documentation as may be reasonably requested by the Issuer, the Trustee and the Issuer's stock transfer agent.] [8]

SECTION 2.7. ***Replacement Notes***.

If a mutilated Note is surrendered to the Trustee or if the Holder of a Note claims that the Note has been lost, destroyed or wrongfully taken, the Issuer shall issue and the Trustee shall authenticate a replacement Note and the Subsidiary Guarantors shall execute a Subsidiary Guarantee thereon if the Trustee's requirements are met. If required by the Trustee or the Issuer, such Holder must provide an indemnity bond or other indemnity of reasonable tenor, sufficient in the reasonable judgment of the Issuer, the Subsidiary Guarantors and the Trustee, to protect the Issuer, the Subsidiary Guarantors, the Trustee or any Agent from any loss which any of them may suffer if a Note is replaced. Every replacement Note shall constitute an additional obligation of the Issuer and the Subsidiary Guarantors.

SECTION 2.8. ***Outstanding Notes***.

The Notes outstanding at any time are all the Notes that have been authenticated by the Trustee except for those canceled by it, those delivered to it for cancellation, those reductions in the interest in a Global Note effected by the Trustee in accordance with the provisions hereof and those described in this Section as not outstanding. Subject to the provisions of Section 2.9, a Note does not cease to be outstanding because the Issuer or any of its Affiliates holds the Note.

If a Note is replaced pursuant to Section 2.7 (other than a mutilated Note surrendered for replacement), it ceases to be outstanding unless the Trustee receives proof satisfactory to it that the replaced Note is held by a *bona fide* purchaser for value. A mutilated Note ceases to be outstanding upon surrender of such Note and replacement thereof pursuant to Section 2.7.

If on a Redemption Date or the Maturity Date the Paying Agent (other than the Issuer, a Subsidiary or an Affiliate of any thereof) holds U.S. Legal Tender or U.S. Government

[8] NTD: To be conformed to Stockholders Agreement.

Obligations sufficient to pay all of the principal, premium, if any, and interest due on the Notes payable on that date and is not prohibited from paying such money to the Holders thereof pursuant to the terms of this Indenture, then on and after that date such Notes shall be deemed not to be outstanding and interest on them shall cease to accrue.

SECTION 2.9. ***Treasury Notes***.

In determining whether the Holders of the required principal amount of Notes have concurred in any direction, waiver, consent or notice, Notes owned by the Issuer or any Subsidiary Guarantor of the Issuer or any Subsidiary Guarantor shall be considered as though they are not outstanding, except that for the purposes of determining whether the Trustee shall be protected in relying on any such direction, waiver or consent, only Notes which a Trust Officer of the Trustee actually knows are so owned shall be so considered. The Issuer shall notify the Trustee, in writing, when, to its knowledge, any of its Affiliates repurchase or otherwise acquire Notes, of the aggregate principal amount of such Notes so repurchased or otherwise acquired and such other information as the Trustee may reasonably request and the Trustee shall be entitled to rely thereon.

SECTION 2.10. ***Temporary Notes.***

Until definitive Notes are ready for delivery, the Issuer may prepare and the Trustee shall authenticate temporary Notes upon receipt of an Authentication Order. The Authentication Order shall specify the amount of temporary Notes to be authenticated and the date on which the temporary Notes are to be authenticated. Temporary Notes shall be substantially in the form of definitive Notes but may have variations that the Issuer considers appropriate for temporary Notes and so indicate in the Authentication Order. Without unreasonable delay, the Issuer shall prepare, the Trustee shall authenticate and the Subsidiary Guarantors shall execute Subsidiary Guarantees on, upon receipt of an Authentication Order in accordance with Section 2.2 hereof, definitive Notes in exchange for temporary Notes.

SECTION 2.11. ***Cancellation.***

The Issuer at any time may deliver Notes to the Trustee for cancellation. The Registrar, Paying Agent and Conversion Agent shall forward to the Trustee any Notes surrendered to them for registration of transfer, exchange, conversion or payment. The Trustee, or at the direction of the Trustee, the Registrar or the Paying Agent, and no one else, shall cancel and, at the written direction of the Issuer, shall dispose, in its customary manner, of all Notes surrendered for registration of transfer, exchange, conversion, payment or cancellation. The Trustee shall maintain a record of all canceled Notes. Subject to Section 2.7, the Issuer may not issue new Notes to replace Notes that it has paid or delivered to the Trustee for cancellation. If the Issuer shall acquire any of the Notes, such acquisition shall not operate as a redemption or satisfaction of the Indebtedness represented by such Notes unless and until the same are surrendered to the Trustee for cancellation pursuant to this Section 2.11.

SECTION 2.12. ***Defaulted Interest*.**

Interest will be computed on the basis of a 360-day year comprised of twelve 30-day months, and, in the case of a partial month, the actual number of days elapsed. If the Issuer defaults in a payment of interest on the Notes, it shall pay the defaulted interest, *plus* (to the extent lawful) an additional amount at the rate of 2.0% per annum, payable in cash, to the Persons who are Holders on a subsequent special record date, which special record date shall be the fifteenth day next preceding the date fixed by the Issuer for the payment of defaulted interest or the next succeeding Business Day if such date is not a Business Day. The Issuer shall notify the Trustee in writing of the amount of defaulted interest proposed to be paid on each Note and the date of the proposed payment (a "Default Interest Payment Date"), and at the same time the Issuer shall deposit with the Trustee an amount of money equal to the aggregate amount proposed to be paid in respect of such defaulted interest or shall make arrangements satisfactory to the Trustee for such deposit on or prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the Persons entitled to such defaulted interest as provided in this Section 2.12; *provided, however*, that in no event shall the Issuer deposit monies proposed to be paid in respect of defaulted interest later than 11:00 a.m. New York City time on the proposed Default Interest Payment Date. At least 15 days before the subsequent special record date, the Issuer shall send (or cause to be sent) to each Holder, as of a recent date selected by the Issuer, with a copy to the Trustee, a notice that states the subsequent special record date, the payment date and the amount of defaulted interest, and interest payable on such defaulted interest, if any, to be paid. Notwithstanding the foregoing, (a) any interest which is paid prior to the expiration of the 30-day period set forth in Section 6.1(1) shall be paid to Holders as of the regular record date for the Interest Payment Date for which interest has not been paid, and (b) the Issuer may make payment of any defaulted interest in any other lawful manner not inconsistent with the requirements of any securities exchange on which the Notes may be listed, and upon such notice as may be required by such exchange.

SECTION 2.13. ***CUSIP Number*.**

The Issuer in issuing the Notes may use a "CUSIP" number, and, if so, the Trustee shall use the CUSIP number in notices of redemption or exchange as a convenience to Holders; *provided, however*, that no representation is hereby deemed to be made by the Trustee as to the correctness or accuracy of the CUSIP number printed in the notice or on the Notes, and that reliance may be placed only on the other identification numbers printed on the Notes. The Issuer shall promptly notify the Trustee of any change in the CUSIP number.

SECTION 2.14. ***Deposit of Monies*.**

Prior to 11:00 a.m. New York City time on each Interest Payment Date, Maturity Date, Redemption Date, Change of Control Payment Date and Asset Disposition Purchase Date, the Issuer shall have deposited with the Paying Agent in immediately available funds money sufficient to make cash payments, if any, due on such Interest Payment Date, Maturity Date, Redemption Date, Change of Control Payment Date and Asset Disposition Purchase Date, as the case may be, in a timely manner which permits the Paying Agent to remit payment to the

Holders on such Interest Payment Date, Maturity Date, Redemption Date, Change of Control Payment Date and Asset Disposition Purchase Date, as the case may be.

SECTION 2.15. ***Restrictive Legends*.**

(a) Legends. The following legends shall appear on the face of all Global Notes and Definitive Notes issued under this Indenture unless specifically stated otherwise in the applicable provisions of this Indenture:

(i) Private Placement Legend.[9]

(A) Except as permitted by subparagraph (B) below, each Global Note and each Definitive Note (and all Notes issued in exchange therefor or substitution thereof and any shares of New Common Stock issued upon conversion thereof) shall bear the legend, and each Book-Entry Note shall be subject to the legend, in substantially the following form:

"THIS SECURITY AND THE COMMON STOCK, IF ANY, ISSUABLE UPON CONVERSION OF THIS SECURITY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT IN ACCORDANCE WITH THE FOLLOWING SENTENCE. BY ITS ACQUISITION HEREOF OR OF A BENEFICIAL INTEREST HEREIN, THE ACQUIRER:

(1) REPRESENTS THAT IT AND ANY ACCOUNT FOR WHICH IT IS ACTING IS [A "QUALIFIED INSTITUTIONAL BUYER" (WITHIN THE MEANING OF RULE 144A UNDER THE SECURITIES ACT)][AN "ACCREDITED INVESTOR" AS SUCH TERM IS DEFINED IN RULE 501 UNDER THE SECURITIES ACT][IS NOT A "U.S. PERSON" AS DEFINED IN REGULATION S UNDER THE SECURITIES ACT] AND THAT IT EXERCISES SOLE INVESTMENT DISCRETION WITH RESPECT TO EACH SUCH ACCOUNT, AND

(2) AGREES FOR THE BENEFIT OF CHAPARRAL ENERGY, INC. (THE "COMPANY") THAT IT WILL NOT OFFER, SELL, PLEDGE OR OTHERWISE TRANSFER THIS SECURITY OR ANY BENEFICIAL INTEREST HEREIN PRIOR TO THE APPLICABLE RESALE RESTRICTION TERMINATION DATE, EXCEPT:

(A) TO THE COMPANY OR ANY SUBSIDIARY THEREOF, OR

(B) PURSUANT TO A REGISTRATION STATEMENT WHICH HAS BECOME EFFECTIVE UNDER THE SECURITIES ACT, OR

(C) TO A QUALIFIED INSTITUTIONAL BUYER IN COMPLIANCE WITH RULE 144A UNDER THE SECURITIES ACT, OR

[9] NTD: Language subject to further review.

(D) IN COMPLIANCE WITH REGULATION S UNDER THE SECURITIES ACT, OR

(E) PURSUANT TO AN EXEMPTION FROM REGISTRATION PROVIDED BY RULE 144 UNDER THE SECURITIES ACT OR ANY OTHER AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT.

PRIOR TO THE REGISTRATION OF ANY TRANSFER IN ACCORDANCE WITH CLAUSE (2)(E) ABOVE, THE COMPANY AND THE TRUSTEE RESERVE THE RIGHT TO REQUIRE THE DELIVERY OF SUCH LEGAL OPINIONS, CERTIFICATIONS OR OTHER EVIDENCE AS MAY REASONABLY BE REQUIRED IN ORDER TO DETERMINE THAT THE PROPOSED TRANSFER IS BEING MADE IN COMPLIANCE WITH THE SECURITIES ACT AND APPLICABLE STATE SECURITIES LAWS. NO REPRESENTATION IS MADE AS TO THE AVAILABILITY OF ANY EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT."

(B) Notwithstanding the foregoing, any Global Note, Definitive Note or Book-Entry Note issued pursuant to subparagraph (b)(iv), (c)(iii), (c)(iv), (d)(ii), (d)(iii), (e)(ii), (e)(iii), (f)(ii) or (f)(iii) of Section 2.6 (and all Notes issued in exchange therefor or substitution thereof) shall not bear the Private Placement Legend.

(ii) Global Note Legend. Each Global Note shall bear a legend in substantially the following form:

"THIS GLOBAL NOTE IS HELD BY THE DEPOSITORY (AS DEFINED IN THE INDENTURE GOVERNING THIS NOTE) OR ITS NOMINEE IN CUSTODY FOR THE BENEFIT OF THE BENEFICIAL OWNERS HEREOF, AND IS NOT TRANSFERABLE TO ANY PERSON UNDER ANY CIRCUMSTANCES EXCEPT THAT (I) THE TRUSTEE MAY MAKE SUCH NOTATIONS HEREON AS MAY BE REQUIRED PURSUANT TO SECTION 2.6(g) OF THE INDENTURE, (II) THIS GLOBAL NOTE MAY BE EXCHANGED IN WHOLE BUT NOT IN PART PURSUANT TO SECTION 2.6(a) OF THE INDENTURE, (III) THIS GLOBAL NOTE MAY BE DELIVERED TO THE TRUSTEE FOR CANCELLATION PURSUANT TO SECTION 2.11 OF THE INDENTURE AND (IV) THIS GLOBAL NOTE MAY BE TRANSFERRED TO A SUCCESSOR DEPOSITORY WITH THE PRIOR WRITTEN CONSENT OF THE ISSUER. UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR NOTES IN DEFINITIVE FORM, THIS NOTE MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITORY TO A NOMINEE OF THE DEPOSITORY OR BY A NOMINEE OF THE DEPOSITORY TO THE DEPOSITORY OR ANOTHER NOMINEE OF THE DEPOSITORY OR BY THE DEPOSITORY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITORY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITORY. UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY

TRUST COMPANY ("DTC") TO THE ISSUER OR ITS AGENTS FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR SUCH OTHER NAME AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR SUCH OTHER ENTITY AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN."

(iii) Regulation S Temporary Global Note Legend. The Regulation S Temporary Global Note shall bear a legend in substantially the following form:

"THE RIGHTS ATTACHING TO THIS REGULATION S TEMPORARY GLOBAL NOTE, AND THE CONDITIONS AND PROCEDURES GOVERNING ITS EXCHANGE FOR CERTIFICATED NOTES, ARE AS SPECIFIED IN THE INDENTURE (AS DEFINED HEREIN)."

(iv) Restrictions on Transfer Legend. All Notes shall bear a legend in substantially the following form:

"THIS SECURITY IS SUBJECT TO RESTRICTIONS ON TRANSFER AS SET FORTH IN THE INDENTURE GOVERNING THIS NOTE, AND THE COMMON STOCK, IF ANY, ISSUABLE UPON CONVERSION OF THIS SECURITY IS SUBJECT TO RESTRICTIONS ON TRANSFER AS SET FORTH IN THAT CERTAIN STOCKHOLDERS AGREEMENT AMONG THE COMPANY AND THE OTHER PARTIES THERETO DATED AS OF [___], 2020, AS THE CASE MAY BE. THIS SECURITY IS TRANSFERABLE ONLY IN ACCORDANCE WITH THE PROVISIONS OF THE INDENTURE, AND SUCH COMMON STOCK IS TRANSFERABLE ONLY IN ACCORDANCE WITH THE PROVISIONS OF THE STOCKHOLDERS AGREEMENT."

SECTION 2.16. ***Designation*.**

The Indebtedness evidenced by the Notes and the Subsidiary Guarantees is hereby irrevocably designated as "senior indebtedness" or such other term denoting seniority for the purposes of any other existing or future Indebtedness of the Issuer or a Subsidiary Guarantor, as the case may be, which the Issuer or such Subsidiary Guarantor, as the case may be, makes subordinate to any senior (or such other term denoting seniority) indebtedness of such Person.

SECTION 2.17. **OID Legend.**

Each Global Note, Regulation S Temporary Global Note and Definitive Note (and all Notes issued in exchange therefor or substitution thereof) shall bear the legend in substantially the following form:

> THIS SECURITY WAS ISSUED WITH "ORIGINAL ISSUE DISCOUNT" AS DEFINED IN SECTION 1273 OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED. YOU MAY OBTAIN INFORMATION REGARDING THE AMOUNT OF ORIGINAL ISSUE DISCOUNT, THE ISSUE PRICE, THE ISSUE DATE AND THE YIELD TO MATURITY BY CONTACTING THE CHIEF FINANCIAL OFFICER OF CHAPARRAL ENERGY INC. AT 701 CEDAR LAKE BOULEVARD, OKLAHOMA CITY, OKLAHOMA 73114 ATTN: CHARLES DUGINSKI.

ARTICLE III.

REDEMPTION

SECTION 3.1. ***Notices*.**

(a) If the Issuer elects to redeem Notes pursuant to this Indenture, the Issuer shall notify the Trustee and the Paying Agent in writing of the Redemption Date and the principal amount of the Notes to be redeemed. The Issuer shall give each notice provided for in this Section 3.1(a) at least 15 days before the Redemption Date (unless a shorter notice period shall be satisfactory to the Trustee, as evidenced in a writing signed on behalf of the Trustee), together with an Officers' Certificate stating that such redemption shall comply with the conditions contained herein and in the Notes.

(b) Each redemption notice, if delivered to Holders in the manner herein provided, shall be conclusively presumed to have been duly given, whether or not the Holder receives such notice. In any case, failure to duly give such redemption notice or any defect in the redemption notice to the Holder of any Note designated for redemption as a whole or in part shall not affect the validity of the proceedings for the redemption of any other Note. Each redemption notice to Holders shall specify:

(i) the anticipated redemption date or conditions to the occurrence thereof;

(ii) the Redemption Price;

(iii) that on the Redemption Date, the Redemption Price will become due and payable upon each Note to be redeemed, and that interest thereon, if any, shall cease to accrue on and after the Redemption Date;

(iv) the place or places where such Notes are to be surrendered for payment of the Redemption Price;

(v) that Holders may surrender their Notes for conversion at any time prior to the close of business on the Business Day immediately preceding the Redemption Date, and, if applicable, that any such conversion may be conditioned on the effectiveness of the relevant Drag-Along Sale;

(vi) the procedures a converting Holder must follow to convert its Notes; and

(vii) the Conversion Rate.

SECTION 3.2. ***Selection of Notes To Be Redeemed.***

If less than all of the Notes are to be redeemed at any time, selection of such Notes, or portions thereof, for redemption will be made by the Trustee on a pro rata basis (or, in the case of Notes in global form, the Notes will be selected for redemption based on DTC's applicable procedures); *provided* that no Notes with a principal amount of $2,000 or less shall be redeemed in part. If any Note is to be redeemed in part only, the notice of redemption that relates to such Note shall state the portion of the principal amount thereof to be redeemed. A new Note in a principal amount equal to the unredeemed portion thereof will be issued in the name of the Holder thereof upon cancellation of the original Note. On and after the applicable Redemption Date, interest will cease to accrue on such Notes or portions thereof called for redemption unless the Issuer defaults in the payment thereof. Redemption amounts shall only be paid upon presentation and surrender of any such Notes to be redeemed.

SECTION 3.3. ***Optional Redemption.***

Except in the manner expressly set forth in Section 4.15 in connection with a Change of Control Offer or as otherwise expressly set forth in Section 3.6, the Issuer will not be entitled to redeem any of the Notes prior to the Maturity Date.

SECTION 3.4. ***[Reserved].***

SECTION 3.5. ***[Reserved].***

SECTION 3.6. ***Redemption Upon Drag-Along Sale.***

If (x) requested in writing by the Initiating Drag-Along Holders of a Drag-Along Sale, or required by a definitive agreement relating to the Drag-Along Sale that is entered into by the Initiating Drag-Along Holders, or by the Issuer at the request of the Initiating Drag-Along Holders, and (y) set forth in the relevant Drag-Along Notice, all Notes outstanding at such time shall, immediately prior to the closing of the Drag-Along Sale (to the extent not previously converted into New Common Stock at the option of the Holders (including pursuant to a Conditional Voluntary Conversion) or pursuant to the "Mandatory Conversion" provision set forth in Section 10.3), be redeemed by the Issuer for cash at a Redemption Price equal to 100%

of the principal amount of such Notes plus accrued and unpaid interest, if any, to (but excluding) the Redemption Date, which shall occur on the date of, and immediately prior to (but subject in all respects to the occurrence of), the effectiveness of such Drag-Along Sale and the Initiating Drag-Along Holders shall require, as a condition to consummation of any Drag-Along Sale, that the Notes be redeemed in full (and that the Redemption Price be paid with respect thereto as contemplated hereby) prior to (but subject in all respects to the occurrence of) such consummation. Notwithstanding the foregoing, the Issuer shall not be required to redeem the Notes pursuant to this Section 3.6 unless the applicable Drag-Along Purchaser (as defined in the Stockholders Agreement) funds the payment of the Redemption Price with respect to all Notes to be redeemed on the Redemption Date.

Each Holder shall receive no less than [fifteen (15)] Business Days prior written notice of the consummation of any Drag-Along Sale and, if applicable, related redemption of the Notes pursuant to this Section 3.6 (in accordance with Section 3.1(b) above). Each Holder shall receive notice of the relevant Redemption Date promptly once determined, and in no event less than two Business Days prior to such Redemption Date.

SECTION 3.7. ***Deposit of Redemption Price*.**

On or before the Redemption Date and in accordance with Section 2.14, the Issuer shall deposit with the Paying Agent U.S. Legal Tender sufficient to pay the Redemption Price *plus* unpaid accrued interest, if any, of all Notes to be redeemed on that date. The Paying Agent shall promptly return to the Issuer any U.S. Legal Tender so deposited which is not required for that purpose, except with respect to monies owed as obligations to the Trustee pursuant to Article VII.

Unless the Issuer fails to comply with the preceding paragraph and defaults in the payment of such Redemption Price *plus* unpaid accrued interest, if any, interest on the Notes to be redeemed will cease to accrue on and after the applicable Redemption Date, whether or not such Notes are presented for payment.

SECTION 3.8. ***Notes Redeemed in Part*.**

Upon surrender of a Note that is to be redeemed in part, upon receipt of an Authentication Order in accordance with Section 2.2 hereof, the Trustee shall authenticate for the Holder a new Note or Notes equal in principal amount to the unredeemed portion of the Note surrendered.

ARTICLE IV.

COVENANTS

SECTION 4.1. ***Payment of Notes*.**

(a) The Issuer shall pay or cause to be paid the principal of, premium (including any Interest Make-Whole Premium), if any, on and interest, if any, on the Notes on the dates and in

the manner provided in the Notes and in this Indenture. Principal of the Notes shall be payable in full on the Maturity Date (unless payable earlier pursuant to terms of this Indenture). Principal, premium (including any Interest Make-Whole Premium) and interest will be considered paid on the date due if the Paying Agent holds, as of 11:00 a.m. New York City time on the due date (or, if such due date is not a Business Day, then on the next Business Day thereafter) money deposited by or for the account of the Issuer in immediately available funds and designated for and sufficient to pay all principal, premium (including any Interest Make-Whole Premium), and interest then due; provided, however, that to the extent any such deposit is received by the Paying Agent after 11:00 a.m., New York City time on such date, such deposit will be deemed deposited the following Business Day.

(b) Interest on the Notes will accrue at the rate of 9.0% per annum, payable in cash on a quarterly basis, or, at the Issuer's election, 13.0% per annum, payable in kind on a quarterly basis (such applicable interest rate, together with any default interest, the "Interest Rate"). The Issuer may elect to pay such interest through a combination of cash and payment in kind, in each case, at the applicable Interest Rate as set forth in Section 4.1(d).

(c) The Issuer shall pay interest quarterly on March 31, June 30, September 30 and December 31 of each year (each, an "Interest Payment Date"), commencing December 31, 2020, and all outstanding interest shall be payable in cash on the scheduled maturity of the Notes. The Issuer shall pay interest on overdue principal at the rate therefor borne by the Notes, and it shall pay interest on overdue installments of interest at the same rate to the extent lawful.

(d) Subject to Section 4.1(b), interest on any Interest Payment Date will be payable, at the election of the Issuer (made by delivering a written notice to the Trustee on or before the Record Date for such Interest Payment Date), (1) entirely in cash ("Cash Interest"), (2) by increasing the principal amount of the Notes or by issuing additional PIK Notes or (3) with a combination of Cash Interest and PIK Interest. For the avoidance of doubt, any payment of interest by a combination of Cash Interest and PIK Interest shall be payable at the applicable Interest Rate in respect of the proportions of principal with respect to which such interest is being paid through Cash Interest or PIK Interest, as the case may be.

(e) Interest on the Notes will accrue from the Issue Date or, if interest has already been paid, from the date it was most recently paid. Interest will be computed on the basis of a 360-day year comprised of twelve 30-day months and, for partial months, on the basis of the number of days actually elapsed in a 30-day month.

(f) PIK Interest shall be considered paid on the date due if on such date the Trustee has received (i) with respect to PIK Interest to be paid by increasing the outstanding amount of any Notes, an Officers' Certificate, pursuant to Section 2.2, to increase the outstanding amount of any Notes and (ii) with respect to any PIK Interest to be paid through the issuance of PIK Notes, PIK Notes duly executed by the Issuer together with an Authentication Order, pursuant to Section 2.2, and an Officers' Certificate and Opinion of Counsel requesting the authentication of such PIK Notes by the Trustee.

(g) PIK Interest on the Notes will be payable with respect to Notes represented by one or more Global Notes or Book-Entry Notes (x) by increasing the principal amount of the outstanding Note by an amount equal to the amount of PIK Interest for the applicable interest period (rounded to the nearest whole dollar) and making corresponding adjustments to reflect such increase on the books and records of the Registrar, as provided in the Officers' Certificate from the Issuer to the Trustee pursuant to Section 2.2, or (y) if so required by the Applicable Procedures of the Depository, if any, or if the Issuer so elects, by issuing PIK Notes in certificated form in an aggregate principal amount equal to the amount of PIK Interest for the applicable interest period (rounded up to the nearest whole dollar) as provided in the Authentication Order from the Issuer to the Trustee pursuant to Section 2.2. PIK Interest on the Notes will be payable with respect to Notes represented by one or more Definitive Notes by issuing PIK Notes in certificated form in an aggregate principal amount equal to the amount of PIK Interest for the applicable interest period (rounded to the nearest whole dollar), as provided in the Authentication Order from the Issuer to the Trustee pursuant to Section 2.2. In the case of Definitive Notes, if any, Holders shall be entitled to surrender to the Registrar for transfer or exchange Definitive Notes to receive one or more new Definitive Notes reflecting such increase in principal amount in accordance with the terms of this Indenture. Following an increase in the principal amount of the outstanding Global Notes or Book-Entry Notes, or any Definitive Notes, as a result of a PIK Interest Payment, the Notes will bear interest on such increased principal amount from and after the date of such PIK Interest Payment. Any PIK Notes will be dated as of the applicable Interest Payment Date and will bear interest from and after such date. All PIK Notes issued pursuant to a PIK Interest Payment will mature on the same date as the Notes issued on the Issue Date, will be governed by, and subject to the terms, provisions and conditions of, this Indenture and shall have the same rights and benefits as the Notes issued on the Issue Date. Any PIK Notes will be issued with the description "PIK" on the face of such PIK Notes.

(h) Upon the occurrence and during the continuance of an Event of Default under this Indenture, all principal, overdue interest, premium, fees and other amounts shall bear interest at the applicable rate for Cash Interest or PIK Interest Rate specified in Section 4.1(a), plus an additional 2.0% per annum.

(i) Upon the principal of any Notes becoming payable (i) (x) pursuant to an acceleration (whether pursuant to an Event of Default, by operation of law or otherwise) or (y) an Interest Make-Whole Trigger Event or (ii) upon any payment, repurchase, redemption (other than a Change of Control Redemption (as defined herein)) or purchase of any Notes by the Issuer or any Affiliate thereof after the occurrence of an Interest Make-Whole Trigger Event, the Holder(s) of such Notes becoming due pursuant to such an Interest Make-Whole Trigger Event, or being paid, repurchased, redeemed or purchased in connection therewith, shall be entitled to receive the Interest Make-Whole Premium with respect to such Notes. The Interest Make-Whole Premium shall be paid in cash.

SECTION 4.2. ***Maintenance of Office or Agency*.**

The Issuer shall maintain the office or agency (which may be an office of the Trustee or an affiliate of the Trustee, Registrar or co-registrar, or Paying Agent or Conversion Agent)

required under Section 2.3 where Notes may be surrendered for registration of transfer, exchange, purchase, redemption or conversion and where notices and demands to or upon the Issuer in respect of the Notes and this Indenture may be served. The Issuer shall give prior written notice to the Trustee of the location, and any change in the location, of such office or agency. If at any time the Issuer shall fail to maintain any such required office or agency or shall fail to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the address of the Trustee set forth in Section 11.2.

The Issuer hereby designates the Corporate Trust Office of the Trustee as one such office or agency of the Issuer.

SECTION 4.3. ***Organizational Existence*.**

Except as otherwise permitted by Article V, the Issuer shall do or cause to be done, at its own cost and expense, all things necessary to preserve and keep in full force and effect its organizational existence and the organizational existence of each of its Restricted Subsidiaries in accordance with the respective organizational documents of each such Restricted Subsidiary and the material rights (charter and statutory) and franchises of the Issuer and each such Restricted Subsidiary; *provided*, *however*, that the Issuer shall not be required to preserve, with respect to itself, any material right or franchise and, with respect to any of its Restricted Subsidiaries, any such existence, material right or franchise, if the Board of Directors of the Issuer shall determine in good faith that the preservation thereof is no longer desirable in the conduct of the business of the Issuer and its Subsidiaries, taken as a whole.

SECTION 4.4. ***Payment of Taxes and Other Claims*.**

The Issuer shall pay or discharge or cause to be paid or discharged, before the same shall become delinquent, (i) all material taxes, assessments and governmental charges (including withholding taxes and any penalties, interest and additions to taxes) levied or imposed upon it or any of its Restricted Subsidiaries or properties of it or any of its Restricted Subsidiaries and (ii) all material lawful claims for labor, materials and supplies that, if unpaid, might by law become a Lien upon the property of the Issuer or any of its Restricted Subsidiaries; *provided*, *however*, that the Issuer shall not be required to pay or discharge or cause to be paid or discharged any such tax, assessment, charge or claim whose amount, applicability or validity is being contested in good faith by appropriate negotiations or proceedings properly instituted and diligently conducted for which adequate reserves, to the extent required under GAAP, have been taken.

SECTION 4.5. ***Maintenance of Properties and Insurance*.**

(a) The Issuer shall, and shall cause each of the Restricted Subsidiaries to, maintain all properties used or useful in the conduct of its business in good working order and condition (subject to ordinary wear and tear) and make all necessary repairs, renewals, replacements, additions, betterments and improvements thereto and actively conduct and carry on its business; *provided*, *however*, that nothing in this Section 4.5 shall prevent the Issuer or any of the Restricted Subsidiaries from discontinuing the operation and maintenance of any of its properties, if such discontinuance is (i) in the ordinary course of business pursuant to customary

business terms or (ii) in the good faith judgment of the respective Board of Directors or other governing body of the Issuer or such Restricted Subsidiary, as the case may be, desirable in the conduct of their respective businesses and is not disadvantageous in any material respect to the Holders.

(b) The Issuer shall provide or cause to be provided, for itself and each of the Restricted Subsidiaries, insurance (including appropriate self-insurance) against loss or damage of the kinds that, in the good faith judgment of the Issuer, are adequate and appropriate for the conduct of the business of the Issuer and its Restricted Subsidiaries in a prudent manner, with reputable insurers or with the government of the United States of America, Canada or an agency or instrumentality thereof, in such amounts, with such deductibles, and by such methods as shall be customary, in the good faith judgment of the Issuer, for companies similarly situated in the industry.

SECTION 4.6. ***Compliance Certificate; Notice of Default.***

(a) The Issuer shall deliver to the Trustee, within 120 days after the end of each fiscal years of the Issuer, an Officers' Certificate (*provided*, *however*, that one of the signatories to each such Officers' Certificate must state that he or she is the Issuer's principal executive officer, principal financial officer or principal accounting officer), as to such Officers' knowledge, without independent investigation, of the Issuer's compliance with all conditions and covenants under this Indenture (without regard to any period of grace or requirement of notice provided under this Indenture) and in the event any Default under this Indenture exists, such Officers shall specify the nature of such Default. Each such Officers' Certificate shall also notify the Trustee should the Issuer elect to change the manner in which it fixes its fiscal year-end.

(b) So long as not contrary to the then current recommendations of the American Institute of Certified Public Accountants, the annual financial statements delivered pursuant to Section 4.8 shall be accompanied by a written report of the Issuer's independent certified public accountants (who shall be a firm of established national reputation) stating (A) that their audit examination has included a review of the terms of this Indenture and the form of the Notes as they relate to accounting matters, and (B) whether, in connection with their audit examination, any Default or Event of Default has come to their attention and if such a Default or Event of Default has come to their attention, specifying the nature and period of existence thereof; *provided*, *however*, that, without any restriction as to the scope of the audit examination, such independent certified public accountants shall not be liable by reason of any failure to obtain knowledge of any such Default or Event of Default that would not be disclosed in the course of an audit examination conducted in accordance with generally accepted auditing standards.

(c) (i) If any Default or Event of Default has occurred and is continuing or (ii) if any Holder seeks to exercise any remedy under this Indenture with respect to a claimed Default under this Indenture or the Notes, the Issuer shall deliver to the Trustee, at its address set forth in Section 11.2 hereof, by registered or certified mail or by facsimile transmission followed by hard copy by registered or certified mail an Officers' Certificate specifying such event, notice or other action within 30 days of the occurrence thereof.

SECTION 4.7. ***Compliance with Laws*.**

The Issuer shall comply, and shall cause each of its Restricted Subsidiaries to comply, with all applicable statutes, rules, regulations, orders and restrictions of the United States of America, all states and municipalities thereof, and of any governmental department, commission, board, regulatory authority, bureau, agency and instrumentality of the foregoing, in respect of the conduct of its respective businesses and the ownership of its respective properties, except for such non-compliances as could not singly or in the aggregate reasonably be expected to have a material adverse effect on the financial condition or results of operations of the Issuer and the Restricted Subsidiaries taken as a whole.

SECTION 4.8. ***Reports to Holders*.**[10]

(a) [*To be confirmed*].

SECTION 4.9. ***Waiver of Stay, Extension or Usury Laws*.**

The Issuer and each of the Subsidiary Guarantors covenants (to the extent that it may lawfully do so) that it will not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay or extension law or any usury law or other law that would prohibit or forgive the Issuer from paying all or any portion of the principal of or interest, if any, on the Notes as contemplated herein, wherever enacted, now or at any time hereafter in force, or which may affect the covenants or the performance of this Indenture; and (to the extent that it may lawfully do so) the Issuer and each of the Subsidiary Guarantors hereby expressly waives all benefit or advantage of any such law, and covenants that it will not hinder, delay or impede the execution of any power herein granted to the Trustee, but will suffer and permit the execution of every such power as though no such law had been enacted.

SECTION 4.10. ***Limitation on Restricted Payments*.**

The Issuer will not, and will not permit any of its Restricted Subsidiaries, directly or indirectly, to:

(1) declare or pay any dividend or make any payment or distribution on or in respect of the Issuer's Capital Stock (including any payment or distribution in connection with any merger or consolidation involving the Issuer or any of its Restricted Subsidiaries) except:

(a) dividends or distributions by the Issuer payable solely in Capital Stock of the Issuer (other than Disqualified Stock) or in options, warrants or other rights to purchase such Capital Stock of the Issuer; and

(b) dividends or distributions payable to the Issuer or a Restricted Subsidiary and if such Restricted Subsidiary is not a Wholly Owned Subsidiary, to minority stockholders (or owners of an equivalent interest in the case of a Subsidiary that is an entity other than a

[10] NTD: Reporting provisions to be conformed to RBL Credit Agreement reporting provisions upon finalization.

corporation) so long as the Issuer or a Restricted Subsidiary receives at least its pro rata share of such dividend or distribution;

(2) purchase, redeem, defease, retire or otherwise acquire for value any Capital Stock of the Issuer or any direct or indirect parent of the Issuer held by Persons other than the Issuer or a Restricted Subsidiary (other than in exchange for Capital Stock of the Issuer (other than Disqualified Stock));

(3) purchase, repurchase, redeem, defease or otherwise acquire or retire for value, prior to scheduled maturity, scheduled repayment or scheduled sinking fund payment, any Subordinated Obligations or Guarantor Subordinated Obligations (other than (x) Indebtedness permitted under clause (3) of the second paragraph of Section 4.12 or (y) the purchase, repurchase, redemption, defeasance or other acquisition or retirement of Subordinated Obligations or Guarantor Subordinated Obligations purchased in anticipation of satisfying a sinking fund obligation, principal installment or final maturity, in each case due within one year of the date of purchase, repurchase, redemption, defeasance or other acquisition or retirement); or

(4) make any Restricted Investment in any Person

(any such dividend, distribution, purchase, redemption, repurchase, defeasance, other acquisition, retirement or Restricted Investment referred to in clauses (1) through (4) shall be referred to herein as a "Restricted Payment"), if at the time the Issuer or such Restricted Subsidiary makes such Restricted Payment:

(a) a Default shall have occurred and be continuing (or would result therefrom);

(b) the Issuer is not able to Incur an additional $1.00 of Indebtedness pursuant to the first paragraph of Section 4.12 after giving effect, on a pro forma basis, to such Restricted Payment; or

(c) the aggregate amount of such Restricted Payment and all other Restricted Payments declared or made subsequent to the Issue Date would exceed the sum of:

(i) 50% of Consolidated Net Income for the period (treated as one accounting period) from the first day of the first full fiscal quarter after the Issue Date occurs to the end of the most recent fiscal quarter ending prior to the date of such Restricted Payment for which internal financial statements are in existence (or, in case such Consolidated Net Income is a deficit, *minus* 100% of such deficit);

(ii) 100% of the aggregate Net Cash Proceeds, and the Fair Market Value of property or securities other than cash (including Capital Stock of Persons engaged primarily in the Oil and Gas Business or assets used in the Oil and Gas Business), in each case received by the Issuer from the issue or sale of its Capital Stock (other than Disqualified Stock) or other capital contributions subsequent to the Issue Date (other than Net Cash Proceeds received from an issuance or sale of such Capital Stock to (x) management, employees, directors or any direct

or indirect parent of the Issuer, to the extent such Net Cash Proceeds have been used to make a Restricted Payment pursuant to clause (5)(a) of the next succeeding paragraph, (y) a Subsidiary of the Issuer or (z) an employee stock ownership plan, option plan or similar trust (to the extent such sale to an employee stock ownership plan, option plan or similar trust is financed by loans from or Guaranteed by the Issuer or any Restricted Subsidiary unless such loans have been repaid with cash on or prior to the date of determination));

(iii) the amount by which Indebtedness of the Issuer or its Restricted Subsidiaries is reduced on the Issuer's balance sheet upon the conversion or exchange (other than by a Wholly Owned Subsidiary of the Issuer) subsequent to the Issue Date of any Indebtedness of the Issuer or its Restricted Subsidiaries convertible or exchangeable for Capital Stock (other than Disqualified Stock) of the Issuer (less the amount of any cash, or the Fair Market Value of any other property (other than such Capital Stock), distributed by the Issuer upon such conversion or exchange), together with the net proceeds, if any, received by the Issuer or any of its Restricted Subsidiaries upon such conversion or exchange; and

(iv) the amount equal to the aggregate net reduction in Restricted Investments made by the Issuer or any of its Restricted Subsidiaries in any Person resulting from:

(A) repurchases, repayments or redemptions of such Restricted Investments by such Person, proceeds realized upon the sale of such Restricted Investment (other than to a Subsidiary of the Issuer), repayments of loans or advances or other transfers of assets (including by way of dividend or distribution) by such Person to the Issuer or any Restricted Subsidiary;

(B) the redesignation of Unrestricted Subsidiaries as Restricted Subsidiaries (valued in each case as provided in the definition of "Investment") not to exceed, in the case of any Unrestricted Subsidiary, the amount of Investments previously made by the Issuer or any Restricted Subsidiary in such Unrestricted Subsidiary, which amount in each case under this clause

(C) was included in the calculation of the amount of Restricted Payments; *provided*, *however*, that no amount will be included under this clause (iv) to the extent it is already included in Consolidated Net Income; and

(D) the sale (other than to the Issuer or a Restricted Subsidiary) of the Capital Stock of an Unrestricted Subsidiary or a distribution from an Unrestricted Subsidiary or a dividend from an Unrestricted Subsidiary.

The provisions of the preceding paragraph will not prohibit:

(1) any Restricted Payment made by exchange for, or out of the proceeds of the substantially concurrent sale of, Capital Stock of the Issuer (other than Disqualified Stock and other than Capital Stock issued or sold to a Subsidiary or an employee stock ownership plan or similar trust to the extent such sale to an employee stock ownership plan or similar trust is financed by loans from or Guaranteed by the Issuer or any Restricted Subsidiary unless such loans have been repaid with cash on or prior to the date of determination) or a substantially

concurrent cash capital contribution received by the Issuer from its shareholders; *provided, however*, that (a) such Restricted Payment will be excluded from subsequent calculations of the amount of Restricted Payments and (b) the Net Cash Proceeds from such sale of Capital Stock or capital contribution will be excluded from clause (c)(ii) of the preceding paragraph;

(2) any purchase, repurchase, redemption, defeasance or other acquisition or retirement of Subordinated Obligations of the Issuer or Guarantor Subordinated Obligations of any Subsidiary Guarantor made by exchange for, or out of the proceeds of the substantially concurrent sale of, Subordinated Obligations of the Issuer or any purchase, repurchase, redemption, defeasance or other acquisition or retirement of Guarantor Subordinated Obligations made by exchange for or out of the proceeds of the substantially concurrent sale of Guarantor Subordinated Obligations that, in each case, is permitted to be Incurred pursuant to Section 4.12; *provided, however*, that such purchase, repurchase, redemption, defeasance, acquisition or retirement will be excluded from subsequent calculations of the amount of Restricted Payments;

(3) any purchase, repurchase, redemption, defeasance or other acquisition or retirement of Disqualified Stock of the Issuer or a Restricted Subsidiary made by exchange for or out of the proceeds of the substantially concurrent sale of Disqualified Stock of the Issuer or such Restricted Subsidiary, as the case may be, that, in each case, is permitted to be Incurred pursuant to Section 4.12; *provided, however*, that such purchase, repurchase, redemption, defeasance, acquisition or retirement will be excluded from subsequent calculations of the amount of Restricted Payments;

(4) dividends paid or distributions made within 60 days after the date of declaration if at such date of declaration such dividend or distribution would have complied with this Section 4.10; *provided, however*, that such dividends and distributions will be included in subsequent calculations of the amount of Restricted Payments; and *provided, however*, that for purposes of clarification, this clause (4) shall not include cash payments in lieu of the issuance of fractional shares included in clause (9) below;

(5) (a) so long as no Default has occurred and is continuing, the purchase of Capital Stock, or options, warrants, equity appreciation rights or other rights to purchase or acquire Capital Stock of Parent, the Issuer or any Restricted Subsidiary held by any existing or former employees, management or directors of Parent, the Issuer or any Subsidiary of the Issuer or their assigns, estates or heirs, in each case in connection with the repurchase provisions under employee stock option or stock purchase agreements or other agreements to compensate management, employees or directors; *provided* that such redemptions or repurchases pursuant to this subclause (a) during any calendar year will not exceed $10.0 million in the aggregate (with unused amounts in any calendar year being carried over to the immediately succeeding calendar year); *provided, further*, that such amount in any calendar year may be increased by an amount not to exceed (A) the cash proceeds received by the Issuer from the sale of Capital Stock of the Issuer to members of management or directors of the Issuer and its Restricted Subsidiaries that occurs after the Issue Date (to the extent the cash proceeds from the sale of such Capital Stock have not otherwise been applied to the payment of Restricted Payments by virtue of clause (c) of the preceding paragraph), *plus* (B) the cash proceeds of key man life insurance policies received

by the Issuer and its Restricted Subsidiaries after the Issue Date, less (C) the amount of any Restricted Payments made pursuant to clauses (A) and (B) of this subclause (a); *provided, further, however,* that the amount of any such repurchase or redemption under this subclause (a) will be excluded in subsequent calculations of the amount of Restricted Payments and the proceeds received from any such sale will be excluded from clause (c)(ii) of the preceding paragraph; and

(b) the cancellation of loans or advances to employees or directors of the Issuer or any Subsidiary of the Issuer the proceeds of which are used to purchase Capital Stock of the Issuer, in an aggregate amount not in excess of $2.0 million at any one time outstanding; *provided, however,* that the Issuer and its Subsidiaries will comply in all material respects with all applicable provisions of the Sarbanes-Oxley Act of 2002 and the rules and regulations promulgated in connection therewith in connection with such loans or advances; *provided, further,* that the amount of such cancelled loans and advances will be included in subsequent calculations of the amount of Restricted Payments;

(6) repurchases, redemptions or other acquisitions or retirements for value of Capital Stock deemed to occur upon the exercise of stock options, warrants, rights to acquire Capital Stock or other convertible securities if such Capital Stock represents a portion of the exercise or exchange price thereof, and any repurchases, redemptions or other acquisitions or retirements for value of Capital Stock made in lieu of withholding taxes in connection with any exercise or exchange of warrants, options or rights to acquire Capital Stock; *provided, however,* that such repurchases will be excluded from subsequent calculations of the amount of Restricted Payments;

(7) the purchase, repurchase, redemption, defeasance or other acquisition or retirement for value of any Subordinated Obligation (i) at a purchase price not greater than 101% of the principal amount of such Subordinated Obligation in the event of a Change of Control in accordance with provisions similar to Section 4.15 or (ii) at a purchase price not greater than 100% of the principal amount thereof in accordance with provisions similar to Section 4.16; *provided* that, prior to or simultaneously with such purchase, repurchase, redemption, defeasance or other acquisition or retirement, the Issuer has made the Change of Control Offer or Asset Disposition Offer, as applicable, as provided in such section with respect to the Notes and has completed the repurchase or redemption of all Notes validly tendered for payment in connection with such Change of Control Offer or Asset Disposition Offer; *provided, however,* that such repurchases will be included in subsequent calculations of the amount of Restricted Payments;

(8) payments or distributions to dissenting stockholders pursuant to applicable law or in connection with the settlement or other satisfaction of legal claims made pursuant to or in connection with a consolidation, merger or transfer of assets; *provided, however,* that any payment pursuant to this clause (8) shall be included in the calculation of the amount of Restricted Payments;

(9) cash payments in lieu of the issuance of fractional shares; *provided, however*, that any payment pursuant to this clause (9) shall be excluded in the calculation of the amount of Restricted Payments;

(10) Permitted Payments to Parent;

(11) payments by the Issuer on account of the purchase, redemption, retirement, acquisition, cancellation or termination of its Capital Stock in an amount not to exceed $10.0 million in the aggregate for all such payments during the term of the Notes; *provided* that in the case of this clause (11), (x) no Default shall exist at the time of such payment or result therefrom and (y) immediately after giving pro forma effect to such payment (and any Indebtedness Incurred in connection therewith), the Consolidated Total Debt Ratio does not exceed 3.00 to 1.00; *provided, further*, that any payment made pursuant to this clause (11) shall be excluded in the calculation of the amount of Restricted Payments; and

(12) Restricted Payments in an amount not to exceed $20.0 million at any one time outstanding; *provided, however*, that the amount of such Restricted Payments will be included in subsequent calculations of the amount of Restricted Payments.

For purposes of this Section 4.10, the phrase "substantially concurrent" is intended to mean within 90 days of the occurrence of the specified event.

For purposes of determining compliance with this Section 4.10, if a Restricted Payment meets the criteria of more than one of the types of Restricted Payments described in clauses (1)–(12) above, the Issuer, in its sole discretion, may order and classify, and subsequently re-order and re-classify, such Restricted Payment in any manner in compliance with this Section 4.10.

The amount of all Restricted Payments (other than cash) shall be the Fair Market Value on the date of such Restricted Payment of the asset(s) or securities proposed to be paid, transferred or issued by the Issuer or such Restricted Subsidiary, as the case may be, pursuant to such Restricted Payment. The Fair Market Value of any assets or securities that are required to be valued by this Section 4.10 shall be determined in accordance with the definition of Fair Market Value. No later than the date of making any Restricted Payment or series of related Restricted Payments in an aggregate amount in excess of $10.0 million, the Issuer shall deliver to the Trustee an Officers' Certificate stating that such Restricted Payment is permitted and setting forth the basis upon which the calculations required by this Section 4.10 were computed, together with a copy of any fairness opinion or appraisal required by this Indenture.

As of the Issue Date, all of the Issuer's Subsidiaries will be Restricted Subsidiaries. The Issuer will not permit any Unrestricted Subsidiary to become a Restricted Subsidiary except pursuant to the last sentence of the definition of "Unrestricted Subsidiary." For purpose of designating any Restricted Subsidiary as an Unrestricted Subsidiary, all outstanding Investments by the Issuer and its Restricted Subsidiaries (except to the extent repaid) in the Subsidiary so designated will be deemed to be Restricted Payments in an amount determined as set forth in the last sentence of the definition of "Investment." Such designation will be permitted only if a Restricted Payment in such amount would be permitted at such time, whether pursuant to the

first paragraph of this Section 4.10 or under clause (12) of the second paragraph of this Section 4.10, or pursuant to the definition of "Permitted Investments," and if such Subsidiary otherwise meets the definition of an Unrestricted Subsidiary. Unrestricted Subsidiaries will not be subject to any of the restrictive covenants set forth in this Indenture.

SECTION 4.11. ***Limitations on Affiliate Transactions*.**

The Issuer will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly, enter into, make, amend or conduct any transaction (including making a payment to, the purchase, sale, lease or exchange of any property or the rendering of any service), contract, agreement or understanding with or for the benefit of any Affiliate of the Issuer (an "Affiliate Transaction") involving aggregate consideration to or from the Issuer or a Restricted Subsidiary in excess of $1.0 million, unless:

(x) the terms of such Affiliate Transaction are no less favorable to the Issuer or such Restricted Subsidiary, as the case may be, than those that could be obtained in a comparable transaction at the time of such transaction in arm's-length dealings with a Person who is not such an Affiliate;

(y) if such Affiliate Transaction involves an aggregate consideration in excess of $20.0 million, the terms of such transaction have been approved by a majority of the members of the Board of Directors of the Issuer and by a majority of the members of such Board having no personal stake in such transaction, if any (and such majority or majorities, as the case may be, determines that such Affiliate Transaction satisfies the criteria in clause (x) above); and

(z) if such Affiliate Transaction involves an aggregate consideration in excess of $40.0 million, the Board of Directors of the Issuer has received a written opinion from an independent investment banking, accounting or appraisal firm of nationally recognized standing that such Affiliate Transaction is fair, from a financial standpoint, to the Issuer or such Restricted Subsidiary or is not materially less favorable than those that could reasonably be expected to be obtained in a comparable transaction at such time on an arm's-length basis from a Person that is not an Affiliate.

The preceding paragraph will not apply to:

(1) any Restricted Payment permitted to be made pursuant to Section 4.10;

(2) any issuance of Capital Stock (other than Disqualified Stock), or other payments, awards or grants in cash, Capital Stock (other than Disqualified Stock) or otherwise pursuant to, or the funding of, employment or severance agreements and other compensation arrangements, options to purchase Capital Stock (other than Disqualified Stock) of the Issuer, restricted stock plans, long-term incentive plans, stock appreciation rights plans, participation plans or similar employee benefits plans and/or indemnity provided on behalf of directors, officers and employees approved by the Board of Directors of the Issuer;

(3) loans, advances or expense reimbursements to employees, officers or directors in the ordinary course of business of the Issuer or any of its Restricted Subsidiaries;

(4) any transaction between the Issuer and a Restricted Subsidiary or between Restricted Subsidiaries and Guarantees issued by the Issuer or a Restricted Subsidiary for the benefit of the Issuer or a Restricted Subsidiary, as the case may be, permitted under Section 4.12;

(5) any transaction with a joint venture or other entity which would constitute an Affiliate Transaction solely because the Issuer or a Restricted Subsidiary owns, directly or indirectly, an equity interest in or otherwise controls such joint venture or other entity;

(6) the issuance or sale of any Capital Stock (other than Disqualified Stock) of the Issuer or the receipt by the Issuer of any capital contribution from its shareholders;

(7) indemnities of officers, directors and employees of the Issuer or any of its Restricted Subsidiaries permitted by charter documents or statutory provisions and any employment agreement or other employee compensation plan or arrangement entered into in the ordinary course of business by the Issuer or any of its Restricted Subsidiaries;

(8) the payment of reasonable compensation and fees paid to, and indemnity provided on behalf of, officers or directors of the Issuer or any Restricted Subsidiary;

(9) the performance of obligations of the Issuer or any of its Restricted Subsidiaries under the terms of any agreement to which the Issuer or any of its Restricted Subsidiaries is a party as of or on the Issue Date, as these agreements may be amended, modified, supplemented, extended or renewed from time to time; *provided*, *however*, that any future amendment, modification, supplement, extension or renewal entered into after the Issue Date will be permitted to the extent that its terms are not materially more disadvantageous, taken as a whole, to the holders of the Notes than the terms of the agreements in effect on the Issue Date;

(10) transactions with customers, clients, suppliers, or purchasers or sellers of goods or services, in each case in the ordinary course of business and otherwise in compliance with the terms of this Indenture which are fair to the Issuer and its Restricted Subsidiaries, in the good faith determination of the Board of Directors of the Issuer or the senior management thereof, or are on terms at least as favorable as might reasonably have been obtained at such time from an unaffiliated party;

(11) any transaction in which the Issuer or any of its Restricted Subsidiaries, as the case may be, delivers to the Trustee a letter from an accounting, appraisal, advisory or investment banking firm of national standing stating that such transaction is fair to the Issuer or such Restricted Subsidiary from a financial point of view or that such transaction meets the requirements of clause (x) of the preceding paragraph;

(12) payments to an Affiliate in respect of the Notes or any other Indebtedness of the Issuer or any of its Restricted Subsidiaries on the same basis as concurrent payments are made or offered to be made in respect thereof to non-Affiliates;

(13) pledges by the Issuer or any Restricted Subsidiary of the Issuer of Capital Stock in Unrestricted Subsidiaries for the benefit of lenders or other creditors of such Unrestricted Subsidiaries; and

(14) in the case of contracts for exploring for, drilling, developing, producing, processing, gathering, transporting, marketing or storing Hydrocarbons, or activities or services reasonably related or ancillary thereto, or other operational contracts, any such contracts entered into in the ordinary course of business on terms substantially similar to those contained in similar contracts entered into by the Issuer or any of its Restricted Subsidiaries with unrelated third parties, or if neither the Issuer nor any Restricted Subsidiary has entered into a similar

(15) contract with a third party, then on the terms no less favorable than those available from third parties on an arm's length basis, in each case as determined in good faith by the Issuer.

SECTION 4.12. ***Limitation on Incurrence of Indebtedness and Preferred Stock*.**

The Issuer will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly, Incur any Indebtedness (including Acquired Indebtedness) and the Issuer will not permit any of its Restricted Subsidiaries to issue Preferred Stock; *provided*, *however*, that the Issuer may Incur Indebtedness and any of the Subsidiary Guarantors may Incur Indebtedness and issue Preferred Stock if on the date thereof:

(x) the Consolidated Coverage Ratio for the Issuer and its Restricted Subsidiaries is at least 2.25 to 1.00, determined on a pro forma basis (including a pro forma application of proceeds); and

(y) no Default will have occurred or be continuing or would occur as a consequence of Incurring the Indebtedness or transactions relating to such Incurrence.

The first paragraph of this Section 4.12 will not prohibit the Incurrence of the following Indebtedness:

(1) Indebtedness of the Issuer or any Subsidiary Guarantor Incurred pursuant to one or more Credit Facilities in an aggregate amount not to exceed the greatest of (a) $300.0 million, (b) 30% of the Issuer's Adjusted Consolidated Net Tangible Assets determined as of the date of the Incurrence of such Indebtedness after giving effect to the application of the proceeds therefrom and (c) the Borrowing Base in effect under the Senior Secured Credit Agreement at the time of Incurrence, in each case outstanding at any one time;

(2) Guarantees by the Issuer or Subsidiary Guarantors of Indebtedness of the Issuer or a Subsidiary Guarantor, as the case may be, Incurred in accordance with the provisions of this Indenture; *provided* that in the event such Indebtedness that is being Guaranteed is a Subordinated Obligation or a Guarantor Subordinated Obligation, then the related Guarantee shall be subordinated in right of payment to the Notes or the Subsidiary Guarantee to at least the same extent as the Indebtedness being Guaranteed, as the case may be;

(3) Indebtedness of the Issuer owing to and held by any Restricted Subsidiary or Indebtedness of a Restricted Subsidiary owing to and held by the Issuer or any Restricted Subsidiary; *provided*, *however*, that (i) any subsequent issuance or transfer of Capital Stock or any other event which results in any such Indebtedness being held by a Person other than the Issuer or a Restricted Subsidiary of the Issuer and (ii) any sale or other transfer of any such Indebtedness to a Person other than the Issuer or a Restricted Subsidiary of the Issuer shall be deemed, in each case, to constitute an Incurrence of such Indebtedness by the Issuer or such Subsidiary, as the case may be;

(4) Indebtedness represented by (a) the Notes issued on the Issue Date (including the related Subsidiary Guarantees), (b) any PIK Notes issued after the date hereof in accordance with Section 4.1(d), (c) any Indebtedness (other than the Indebtedness described in clauses (1), (2) and (4)(a)) outstanding on the Issue Date and (d) any Refinancing Indebtedness Incurred in respect of any Indebtedness described in this clause (4) or clause (5) or Incurred pursuant to the first paragraph of this Section 4.12;

(5) Indebtedness of a Person that becomes a Restricted Subsidiary or is acquired by the Issuer or a Restricted Subsidiary or merged into the Issuer or a Restricted Subsidiary in accordance with this Indenture and outstanding on the date on which such Person became a Restricted Subsidiary or was acquired by or was merged into the Issuer or such Restricted Subsidiary (other than Indebtedness Incurred (a) to provide all or any portion of the funds utilized to consummate the transaction or series of related transactions pursuant to which such Person became a Restricted Subsidiary or was otherwise acquired by or was merged into the Issuer or a Restricted Subsidiary or (b) otherwise in connection with, or in contemplation of, such acquisition); *provided*, *however*, that at the time such Person becomes a Restricted Subsidiary or is acquired by or was merged into the Issuer or a Restricted Subsidiary, either (x) the Issuer would have been able to Incur $1.00 of additional Indebtedness pursuant to the first paragraph of this Section 4.12 or (y) the Consolidated Coverage Ratio for the Issuer and its Restricted Subsidiaries would be equal to or greater than immediately prior to such time, in either case after giving effect to the Incurrence of such Indebtedness pursuant to this clause (5);

(6) the Incurrence by the Issuer or any Restricted Subsidiary of Indebtedness represented by Capitalized Lease Obligations, mortgage financings or purchase money obligations, in each case Incurred for the purpose of financing all or any part of the purchase price or cost of construction or improvements or carrying costs of property used in the business of the Issuer or such Restricted Subsidiary, and Refinancing Indebtedness Incurred to Refinance any Indebtedness Incurred pursuant to this clause (6) in an aggregate outstanding principal amount which, when taken together with the principal amount of all other Indebtedness Incurred pursuant to this clause (6) and then outstanding, will not exceed $30.0 million at any time outstanding;

(7) Indebtedness Incurred in respect of (a) self-insurance obligations, bid, appeal, reimbursement, performance, surety and similar bonds and completion guarantees provided by the Issuer or a Restricted Subsidiary in the ordinary course of business and any Guarantees or letters of credit functioning as or supporting any of the foregoing bonds or obligations and (b)

obligations represented by letters of credit for the account of the Issuer or a Restricted Subsidiary in order to provide security for workers' compensation claims (in the case of clauses (a) and (b) other than for an obligation for money borrowed);

(8) Capital Stock (other than Disqualified Stock) of the Issuer or of any of the Subsidiary Guarantors;

(9) any Guarantee by the Issuer or any Restricted Subsidiary that directly owns Capital Stock of an Unrestricted Subsidiary that is recourse only to, or secured only by, such Capital Stock;

(10) reimbursement obligations in respect of letters of credit; *provided* that the aggregate amount thereof at any time outstanding does not exceed $5.0 million and such obligations are reimbursed within 30 days after a draw on a letter of credit; and

(11) in addition to the items referred to in clauses (1) through (10) above, Indebtedness of the Issuer and its Subsidiary Guarantors in an aggregate outstanding principal amount which, when taken together with the principal amount of all other Indebtedness Incurred pursuant to this clause (11) and then outstanding, will not exceed the greater of (x) $35.0 million and (y) 3% of the Issuer's Adjusted Consolidated Net Tangible Assets determined as of the date of the Incurrence of such Indebtedness after giving effect to the application of the proceeds therefrom, in each case at any time outstanding.

For purposes of determining compliance with, and the outstanding principal amount of any particular Indebtedness Incurred pursuant to and in compliance with, this Section 4.12:

(i) in the event an item of that Indebtedness meets the criteria of more than one of the types of Indebtedness described in the first and second paragraphs of this Section 4.12, the Issuer, in its sole discretion, will classify such item of Indebtedness on the date of Incurrence, and in that connection shall be entitled to treat a portion of such Indebtedness as having been Incurred under the first paragraph and thereafter the remainder of such Indebtedness having been Incurred under the second paragraph, and, subject to clause (ii) below may later reclassify such item of Indebtedness and only be required to include the amount and type of such Indebtedness in one of such clauses;

(ii) all Indebtedness outstanding on the date of this Indenture under the Senior Secured Credit Agreement shall be deemed Incurred on the Issue Date under clause (1) of the second paragraph of this Section 4.12;

(iii) Guarantees of, or obligations in respect of letters of credit supporting, Indebtedness which is otherwise included in the determination of a particular amount of Indebtedness shall not be included;

(iv) if obligations in respect of letters of credit are Incurred pursuant to a Credit Facility and are being treated as Incurred pursuant to clause (1) of the second paragraph

above and the letters of credit relate to other Indebtedness, then such other Indebtedness shall not be included;

(v) the principal amount of any Disqualified Stock of the Issuer or a Restricted Subsidiary, or Preferred Stock of a Restricted Subsidiary, will be equal to the greater of the maximum mandatory redemption or repurchase price (not including, in either case, any redemption or repurchase premium) or the liquidation preference thereof;

(vi) Indebtedness permitted by this Section 4.12 need not be permitted solely by reference to one provision permitting such Indebtedness but may be permitted in part by one such provision and in part by one or more other provisions of this Section 4.12 permitting such Indebtedness; and

(vii) the amount of Indebtedness issued at a price that is less than the principal amount thereof will be equal to the amount of the liability in respect thereof determined in accordance with GAAP.

Accrual of interest, accrual of dividends, the amortization of debt discount or the accretion of accreted value, the payment of interest in the form of additional Indebtedness, the payment of dividends in the form of additional shares of Preferred Stock or Disqualified Stock and unrealized losses or charges in respect of Hedging Obligations (including those resulting from the application of FASB ASC 815) will not be deemed to be an Incurrence of Indebtedness for purposes of this Section 4.12. The amount of any Indebtedness outstanding as of any date shall be (i) the accreted value thereof in the case of any Indebtedness issued with original issue discount and (ii) the principal amount or liquidation preference thereof, together with any interest thereon that is more than 30 days past due, in the case of any other Indebtedness.

If at any time an Unrestricted Subsidiary becomes a Restricted Subsidiary, any Indebtedness of such Subsidiary shall be deemed to be Incurred by a Restricted Subsidiary as of such date (and, if such Indebtedness is not permitted to be Incurred as of such date under this Section 4.12, the Issuer shall be in Default of this Section 4.12).

For purposes of determining compliance with any U.S. dollar-denominated restriction on the Incurrence of Indebtedness, the U.S. dollar-equivalent principal amount of Indebtedness denominated in a foreign currency shall be calculated based on the relevant currency exchange rate in effect on the date such Indebtedness was Incurred, in the case of term Indebtedness, or first committed, in the case of revolving credit Indebtedness; *provided* that if such Indebtedness is Incurred to refinance other Indebtedness denominated in a foreign currency, and such refinancing would cause the applicable U.S. dollar-denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such refinancing, such U.S. dollar-denominated restriction shall be deemed not to have been exceeded so long as the principal amount of such Refinancing Indebtedness does not exceed the principal amount of such Indebtedness being refinanced. Notwithstanding any other provision of this Section 4.12, the maximum amount of Indebtedness that the Issuer may Incur pursuant to this Section 4.12 shall not be deemed to be exceeded solely as a result of fluctuations in the exchange rate of currencies. The principal amount of any Indebtedness Incurred to refinance other Indebtedness, if Incurred

in a different currency from the Indebtedness being refinanced, shall be calculated based on the currency exchange rate applicable to the currencies in which such Refinancing Indebtedness is denominated that is in effect on the date of such refinancing.

This Indenture will not treat (1) unsecured Indebtedness as subordinated or junior to secured Indebtedness merely because it is unsecured or (2) senior Indebtedness as subordinated or junior to any other senior Indebtedness merely because it has a junior priority with respect to the same collateral.

SECTION 4.13. ***Limitation on Restrictions on Distributions from Restricted Subsidiaries*.**

The Issuer will not, and will not permit any Restricted Subsidiary to, create or otherwise cause or permit to exist or become effective any consensual encumbrance or consensual restriction on the ability of any Restricted Subsidiary to:

(1) pay dividends or make any other distributions on its Capital Stock or pay any Indebtedness or other obligations owed to the Issuer or any Restricted Subsidiary (it being understood that the priority of any Preferred Stock in receiving dividends or liquidating distributions prior to dividends or liquidating distributions being paid on Common Stock shall not be deemed a restriction on the ability to make distributions on Capital Stock);

(2) make any loans or advances to the Issuer or any Restricted Subsidiary (it being understood that the subordination of loans or advances made to the Issuer or any Restricted Subsidiary to other Indebtedness Incurred by the Issuer or any Restricted Subsidiary shall not be deemed a restriction on the ability to make loans or advances); or

(3) sell, lease or transfer any of its property or assets to the Issuer or any Restricted Subsidiary.

The preceding provisions will not prohibit:

(i) any encumbrance or restriction pursuant to or by reason of an agreement in effect at or entered into on the Issue Date, including, without limitation, this Indenture in effect on such date;

(ii) any encumbrance or restriction with respect to a Person pursuant to or by reason of an agreement relating to any Capital Stock or Indebtedness Incurred by a Person on or before the date on which such Person was acquired by the Issuer or another Restricted Subsidiary (other than Capital Stock or Indebtedness Incurred as consideration in, or to provide all or any portion of the funds utilized to consummate, the transaction or series of related transactions pursuant to which such Person was acquired by the Issuer or a Restricted Subsidiary or in contemplation of the transaction) and outstanding on such date; *provided* that any such encumbrance or restriction shall not extend to any assets or property of the Issuer or any other Restricted Subsidiary other than the assets and property so acquired;

(iii) encumbrances and restrictions contained in contracts entered into in the ordinary course of business, not relating to any Indebtedness, and that do not, individually or in the aggregate, detract from the value of, or from the ability of the Issuer and the Restricted Subsidiaries to realize the value of, property or assets of the Issuer or any Restricted Subsidiary in any manner material to the Issuer or any Restricted Subsidiary;

(iv) any encumbrance or restriction with respect to an Unrestricted Subsidiary pursuant to or by reason of an agreement that the Unrestricted Subsidiary is a party to entered into before the date on which such Unrestricted Subsidiary became a Restricted Subsidiary; *provided* that such agreement was not entered into in anticipation of the Unrestricted Subsidiary becoming a Restricted Subsidiary and any such encumbrance or restriction shall not extend to any assets or property of the Issuer or any other Restricted Subsidiary other than the assets and property so acquired;

(v) with respect to any Foreign Subsidiary, any encumbrance or restriction contained in the terms of any Indebtedness or any agreement pursuant to which such Indebtedness was Incurred if:

(a) either (1) the encumbrance or restriction applies only in the event of a payment default or a default with respect to a financial covenant in such Indebtedness or agreement or (2) the Issuer determines that any such encumbrance or restriction will not materially affect the Issuer's ability to make principal or interest payments on the Notes, as determined in good faith by the Board of Directors of the Issuer, whose determination shall be conclusive; and

(b) the encumbrance or restriction is not materially more disadvantageous to the holders of the Notes than is customary in comparable financing (as determined by the Issuer);

(vi) any encumbrance or restriction with respect to a Restricted Subsidiary pursuant to an agreement effecting a refunding, replacement or refinancing of Indebtedness Incurred pursuant to an agreement referred to in clauses (i) through (v) or clause (xii) of this paragraph or this clause (vi) or contained in any amendment, restatement, modification, renewal, supplement, refunding, replacement or refinancing of an agreement referred to in clauses (i) through (v) or clause (xii) of this paragraph or this clause (vi); *provided, however*, that the encumbrances and restrictions with respect to such Restricted Subsidiary contained in any such agreement taken as a whole are no less favorable in any material respect to the holders of the Notes than the encumbrances and restrictions contained in such agreements referred to in clauses (i) through (v) or clause (xii) of this paragraph on the Issue Date or the date such Restricted Subsidiary became a Restricted Subsidiary or was merged into a Restricted Subsidiary, whichever is applicable, as determined in good faith by the Board of Directors of the Issuer, whose determination shall be conclusive;

(vii) in the case of clause (3) of the first paragraph of this Section 4.13, any encumbrance or restriction:

(a) that restricts in a customary manner the subletting, assignment or transfer of any property or asset that is subject to a lease (including leases governing leasehold interests or farm-

in agreements or farm-out agreements relating to leasehold interests in oil and gas properties), license or similar contract, or the assignment or transfer of any such lease (including leases governing leasehold interests or farm-in agreements or farm-out agreements relating to leasehold interests in oil and gas properties), license or other contract;

(b) contained in mortgages, pledges or other security agreements permitted under this Indenture securing Indebtedness of the Issuer or a Restricted Subsidiary to the extent such encumbrances or restrictions restrict the transfer of the property subject to such mortgages, pledges or other security agreements;

(c) pursuant to customary provisions restricting dispositions of real property interests set forth in any reciprocal easement agreements of the Issuer or any Restricted Subsidiary;

(d) on cash or other deposits imposed by customers under contracts entered into in the ordinary course of business; or

(e) with respect to the disposition or distribution of assets or property in operating agreements, joint venture agreements, development agreements, area of mutual interest agreements and other agreements that are customary in the Oil and Gas Business and entered into in the ordinary course of business;

(viii) (A) purchase money obligations for property acquired in the ordinary course of business and (B) Capitalized Lease Obligations permitted under this Indenture, in each case, that impose encumbrances or restrictions of the nature described in clause (3) of the first paragraph of this Section 4.13 on the property so acquired;

(ix) any encumbrance or restriction with respect to a Restricted Subsidiary (or any of its property or assets) imposed pursuant to an agreement entered into for the direct or indirect sale or disposition of all or substantially all the Capital Stock or assets of such Restricted Subsidiary (or the property or assets that are subject to such restriction) pending the closing of such sale or disposition;

(x) any customary encumbrances or restrictions imposed pursuant to any agreement of the type described in the definition of "Permitted Business Investment";

(xi) encumbrances or restrictions arising or existing by reason of applicable law or any applicable rule, regulation or order; and

(xii) the Senior Secured Credit Agreement as in effect as of the Issue Date, and any amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings thereof; *provided* that such amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings are no more restrictive, taken as a whole, with respect to such dividend and other payment restrictions than those contained in the Senior Secured Credit Agreement as in effect on the Issue Date, as determined in good faith by the Board of Directors of the Issuer, whose determination shall be conclusive.

SECTION 4.14. ***[Reserved]*.**

SECTION 4.15. ***Offer to Repurchase upon Change of Control; Mandatory Conversion or Redemption of Notes*.**

If a Change of Control occurs (and to the extent such Notes are not redeemed or converted in connection with a Drag-Along Sale or converted into equity in connection with such Change of Control, in each case, as described below), each Holder will have the right to require the Issuer to repurchase all or any part (equal to $2,000 or an integral multiple of $[1,000] thereafter) of such Holder's Notes pursuant to the offer described below (a "Change of Control Offer") in cash on the terms set forth herein. The purchase price for any Notes in respect of any Change of Control Offer (a "Change of Control Payment") shall be an amount in cash equal to 100% of the aggregate principal amount of such Notes (including any interest previously paid by increasing the principal amount), plus all accrued and unpaid interest, if any, to the date of purchase, subject to the rights of Holders on the relevant Record Date to receive interest due on the relevant Interest Payment Date. For the avoidance of doubt, in no event shall any Change of Control Payment include any Interest Make-Whole Premium.

Within 30 days following any Change of Control, the Issuer will deliver such Change of Control Offer by first-class mail, with a copy to the Trustee, to each Holder to the address of such Holder appearing in the security register (or otherwise in accordance with the Applicable Procedures, if applicable), with the following information:

(1) that a Change of Control has occurred and that such Holder has the right to require the Issuer to purchase such Holder's Notes for the Change of Control Payment;

(2) the repurchase date (which shall be no earlier than 30 days nor later than 60 days (or such later date as may be extended as provided below) from the date such notice is sent) (the "Change of Control Payment Date");

(3) the last day of the offer period, which will be no later than the third Business Day prior to the Change of Control Payment Date;

(4) that unless the Issuer defaults in the payment of the Change of Control Payment, all Notes accepted for payment pursuant to the Change of Control Offer will cease to accrue interest on the Change of Control Payment Date;

(5) that Holders electing to have any Notes purchased pursuant to a Change of Control Offer will be required to surrender such Notes, with the form entitled "Option of Holder to Elect Purchase" on the reverse of such Notes completed, to the paying agent specified in the notice at the address specified in the notice prior to the close of business on the third Business Day preceding the Change of Control Payment Date;

(6) that Holders will be entitled to withdraw their tendered Notes and their election to require the Issuer to purchase such Notes; *provided* that the paying agent receives, not later than the close of business on the third Business Day preceding the Change of Control Payment Date,

a telegram, telex, facsimile transmission or letter setting forth the name of the Holder, the principal amount of Notes tendered for purchase, and a statement that such Holder is withdrawing its tendered Notes and its election to have such Notes purchased;

(7) if such notice is mailed prior to the occurrence of a Change of Control, stating the Change of Control Offer is conditional on the occurrence of such Change of Control;

(8) that if the Issuer is redeeming less than all of the Notes, the Holders of the remaining Notes will be issued new Notes and such new Notes will be equal in principal amount to the unpurchased portion of the Notes surrendered. The unpurchased portion of the Notes must be equal to $2,000 or an integral multiple of $1,000 thereafter; and

(9) the procedures determined by the Issuer, consistent with this Indenture, that a Holder must follow in order to have its Notes repurchased.

On the Change of Control Payment Date, the Issuer will, to the extent lawful:

(x) accept for payment all Notes or portions of Notes (of at least $2,000 or an integral multiple of [$1,000] thereafter) properly tendered pursuant to the Change of Control Offer;

(y) deposit with the paying agent an amount equal to the Change of Control Payment in respect of all Notes or portions of Notes properly tendered and not properly withdrawn; and

(z) deliver or cause to be delivered to the Trustee the Notes so accepted together with an Officers' Certificate stating the aggregate principal amount of Notes or portions of Notes being purchased by the Issuer.

The Paying Agent will promptly mail to each Holder properly tendered and not properly withdrawn the Change of Control Payment for such Notes (or, if the Notes are in global form, make such payment through the facilities of DTC), and, upon receipt of an Authentication Order in accordance with Section 2.2 hereof, the Trustee will promptly authenticate and mail (or cause to be transferred by book entry) to each Holder a new Note equal in principal amount to any unpurchased portion of the Notes surrendered, if any; *provided* that each such new Note will be in a principal amount of $2,000 or an integral multiple of [$1,000] thereafter.

If the Change of Control Payment Date is on or after an interest Record Date and on or before the related Interest Payment Date, any accrued and unpaid interest, will be paid to the Person in whose name a Note is registered at the close of business on such Record Date, and no further interest will be payable to holders who tender pursuant to the Change of Control Offer.

The Change of Control provisions described above will be applicable whether or not any other provisions of this Indenture are applicable. Except as described above with respect to a Change of Control, this Indenture does not contain provisions that permit the Holders to require that the Issuer repurchase or redeem the Notes in the event of a takeover, recapitalization or similar transaction.

The Issuer will not be required to make a Change of Control Offer upon a Change of Control if a third party makes the Change of Control Offer in the manner, at the times and otherwise in compliance with the requirements set forth in this Indenture applicable to a Change of Control Offer made by the Issuer and purchases all Notes validly tendered and not withdrawn under such Change of Control Offer. Notwithstanding anything to the contrary herein, a Change of Control Offer may be made in advance of a Change of Control, conditional upon such Change of Control, if a definitive agreement is in place for the Change of Control at the time of making of the Change of Control Offer and the Change of Control Payment Date may be extended automatically until such Change of Control occurs.

If Holders of more than 50% in aggregate principal amount of the outstanding Notes validly tender and do not withdraw such Notes in a Change of Control Offer and the Issuer, or any third party making a Change of Control Offer in lieu of the Issuer as described above, purchases all of the Notes validly tendered and not withdrawn by such Holders, the Issuer or such third party will have the right, upon not less than 30 nor more than 60 days' prior notice, given not more than 30 days following such purchase pursuant to the Change of Control Offer described above, to redeem all Notes that remain outstanding following such purchase at a price in cash equal to 100% of the principal amount of the Notes *plus* accrued and unpaid interest, if any, to the date of purchase.

For the avoidance of doubt, if Holders of a majority of the aggregate principal amount of the outstanding Notes elect to convert such Notes to New Common Stock following the announcement of a Change of Control and prior to the last day of the related Change of Control Offer period, all other Notes that remain outstanding following such day shall be automatically converted pursuant to Section 10.3(a) as if such day were the Conversion Date.

The Issuer will comply, to the extent applicable, with the requirements of Rule 14e-1 of the Exchange Act and any other securities laws or regulations in connection with the repurchase of Notes as a result of a Change of Control. To the extent that the provisions of any securities laws or regulations conflict with provisions of this Indenture, or compliance with the Change of Control provisions of this Indenture would constitute a violation of any such laws or regulations, the Issuer will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations described in this Indenture by virtue of its compliance with such securities laws or regulations.

SECTION 4.16. ***Limitation on Sales of Assets and Subsidiary Stock*.**

The Issuer will not, and will not permit any of its Restricted Subsidiaries to, make any Asset Disposition unless:

(1) the Issuer or such Restricted Subsidiary, as the case may be, receives consideration at the time of such Asset Disposition at least equal to the Fair Market Value (such Fair Market Value to be determined as of the date of such Asset Disposition (or, if earlier, as of the date of contractually agreeing to such Asset Disposition)), of the shares and assets subject to such Asset Disposition;

(2) at least 75% of the aggregate consideration received by the Issuer or such Restricted Subsidiary, as the case may be, from such Asset Disposition and all other Asset Dispositions since the Issue Date is in the form of cash or Cash Equivalents or Additional Assets, or any combination thereof; and

(3) except as provided in the next paragraph an amount equal to 100% of the Net Available Cash from such Asset Disposition is applied, within one year from the later of the date of such Asset Disposition or the receipt of such Net Available Cash, by the Issuer or such Restricted Subsidiary, as the case may be:

(a) to the extent the Issuer or any Restricted Subsidiary, as the case may be, elects (or is required by the terms of any Indebtedness) to prepay, repay, redeem or purchase Indebtedness of the Issuer under the Senior Secured Credit Agreement, any other Indebtedness of the Issuer or a Subsidiary Guarantor that is secured by a Lien permitted to be Incurred under this Indenture or Indebtedness (other than Disqualified Stock) of any Wholly Owned Subsidiary that is not a Subsidiary Guarantor; *provided, however*, that, in connection with any prepayment, repayment, redemption or purchase of Indebtedness pursuant to this subclause (a), the Issuer or such Restricted Subsidiary will retire such Indebtedness and will cause the related commitment (if any) to be permanently reduced in an amount equal to the principal amount so prepaid, repaid or purchased;

(b) to the extent the Issuer elects, to make an offer to the applicable Holders (and to holders of Pari Passu Notes with similar provisions requiring the Issuer to make an offer to purchase such Pari Passu Notes with the proceeds from any Asset Disposition) to purchase Notes (and such other Pari Passu Notes) pursuant to terms and subject to the conditions contained in this Indenture in respect of Asset Disposition Offers; or

(c) to invest in Additional Assets;

provided that pending the final application of any such Net Available Cash in accordance with this Section 4.16, the Issuer and its Restricted Subsidiaries may temporarily reduce Indebtedness or otherwise invest such Net Available Cash in any manner not prohibited by this Indenture.

Any Net Available Cash from Asset Dispositions that is not applied or invested as provided in the preceding paragraph will be deemed to constitute "Excess Proceeds." Not later than the day following the date that is one year from the later of the date of such Asset Disposition or the receipt of such Net Available Cash, if the aggregate amount of Excess Proceeds exceeds $20.0 million, the Issuer will be required to make an offer ("Asset Disposition Offer") to all Holders and to the extent required by the terms of other Pari Passu Indebtedness, to all holders of other Pari Passu Indebtedness outstanding with similar provisions requiring the Issuer to make an offer to purchase such Pari Passu Indebtedness with the proceeds from any Asset Disposition ("Pari Passu Notes"), to purchase the maximum principal amount of Notes and any such Pari Passu Notes to which the Asset Disposition Offer applies that may be purchased out of the Excess Proceeds, at an offer price in cash in an amount equal to 100% of the principal amount (or, in the event such Pari Passu Indebtedness was issued with significant original issue discount, 100% of the accreted value thereof) of the Notes and Pari Passu Notes *plus* accrued and

unpaid interest, if any (or in respect of such Pari Passu Indebtedness, such lesser price, if any, as may be provided for by the terms of such Indebtedness), to the date of purchase (subject to the right of holders of record on the relevant record date to receive interest due on the relevant Interest Payment Date), in accordance with the procedures set forth in this Indenture or the agreements governing the Pari Passu Notes, as applicable, in each case in denominations of at least $2,000 or an integral multiple of $1,000 thereafter. If the aggregate principal amount of Notes surrendered by holders thereof and other Pari Passu Notes surrendered by holders or lenders, collectively, exceeds the amount of Excess Proceeds, the Trustee shall select the Notes to be purchased on a pro rata basis (or, in the case of Notes in global form, the Notes will be selected by such method as DTC or its nominee or successor may require or, where such nominee or successor is the Trustee, a method that most nearly approximates pro rata selection as the Trustee deems fair and appropriate) on the basis of the aggregate principal amount of tendered Notes and Pari Passu Notes. To the extent that the aggregate amount of Notes and Pari Passu Notes so validly tendered and not properly withdrawn pursuant to an Asset Disposition Offer is less than the amount of Excess Proceeds, the Issuer may use any remaining Excess Proceeds for general corporate purposes, subject to the other covenants contained in this Indenture. Upon completion of such Asset Disposition Offer, the amount of Excess Proceeds shall be reset at zero.

The requirement of clause (3)(c) of the first paragraph of this Section 4.16 shall be deemed to be satisfied if a bona fide binding commitment to make the investment referred to therein is entered into by the Issuer or any of its Restricted Subsidiaries with a Person other than an Affiliate of the Issuer within the time period specified in the first paragraph of this Section 4.16 and such Net Available Cash is subsequently applied in accordance with such commitment within 180 days following the date such commitment is entered into.

The Asset Disposition Offer will remain open for a period of 20 Business Days following its commencement, except to the extent that a longer period is required by applicable law (the "Asset Disposition Offer Period"). No later than five Business Days after the termination of the Asset Disposition Offer Period (the "Asset Disposition Purchase Date"), the Issuer will purchase the principal amount of Notes and Pari Passu Notes required to be purchased pursuant to this Section 4.16 (the "Asset Disposition Offer Amount") or, if less than the Asset Disposition Offer Amount has been so validly tendered, all Notes and Pari Passu Notes validly tendered in response to the Asset Disposition Offer.

If the Asset Disposition Purchase Date is on or after an interest record date and on or before the related Interest Payment Date, accrued and unpaid interest, if any, will be paid to the Person in whose name a Note is registered at the close of business on such record date, and no further interest will be payable to holders who tender Notes pursuant to the Asset Disposition Offer.

On or before the Asset Disposition Purchase Date, the Issuer will, to the extent lawful, accept for payment, on a pro rata basis to the extent necessary, the Asset Disposition Offer Amount of Notes and Pari Passu Notes or portions of Notes and Pari Passu Notes so validly tendered and not properly withdrawn pursuant to the Asset Disposition Offer, or if less than the

Asset Disposition Offer Amount has been validly tendered and not properly withdrawn, all Notes and Pari Passu Notes so validly tendered and not properly withdrawn, in each case in denominations of at least $2,000 or an integral multiple of $1,000 thereafter. The Issuer will deliver to the Trustee an Officers' Certificate stating that such Notes or portions thereof were accepted for payment by the Issuer in accordance with the terms of this Section 4.16 and, in addition, the Issuer will deliver all certificates and notes required, if any, by the agreements governing the Pari Passu Notes. The Issuer or the paying agent, as the case may be, will promptly (but in any case not later than five Business Days after the termination of the Asset Disposition Offer Period) send or deliver (or, if the Notes are in global form, make such payments through the facilities of DTC) to each tendering Holder or holder or lender of Pari Passu Notes, as the case may be, an amount equal to the purchase price of the Notes or Pari Passu Notes so validly tendered and not properly withdrawn by such holder or lender, as the case may be, and accepted by the Issuer for purchase, and the Issuer will promptly issue a new Note, and the Trustee, upon delivery of an Officers' Certificate from the Issuer, will authenticate and mail or deliver such new Note to such Holder, in a principal amount equal to any unpurchased portion of the Note surrendered; *provided* that each such new Note will be in a principal amount of $2,000 or an integral multiple of $1,000 thereafter. In addition, the Issuer will take any and all other actions required by the agreements governing the Pari Passu Notes. Any Note not so accepted will be promptly mailed or delivered by the Issuer to the Holder thereof. The Issuer will publicly announce the results of the Asset Disposition Offer on the Asset Disposition Purchase Date.

The Issuer will comply, to the extent applicable, with the requirements of Rule 14e-1 of the Exchange Act and any other securities laws or regulations in connection with the repurchase of Notes pursuant to this Indenture. To the extent that the provisions of any securities laws or regulations conflict with provisions of this Section 4.16, the Issuer will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under this Indenture by virtue of its compliance with such securities laws or regulations.

For the purposes of clause (2) of the first paragraph of this Section 4.16, the following will be deemed to be cash:

(1) the assumption by the transferee of Indebtedness (other than Subordinated Obligations or Disqualified Stock) of the Issuer or Indebtedness of a Restricted Subsidiary (other than Guarantor Subordinated Obligations or Disqualified Stock of any Restricted Subsidiary that is a Subsidiary Guarantor) and the release of the Issuer or such Restricted Subsidiary from all liability on such Indebtedness in connection with such Asset Disposition (or in lieu of such a release, the agreement of the acquirer or its parent company to indemnify and hold the Issuer or such Restricted Subsidiary harmless from and against any loss, liability or cost in respect of such assumed Indebtedness; *provided, however*, that such indemnifying party (or its long term debt securities) shall have an Investment Grade Rating (with no indication of a negative outlook or credit watch with negative implications, in any case, that contemplates such indemnifying party (or its long term debt securities) failing to have an Investment Grade Rating), in which case the

Issuer will, without further action, be deemed to have applied such deemed cash to Indebtedness in accordance with clause (3)(a) of the first paragraph of this Section 4.16);

(2) securities, notes or other obligations received by the Issuer or any Restricted Subsidiary from the transferee that are converted by the Issuer or such Restricted Subsidiary into cash within 180 days after receipt thereof;

(3) any Designated Non-cash Consideration received by the Issuer or such Restricted Subsidiary in such Asset Disposition having an aggregate Fair Market Value, taken together with all other Designated Non-cash Consideration received pursuant to this clause (3), not to exceed an amount equal to 3.0% of the Issuer's Adjusted Consolidated Net Tangible Assets (determined at the time of receipt of such Designated Non-cash Consideration), with the Fair Market Value of each item of Designated Non-cash Consideration being measured at the time received and without giving effect to subsequent changes in value; and

(4) with respect to any Asset Disposition of interests in oil and gas properties by the Issuer or any of its Restricted Subsidiaries where the Issuer or such Restricted Subsidiary retains an interest in such property, any agreement by the transferee (or an Affiliate thereof) to pay all or a portion of the Issuer's or such Restricted Subsidiary's allocable share of the costs and expenses related to the exploration, development, completion or production of such properties and activities related thereto.

Notwithstanding the foregoing, the 75% limitation referred to in clause (2) of the first paragraph of this Section 4.16 shall be deemed satisfied with respect to any Asset Disposition in which the cash or Cash Equivalents portion of the consideration received therefrom, determined in accordance with the foregoing provision on an after-tax basis, is equal to or greater than what the after-tax proceeds would have been had such Asset Disposition complied with the aforementioned 75% limitation.

The requirement of clause (3)(b) of the first paragraph of this Section 4.16 above shall be deemed to be satisfied if an agreement (including a lease, whether a capital lease or an operating lease) committing to make the acquisitions or expenditures referred to therein is entered into by the Issuer or its Restricted Subsidiary within the specified time period and such Net Available Cash is subsequently applied in accordance with such agreement within six months following such agreement.

SECTION 4.17. ***[Reserved].***

SECTION 4.18. ***Limitation on Liens.***

The Issuer will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly, create, Incur or suffer to exist any Lien (the "Initial Lien") other than Permitted Liens upon any of its property or assets (including Capital Stock of Restricted Subsidiaries), including any income or profits therefrom, whether owned on the date of this Indenture or acquired after that date, which Lien is securing any Indebtedness, unless contemporaneously with the Incurrence of such Lien effective provision is made to secure the Indebtedness due under the

Notes or, in respect of Liens on any Restricted Subsidiary's property or assets, any Subsidiary Guarantee of such Restricted Subsidiary, equally and ratably with (or senior in priority to in the case of Liens with respect to Subordinated Obligations or Guarantor Subordinated Obligations, as the case may be) the Indebtedness secured by such Lien for so long as such Indebtedness is so secured.

Any Lien created for the benefit of the holders of the Notes pursuant to the preceding paragraph shall provide by its terms that such Lien shall be automatically and unconditionally released and discharged upon the release and discharge of the Initial Lien.

SECTION 4.19. ***Limitation on Lines of Business*.**

The Issuer will not, and will not permit any Restricted Subsidiary to, engage in any business other than the Oil and Gas Business, except to the extent as would not be material to the Issuer and its Restricted Subsidiaries taken as a whole.

SECTION 4.20. ***Additional Subsidiary Guarantees*.**

If any of the Issuer's Restricted Subsidiaries that is not a Subsidiary Guarantor (other than a Foreign Subsidiary) (x) Incurs or guarantees any Indebtedness under the Senior Secured Credit Agreement or (y) otherwise Incurs or guarantees any other Indebtedness created or acquired by the Issuer or one or more of its Restricted Subsidiaries in an aggregate principal amount exceeding $1.0 million, in each case, then the Issuer shall cause such Restricted Subsidiary to become within 60 days a Subsidiary Guarantor; *provided* that any Restricted Subsidiary that constitutes an Immaterial Subsidiary need not become a Subsidiary Guarantor until such time as it ceases to be an Immaterial Subsidiary. If required to become a Subsidiary Guarantor pursuant to the immediately preceding sentence, such transferee or acquired or other Restricted Subsidiary shall:

(1) execute and deliver to the Trustee a supplemental indenture in form reasonably satisfactory to the Trustee pursuant to which such Restricted Subsidiary shall unconditionally guarantee all of the Issuer's obligations under the Notes and this Indenture on the terms set forth in this Indenture; and

(2) deliver to the Trustee an Opinion of Counsel that such supplemental indenture has been duly authorized, executed and delivered by such Restricted Subsidiary and constitutes a legal, valid, binding and enforceable obligation of such Restricted Subsidiary. Thereafter, such Restricted Subsidiary shall be a Subsidiary Guarantor for all purposes of this Indenture.

SECTION 4.21. ***Suspension of Covenants*.**

Following the first day that (a) the Notes have achieved Investment Grade Status and (b) no Default or Event of Default has occurred and is continuing under this Indenture, then, beginning on that day and continuing until the Reversion Date, the Issuer and its Restricted Subsidiaries shall not be subject to the following covenants (collectively, the "Suspended Covenants"):

(i) Section 4.10;

(ii) Section 4.11;

(iii) Section 4.12;

(iv) Section 4.13;

(v) Section 4.16;

(vi) Section 4.20; and

(vii) clause (3) of the first paragraph of Section 5.1.

If at any time the Notes cease to have such Investment Grade Status or if a Default or Event of Default occurs and is continuing, then the Suspended Covenants will thereafter be reinstated as if such covenants had never been suspended (the "Reversion Date") and be applicable pursuant to the terms of this Indenture (including in connection with performing any calculation or assessment to determine compliance with the terms of this Indenture), unless and until the Notes subsequently attain Investment Grade Status and no Default or Event of Default is in existence (in which event the Suspended Covenants shall no longer be in effect for such time that the Notes maintain an Investment Grade Status and no Default or Event of Default is in existence); *provided, however*, that no Default, Event of Default or breach of any kind shall be deemed to exist under this Indenture, the Notes or the Subsidiary Guarantees with respect to the Suspended Covenants based on, and neither the Issuer nor any of its Subsidiaries shall bear any liability for, any actions taken or events occurring during the Suspension Period, or any actions taken at any time pursuant to any contractual obligation arising prior to the Reversion Date, regardless of whether such actions or events would have been permitted if the applicable Suspended Covenants remained in effect during such period. The period of time between the date of suspension of the covenants and the Reversion Date is referred to as the "Suspension Period."

On the Reversion Date, all Indebtedness Incurred during the Suspension Period will be classified to have been Incurred pursuant to the first paragraph of Section 4.12 or one of the clauses set forth in the second paragraph of Section 4.12 (to the extent such Indebtedness would be permitted to be Incurred thereunder as of the Reversion Date and after giving effect to the Indebtedness Incurred prior to the Suspension Period and outstanding on the Reversion Date). To the extent such Indebtedness would not be so permitted to be Incurred pursuant to the first and second paragraphs of Section 4.12, such Indebtedness will be deemed to have been outstanding on the Issue Date, so that it is classified as permitted under clause (4)(b) of the second paragraph of Section 4.12. Calculations made after the Reversion Date of the amount available to be made as Restricted Payments under Section 4.10 shall be made as though Section 4.10 had been in effect since the Issue Date and throughout the Suspension Period. Accordingly, Restricted Payments made during the Suspension Period will reduce the amount available to be made as Restricted Payments under the first paragraph of Section 4.10. For purposes of determining compliance with Section 4.16, on the Reversion Date, the Net Available Cash from Asset

Dispositions not applied in accordance with Section 4.16 will be deemed reset at zero. In addition, any future obligation to grant further Subsidiary Guarantees shall be released. All such further obligation to grant Subsidiary Guarantees shall be reinstated upon the Reversion Date. The Issuer will provide written notice to the Trustee of the occurrence of any Suspension Period or Reversion Date.

During any Suspension Period, the Issuer may not designate any of the Issuer's Subsidiaries as Unrestricted Subsidiaries pursuant to this Indenture

SECTION 4.22. ***Creation and Perfection of Liens Securing Collateral; Further Assurances.***

(a) On or prior to the Issue Date, the Issuer and the Guarantors shall have granted, created and perfected the Liens created or purported to be created by the Security Documents in the Collateral in favor of the Collateral Agent for the benefit of the Trustee, the Collateral Agent and the Holders; *provided*, that to the extent any such security interest, mortgage or other Lien was not perfected by the Issue Date, the Issuer and the Guarantors shall use commercially reasonable efforts to have such Lien perfected as promptly as practicable following the Issue Date, and so long as such Lien is perfected concurrently with the perfection of Liens in the same assets pursuant to the Senior Secured Credit Agreement, the Issuer and the Guarantors shall be deemed to have satisfied their obligations under this Section 4.22(a).

(b) Subject to the terms, conditions and provisions of the Security Documents and this Indenture, the Issuer and the Guarantors shall execute any and all further documents, financing statements, agreements and instruments, and take all further action that may be required under applicable law, or that the Holders, the Trustee or the Collateral Agent may reasonably request, in order to grant, create, preserve, maintain, enforce, protect and perfect the validity and priority of the Liens created or purported to be created by this Indenture and the Security Documents in the Collateral; *provided*, that the Issuer and the Guarantors shall not be required to provide, and the Collateral Agent shall not request, any additional Liens in respect of any Excluded Assets.

(c) From and after the Issue Date, if the Issuer and the Guarantors are required to deliver to the Administrative Agent or the Collateral Agent under the Senior Secured Credit Agreement additional security under the Senior Secured Credit Agreement, the Issuer and the Guarantors shall deliver to the Collateral Agent, within such time periods as permitted by the Senior Secured Credit Agreement or otherwise agreed to by the Collateral Agent under the Senior Secured Credit Agreement), such additional security to the Collateral Agent and/or the Trustee, subject to exceptions and limitations otherwise set forth in this Indenture and the Security Documents (to the extent appropriate in the applicable jurisdiction), in each case with the priority required by the Security Documents.

(d) The documents and/or actions required pursuant to this Section shall be deemed to be satisfactory in respect of such matters under this Indenture and the Security Documents to the extent that such documents and/or actions are determined, in the judgment of the Collateral

Agent under the Senior Secured Credit Agreement, to be satisfactory in respect of any such matters under the Senior Secured Credit Agreement.

SECTION 4.23. ***Minimum Liquidity of the Issuer.***

The Liquidity of the Issuer shall at all times remain at or above $20,000,000.00 (the "Minimum Liquidity"); *provided* that, should the Liquidity of the Issuer at any time fall below the Minimum Liquidity, the sole remedy available to the Holders at any time prior to the Maturity Date shall be that the Issuer shall be deemed to have elected to pay PIK Interest in respect of all interest periods for which the Record Date occurs at a time when the Issuer's liquidity is below the Minimum Liquidity (notwithstanding any notice or purported election to the contrary). Interest due on the related Interest Payment Date shall be paid by PIK Interest.

SECTION 4.24. **Withholding Taxes**

Notwithstanding anything to the contrary contained in this Indenture, the Issuer may, to the extent it is required to do so by law, deduct or withhold income or other similar taxes from principal or interest payments, or make such withholdings are required in the event of a conversion, under this Indenture. To the extent that any amounts required to be withheld under applicable law or regulations are so withheld, such amounts shall be deemed for purposes of this Indenture to have been paid to the Persons in respect of which such withholding was made. Without limiting the forgoing, if the Issuer is required by applicable law to pay withholding tax the Issuer may, at its option, (i) apply a portion of any cash distribution or consideration to be made or paid under this Indenture to pay applicable withholding taxes and/or (ii) liquidate a portion of any non-cash distribution or consideration to be made or delivered (including Common Stock issuable upon conversion and any PIK Interest) under this Indenture to generate sufficient funds to pay applicable withholding taxes.

ARTICLE V.

SUCCESSOR CORPORATION

SECTION 5.1. ***Merger, Consolidation and Sale of Assets.***

The Issuer will not consolidate with or merge with or into or wind up into (whether or not the Issuer is the surviving corporation), or convey, transfer or lease all or substantially all its assets in one or more related transactions to, any Person, *unless*:

(1) the resulting, surviving or transferee Person (the "Successor Issuer") will be a corporation, partnership, trust or limited liability company organized and existing under the laws of the United States of America, any State of the United States or the District of Columbia and the Successor Issuer (if not the Issuer) will expressly assume, by supplemental indenture, executed and delivered to the Trustee, in form reasonably satisfactory to the Trustee, all the obligations of the Issuer under the Notes and this Indenture; *provided* that in the case where the Successor Issuer of the Issuer is not a corporation, a co-issuer of the Notes is a corporation;

(2) immediately after giving effect to such transaction (and treating any Indebtedness that becomes an obligation of the Successor Issuer or any Subsidiary of the Successor Issuer as a result of such transaction as having been Incurred by the Successor Issuer or such Subsidiary at the time of such transaction), no Default shall have occurred and be continuing;

(3) immediately after giving effect to such transaction, either (a) the Successor Issuer would be able to Incur at least an additional $1.00 of Indebtedness pursuant to the first paragraph of Section 4.12 or (b) the Consolidated Coverage Ratio for the Issuer and its Restricted Subsidiaries would be equal to or greater than immediately prior to giving effect to such transaction;

(4) each Subsidiary Guarantor (unless it is the other party to the transactions above, in which case clause (1) shall apply) shall have by supplemental indenture confirmed that its Subsidiary Guarantee shall apply to such Person's obligations in respect of this Indenture and the Notes; and

(5) the Issuer shall have delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that such consolidation, merger or transfer and such supplemental indenture (if any) comply with this Indenture.

For purposes of this Section 5.1, the sale, lease, conveyance, assignment, transfer, or other disposition of all or substantially all of the properties and assets of one or more Subsidiaries of the Issuer, which properties and assets, if held by the Issuer instead of such Subsidiaries, would constitute all or substantially all of the properties and assets of the Issuer on a consolidated basis, shall be deemed to be the transfer of all or substantially all of the properties and assets of the Issuer.

The Successor Issuer will succeed to, and be substituted for, and may exercise every right and power of, the Issuer under this Indenture; and its predecessor Issuer, except in the case of a lease of all or substantially all its assets, will be released from the obligation to pay the principal of and interest on the Notes.

Notwithstanding the preceding clause (3), (x) any Restricted Subsidiary may consolidate with, merge into or transfer all or part of its properties and assets to the Issuer and the Issuer may consolidate with, merge into or transfer all or part of its properties and assets to a Wholly Owned Subsidiary and (y) the Issuer may merge with an Affiliate incorporated solely for the purpose of reincorporating the Issuer in another jurisdiction; *provided* that in the case of a Restricted Subsidiary that consolidates with, merges into or transfers all or part of its properties and assets to the Issuer, the Issuer will not be required to comply with the preceding clause (3).

In addition, the Issuer will not permit any Subsidiary Guarantor to consolidate with or merge with or into, and will not permit the conveyance, transfer or lease of substantially all of the assets of any Subsidiary Guarantor to, any Person (other than the Issuer or another Subsidiary Guarantor) *unless*:

(1) (a) the resulting, surviving or transferee Person will be a corporation, partnership, trust or limited liability company organized and existing under the laws of the United States of America, any State of the United States or the District of Columbia (b) and such Person (if not such Subsidiary Guarantor) will expressly assume, by supplemental indenture, executed and delivered to the Trustee, all the obligations of such Subsidiary Guarantor under its Subsidiary Guarantee and this Indenture, (c) immediately after giving effect to such transaction (and treating any Indebtedness that becomes an obligation of the resulting, surviving or transferee Person or any Restricted Subsidiary as a result of such transaction as having been Incurred by such Person or such Restricted Subsidiary at the time of such transaction), no Default shall have occurred and be continuing, and (d) the Issuer shall have delivered to the Trustee an Officers' Certificate and Opinion of Counsel each stating that such consolidation, merger or transfer and such supplemental indenture complies with this Indenture; or

(2) the transaction is made in compliance with Section 4.16 and Section 12.4.

SECTION 5.2. ***Successor Corporation Substituted*.**

Upon any consolidation, combination or merger or any transfer of all or substantially all of the assets of the Issuer in accordance with Section 5.1, in which the Issuer is not the continuing corporation, the successor Person formed by such consolidation or into which the Issuer is merged or to which such conveyance, lease or transfer is made shall succeed to, and be substituted for, and may exercise every right and power of, the Issuer under this Indenture and the Notes with the same effect as if such surviving entity had been named as such.

ARTICLE VI.

REMEDIES

SECTION 6.1. ***Events of Default*.**

An "Event of Default" means any of the following events:

(1) default in any payment of interest on any Note when due, continued unremedied for [30] days;[11]

(2) default in the payment of principal of or premium, if any, on any Note when due at its Stated Maturity, upon redemption, upon required repurchase, upon declaration of acceleration or otherwise, continued unremedied for [three] days;

(3) failure by the Issuer or any Subsidiary Guarantor to comply with its obligations under Section 5.1;

(4) failure by the Issuer to comply for 30 days after notice as provided below with any of its obligations under Sections 4.8, 4.10, 4.11, 4.12, 4.13, 4.15, 4.16, 4.18, 4.19 or 4.20

[11] NTD: Subject to further review.

above (in each case, other than a failure to purchase Notes which will constitute an Event of Default under clause (2) above and other than a failure to comply with Section 5.1 which is covered by clause (3));

(5) failure by the Issuer to comply for 60 days after notice as provided below with its other agreements (not including, for the avoidance of doubt, Section 4.23) contained in this Indenture;

(6) default under any mortgage, indenture or instrument under which there may be issued or by which there may be secured or evidenced any Indebtedness for money borrowed by the Issuer or any of its Restricted Subsidiaries (or the payment of which is guaranteed by the Issuer or any of its Restricted Subsidiaries), other than Indebtedness owed to the Issuer or a Restricted Subsidiary, whether such Indebtedness or guarantee now exists, or is created after the date of this Indenture, which default:

(a) is caused by a failure to pay principal of such Indebtedness prior to the expiration of the grace period provided in such Indebtedness (and any extensions of any grace period) ("payment default"); or

(b) results in the acceleration of such Indebtedness prior to its maturity;

and, in each case, the principal amount of any such Indebtedness, together with the principal amount of any other such Indebtedness under which there has been a payment default or the maturity of which has been so accelerated, aggregates $[__] million or more;

(7) (a) the Issuer or any of its Restricted Subsidiaries that is a Significant Subsidiary or any group of Restricted Subsidiaries that, taken together, would constitute a Significant Subsidiary, pursuant to or within the meaning of any Bankruptcy Law:

(i) commences proceedings to be adjudicated bankrupt or insolvent;

(ii) consents to the institution of bankruptcy or insolvency proceedings against it, or the filing by it of a petition or answer or consent seeking reorganization or relief under applicable Bankruptcy law;

(iii) consents to the appointment of a receiver, liquidator, assignee, trustee, sequestrator or other similar official of it or for all or substantially all of its property;

(iv) makes a general assignment for the benefit of its creditors; or

(v) generally is not paying its debts as they become due; or

(b) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that:

(i) is for relief against the Issuer or any of its Restricted Subsidiaries that is a Significant Subsidiary or any group of Restricted Subsidiaries that, taken together, would

constitute a Significant Subsidiary, in a proceeding in which the Issuer or any such Restricted Subsidiaries, that is a Significant Subsidiary or any group of Restricted Subsidiaries that, taken together, would constitute a Significant Subsidiary, is to be adjudicated bankrupt or insolvent;

(ii) appoints a receiver, liquidator, assignee, trustee, sequestrator or other similar official of the Issuer or any of its Restricted Subsidiaries that is a Significant Subsidiary or any group of Restricted Subsidiaries that, taken together, would constitute a Significant Subsidiary, or for all or substantially all of the property of the Issuer or any of its Restricted Subsidiaries that is a Significant Subsidiary or any group of Restricted Subsidiaries that, taken together, would constitute a Significant Subsidiary; or

(iii) orders the liquidation of the Issuer or any of its Restricted Subsidiaries that is a Significant Subsidiary or any group of Restricted Subsidiaries that, taken together, would constitute a Significant Subsidiary;

and, in the case of any of (b)(i), (ii) or (iii), the order or decree remains unstayed and in effect for 60 consecutive days;

(8) failure by the Issuer or any Significant Subsidiary or group of Restricted Subsidiaries that, taken together (as of the latest audited consolidated financial statements for the Issuer and its Restricted Subsidiaries), would constitute a Significant Subsidiary to pay final judgments aggregating in excess of $[__] million (to the extent not covered by insurance by a reputable and creditworthy insurer as to which the insurer has not disclaimed coverage), which judgments are not paid or discharged, and there shall be any period of 60 consecutive days following entry of such final judgment or decree during which a stay of enforcement of such final judgment or decree, by reason of pending appeal or otherwise, shall not be in effect;

(9) any Subsidiary Guarantee of a Significant Subsidiary or group of Restricted Subsidiaries that, taken together (as of the latest audited consolidated financial statements for the Issuer and its Restricted Subsidiaries) would constitute a Significant Subsidiary ceases to be in full force and effect (except as contemplated by the terms of this Indenture) or is declared null and void in a judicial proceeding or any Subsidiary Guarantor that is a Significant Subsidiary or group of Subsidiary Guarantors that, taken together (as of the latest audited consolidated financial statements of the Issuer and its Restricted Subsidiaries) would constitute a Significant Subsidiary denies or disaffirms its obligations under this Indenture or its Subsidiary Guarantee; or

(10) any of the Security Documents shall cease, for any reason, to be in full force and effect (except in accordance with its terms), or the Issuer, any Subsidiary Guarantor or any Affiliate thereof shall so assert, or any Lien created by any of the Security Documents shall cease to be enforceable and of the same effect and priority purported to be created thereby (except in accordance with its terms);

However, a Default under clauses (4) and (5) of this paragraph will not constitute an Event of Default until the Trustee or the holders of 25% in aggregate principal amount of the outstanding Notes notify the Issuer and, in the case of a notice given by the Holders, the Trustee, in writing

of the Default and the Issuer does not cure such Default within the time specified in clauses (4) and (5) of this paragraph after receipt of such notice.

SECTION 6.2. ***Acceleration*.**

If an Event of Default (other than an Event of Default described in clause (7) of Section 6.1) occurs and is continuing, the Trustee by notice to the Issuer, or the holders of at least 25% in aggregate principal amount of the outstanding Notes by notice to the Issuer and the Trustee, may, and the Trustee at the request of such holders shall, declare the principal of, premium, if any, and accrued and unpaid interest, if any, on all the Notes to be due and payable. If an Event of Default described in clause (7) of Section 6.1 occurs and is continuing, the principal of, premium, if any, and accrued and unpaid interest, if any, on all the Notes will become and be immediately due and payable without any declaration or other act on the part of the Trustee or any Holders. The holders of at least a majority in principal amount of the outstanding Notes may waive all past defaults (except with respect to nonpayment of principal, premium, if any, or interest, if any) and rescind any such acceleration with respect to the Notes and its consequences if (1) rescission would not conflict with any judgment or decree of a court of competent jurisdiction and (2) all existing Events of Default, other than the nonpayment of the principal of, premium, if any, and interest on the Notes that have become due solely by such declaration of acceleration, have been cured or waived.

SECTION 6.3. ***Other Remedies*.**

If an Event of Default occurs and is continuing, the Trustee may pursue any available remedy by proceeding at law or in equity to collect the payment of the principal of, premium, if any, or interest on the Notes or to enforce the performance of any provision of the Notes or this Indenture.

All rights of action and claims under this Indenture or the Notes may be enforced by the Trustee even if it does not possess any of the Notes or does not produce any of them in the proceeding. A delay or omission by the Trustee or any Holder in exercising any right or remedy accruing upon an Event of Default shall not impair the right or remedy or constitute a waiver of or acquiescence in the Event of Default. No remedy is exclusive of any other remedy. All available remedies are cumulative to the extent permitted by law.

SECTION 6.4. ***Waiver of Past Defaults*.**

At any time prior to the declaration of acceleration of the Notes, the Holders of not less than a majority in aggregate principal amount of the Notes then outstanding by notice to the Trustee may, on behalf of the Holders of all the Notes, waive any existing Default or Event of Default and its consequences under this Indenture, except a Default or Event of Default specified in Section 6.1(1) or (2) or in respect of any provision hereof which cannot be modified or amended without the consent of the Holder so affected pursuant to Section 9.2. When a Default or Event of Default is so waived, it shall be deemed cured and shall cease to exist.

SECTION 6.5. ***Control by Majority*.**

Holders of the Notes may not enforce this Indenture or the Notes except as provided in this Article VI. The Holders of at least a majority in aggregate principal amount of the outstanding Notes shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred on the Trustee; *provided*, *however*, that the Trustee may refuse to follow any direction (a) that conflicts with any rule of law or this Indenture, (b) that the Trustee reasonably determines may be unduly prejudicial to the rights of any other Holder (it being understood that the Trustee does not have an affirmative duty to ascertain whether or not any such direction is unduly prejudicial to the rights of any other Holder), or (c) that may expose the Trustee to personal liability for which reasonable indemnity provided to the Trustee against such liability shall be deemed inadequate by the Trustee; *provided*, *further*, *however*, that the Trustee may take any other action deemed proper by the Trustee that is not inconsistent with such direction or this Indenture.

SECTION 6.6. ***Limitation on Suits*.**

Subject to the provisions of this Indenture relating to the duties of the Trustee, if an Event of Default occurs and is continuing, the Trustee will be under no obligation to exercise any of the rights or powers under this Indenture at the request or direction of any of the holders unless such Holders have offered to the Trustee indemnity or security satisfactory to the Trustee against any loss, liability or expense. Except to enforce the right to receive payment of principal, premium, if any, or interest when due, no Holder may pursue any remedy with respect to this Indenture or the Notes *unless*:

(1) such Holder has previously given the Trustee notice that an Event of Default is continuing;

(2) Holders of at least 25% in principal amount of the outstanding Notes have requested the Trustee to pursue the remedy;

(3) such Holder has offered the Trustee security or indemnity satisfactory to the Trustee against any loss, liability or expense;

(4) the Trustee has not complied with such request within 60 days after the receipt of the request and the offer of security or indemnity; and

(5) the Holders of a majority in principal amount of the outstanding Notes have not waived such Event of Default or otherwise given the Trustee a direction that, in the opinion of the Trustee, is inconsistent with such request within such 60-day period.

A Holder may not use this Indenture to prejudice the rights of any other Holders or to obtain priority or preference over such other Holders (it being understood that the Trustee does not have an affirmative duty to ascertain whether or not any action or forbearance by a Holder prejudices the rights of any other Holders or to obtain priority or preference over such other Holders).

SECTION 6.7. ***Right of Holders To Receive Payment.***

Notwithstanding any other provision of this Indenture, the right of any Holder of a Note to receive payment of the principal of, premium, if any, and interest on such Note, on or after the respective due dates expressed or provided for in such Note, to convert the Notes in accordance with Article X, to vote or receive dividends or distributions with respect to Common Stock in accordance with Article XI, or to bring suit for the enforcement of any such payment on or after the respective due dates, expressed in the Note (including in connection with an offer to purchase) or such right to convert, vote or receive dividends or distributions with respect to Common Stock, shall be absolute and unconditional and shall not be impaired or affected without the consent of such Holder.

SECTION 6.8. ***Collection Suit by Trustee.***

If an Event of Default specified in clause (1) or (2) of Section 6.1 occurs and is continuing, the Trustee may recover judgment in its own name and as trustee of an express trust against the Issuer or any other obligor on the Notes for the whole amount of the principal of, premium, if any, and accrued interest remaining unpaid, together with interest on overdue principal and, to the extent that payment of such interest is lawful, interest on overdue installments of interest, in each case at the rate per annum provided for by the Notes and such further amount as shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel.

SECTION 6.9. ***Trustee May File Proofs of Claim.***

The Trustee may file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents, counsel, accountants and experts) and the Holders allowed in any judicial proceedings relative to the Issuer or the Restricted Subsidiaries (or any other obligor upon the Notes), their creditors or their property and shall be entitled and empowered to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same, and any Custodian in any such judicial proceedings is hereby authorized by each Holder to make such payments to the Trustee and, in the event that the Trustee shall consent to the making of such payments directly to the Holders, to pay to the Trustee any amount due to it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents, counsel, accountants and experts, and any other amounts due the Trustee under Section 7.7. To the extent that the payment of any such compensation, expenses, disbursements and advances of the Trustee, its agents, counsel, accountants and experts and any other amounts due the Trustee under Section 7.7 out of the estate in any such proceeding shall be denied for any reason, payment of the same shall be secured by a Lien on, and shall be paid out of, any and all distributions, dividends, money, securities and other properties that the Holders may be entitled to receive in such proceeding whether in liquidation or under any plan of reorganization or arrangement or otherwise. Nothing herein contained shall be deemed to authorize the Trustee to

authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Notes or the rights of any Holder thereof, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

SECTION 6.10. ***Priorities*.**

If the Trustee collects any money pursuant to this Article VI it shall pay out such money in the following order:

First: to the Trustee for amounts due under Section 7.7;

Second: to Holders for interest accrued on the Notes, ratably, without preference or priority of any kind, according to the amounts due and payable on the Notes for interest;

Third: to Holders for the principal amounts (including any premium) owing under the Notes, ratably, without preference or priority of any kind, according to the amounts due and payable on the Notes for the principal (including any premium); and

Fourth: the balance, if any, to the Issuer.

The Trustee, upon prior written notice to the Issuer, may fix a record date and payment date for any payment to Holders pursuant to this Section 6.10.

SECTION 6.11. ***Undertaking for Costs***.

In any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Trustee for any action taken or omitted by it as Trustee, a court may in its discretion require the filing by any party litigant in the suit of an undertaking to pay the costs of the suit, and the court in its discretion may assess reasonable costs, including reasonable attorneys' fees, against any party litigant in the suit, having due regard to the merits and good faith of the claims or defenses made by the party litigant. This Section 6.11 does not apply to any suit by the Trustee, any suit by a Holder pursuant to Section 6.7, or a suit by a Holder or Holders of more than 10% in aggregate principal amount of the outstanding Notes.

SECTION 6.12. ***Restoration of Rights and Remedies*.**

If the Trustee or any Holder has instituted any proceeding to enforce any right or remedy under this Indenture or any Note and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the Trustee or to such Holder, then and in every such case the Issuer, the Trustee and the Holders shall, subject to any determination in such proceeding, be restored severally and respectively to their former positions under this Indenture, and thereafter all rights and remedies of the Trustee and the Holders shall continue as though no such proceeding had been instituted.

ARTICLE VII.

TRUSTEE

SECTION 7.1. ***Duties of Trustee*.**

(a) If an Event of Default has occurred and is continuing and is actually known to the Trustee, the Trustee shall exercise such of the rights and powers vested in it by this Indenture and shall use the same degree of care and skill in its exercise thereof as a prudent person would exercise or use under the circumstances in the conduct of his own affairs in exercising any rights or remedies or performing any of its duties hereunder.

(b) Except during the continuance of an Event of Default:

(1) the Trustee need perform only those duties as are specifically set forth in this Indenture and no covenants or obligations shall be implied in this Indenture that are adverse to the Trustee. The permissive right of the Trustee to do things enumerated in this Indenture shall not be construed as a duty; and

(2) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture. However, in the case of any such certificates or opinions that by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall examine the certificates and opinions to determine whether or not they conform to the requirements of this Indenture.

(c) Notwithstanding anything to the contrary herein contained, the Trustee may not be relieved from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that:

(1) this paragraph does not limit the effect of paragraph (b) of this Section 7.1;

(2) the Trustee shall not be liable for any error of judgment made in good faith by a Trust Officer, unless it is conclusively determined by a court of competent jurisdiction that the Trustee was negligent in ascertaining the pertinent facts; and

(3) the Trustee shall not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to Section 6.2, 6.4 or 6.5.

(d) No provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties under this Indenture or in the exercise of any of its rights or powers if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

(e) Every provision of this Indenture that in any way relates to the Trustee is subject to paragraphs (a), (b), (c) and (d) of this Section 7.1 and Section 7.2.

(f) The Trustee shall not be liable for interest on any money or assets received by it except as the Trustee may agree in writing with the Issuer. Assets held in trust by the Trustee need not be segregated from other assets except to the extent required by law.

SECTION 7.2. ***Rights of Trustee*.**

Subject to Section 7.1:

(a) The Trustee may conclusively rely and shall be fully protected in acting or refraining from acting upon any document believed by it to be genuine and to have been signed or presented by the proper Person or Persons or to have been prepared and furnished pursuant to any of the provisions of this Indenture; and the Trustee shall be under no duty to make any investigation as to any statement contained in any such instance, but may accept the same conclusive evidence of the truth and accuracy of such statement or the correctness of such opinions. The Trustee need not investigate any fact or matter stated in the document.

(b) Before the Trustee acts or refrains from acting, it may consult with counsel of its selection and may require an Officers' Certificate or an Opinion of Counsel or both, which shall conform to Sections 11.4 and 11.5. The Trustee shall not be liable for any action it takes or omits to take in good faith in reliance on such advice or such Officers' Certificate or Opinion of Counsel.

(c) The Trustee may act through attorneys, agents, custodians or nominees and shall not be responsible for the misconduct or negligence of any attorney, agent, custodian or nominee appointed with due care.

(d) The Trustee shall not be liable for any action that it takes or omits to take in good faith which it believes to be authorized or within its rights or powers conferred upon it by this Indenture.

(e) The Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, notice, request, direction, consent, order, bond, debenture, or other paper or document, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Trustee shall determine to make such further inquiry or investigation, it shall be entitled, upon reasonable notice to the Issuer, to examine the books, records, and premises of the Issuer, personally or by agent or attorney and to consult with the officers and representatives of the Issuer, including the Issuer's accountants and attorneys, and to take such memoranda from and in regard thereto as may be desired.

(f) The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request, order or direction of any of the Holders pursuant to the provisions of this Indenture, unless such Holders shall have offered to the Trustee security or

indemnity satisfactory to the Trustee against the costs, expenses and liabilities which may be incurred by it in compliance with such request, order or direction.

(g) The Trustee shall not be required to give any bond or surety in respect of the performance of its powers and duties under this Indenture.

(h) Delivery of reports, information and documents to the Trustee under Section 4.8 is for informational purposes only and the Trustee's receipt of the foregoing shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Issuer's compliance with any of its covenants under this Indenture (as to which the Trustee is entitled to rely exclusively on Officers' Certificates).

(i) Other than a consent revoked in accordance with Section 9.4, any action taken, or omitted to be taken, by the Trustee in good faith pursuant to this Indenture upon the request or authority or consent of any person who, at the time of making such request or giving such authority or consent, is a Holder shall be conclusive and binding upon every subsequent Holder of a Note or portion of a Note that evidences the same debt as the requesting or consenting Holder's Note.

(j) In no event shall the Trustee be responsible or liable for special, indirect, punitive or consequential loss or damage of any kind whatsoever (including, but not limited to, loss of profit) irrespective of whether the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action.

(k) The rights, privileges, protections, immunities and benefits given to the Trustee, including, without limitation, its right to be indemnified, are extended to, and shall be enforceable by, the Trustee in each of its capacities hereunder, and each agent, custodian and other Person employed to act hereunder.

(l) The Trustee and the Collateral Agent shall not be responsible for filing any financing or continuation statements or for recording any documents or instruments in any public office at any time or times or for otherwise perfecting or maintaining the perfection of any security interest in the Collateral.

SECTION 7.3. ***Individual Rights of Trustee*.**

The Trustee in its individual or any other capacity may become the owner or pledgee of Notes and may otherwise deal with the Issuer, any of its respective Subsidiaries, or its respective Affiliates with the same rights it would have if it were not Trustee. Any Agent may do the same with like rights. However, the Trustee must comply with Sections 7.10 and 7.11.

SECTION 7.4. ***Trustee's Disclaimer*.**

The Trustee makes no representation as to the validity or adequacy of this Indenture or the Notes, and it shall not be accountable for the Issuer's use of the proceeds from the Notes, and

it shall not be responsible for any statement of the Issuer in this Indenture or the Notes other than the Trustee's certificate of authentication.

Under no circumstances shall the Trustee be liable in its individual capacity for the obligations evidenced by the Notes. In accepting the trust hereby created, the Trustee acts solely as Trustee for the Holders and not in its individual capacity and all Persons, including, without limitation, the Holders and the Issuer having any claim against the Trustee arising from this Indenture shall look only to the funds and accounts held by the Trustee hereunder for payment except as otherwise provided herein.

SECTION 7.5. ***Notice of Default.***

If a Default or an Event of Default occurs and is continuing and is known to the Trustee, the Trustee shall mail (or, if the Notes are in global form, in accordance with applicable DTC procedures, send electronically) to each Holder notice of the uncured Default or Event of Default within 90 days after the occurrence thereof. Except in the case of a Default or an Event of Default in payment of principal of, premium, if any, or interest, if any, on, any Note, including an accelerated payment, a Default in payment on the Change of Control Payment Date pursuant to a Change of Control Offer or on the Asset Disposition Purchase Date pursuant to an Asset Disposition Offer and a Default in compliance with Article V hereof, the Trustee shall be protected in withholding such notice if and so long as its Board of Directors, the executive committee of its Board of Directors or a committee of its directors and/or Trust Officers in good faith determines that withholding the notice is in the interest of the Holders.

SECTION 7.6. ***Reports by Trustee to Holders.***

Within 60 days after May 15 of each year beginning with the first May 15 after the Issue Date and for so long as Notes remain outstanding, the Trustee shall send to each Holder a brief report dated as of such date that complies with TIA § 313(a).

A copy of each report at the time it is sent to Holders shall be sent to the Issuer.

The Issuer shall promptly notify the Trustee if the Notes become listed or de-listed on any stock exchange and the Trustee shall comply with TIA § 313(d).

SECTION 7.7. ***Compensation and Indemnity.***

The Issuer shall pay to the Trustee from time to time such compensation for its ordinary services as has been agreed to in writing signed by the Issuer and the Trustee. The Trustee's compensation shall not be limited by any law on compensation of a trustee of an express trust. The Issuer shall reimburse the Trustee upon request for all reasonable out-of-pocket expenses incurred or made by it in connection with the performance of its duties under this Indenture. Such expenses shall include the reasonable fees and expenses of the Trustee's agents, counsel, accountants and experts. In the event that it should become necessary for the Trustee to perform extraordinary services, the Trustee shall be entitled to reasonable additional compensation therefor and to reimbursement for reasonable and necessary extraordinary expenses in

connection therewith; *provided* that if such extraordinary services or extraordinary expenses are occasioned by the gross negligence or willful misconduct of the Trustee as determined by a court of competent jurisdiction in a final non-appealable decision it shall not be entitled to compensation or reimbursement therefore.

The Issuer and the Subsidiary Guarantors shall indemnify each of the Trustee (or any predecessor Trustee) and its agents, employees, stockholders, Affiliates and directors and officers for, and hold them each harmless against, any and all loss, liability, damage, claim or expense (including reasonable fees and expenses of counsel), including taxes (other than taxes based on the income of the Trustee), which for the avoidance of doubt shall include tax-gross up, incurred by them except for such actions to the extent caused by any negligence, bad faith or willful misconduct on their part as determined by a court of competent jurisdiction in a final non-appealable decision, arising out of or in connection with the acceptance or administration of this Indenture including the reasonable costs and expenses of defending themselves against any claim or liability in connection with the exercise or performance of any of their rights, powers or duties under this Indenture. The Trustee shall notify the Issuer promptly of any claim asserted against the Trustee for which it may seek indemnity. At the Trustee's sole discretion, the Issuer or such Subsidiary Guarantor shall defend the claim and the Trustee shall cooperate and may participate in the defense; *provided*, *however*, that any settlement of a claim shall be approved in writing by the Trustee if such settlement would result in an admission of liability by the Trustee or if such settlement would not be accompanied by a full release of the Trustee for all liability arising out of the events giving rise to such claim.

Alternatively, the Trustee may at its option have separate counsel of its own choosing and the Issuer shall pay the reasonable fees and expenses of such counsel.

To secure the Issuer's and the Subsidiary Guarantors' payment obligations in this Section 7.7, the Trustee shall have a Lien prior to the Notes on all assets or money held or collected by the Trustee, in its capacity as Trustee, except assets or money held in trust to pay principal of or premium, if any, or interest on particular Notes.

When the Trustee incurs expenses or renders services after an Event of Default specified in Section 6.1(7) occurs, such expenses and the compensation for such services are intended to constitute expenses of administration under any Bankruptcy Law.

The provisions of this Section 7.7 shall survive the discharge of this Indenture or the earlier resignation or removal of the Trustee.

SECTION 7.8. ***Replacement of Trustee***.

The Trustee may resign at any time by so notifying the Issuer. The Holders of a majority in principal amount of the outstanding Notes may remove the Trustee and appoint a successor Trustee with the Issuer's consent by so notifying the Issuer and the Trustee. The Issuer may remove the Trustee if:

(1) the Trustee fails to comply with Section 7.10;

(2) the Trustee is adjudged bankrupt or insolvent;

(3) a receiver or other public officer takes charge of the Trustee or its property; or

(4) the Trustee becomes incapable of acting.

If the Trustee resigns or is removed or if a vacancy exists in the office of Trustee for any reason, the Issuer shall notify each Holder of such event and shall promptly appoint a successor Trustee. Within one year after the successor Trustee takes office, the Holders of a majority in aggregate principal amount of the outstanding Notes may appoint a successor Trustee to replace the successor Trustee appointed by the Issuer.

A successor Trustee shall deliver a written acceptance of its appointment to the retiring Trustee and to the Issuer. Immediately after that, the retiring Trustee shall transfer all property held by it as Trustee to the successor Trustee, provided all sums owing to the Trustee hereunder have been paid and subject to the Lien provided in Section 7.7, the resignation or removal of the retiring Trustee shall become effective, and the successor Trustee shall have all the rights, powers and duties of the Trustee under this Indenture. The Issuer shall send notice of such successor Trustee's appointment to each Holder.

If a successor Trustee does not take office within 30 days after the retiring Trustee resigns or is removed, the retiring Trustee, the Issuer or the Holders of at least 10% in aggregate principal amount of the outstanding Notes may petition any court of competent jurisdiction for the appointment of a successor Trustee.

If the Trustee, after written notice by any Holder of a Note who has been a Holder of a Note for at least six months, fails to comply with Section 7.10, such Holder may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

Notwithstanding any resignation or replacement of the Trustee pursuant to this Section 7.8, the Issuer's and the Subsidiary Guarantors' obligations under Section 7.7 shall continue for the benefit of the retiring Trustee.

SECTION 7.9. ***Successor Trustee by Merger, Etc*.**

If the Trustee consolidates with, merges or converts into, or sells or transfers all or substantially all of its corporate trust business to, another corporation or banking association, the resulting, surviving or transferee corporation or banking association without any further act shall, if such resulting, surviving or transferee corporation or banking association is otherwise eligible under this Indenture, be the successor Trustee; *provided*, *however*, that such corporation shall be otherwise qualified and eligible under this Article VII.

SECTION 7.10. ***Eligibility; Disqualification.***

There shall at all times be a Trustee hereunder that is a corporation organized and doing business under the laws of the United States of America or of any state thereof that is authorized under such laws to exercise corporate trustee power, that is subject to supervision or examination by federal or state authorities and that has a combined capital and surplus of at least $50,000,000 as set forth in its most recent published annual report of condition.

This Indenture shall always have a Trustee who satisfies the requirements of TIA §§ 310(a)(1), (2) and (5). The Trustee is subject to TIA § 310(b).

SECTION 7.11. ***Preferential Collection of Claims Against the Issuer.***

The Trustee shall comply with TIA § 311(a), excluding any creditor relationship listed in TIA § 311(b). A Trustee who has resigned or been removed shall be subject to TIA § 311(a) to the extent indicated therein. The provisions of TIA § 311 shall apply to the Issuer, as obligor on the Notes.

SECTION 7.12. ***Force Majeure.***

In no event shall the Trustee be liable for any failure or delay in the performance of its obligations under this Indenture because of circumstances beyond the Trustee's control, including, but not limited to, acts of God, flood, war (whether declared or undeclared), terrorism, fire, riot, embargo, government action, including any laws, ordinances, regulations, governmental action or the like which delay, restrict or prohibit the providing of the services contemplated by this Indenture.

SECTION 7.13. ***Defaults and Events of Default.***

The Trustee shall not be required to take notice or be deemed to have notice of any Default, except failure of the Issuer to cause to be made any of the payments required to be made to the Trustee, unless the Trustee shall be specifically notified by a writing of such Default by the Issuer or by the Holders of at least 25% in aggregate principal amount of all Notes then outstanding delivered to the Corporate Trust Office of the Trustee and, in the absence of such notice so delivered, the Trustee may conclusively assume no Default exists.

ARTICLE VIII.

DISCHARGE OF INDENTURE; DEFEASANCE

SECTION 8.1. ***Termination of Issuer's Obligations.***

This Indenture will be discharged and will cease to be of further effect (except as to surviving rights of registration of transfer or exchange of the Notes, as expressly provided for in this Indenture) as to all outstanding Notes when (a) either (i) all the Notes, theretofore authenticated (except lost, stolen or destroyed Notes that have been replaced or paid and Notes

for whose payment money has theretofore been deposited in trust or segregated and held in trust by the Issuer and thereafter repaid to the Issuer or discharged from such trust) have been delivered to the Trustee for cancellation or (ii) all Notes not theretofore delivered to the Trustee for cancellation have become due and payable or will become due and payable within one year by reason of the giving of a notice of redemption or otherwise and the Issuer or any Subsidiary Guarantor has irrevocably deposited or caused to be irrevocably deposited with the Trustee as trust funds in trust solely for such purpose, cash in U.S. dollars, U.S. Government Obligations, or a combination thereof, in such amounts as will be sufficient in the opinion of a nationally recognized investment banking firm, appraisal firm or firm of independent public accountants without consideration of any reinvestment of interest, to pay and discharge the entire Indebtedness on the Notes not theretofore delivered to the Trustee for cancellation, for principal of, premium, if any, and interest on the Notes to the date of maturity or redemption together with irrevocable instructions from the Issuer directing the Trustee to apply such funds to the payment thereof at maturity or redemption, as the case may be; (b) the Issuer has paid all other sums payable under this Indenture by the Issuer; and (c) the Issuer has delivered to the Trustee an Officers' Certificate and an Opinion of Counsel stating that all conditions precedent under this Indenture relating to the satisfaction and discharge of this Indenture have been complied with; *provided*, *however*, that such counsel may rely, as to matters of fact, on a certificate or certificates of officers of the Issuer.

The Issuer may, at its option and at any time, elect to have its obligations and the corresponding obligations of the Subsidiary Guarantors discharged with respect to the outstanding Notes and Subsidiary Guarantees ("Legal Defeasance"). Such Legal Defeasance means that the Issuer shall be deemed to have paid and discharged the entire Indebtedness represented by the outstanding Notes, and satisfied all of its obligations with respect to the Notes, except for: (1) the rights of Holders to receive payments in respect of the principal of, premium, if any, and interest on the Notes when such payments are due, (2) the Issuer's obligations with respect to the Notes concerning issuing temporary Notes, registration of Notes, mutilated, destroyed, lost or stolen Notes and the maintenance of an office or agency for payments, (3) the rights, powers, trust, duties and immunities of the Trustee under this Indenture and the Issuer's and the Subsidiary Guarantors' obligations in connection therewith and (4) the Legal Defeasance provisions of this Section 8.1. In addition, the Issuer may, at its option and at any time, elect to terminate its obligations with respect to covenants contained in Sections 4.4, 4.5, 4.8 and 4.10 through 4.20 and the operation of clauses (6), (7) (with respect to Significant Subsidiaries), (8) and (9) of Section 6.1 and the limitations described in clause (3) of the first paragraph of Section 5.1 ("Covenant Defeasance") and thereafter any omission to comply with such obligations shall not constitute a Default or Event of Default with respect to the Notes. The Issuer may exercise its Legal Defeasance option notwithstanding its prior exercise of its Covenant Defeasance option. In the event of Legal Defeasance, payment of the Notes may not be accelerated because of an Event of Default with respect thereto. In the event of Covenant Defeasance, payment of the Notes may not be accelerated because of an Event of Default specified in clause (4), (5), (6), (7) (with respect to Significant Subsidiaries), (8) or (9) of Section 6.1 or because of the failure of the Issuer to comply with clause (3) of the first paragraph of Section 5.1.

In order to exercise either Legal Defeasance or Covenant Defeasance:

(1) the Issuer must irrevocably deposit with the Trustee, in trust, for the benefit of the Holders cash in United States dollars, non-callable U.S. Government Obligations, or a combination thereof, in such amounts as will be sufficient, in the opinion of a nationally recognized investment banking firm, appraisal firm or firm of independent public accountants, without consideration of any reinvestment of interest, to pay the principal of, premium, if any, and interest, if any, on the Notes on the stated date for payment thereof or on the applicable Redemption Date, as the case may be;

(2) in the case of Legal Defeasance, the Issuer shall have delivered to the Trustee an Opinion of Counsel in the United States reasonably acceptable to the Trustee confirming that (a) the Issuer has received from, or there has been published by, the Internal Revenue Service a ruling or (b) since the date of this Indenture, there has been a change in the applicable U.S. federal income tax law, in either case to the effect that, and based thereon such Opinion of Counsel shall confirm that, the beneficial owners of the Notes will not recognize income, gain or loss for U.S. federal income tax purposes as a result of such Legal Defeasance and will be subject to U.S. federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Legal Defeasance had not occurred;

(3) in the case of Covenant Defeasance, the Issuer shall have delivered to the Trustee an Opinion of Counsel in the United States reasonably acceptable to the Trustee confirming that the beneficial owners of the Notes will not recognize income, gain or loss for U.S. federal income tax purposes as a result of such Covenant Defeasance and will be subject to U.S. federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Covenant Defeasance had not occurred;

(4) no Default or Event of Default, of which the Trustee is deemed to have notice, shall have occurred and be continuing on the date of such deposit or insofar as Events of Default under Section 6.1(7) from bankruptcy or insolvency events are concerned, at any time in the period ending on the 91st day after the date of deposit;

(5) such Legal Defeasance or Covenant Defeasance shall not result in a breach or violation of, or constitute a default under this Indenture or any other agreement or instrument to which the Issuer or any of its Restricted Subsidiaries is a party or by which the Issuer or any of its Restricted Subsidiaries is bound;

(6) the Issuer shall have delivered to the Trustee (x) an Officers' Certificate stating that no Default or Event of Default has occurred and is continuing and that the deposit was not made by the Issuer with the intent of preferring the Holders over any other creditors of the Issuer or with the intent of defeating, hindering, delaying or defrauding creditors of the Issuer;

(7) the Issuer shall have delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that all conditions precedent provided for or relating to the Legal Defeasance or the Covenant Defeasance, as the case may be, have been complied with;

provided, *however*, that such counsel may rely, as to matters of fact, on a certificate or certificates of officers of the Issuer; and

(8) the Issuer shall have delivered to the Trustee an Opinion of Counsel to the effect that after the 91st day following the deposit, the trust funds will not be subject to the effect of any applicable bankruptcy, insolvency, reorganization or similar laws affecting creditors' rights generally; *provided, however,* that such counsel may rely, as to matters of fact, on a certificate or certificates of officers of the Issuer.

SECTION 8.2. ***Application of Trust Money*.**

The Trustee or Paying Agent shall hold in trust U.S. Legal Tender or U.S. Government Obligations deposited with it pursuant to Section 8.1, and shall apply the deposited U.S. Legal Tender and the money from U.S. Government Obligations in accordance with this Indenture to the payment of the principal of, premium, if any, and interest on the Notes. The Trustee shall be under no obligation to invest said U.S. Legal Tender or U.S. Government Obligations except as it may agree in writing with the Issuer.

The Issuer and the Subsidiary Guarantors shall pay jointly and severally and indemnify the Trustee against any tax, fee or other charge imposed on or assessed against the U.S. Legal Tender or U.S. Government Obligations deposited pursuant to Section 8.1 or the principal and interest received in respect thereof other than any such tax, fee or other charge which by law is for the account of the Holders of outstanding Notes.

SECTION 8.3. ***Repayment to the Issuer*.**

Subject to Section 8.1, the Trustee and the Paying Agent shall promptly pay to the Issuer upon request any excess U.S. Legal Tender or U.S. Government Obligations held by them at any time and thereupon shall be relieved from all liability with respect to such money. The Trustee and the Paying Agent shall pay to the Issuer upon request any money held by them for the payment of principal, interest or premium, if any, that remains unclaimed for one year; *provided, however*, that the Trustee or such Paying Agent, before being required to make any payment, may at the expense of the Issuer cause to be published once in a newspaper of general circulation in the City of New York or mail to each Holder entitled to such money notice that such money remains unclaimed and that after a date specified therein which shall be at least 30 days from the date of such publication or mailing any unclaimed balance of such money then remaining will be repaid to the Issuer. After payment to the Issuer, Holders entitled to such money must look to the Issuer for payment as general creditors unless an applicable law designates another Person.

SECTION 8.4. ***Reinstatement*.**

If the Trustee or Paying Agent is unable to apply any U.S. Legal Tender or U.S. Government Obligations in accordance with Section 8.1 by reason of any legal proceeding or by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, the Issuer's and the Subsidiary Guarantors' obligations under this Indenture and the Notes and the Subsidiary Guarantees shall be revived and reinstated

as though no deposit had occurred pursuant to Section 8.1 until such time as the Trustee or Paying Agent is permitted to apply all such U.S. Legal Tender or U.S. Government Obligations in accordance with Section 8.1; *provided, however,* that if the Issuer has made any payment of interest or premium, if any, on or principal of any Notes because of the reinstatement of its obligations, the Issuer shall be subrogated to the rights of the Holders of such Notes to receive such payment from the U.S. Legal Tender or U.S. Government Obligations held by the Trustee or Paying Agent.

SECTION 8.5. ***Acknowledgment of Discharge by Trustee***.

After (i) the conditions of Section 8.1 have been satisfied, (ii) the Issuer has paid or caused to be paid all other sums payable under this Indenture by the Issuer and (iii) the Issuer has delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that all conditions precedent referred to in clause (i) of this Section 8.5 relating to the satisfaction and discharge of this Indenture have been complied with, the Trustee upon request shall acknowledge in writing the discharge of the Issuer's obligations under this Indenture except for (x) the Issuer's and the Subsidiary Guarantors' obligations in connection with the rights, powers, trust, duties and immunities of the Trustee under this Indenture and (y) those surviving obligations specified in Section 7.7 and Section 8.1; *provided* the legal counsel delivering such Opinion of Counsel may rely as to matters of fact on one or more Officers' Certificates of the Issuer.

ARTICLE IX.

MODIFICATION OF THE INDENTURE

SECTION 9.1. ***Without Consent of Holders*.**

Without the consent of any Holder, the Issuer, the Subsidiary Guarantors and the Trustee may amend this Indenture and the Notes to:

(1) cure any ambiguity, omission, defect, mistake or inconsistency;

(2) provide for the assumption by a successor corporation of the obligations of the Issuer or any Subsidiary Guarantor under this Indenture;

(3) provide for uncertificated Notes of any series in addition to or in place of certificated Notes (*provided* that such uncertificated Notes are issued in registered form for purposes of Section 163(f) of the Code);

(4) add Guarantees with respect to the Notes, including Subsidiary Guarantees, or release a Subsidiary Guarantor from its Subsidiary Guarantee and terminate such Subsidiary Guarantee; *provided, however,* that the release and termination is in accord with the applicable provisions of this Indenture;

(5) secure the Notes or Subsidiary Guarantees;

(6) add to the covenants of the Issuer or a Subsidiary Guarantor for the benefit of the Holders or surrender any right or power conferred upon the Issuer or a Subsidiary Guarantor;

(7) make any change that does not adversely affect the rights of any Holder;

(8) comply with any requirement of the SEC in connection with the qualification of this Indenture under the TIA;

(9) modify this Indenture solely for the purpose of providing for the removal of the Private Placement Legend on any Note and to allow for the transfer of a Definitive Note or a beneficial interest in a global Note to a Note that has an unrestricted CUSIP number, in each case in accordance with applicable securities laws;

(10) provide for the succession of a successor Trustee; *provided* that the successor Trustee is otherwise qualified and eligible to act as such under this Indenture;

(11) in connection with any Share Exchange Event, provide that the Notes are convertible into Reference Property, subject to the provisions of Section 10.12, and make such related changes to the terms of the Notes to the extent expressly required by Section 10.12; or

(12) issue PIK Notes.

SECTION 9.2. ***With Consent of Holders*.**

Except as provided in Section 9.1 or this Section 9.2, modifications and amendments of this Indenture, the Notes and the Subsidiary Guarantees may be made with the consent of the Holders of a majority in principal amount of the Notes then outstanding (including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, Notes) and, except as provided in Section 9.1 or this Section 9.2, any past Default or compliance with any provisions may be waived with the consent of the Holders of a majority in principal amount of the Notes then outstanding (including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, Notes). However, without the consent of each Holder of an outstanding Note affected, no amendment may:

(1) reduce the principal amount of Notes whose Holders must consent to an amendment, supplement or waiver;

(2) reduce the stated rate of or extend the stated time for payment of interest on any Note;

(3) reduce the principal of or extend the Stated Maturity of any Note;

(4) make any change to the covenants described in Section 4.15 after the occurrence of a Change of Control, or make any change to the provisions relating to an Asset Disposition Offer that has been made, in each case whether through an amendment or waiver of provisions in the covenants, definitions or otherwise;

(5) make any Note payable in money other than that stated in the Note;

(6) impair the right of any Holder to receive payment of, premium, if any, principal of and interest on such Holder's Notes on or after the due dates therefor or to institute suit for the enforcement of any payment on or with respect to such Holder's Notes;

(7) make any change in the amendment provisions which require each Holder's consent or in the waiver provisions;

(8) modify the Subsidiary Guarantees in any manner adverse to the holders of the Notes;

(9) make any change to or modify the ranking of the Notes that would adversely affect the Holders or

(10) amend, change or modify the obligation of the Issuer to make and consummate a Change of Control Offer or to convert the Notes into New Common Stock at maturity or in the event of a Change of Control following maturity or after such Change of Control has occurred, including, amending, changing or modifying any definition relating thereto.

Notwithstanding the foregoing, the provisions under this Indenture relative to the Issuer's obligation to make an offer to repurchase the Notes as a result of a Change of Control may be waived or modified or terminated with the written consent of the Holders of a majority in principal amount of the Notes then outstanding (including consents obtained in connection with a tender offer or exchange offer for the Notes) prior to the occurrence of such Change of Control.

The consent of the Holders is not necessary under this Indenture to approve the particular form of any proposed amendment. It is sufficient if such consent approves the substance of the proposed amendment. A consent to any amendment or waiver under this Indenture by any Holder given in connection with a tender of such Holder's Notes will not be rendered invalid by such tender. After an amendment under this Indenture becomes effective, the Issuer is required to send to the Holders a notice briefly describing such amendment. However, failure to give such notice to all the Holders, or any defect in such notice, will not impair or affect the validity of the amendment.

SECTION 9.3. ***[Reserved].***

SECTION 9.4. ***Revocation and Effect of Consents.***

Until an amendment, waiver or supplement becomes effective, a consent to it by a Holder is a continuing consent by the Holder and every subsequent Holder of a Note or portion of a Note that evidences the same debt as the consenting Holder's Note, even if notation of the consent is not made on any Note. Subject to the following paragraph, any such Holder or subsequent Holder may revoke the consent as to such Holder's Note or portion of such Note by notice to the Trustee or the Issuer received before the date on which the Trustee receives an Officers' Certificate certifying that the Holders of the requisite principal amount of Notes have consented

(and not theretofore revoked such consent) to the amendment, supplement or waiver. An amendment, supplement or waiver becomes effective upon receipt by the Trustee of such Officers' Certificate and evidence of consent by the Holders of the requisite percentage in principal amount of outstanding Notes.

The Issuer may, but shall not be obligated to, fix a Record Date for the purpose of determining the Holders entitled to consent to any amendment, supplement or waiver, which Record Date shall be at least 30 days prior to the first solicitation of such consent. If a Record Date is fixed, then notwithstanding the second sentence of the immediately preceding paragraph, those Persons who were Holders at such Record Date (or their duly designated proxies), and only those Persons, shall be entitled to revoke any consent previously given, whether or not such Persons continue to be Holders after such Record Date. No such consent shall be valid or effective for more than 90 days after such Record Date unless consents from Holders of the requisite percentage in principal amount of outstanding Notes required under this Indenture for the effectiveness of such consents shall have also been given and not revoked within such 90 day period.

SECTION 9.5. ***Notation on or Exchange of Notes.***

If an amendment, supplement or waiver changes the terms of a Note, the Trustee may require the Holder of such Note to deliver it to the Trustee. The Trustee may place an appropriate notation on the Note about the changed terms and return it to the Holder. Alternatively, if the Issuer or the Trustee so determines, the Issuer in exchange for the Note shall issue and, upon receipt of an Authentication Order in accordance with Section 2.2 hereof, the Trustee shall authenticate a new Note that reflects the changed terms.

SECTION 9.6. ***Trustee To Sign Amendments, Etc.***

The Trustee shall execute any amendment, supplement or waiver authorized pursuant to this Article IX; *provided*, *however*, that the Trustee may, but shall not be obligated to, execute any such amendment, supplement or waiver which affects the Trustee's own rights, duties or immunities under this Indenture. In executing such amendment, supplement or waiver the Trustee shall be entitled to receive indemnity satisfactory to it, and shall be fully protected in relying upon an Opinion of Counsel and an Officers' Certificate of the Issuer stating that no Event of Default shall occur as a result of such amendment, supplement or waiver and that the execution of such amendment, supplement or waiver is authorized or permitted by this Indenture; *provided* the legal counsel delivering such Opinion of Counsel may rely as to matters of fact on one or more Officers' Certificates of the Issuer. Such Opinion of Counsel shall not be an expense of the Trustee.

ARTICLE X.

CONVERSION

SECTION 10.1. ***Voluntary Conversion Privilege***

(a) Subject to the provisions of this Indenture, each Holder of a Note shall have the right, at such Holder's option, at any time prior to the close of business on the Business Day immediately preceding the Maturity Date to voluntarily convert such Note (for the avoidance of doubt, together with any accrued and unpaid interest thereon to, but not including, the Conversion Date, and any previously paid PIK Interest) into shares of New Common Stock. Any such conversion must be in respect of a principal amount of Notes that is an integral multiple of $1.00. For the avoidance of doubt, in no event will any Converting Amount include any Interest Make-Whole Premium, and no Interest Make-Whole Premium shall be directly or indirectly payable upon any conversion.

(b) The total number of shares of New Common Stock that shall be issuable upon conversion of a Note shall be determined by multiplying (a) 0.001 times (b) the sum of (x) principal amount of the Note or portion thereof surrendered for conversion (including all interest that has been previously paid in kind by increasing the principal amount of such Note), plus (y) the amount of any accrued and unpaid interest thereon to, but not including, the Conversion Date (such sum, the "Converting Amount") times (c) the applicable Conversion Rate for shares of New Common Stock in effect on the Conversion Date. In the event that a conversion of a Note results in fractional shares of New Common Stock, the Issuer may, at its option, (i) issue such fractional shares, (ii) pay cash in lieu of issuing such fractional shares (such cash payment to be equal to the product of (x) such fraction of a share of New Common Stock and (y) the fair market value of a share of New Common Stock on the applicable Conversion Date as determined in good faith by the Issuer) or (iii) round the number of shares to be issued to the nearest whole number with no consideration paid for any fractional shares so eliminated.

(c) Notwithstanding the foregoing, a Holder shall not be permitted to convert any Note pursuant to this Section 10.1 if (i) such Holder, or the Person to receive the shares of New Common Stock upon conversion of such Note, is a Competitor (unless the Board of Directors of the Issuer has provided prior written consent to such conversion) or (ii) such Holder, or the Person to receive the shares of New Common Stock upon conversion of such Note, would hold more than five percent (5%) of the outstanding shares of New Common Stock upon conversion (unless the Board has provided prior written consent to such conversion); provided that such restriction shall not apply to any Conditional Voluntary Conversion in respect of a Drag-Along Sale or a Tag-Along Sale.

(d) A Note in respect of which a Holder has exercised the option of such Holder to require the Issuer to repurchase such Note pursuant to a Change of Control Offer may be converted only if such Holder withdraws such Note from such Change of Control Offer in accordance with the terms of such Change of Control Offer and complies in respect of such Note with the conversion procedures specified in Section 10.2.

(e) Following conversion of any portion of the principal amount of a Note (including all interest that has been previously paid in kind by increasing the principal amount of such

Note), the Holder thereof shall not receive in respect of such portion (i) any additional cash or PIK Interest Payment, (ii) any Interest Make-Whole Premium or (iii) any other rights in respect thereof.

(f) If the Issuer has received a Drag-Along Notice, the Issuer shall provide such Drag-Along Notice to the Holders on the same day the Issuer receives the Drag-Along Notice. In connection with any Drag-Along Sale, each Holder may elect a Conditional Voluntary Conversion, which conversion shall be effective immediately prior to (but contingent upon the occurrence of) the relevant Drag-Along Closing (notwithstanding anything to the contrary in Section 10.2(c)). In such case, notwithstanding anything to the contrary in this Indenture, each Holder shall be deemed to have received a number of shares of New Common Stock that would otherwise be issued upon conversion of such Notes as if the date of the Drag-Along Closing were the Conversion Date, which such shares shall be deemed to have been sold at the Drag-Along Closing such that, in lieu of each such share of New Common Stock such Holder shall receive the same per-share consideration as is received by the other Dragged Holders in the Drag-Along Sale, and each such Holder's receipt of such consideration shall be conditioned on the converting Holder's written agreement in the Notice of Conversion to be bound as a Stockholder and Dragged Holder by the applicable provisions of the Stockholders Agreement.

(g) If the Issuer has received a Tag-Along Notice, the Issuer shall provide such Tag-Along Notice to the Holders on the same day the Company receives the Tag-Along Notice. In connection with any Tag-Along Sale, each Holder may, until the Tag-Along Election Deadline (as defined in the Stockholders Agreement), elect a Conditional Voluntary Conversion, which conversion shall be effective immediately prior to (but contingent upon the occurrence of) the relevant Tag-Along Closing, but subject to the inclusion of such New Common Stock in the Tag-Along Closing (notwithstanding anything to the contrary in Section 10.2(c)). In such case, notwithstanding anything to the contrary in this Indenture, each Holder shall be deemed to have received a number of shares of New Common Stock that would otherwise be issued upon conversion of such converted Notes as if the date of the Tag-Along Closing were the Conversion Date, which such shares shall be deemed to have been sold at the Tag-Along Closing such that, in lieu of each such share of New Common Stock such Holder shall receive the same per-share consideration as is received by the other Tag-Along Sellers in the Tag-Along Sale (subject, for the avoidance of doubt, the provisions of the Stockholders Agreement applicable to the Tag-Along Sellers), and each such Holder's receipt of such consideration shall be conditioned on the converting Holder's written agreement in the Notice of Conversion to be bound as a Stockholder and Tag-Along Seller by the applicable provisions of the Stockholders Agreement. Whether a Holder may participate in a Tag-Along Sale and the number of shares of New Common Stock the Holder may sell and, accordingly, receive following exercise of this contingent conversion right, shall be determined based on the procedure set forth in the Stockholders Agreement.

SECTION 10.2. ***Conversion Procedure***

(a) To convert a Note, a Holder must (i) complete, manually sign and deliver a medallion-stamped guaranteed conversion notice in the form as set forth on the back of the Note (a "Notice of Conversion") to the Conversion Agent, (ii) surrender the Note to the Conversion

Agent, (iii) with respect to any converting Holders or recipient of shares of New Common Stock issuable upon such conversion that are not already party to the Stockholders Agreement, deliver to the Issuer a duly completed and executed joinder agreement, in substantially the form attached as Exhibit [E] hereto, or other documentation in form and substance acceptable to the Issuer in its sole discretion (any such agreement or documentation, a "Joinder Agreement"), pursuant to which such Holder or recipient, as the case may be, agrees to be bound by, and acknowledges that all New Common Stock issued upon such exercise will be subject to, the terms and conditions of the Stockholders Agreement, (iv) furnish appropriate endorsements and transfer documents if required by the Registrar or the Conversion Agent and (v) pay any transfer or other tax, if required by Section 10.4; *provided, however*, if the Note is held in book-entry form, then such Holder must surrender the Note to the Conversion Agent, and complete and deliver to the Registrar or the Depository, as the case may be, appropriate instructions pursuant to the Applicable Procedures. The Issuer may refuse to deliver the certificates (or book-entry evidence) representing the shares of New Common Stock being issued (x) in a name other than the Holder's name until the Issuer receives a sum sufficient to pay any tax that is due by such Holder and (y) until the Issuer receives a Joinder Agreement in accordance with the immediately preceding sentence.

(b) Each Notice of Conversion shall be irrevocable; provided that (i) any Notice of Conversion that, according to such Notice of Conversion, is in connection with a Drag-Along Sale may be made contingent upon the occurrence of the closing of such Drag-Along Sale by checking the applicable box in such Notice of Conversion and such Holder (or recipient of the shares of New Common Stock issuable upon conversion) agreeing in such Notice of Conversion to be bound as a Stockholder and a Dragged Holder under, and as provided in, the Stockholders Agreement and (ii) any Notice of Conversion that, according to such Notice of Conversion, is in connection with a Tag-Along Sale may be made contingent upon the occurrence of the closing of such Tag-Along Sale by checking the applicable box in such Notice of Conversion and such Holder (or recipient of the shares of New Common Stock issuable upon conversion) agreeing in such Notice of Conversion to be bound as a Stockholder and a Tag-Along Seller under, and as provided in, the Stockholders Agreement (each of clause (i) and (ii), a "Conditional Voluntary Conversion").

(c) [Any date on which a converting Holder satisfies all of the foregoing requirements shall be referred to as a "Fulfillment Date." The Trustee (and if different, the Conversion Agent) shall notify the Issuer of any conversion pursuant to Section 10.1 on the Fulfillment Date for such conversion. Except as permitted by the Catch-Up Mechanism (as defined below) or in respect of any Conditional Voluntary Conversion, any conversion of Notes requested by a converting Holder pursuant to this Section 10.2 shall not be deemed effective until twenty-five (25) days following the applicable Fulfillment Date (the "Conversion Date"). Following receipt of a Notice of Conversion and satisfaction of the foregoing requirements, the Issuer shall cause to be filed with the Trustee and the Conversion Agent and to be sent to each other Holder, as promptly as practical but in any event no later than seven (7) days after the applicable Fulfillment Date, a notice, which may be in the form of an Officers' Certificate, stating (A) that a Holder has converted Notes pursuant to this Article X, (B) a fraction, expressed as a percentage, the numerator of which is the principal amount of Notes being converted by the

converting Holder and the denominator of which is the principal amount of Notes held by the converting Holder and, to the extent known to the Issuer, the converting Holder's Affiliates on the applicable Fulfillment Date (the "Applicable Percentage"), (C) the applicable Conversion Rate, (D) the Converting Amount of the converted Notes and the calculation thereof, (E) the total number of shares of New Common Stock issuable upon conversion with respect to the Converting Amount of the convert Notes and (F) the Conversion Date. [Each Holder (other than the Holder whose conversion was the subject of the notice given pursuant to the preceding sentence) that satisfies the conditions set forth in the first sentence of this Section 10.2 by 5:00 p.m. Eastern time on the date that is five (5) days prior to such Conversion Date set forth in such notice from the Issuer shall be permitted to convert, and, notwithstanding anything to the contrary in this Indenture, such conversion shall be effective on such Conversion Date, a Converting Amount relating to principal amount of Notes of not more than the product of (1) such Holder's principal amount of outstanding Notes on the applicable Fulfillment Date and (2) the Applicable Percentage (the "Allowed Notes") (the procedure set forth in this sentence, the "Catch-Up Mechanism").] To the extent a Holder desires to convert more than the Allowed Notes (such difference, the "Excess Notes"), such Excess Notes may be converted only by following the procedures set forth in this Section 10.2 (which will result in a later Fulfillment Date and a later Conversion Date with respect to the Excess Notes, and will cause other Holders to be provided an opportunity to convert a proportionate share of Notes on such later Conversion Date by utilizing the Catch-Up Mechanism, it being understood that all Holders shall have the opportunity to utilize the Catch-Up Mechanism with respect to a proportionate amount of Notes being converted on any particular Conversion Date until five (5) days before such Conversion Date).]

(d) As soon as practicable, but in no event more than seven (7) Business Days after a Conversion Date, the Issuer shall deliver to the converting Holder or Holders book-entry notations or physical certificates, as applicable, of the number of shares of New Common Stock issuable upon the conversion in satisfaction of the Issuer's conversion obligation pursuant to this Indenture.

(e) If a Holder converts more than one Note at the same time, the number of shares of New Common Stock issuable upon the conversion shall be based on the Converting Amount for all Notes converted by such Holder.

(f) Upon surrender of a Note that is converted in part, the Issuer shall execute, and the Trustee shall, upon receipt of an Authentication Order, authenticate and deliver to the Holder, a new Note equal in aggregate principal amount to the unconverted portion of the principal amount of the Note surrendered.

(g) Upon the conversion of an interest in a Global Note, the Trustee shall make a notation on such Global Note as to the reduction in the principal amount represented thereby. The Issuer shall notify the Trustee in writing of any conversion of Notes effected through any Conversion Agent other than the Trustee.

(h) The Person in whose name any shares of New Common Stock shall be issuable upon conversion shall be treated as a stockholder of record of such shares as of the close of business on the relevant Conversion Date.

SECTION 10.3. ***Mandatory Conversion***

(a) All outstanding Notes shall automatically convert (or, in connection with a Tag-Along Sale, conditionally convert) to New Common Stock upon the conversion of a majority of the then outstanding principal amount of the Notes (including, for the avoidance of doubt, upon effectiveness of conversions in connection with a Drag-Along Sale) during any [12 month] period (the "Mandatory Conversion Trigger") and the Conversion Date for such automatically converted Notes is the relevant Mandatory Conversion Date. The Issuer shall promptly forward notice to the Holders, the Trustee and the Conversion Agent (if other than the Trustee) of the occurrence of any Mandatory Conversion Date after obtaining actual knowledge thereof. Any Notes subject to automatic conversion as a result of the election to convert of a majority in aggregate principal amount of the Notes pursuant to Section 10.1(f) in connection with a Drag-Along Sale or Section 10.1(g) in connection with a Tag-Along Sale shall be converted in the manner set forth in, and subject to the conditions of, such Section 10.1(f) or Section 10.1(g), as the case may be (including, for the avoidance of doubt, the condition to conversion in connection with a Tag-Along Sale of the inclusion of the New Common Stock issuable upon conversion in the Tag-Along Closing).

(b) If any New Common Stock is to be issued upon any mandatory conversion pursuant to this Section 10.3, with respect to any converting Holders or recipient of shares of New Common Stock issuable upon such conversion that are not already party to the Stockholders Agreement, each such Holder or recipient shall deliver to the Issuer a duly completed and executed Joinder Agreement pursuant to which such Holder or recipient, as the case may be, agrees to be bound by, and acknowledges that all New Common Stock issued upon such conversion will be subject to, the terms and conditions of the Stockholders Agreement. The Issuer may refuse to deliver the certificates (or book-entry evidence) representing the shares of New Common Stock being issued upon any mandatory conversion pursuant to this Section 10.3 until the Issuer receives a Joinder Agreement in accordance with the immediately preceding sentence.

SECTION 10.4. ***Taxes on Conversion***

Upon conversion of a Note, the Issuer shall pay any documentary, stamp or similar issue or transfer tax due on the issue of shares of New Common Stock upon such conversion. However, the converting Holder shall pay any such tax which is due because such Holder requests the shares of New Common Stock to be issued in a name other than the Holder's name. The Issuer may refuse to deliver the shares of New Common Stock being issued in a name other than the Holder's name until the Issuer receive a sum sufficient to pay any tax which will be due because the shares of New Common Stock are to be issued in a name other than the Holder's name. Nothing in this Section 10.4 or elsewhere in this Indenture shall preclude any tax withholding required by law or regulations.

SECTION 10.5. ***Issuer to Provide Shares of New Common Stock***

The Issuer shall from time to time as may be necessary, reserve, out of its authorized but unissued shares of New Common Stock a sufficient number of shares of New Common Stock to permit the conversion of all outstanding Notes and accrued and unpaid interest thereon for shares of New Common Stock.

The Issuer covenants that all shares of New Common Stock delivered upon conversion of the Notes shall be newly issued shares of New Common Stock, shall be duly authorized, validly issued, fully paid and non-assessable and shall be free from preemptive rights and free of any lien or adverse claim.

The Issuer will endeavor promptly to comply with all federal and state securities laws regulating to the offer and delivery of shares of New Common Stock upon conversion of Notes, if any, and will list or cause to be approved for listing or included for quotation, as the case may be, such shares of New Common Stock on each national securities exchange or in the over-the-counter market or such other market on which the shares of New Common Stock are then listed or quoted, if any.

SECTION 10.6. ***Subdivision or Combination of Shares of New Common Stock***

In case the Issuer shall at any time subdivide its outstanding shares of New Common Stock into a greater number of shares of New Common Stock, exclusively issue shares of New Common Stock as a dividend or distribution on shares of the New Common Stock or combine its outstanding shares of New Common Stock into a smaller number of shares of New Common Stock, the Conversion Rate in effect immediately prior to such subdivision, dividend or combination shall be appropriately adjusted in a manner deemed equitable by the Board of Directors. Notwithstanding anything to the contrary in this Indenture or otherwise, the Conversion Rate shall not be adjusted upon the issuance of any shares of New Common Stock or options or rights to purchase those shares pursuant to any present or future employee, management, director or consultant benefit plan or program of or assumed by the Issuer or any of the Issuer's Subsidiaries.

SECTION 10.7. ***Calculations***. All calculations and other determinations under this Article X shall be made by the Issuer and shall be made to the nearest one-ten thousandth (1/10,000th) of a share.

SECTION 10.8. ***Adjustment for Tax Purposes***. The Issuer shall be entitled to make such increases in the Conversion Rate, in addition to any adjustments made pursuant to Section 10.6, as the Board of Directors considers to be advisable in order to avoid or diminish income tax to beneficial owners of Common Stock or rights to purchase shares of Common Stock in connection with a dividend or a distribution of shares (or rights to acquire shares) or similar event.

SECTION 10.9. [Reserved.]

SECTION 10.10. [Reserved.]

SECTION 10.11. ***Notice of Adjustment***

Whenever the Conversion Rate is adjusted, the Issuer shall promptly file with the Trustee and any Conversion Agent an Officers' Certificate setting forth the Conversion Rate after such adjustment and setting forth a brief statement of the facts requiring such adjustment. Unless and until a Responsible Officer of the Trustee and the Conversion Agent shall have received such Officers' Certificate at the Corporate Trust Office of the Trustee, neither the Trustee nor the Conversion Agent shall be deemed to have knowledge of any adjustment of the Conversion Rate and may assume without inquiry that the last Conversion Rate of which it has knowledge are still in effect. Promptly after delivery of such Officers' Certificate, the Issuer shall prepare a notice of such adjustment of the Conversion Rate setting forth the adjusted Conversion Rate and the date on which each adjustment becomes effective and shall send such notice of such adjustment of the Conversion Rate to each Holder, within 20 days after execution thereof. Failure to deliver such notice shall not affect the legality or validity of any such adjustment.

SECTION 10.12. ***Notice of Certain Transactions***

In case:

(a) the Issuer shall declare a dividend (or any other distribution) on its shares of New Common Stock, other than a Permitted Payments to Parent; or

(b) the Issuer shall declare the granting to the holders of its shares of New Common Stock, of rights, warrants or options to subscribe for or purchase any share of any class or any other rights, warrants or options; or

(c) of any reclassification of the shares of New Common Stock (other than a subdivision or combination of outstanding shares of New Common Stock), or of any consolidation, merger, or equity exchange to which the Issuer is a party and for which approval of any equity holders of the Issuer is required, or of the sale or transfer of all or substantially all of the assets of the Issuer; or

(d) of the voluntary or involuntary dissolution, liquidation or winding-up of the Issuer;

then the Issuer shall cause to be filed with the Trustee and the Conversion Agent and to be sent to each Holder, as promptly as possible but in any event at least 30 days prior to the applicable date hereinafter specified, a written notice stating (x) the date on which a record is to be taken for the purpose of such dividend, distribution or granting of rights, warrants or options, or, if a record is not to be taken, the date as of which the holders of shares of New Common Stock of record to be entitled to such dividend, distribution or grant of rights, warrants or options are to be determined, or (y) the date on which such reclassification, consolidation, merger, share exchange, sale, transfer, dissolution, liquidation or winding-up is expected to become effective or occur, and, if applicable, the date as of which it is expected that holders of shares of New

Common Stock of record shall be entitled to exchange their shares of New Common Stock for securities or other property deliverable upon such reclassification, consolidation, merger, share exchange, sale, transfer, dissolution, liquidation or winding-up. Failure to give such notice, or any defect therein, shall not affect the legality or validity of such dividend, distribution, grant, reclassification, consolidation, merger, sale, share exchange, transfer, dissolution, liquidation or winding-up. For the avoidance of doubt, delivery of such notice to the Trustee and the Conversion Agent is for informational purposes only, and neither the Trustee's nor Conversion Agent's receipt of such shall constitute constructive notice of any information contained therein or determinable from information contained therein.

SECTION 10.13. ***Effect of Reclassification, Consolidation, Merger, Share Exchange or Sale on Conversion Privilege***

If any of the following shall occur: (i) any reclassification or change of outstanding shares of New Common Stock (other than as a result of a subdivision or combination involving only shares of New Common Stock); (ii) any consolidation, combination, merger or share exchange to which the Issuer is a party other than a merger in which the Issuer is the continuing Person and which does not result in any reclassification of, or change (other than as a result of a subdivision or combination involving only shares of New Common Stock) of or in outstanding shares of New Common Stock; (iii) any sale or conveyance of all or substantially all of the assets of the Issuer, then the Issuer, or such successor or purchasing Person; or (iv) any statutory share exchange, in each case, as a result of which the New Common Stock would be converted into, or exchanged for, stock, other securities, other property or assets (including cash or any combination thereof) (any such event, a "Share Exchange Event"), then, at and after the effective time of such Share Exchange Event, the right to convert each Note shall be changed into a right to convert such Note into the kind and amount of shares of stock, other securities or other property or assets that a holder of a number of shares of New Common Stock equal to the Conversion Rate immediately prior to such Share Exchange Event would have owned or been entitled to receive (the "Reference Property," with each "unit of Reference Property" meaning the kind and amount of Reference Property that a holder of one share of New Common Stock is entitled to receive) upon such Share Exchange Event and, prior to or at the effective time of such Share Exchange Event, the Issuer or the successor or purchasing Person, as the case may be, shall execute with the Trustee and deliver to the Trustee a supplemental indenture providing that, on such terms and subject to such conditions as shall be as nearly equivalent as may be practicable to the provisions set forth in this Indenture; *provided, however*, that at and after the effective time of the Share Exchange Event any shares of New Common Stock that the Issuer would have been required to deliver upon conversion of the Notes in accordance with Section 10.1 shall instead be deliverable in the amount and type of Reference Property that a holder of that number of shares of New Common Stock would have been entitled to receive in such Share Exchange Event.

If the Share Exchange Event causes the New Common Stock to be converted into, or exchanged for, the right to receive more than a single type of consideration (determined based in part upon any form of stockholder election), then (i) the Reference Property into which the Notes will be convertible shall be deemed to be the types and amounts of consideration actually

received by the holders of New Common Stock, and (ii) the unit of Reference Property for purposes of the immediately preceding paragraph shall refer to the weighted average of the consideration referred to in clause (i) attributable to one share of New Common Stock. If the holders of the New Common Stock receive only cash in such Share Exchange Event, then for all conversions for which the relevant Conversion Date occurs after the effective date of such Share Exchange Event (A) the consideration due upon conversion of each Notes shall be solely cash in an amount equal to the Conversion Obligation in effect on the Conversion Date, multiplied by the price paid per share of New Common Stock in such Share Exchange Event and (B) the Issuer shall satisfy the Conversion Obligation by paying cash to converting Holders on or prior to the seventh Business Day immediately following the relevant Conversion Date. The Issuer shall notify Holders, the Trustee and the Conversion Agent (if other than the Trustee) of such weighted average as soon as practicable after such determination is made.

Such supplemental indenture described in the second immediately preceding paragraph shall provide for adjustments of the Conversion Rate which shall be as nearly equivalent as may be practicable to the adjustments of the Conversion Rate provided for in this Article X. If, in the case of any such Share Exchange Event, the Reference Property includes shares of Capital Stock or other securities and property of a Person other than the successor or purchasing Person, as the case may be, in such reclassification, change, consolidation, combination, merger, share exchange, sale or conveyance, then such supplemental indenture shall also be executed by such other Person and shall contain such additional provisions to protect the interests of the Holders as the Board of Directors shall reasonably consider necessary by reason of the foregoing.

The provisions of this Section 10.12 shall similarly apply to successive reclassifications, changes, combinations, consolidations, mergers, share exchanges, sales or conveyances.

In the event the Issuer shall execute a supplemental indenture pursuant to this Section 10.12, the Issuer shall promptly file with the Trustee an Officers' Certificate briefly stating the reasons therefor, the kind or amount of shares of stock or securities or property (including cash) receivable by Holders upon the conversion of their Notes after any such reclassification, change, consolidation, combination, merger, share exchange, sale or conveyance, any adjustment to be made with respect thereto and that all conditions precedent have been complied with.

SECTION 10.14. ***Trustee's Disclaimer***

The Trustee and any Conversion Agent shall not at any time be under any duty to or have any responsibility to any Holder to determine or make any calculations in this Article X nor shall it or they have any duty to or responsibility to any Holder to determine when an adjustment under this Article X should be made, how it should be made or what such adjustment should be made or to confirm the accuracy of any such adjustment, but may accept as conclusive evidence of the correctness of any such adjustment, and shall be protected in relying upon, the Officers' Certificate with respect thereto which the Issuer are obligated to file with the Trustee pursuant to Section 10.10 or upon request therefor. The Trustee and any Conversion Agent shall not be accountable for and make no representation as to the validity or value (or the kind or amount) of any securities or assets or cash, that may at any time be issued upon conversion of Notes; and the

Trustee and any Conversion Agent shall not be responsible for the Issuer's failure to comply with any provisions of this Article X. Neither the Trustee nor the Conversion Agent shall be responsible for any failure of the Issuer to make or calculate any cash payment or to issue, transfer or deliver any shares of New Common Stock or certificates or other securities or property or cash upon surrender of any Note for the purpose of conversion. The Issuer will make all calculations in good faith and, absent manifest error, its calculations will be final and binding on the Holders. The Trustee and/or Conversion Agent will forward such calculations to any Holder upon the request of such Holder. Each Conversion Agent (other than the Issuer or an Affiliate of the Issuer) shall have the same protection under this Section 10.13 as the Trustee.

The Trustee and any Conversion Agent shall not be under any responsibility to determine the correctness of any provisions contained in any supplemental indenture executed pursuant to Section 10.12, but may accept as conclusive evidence of the correctness thereof, and shall be protected in relying upon, the Officers' Certificate with respect thereto which the Issuer are obligated to file with the Trustee pursuant to Section 10.12; provided, that the Trustee or Conversion Agent's conduct does not constitute willful misconduct or gross negligence.

The rights, privileges, protections, immunities and benefits given to the Trustee under this Indenture, including, without limitation, its right to be compensated, reimbursed, and indemnified, are extended to, and shall be enforceable by, the Trustee in each of its capacities hereunder, including its capacity as Conversion Agent.

SECTION 10.15. ***Voluntary Increase of the Conversion Rate***

The Issuer from time to time may increase the Conversion Rate by any amount for a period of at least twenty (20) days so long as the Board of Directors shall have made a determination that such increase would be in the best interests of the Issuer, which determination shall be conclusive. Whenever the Conversion Rate is increased pursuant to this Section 10.14, a notice of the increase in the Conversion Rate must be disclosed in accordance with Section 10.10 and must be sent to Holders at least fifteen (15) days prior to the date the increased Conversion Rate takes effect, which notice shall state the increased Conversion Rate, and the period during which such Conversion Rate will be in effect.

SECTION 10.16. ***Simultaneous Adjustments***

If more than one event requiring adjustment pursuant to this Article 10 shall occur before completing the determination of the Conversion Rate for the first event requiring such adjustment, then the Board of Directors (whose determination shall be conclusive), shall make such adjustments to the Conversion Rate (and the calculation thereof) after giving effect to all such events as shall preserve for Holders the Conversion Rate protection provided in this Article 10.

ARTICLE XI.

COLLATERAL AND SECURITY

SECTION 11.1. ***Grant of Security Interest***

The due and punctual payment of the principal of, and interest or premium (including the Interest Make-Whole Premium) on the Notes when and as the same shall be due and payable, whether on an interest payment date, at maturity, by acceleration, repurchase, redemption or otherwise, and interest on the overdue principal of and interest or premium (including the Interest Make-Whole Premium) (to the extent permitted by law) on the Notes (including, but not limited to, all interest accrued or accruing (or which would, absent commencement of an insolvency or liquidation proceeding (and the effect of provisions such as Section 502(b)(2) of the Bankruptcy Law), accrue) after commencement of an insolvency or liquidation proceeding, whether or not the claim for such interest is allowed as a claim in such insolvency or liquidation proceeding), and performance of all other Note Obligations of the Issuer and the Guarantors to the Holders or the Trustee under this Indenture and the Notes, according to the terms hereunder or thereunder, shall be secured by the Collateral, subject to any Intercreditor Agreement. Each Holder, by its acceptance of Notes, consents and agrees to the terms of any Intercreditor Agreement and the other Security Documents (including, without limitation, the provisions providing for foreclosure and release of Collateral) as the same may be in effect or may be amended, waived, supplemented or modified from time to time in accordance with its terms and authorizes and directs the Collateral Agent to enter into any Intercreditor Agreement and the other Security Documents and to perform its Note Obligations and exercise its rights thereunder in accordance therewith. At all times when the Trustee is not itself the Collateral Agent, the Issuer will deliver to the Trustee copies of all documents delivered to the Collateral Agent pursuant to the Security Documents. The Trustee and the Collateral Agent are hereby authorized to enter into the Security Documents, including any Intercreditor Agreement.

SECTION 11.2. ***Release of Collateral***

(a) Subject to subsections (b), (c) and (d) of this Section 11.2, Collateral will be released from the Lien and security interest created by the Security Documents in accordance with the provisions of the Security Documents which may include the following circumstances:

(i) if any Subsidiary that is a Guarantor is released from its Note Guarantee pursuant to the terms of this Indenture, that Subsidiary Guarantor's assets will also be released from the Liens securing the Notes;

(ii) pursuant to Section 9.2 hereof, with consent of Holders of the requisite percentage of the outstanding Notes;

(iii) if required in accordance with the terms of any Intercreditor Agreement;

(iv) if such Collateral becomes Excluded Assets or is permitted to be sold or disposed of pursuant to the terms of the Note Documents;

(v) if the Issuer exercises its Legal Defeasance option or Covenant Defeasance option pursuant to Sections 8.1, 8.2 and 8.3 hereof;

(vi) upon satisfaction and discharge of this Indenture or payment in full of all Note Obligations that are then due and payable pursuant to Section 13.1 hereof.

(b) In addition, upon the request of the Issuer pursuant to an Officers' Certificate certifying that all conditions precedent hereunder have been met and stating whether or not such release is in connection with a sale or disposition of assets and (at the sole cost and expense of the Issuer) the Collateral Agent will release Collateral that is sold, conveyed or disposed of in compliance with the provisions of this Indenture.

(c) Notwithstanding anything to the contrary contained herein, at any time the Trustee or Collateral Agent is requested to acknowledge or execute a release of Collateral, the Trustee and/or the Collateral Agent shall be entitled to receive an Officers' Certificate that, unless such release is required to be made automatically pursuant to the terms of the relevant Security Document, all conditions precedent in this Indenture or the Security Documents to such release have been complied with. The Trustee may, to the extent permitted by Sections 7.1 and 7.2 hereof, accept as conclusive evidence of compliance with the foregoing provisions the appropriate statements contained in such documents. Upon receipt of such documents the Trustee and/or Collateral Agent shall execute, deliver or acknowledge any instruments of termination, satisfaction or release reasonably requested of it to evidence the release of any Collateral permitted to be released pursuant to this Indenture or the Security Documents.

SECTION 11.3. ***Authorization of Actions by the Trustee Under the Security Documents***

Subject to the provisions of Sections 7.1 and 7.2 hereof and the terms of any Intercreditor Agreement, the Trustee may, in its sole discretion and without the consent of Holders, direct, on behalf of the Holders, the Collateral Agent to take all actions it deems necessary or appropriate in order to:

(i) enforce any of the terms of the Security Documents; and

(ii) collect and receive any and all amounts payable in respect of the Note Obligations of the Issuer hereunder.

The Trustee will have power to institute and maintain such suits and proceedings as it may deem expedient to prevent any impairment of the Collateral by any acts that may be unlawful or in violation of the Security Documents or this Indenture, and such suits and proceedings as the Trustee may deem expedient to preserve or protect its interests and the interests of Holders in the Collateral (including power to institute and maintain suits or proceedings to restrain the enforcement of or compliance with any legislative or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid if the enforcement of, or compliance with, such enactment, rule or order would impair the security interest hereunder or be prejudicial to the interests of Holders or of the Trustee).

SECTION 11.4. ***Authorization of Receipt of Funds by the Trustee Under the Security Documents***

The Trustee is authorized to receive any funds for the benefit of Holders distributed under the Security Documents, and to make further distributions of such funds to the Holders according to the provisions of this Indenture and the Security Documents.

SECTION 11.5. ***Termination of Security Interest***

Upon the payment in full of all obligations of the Issuer, or upon Legal Defeasance, the Trustee will, at the request of the Issuer, deliver a certificate to the Collateral Agent stating that such obligations have been paid in full, and instruct the Collateral Agent to release the Liens pursuant to this Indenture.

SECTION 11.6. ***Trustee's Duties with Respect to Collateral***

(a) Beyond the exercise of reasonable care in the custody thereof, the Trustee shall have no duty as to any Collateral in its possession or control or in the possession or control of any agent or bailee or any income thereon or as to preservation of rights against prior parties or any other rights pertaining thereto and the Trustee shall not be responsible for filing any financing or continuation statements or recording any documents or instruments in any public office at any time or times or otherwise perfecting or maintaining the perfection of any security interest in the Collateral. The Trustee shall be deemed to have exercised reasonable care in the custody of the Collateral in its possession if the Collateral is accorded treatment substantially equal to that which it accords its own property and shall not be liable or responsible for any loss or diminution in the value of any of the Collateral, by reason of the act or omission of any carrier, forwarding agency or other agent or bailee selected by the Trustee in good faith.

(b) The Trustee shall not be responsible for the existence, genuineness or value of any of the Collateral or for the validity, perfection, priority or enforceability of the Liens in any of the Collateral, whether impaired by operation of law or by reason of any action or omission to act on its part hereunder, except to the extent such action or omission constitutes gross negligence, bad faith or willful misconduct on the part of the Trustee, for the validity or sufficiency of the Collateral or any agreement or assignment contained therein, for the validity of the title of the Issuer to the Collateral, for insuring the Collateral or for the payment of taxes, charges, assessments or Liens upon the Collateral or otherwise as to the maintenance of the Collateral. The Trustee shall have no duty to ascertain or inquire as to the performance or observance of any of the terms of this Indenture or the Security Documents.

ARTICLE XII.

MISCELLANEOUS

SECTION 12.1. ***[Reserved].***

SECTION 12.2. ***Notices*.**

Any notices or other communications required or permitted under this Indenture shall be in writing, and shall be sufficiently given if made by hand delivery, by telex, by telecopier or registered or certified mail, postage prepaid, return receipt requested, addressed as follows:

if to the Issuer and/or any Subsidiary Guarantor:

c/o Chaparral Energy, Inc.
701 Cedar Lake Boulevard
Oklahoma City, OK 73114
Attn: General Counsel

if to the Trustee or the Collateral Agent:

Wilmington Savings Fund Society FSB
500 Delaware Avenue
Wilmington, Delaware 19801
Telecopier Number: (302) 421-9137
Attn: Geoffrey J. Lewis

The Issuer, the Subsidiary Guarantors and the Trustee by written notice to the other may designate additional or different addresses for notices to such Person. Any notice or communication to the Issuer or the Trustee shall be deemed to have been given or made as of the date so delivered if hand delivered; when receipt is acknowledged, if faxed; and five (5) calendar days after mailing if sent by registered or certified mail, postage prepaid (except that a notice of change of address shall not be deemed to have been given until actually received by the addressee).

Any notice or communication sent to a Holder shall be (x) mailed to him by first class mail or other equivalent means at his address as it appears on the registration books of the Registrar ten (10) days prior to such mailing and shall be sufficiently given to him if so mailed within the time prescribed or (y) sent as otherwise provided by the applicable procedures of DTC.

Failure to mail a notice or communication to a Holder or any defect in it shall not affect its sufficiency with respect to other Holders. If a notice or communication is mailed in the manner provided above, it is duly given, whether or not the addressee receives it.

SECTION 12.3. ***Communications by Holders with Other Holders*.**

Holders may communicate pursuant to TIA § 312(b) with other Holders with respect to their rights under this Indenture or the Notes. The Issuer, the Trustee, the Registrar and any other Person shall have the protection of TIA § 312(c).

SECTION 12.4. ***Certificate and Opinion as to Conditions Precedent*.**

Upon any request or application by the Issuer and/or any Subsidiary Guarantor to the Trustee to take any action under this Indenture, the Issuer and/or any Subsidiary Guarantor shall furnish to the Trustee:

(1) an Officers' Certificate, in form and substance satisfactory to the Trustee, stating that, in the opinion of the signers, all conditions precedent to be performed by the Issuer, if any, provided for in this Indenture relating to the proposed action have been complied with; and

(2) an Opinion of Counsel stating that, in the opinion of such counsel, all such conditions precedent to be performed by the Issuer, if any, provided for in this Indenture relating to the proposed action have been complied with (which counsel, as to factual matters, may rely on an Officers' Certificate).

SECTION 12.5. ***Statements Required in Certificate or Opinion*.**

Each certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture, other than the Officers' Certificate required by Section 4.6, shall include:

(1) a statement that the Person making such certificate or opinion has read such covenant or condition;

(2) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based;

(3) a statement that, in the opinion of such Person, he has made such examination or investigation as is reasonably necessary to enable him to express an informed opinion as to whether or not such covenant or condition has been complied with; and

(4) a statement as to whether or not, in the opinion of each such Person, such condition or covenant has been complied with.

SECTION 12.6. ***Rules by Trustee, Paying Agent, Registrar*.**

The Trustee may make reasonable rules in accordance with the Trustee's customary practices for action by or at a meeting of Holders. The Paying Agent or Registrar may make reasonable rules for its functions.

SECTION 12.7. ***Legal Holidays*.**

A "Legal Holiday" used with respect to a particular place of payment is a Saturday, a Sunday or a day on which commercial banking institutions in New York, New York or Dallas/Fort Worth, Texas or at such place of payment are authorized or required by law to close. If a payment date is a Legal Holiday at such place, payment may be made at such place on the

next succeeding day that is not a Legal Holiday, and no interest shall accrue for the intervening period.

SECTION 12.8. ***Governing Law*.**

THIS INDENTURE, THE NOTES AND THE SUBSIDIARY GUARANTEES SHALL BE GOVERNED BY AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK. Each of the parties hereto agrees to submit to the jurisdiction of the courts of the State of New York in any action or proceeding arising out of or relating to this Indenture.

SECTION 12.9. ***No Adverse Interpretation of Other Agreements*.**

This Indenture may not be used to interpret another indenture, loan or debt agreement of the Issuer or any of its Subsidiaries. Any such indenture, loan or debt agreement may not be used to interpret this Indenture.

SECTION 12.10. ***No Personal Liability*.**

No director, officer, employee, incorporator or stockholder of the Issuer or director, officer, employee, incorporator or stockholder of any Subsidiary Guarantor, as such, shall have any liability for any of the Issuer's obligations under the Notes or this Indenture, the Subsidiary Guarantors' obligations under the Subsidiary Guarantees or this Indenture or any claim based on, in respect of, or by reason of these obligations or their creation. Each Holder, by accepting a Note, waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes. The waiver may not be effective to waive liabilities under the federal securities laws and it is the view of the SEC that such a waiver is against public policy.

SECTION 12.11. ***Successors*.**

All agreements of the Issuer and the Subsidiary Guarantors in this Indenture, the Notes and the Subsidiary Guarantees shall bind their successors. All agreements of the Trustee in this Indenture shall bind its successors.

SECTION 12.12. ***Duplicate Originals*.**

All parties may sign any number of copies of this Indenture. Each signed copy shall be an original, but all of them together shall represent the same agreement. Delivery of an executed signature page to this Indenture by facsimile or other electronic transmission shall be effective as delivery of a manually executed counterpart thereof.

SECTION 12.13. ***Severability*.**

In case any one or more of the provisions in this Indenture or in the Notes shall be held invalid, illegal or unenforceable, in any respect for any reason, the validity, legality and enforceability of any such provision in every other respect and of the remaining provisions shall

not in any way be affected or impaired thereby, it being intended that all of the provisions hereof shall be enforceable to the full extent permitted by law.

SECTION 12.14. ***Independence of Covenants.***

All covenants and agreements in this Indenture and the Notes shall be given independent effect so that if any particular action or condition is not permitted by any of such covenants, the fact that it would be permitted by an exception to, or otherwise be within the limitations of, another covenant shall not avoid the occurrence of a Default or an Event of Default if such action is taken or condition exists.

SECTION 12.15. ***Waiver of Jury Trial.***

EACH OF THE ISSUER, EACH SUBSIDIARY GUARANTOR AND THE TRUSTEE HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS INDENTURE, THE NOTES, THE SUBSIDIARY GUARANTEES OR THE TRANSACTION CONTEMPLATED HEREBY.

SECTION 12.16. ***Electronic Storage.***

The parties hereto agree that the transactions described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files, and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action, or suit in the appropriate court of law.

ARTICLE XIII.

SUBSIDIARY GUARANTEE OF NOTES

SECTION 13.1. ***Unconditional Subsidiary Guarantee.***

Subject to the provisions of this Article XII, each Subsidiary Guarantor, if any, hereby, jointly and severally, unconditionally and irrevocably guarantees, on an unsecured senior basis to each Holder of a Note authenticated and delivered by the Trustee and to the Trustee and its successors and assigns, irrespective of the validity and enforceability of this Indenture, the Notes or the obligations of the Issuer or any other Subsidiary Guarantors to the Holders or the Trustee under this Indenture or thereunder, that: (a) the principal of, premium, if any, and interest on the Notes shall be duly and punctually paid in full when due, whether at maturity, upon redemption at the option of Holders pursuant to the provisions of the Notes relating thereto, by acceleration or otherwise, and interest on the overdue principal and (to the extent permitted by law) interest, if any, on the Notes and all other obligations of the Issuer or the Subsidiary Guarantors to the Holders or the Trustee under this Indenture or thereunder (including amounts due the Trustee under Section 7.7 hereof) and all other obligations shall be promptly paid in full or performed, all

in accordance with the terms hereof and thereof; and (b) in case of any extension of time of payment or renewal of any Notes or any of such other obligations, the same shall be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at maturity, by acceleration or otherwise. Failing payment when due of any amount so guaranteed, or failing performance of any other obligation of the Issuer to the Holders under this Indenture or under the Notes, for whatever reason, each Subsidiary Guarantor shall be obligated to pay, or to perform or cause the performance of, the same immediately. An Event of Default under this Indenture or the Notes shall constitute an event of default under the Subsidiary Guarantees, and shall entitle the Holders of Notes to accelerate the obligations of the Subsidiary Guarantors under this Indenture in the same manner and to the same extent as the obligations of the Issuer.

Each of the Subsidiary Guarantors hereby agrees that its obligations under this Indenture shall be unconditional, irrespective of the validity, regularity or enforceability of the Notes or this Indenture, the absence of any action to enforce the same, any waiver or consent by any Holder of the Notes with respect to any provisions hereof or thereof, any release of any other Subsidiary Guarantor, the recovery of any judgment against the Issuer, any action to enforce the same, whether or not a Subsidiary Guarantee is affixed to any particular Note, or any other circumstance which might otherwise constitute a legal or equitable discharge or defense of a guarantor. Each of the Subsidiary Guarantors hereby waives the benefit of diligence, presentment, demand of payment, filing of claims with a court in the event of insolvency or bankruptcy of the Issuer, any right to require a proceeding first against the Issuer, protest, notice and all demands whatsoever and covenants that its Subsidiary Guarantee shall not be discharged except by complete performance of the obligations contained in the Notes, this Indenture and its Subsidiary Guarantee. Each Subsidiary Guarantee is a guarantee of payment and not of collection. If any Holder or the Trustee is required by any court or otherwise to return to the Issuer or to any Subsidiary Guarantor, or any custodian, trustee, liquidator or other similar official acting in relation to the Issuer or such Subsidiary Guarantor, any amount paid by the Issuer or such Subsidiary Guarantor to the Trustee or such Holder, its Subsidiary Guarantee, to the extent theretofore discharged, shall be reinstated in full force and effect. Each Subsidiary Guarantor further agrees that, as between it, on the one hand, and the Holders of Notes and the Trustee, on the other hand, (a) subject to this Article XII, the maturity of the obligations guaranteed hereby may be accelerated as provided in Article VI hereof for the purposes of its Subsidiary Guarantee, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the obligations guaranteed hereby, and (b) in the event of any acceleration of such obligations as provided in Article VI hereof, such obligations (whether or not due and payable) shall forthwith become due and payable by the Subsidiary Guarantors for the purpose of its Subsidiary Guarantee.

No stockholder, officer, director, employee, partner or incorporator, past, present or future, or any Subsidiary Guarantor, as such, shall have any personal liability under the Subsidiary Guarantees by reason of his, her or its status as such stockholder, officer, director, employee, partner or incorporator.

SECTION 13.2. ***Limitations on Subsidiary Guarantees*.**

The obligations of each Subsidiary Guarantor under its Subsidiary Guarantee will be limited to the maximum amount which, after giving effect to all other contingent and fixed liabilities of such Subsidiary Guarantor and after giving effect to any collections from or payments made by or on behalf of any other Subsidiary Guarantor in respect of the obligations of such other Subsidiary Guarantor under its Subsidiary Guarantee or pursuant to its contribution obligations under this Indenture, will result in the obligations of such Subsidiary Guarantor under its Subsidiary Guarantee not constituting a fraudulent conveyance or fraudulent transfer under federal or state law.

SECTION 13.3. ***Execution and Delivery of Subsidiary Guarantee Notation*.**

To further evidence its Subsidiary Guarantee set forth in Section 12.1, each Subsidiary Guarantor hereby agrees that a notation of such Subsidiary Guarantee, substantially in the form of Exhibit D herein, shall be endorsed on each Note authenticated and delivered by the Trustee. Such notation shall be executed on behalf of each Subsidiary Guarantor by either manual or facsimile signature of one Officer of each Subsidiary Guarantor, who, in each case, shall have been duly authorized to so execute by all requisite corporate action. The validity and enforceability of any Subsidiary Guarantee shall not be affected by the fact that such notation is not affixed to any particular Note.

Each of the Subsidiary Guarantors hereby agrees that its Subsidiary Guarantee set forth in Section 12.1 shall remain in full force and effect notwithstanding any failure to endorse on each Note a notation of such Subsidiary Guarantee.

If an Officer of a Subsidiary Guarantor whose signature is on this Indenture or on a notation of a Subsidiary Guarantee no longer holds that office at the time the Trustee authenticates the Note on which such notation is endorsed or at any time thereafter, such Subsidiary Guarantor's Subsidiary Guarantee of such Note shall be valid nevertheless.

The delivery of any Note by the Trustee, after the authentication thereof under this Indenture, shall constitute due delivery of any Subsidiary Guarantee set forth in this Indenture on behalf of each Subsidiary Guarantor.

SECTION 13.4. ***Release of a Subsidiary Guarantor*.**

(a) If no Default exists or would exist under this Indenture, (i) upon the sale or disposition of all of the Capital Stock of a Subsidiary Guarantor by the Issuer or a Restricted Subsidiary of the Issuer in a transaction constituting an Asset Disposition in accordance with Section 4.16, or upon the consolidation or merger of a Subsidiary Guarantor with or into any Person in compliance with Article V (in each case, other than to the Issuer or an Affiliate of the Issuer or a Restricted Subsidiary), (ii) upon the designation of a Subsidiary Guarantor as an Unrestricted Subsidiary in accordance with the definition of "Unrestricted Subsidiary," (iii) in connection with any Legal Defeasance or satisfaction and discharge of the Notes as provided in Section 8.1 or (iv) upon the liquidation or dissolution of such Subsidiary Guarantor in a

transaction or series of related transactions that does not violate the terms of this Indenture, such Subsidiary Guarantor and each Subsidiary of such Subsidiary Guarantor that is also a Subsidiary Guarantor shall be deemed released from all obligations under this Article XII without any further action required on the part of the Trustee or any Holder; *provided*, *however*, that each such Subsidiary Guarantor is sold or disposed of or designated in accordance with this Indenture. Any Subsidiary Guarantor not so released or the entity surviving such Subsidiary Guarantor, as applicable, shall remain or be liable under its Subsidiary Guarantee as provided in this Article XII.

(b) The Trustee shall deliver an appropriate instrument evidencing the release of a Subsidiary Guarantor upon receipt of a request by the Issuer or such Subsidiary Guarantor accompanied by an Officers' Certificate certifying as to the compliance with this Section 12.4 and an Opinion of Counsel; *provided* the legal counsel delivering such Opinion of Counsel may rely as to matters of fact on one or more Officers Certificates of the Issuer.

Except as set forth in Articles IV and V and this Section 12.4, nothing contained in this Indenture or in any of the Notes shall prevent any consolidation or merger of a Subsidiary Guarantor with or into the Issuer or another Subsidiary Guarantor or shall prevent any sale or conveyance of the property of a Subsidiary Guarantor as an entirety or substantially as an entirety to the Issuer or another Subsidiary Guarantor.

SECTION 13.5. ***Waiver of Subrogation*.**

Until this Indenture is discharged and all of the Notes are discharged and paid in full, each Subsidiary Guarantor hereby irrevocably waives and agrees not to exercise any claim or other rights which it may now or hereafter acquire against the Issuer that arise from the existence, payment, performance or enforcement of the Issuer's obligations under the Notes or this Indenture and such Subsidiary Guarantor's obligations under its Subsidiary Guarantee and this Indenture, in any such instance including, without limitation, any right of subrogation, reimbursement, exoneration, contribution, indemnification, and any right to participate in any claim or remedy of the Holders against the Issuer, whether or not such claim, remedy or right arises in equity, or under contract, statute or common law, including, without limitation, the right to take or receive from the Issuer, directly or indirectly, in cash or other property or by set-off or in any other manner, payment or security on account of such claim or other rights. If any amount shall be paid to any Subsidiary Guarantor in violation of the preceding sentence and any amounts owing to the Trustee or the Holders of Notes under the Notes, this Indenture, or any other document or instrument delivered under or in connection with such agreements or instruments, shall not have been paid in full, such amount shall have been deemed to have been paid to such Subsidiary Guarantor for the benefit of, and held in trust for the benefit of, the Trustee or the Holders and shall forthwith be paid to the Trustee for the benefit of itself or such Holders to be credited and applied to the obligations in favor of the Trustee or the Holders, as the case may be, whether matured or unmatured, in accordance with the terms of this Indenture. Each Subsidiary Guarantor acknowledges that it will receive direct and indirect benefits from the financing arrangements contemplated by this Indenture and that the waiver set forth in this Section 12.5 is knowingly made in contemplation of such benefits.

SECTION 13.6. ***Immediate Payment.***

Each Subsidiary Guarantor agrees to make immediate payment to the Trustee on behalf of the Holders of all obligations under the Notes and this Indenture owing or payable to the respective Holders upon receipt of a demand for payment therefor by the Trustee to such Subsidiary Guarantor in writing.

SECTION 13.7. ***No Set-Off.***

Each payment to be made by a Subsidiary Guarantor under this Indenture in respect of the obligations under the Notes and this Indenture shall be payable in the currency or currencies in which such obligations are denominated, and shall be made without set-off, counterclaim, reduction or diminution of any kind or nature.

SECTION 13.8. ***Obligations Absolute.***

The obligations of each Subsidiary Guarantor under this Indenture are and shall be absolute and unconditional and any monies or amounts expressed to be owing or payable by each Subsidiary Guarantor under this Indenture which may not be recoverable from such Subsidiary Guarantor on the basis of a Subsidiary Guarantee shall be recoverable from such Subsidiary Guarantor as a primary obligor and principal debtor in respect thereof.

SECTION 13.9. ***Obligations Continuing.***

The obligations of each Subsidiary Guarantor under this Indenture shall be continuing and shall remain in full force and effect until all the obligations have been paid and satisfied in full. Each Subsidiary Guarantor agrees with the Trustee that it will from time to time deliver to the Trustee suitable acknowledgments of this continued liability under this Indenture and under any other instrument or instruments in such form as counsel to the Trustee may advise and as will prevent any action brought against it in respect of any default under this Indenture being barred by any statute of limitations now or hereafter in force and, in the event of the failure of a Subsidiary Guarantor so to do, it hereby irrevocably appoints the Trustee the attorney and agent of such Subsidiary Guarantor to make, execute and deliver such written acknowledgment or acknowledgments or other instruments as may from time to time become necessary or advisable, in the judgment of the Trustee on the advice of counsel, to fully maintain and keep in force the liability of such Subsidiary Guarantor under this Indenture.

SECTION 13.10. ***Obligations Not Reduced.***

The obligations of each Subsidiary Guarantor under this Indenture shall not be satisfied, reduced or discharged solely by the payment of such principal, premium, if any, interest, fees and other monies or amounts as may at any time prior to discharge of this Indenture pursuant to Article VIII be or become owing or payable under or by virtue of or otherwise in connection with the Notes or this Indenture.

SECTION 13.11. ***Obligations Reinstated.***

The obligations of each Subsidiary Guarantor under this Indenture shall continue to be effective or shall be reinstated, as the case may be, if at any time any payment which would otherwise have reduced the obligations of any Subsidiary Guarantor under this Indenture (whether such payment shall have been made by or on behalf of the Issuer or by or on behalf of a Subsidiary Guarantor) is rescinded or reclaimed from any of the Holders upon the insolvency, bankruptcy, liquidation or reorganization of the Issuer or any Subsidiary Guarantor or otherwise, all as though such payment had not been made. If demand for, or acceleration of the time for, payment by the Issuer is stayed upon the insolvency, bankruptcy, liquidation or reorganization of the Issuer, all such Indebtedness otherwise subject to demand for payment or acceleration shall nonetheless be payable by each Subsidiary Guarantor as provided herein.

SECTION 13.12. ***Obligations Not Affected.***

The obligations of each Subsidiary Guarantor under this Indenture shall not be affected, impaired or diminished in any way by any act, omission, matter or thing whatsoever, occurring before, upon or after any demand for payment under this Indenture (and whether or not known or consented to by any Subsidiary Guarantor or any of the Holders) which, but for this provision, might constitute a whole or partial defense to a claim against any Subsidiary Guarantor under this Indenture or might operate to release or otherwise exonerate any Subsidiary Guarantor from any of its obligations under this Indenture or otherwise affect such obligations, whether occasioned by default of any of the Holders or otherwise, including, without limitation:

(a) any limitation of status or power, disability, incapacity or other circumstance relating to the Issuer or any other person, including any insolvency, bankruptcy, liquidation, reorganization, readjustment, composition, dissolution, winding up or other proceeding involving or affecting the Issuer or any other person;

(b) any irregularity, defect, unenforceability or invalidity in respect of any Indebtedness or other obligation of the Issuer or any other person under this Indenture, the Notes or any other document or instrument;

(c) any failure of the Issuer, whether or not without fault on its part, to perform or comply with any of the provisions of this Indenture or the Notes, or to give notice thereof to a Subsidiary Guarantor;

(d) the taking or enforcing or exercising or the refusal or neglect to take or enforce or exercise any right or remedy from or against the Issuer or any other person or their respective assets or the release or discharge of any such right or remedy;

(e) the granting of time, renewals, extensions, compromises, concessions, waivers, releases, discharges and other indulgences to the Issuer or any other Person;

(f) any change in the time, manner or place of payment of, or in any other term of, any of the Notes, or any other amendment, variation, supplement, replacement or waiver of, or

any consent to departure from, any of the Notes or this Indenture, including, without limitation, any increase or decrease in the principal amount of or premium, if any, or interest on any of the Notes;

(g) any change in the ownership, control, name, objects, businesses, assets, capital structure or constitution of the Issuer or a Subsidiary Guarantor;

(h) any merger or amalgamation of the Issuer or a Subsidiary Guarantor with any Person or Persons;

(i) the occurrence of any change in the laws, rules, regulations or ordinances of any jurisdiction by any present or future action of any governmental authority or court amending, varying, reducing or otherwise affecting, or purporting to amend, vary, reduce or otherwise affect, any of the Issuer's obligations under the Notes or this Indenture or the obligations of a Subsidiary Guarantor under its Subsidiary Guarantee; and

(j) any other circumstance (other than by complete, irrevocable payment), including release of any other Subsidiary Guarantor pursuant to Section 12.4, that might otherwise constitute a legal or equitable discharge or defense of the Issuer under this Indenture or the Notes or of a Subsidiary Guarantor in respect of its Subsidiary Guarantee under this Indenture.

SECTION 13.13. ***Waiver*.**

Without in any way limiting the provisions of Section 12.1 hereof, each Subsidiary Guarantor hereby waives notice of acceptance hereof, notice of any liability of any Subsidiary Guarantor under this Indenture, notice or proof of reliance by the Holders upon the obligations of any Subsidiary Guarantor under this Indenture, and diligence, presentment, demand for payment on the Issuer, protest, notice of dishonor or non-payment of any of the Issuer's obligations, under the Notes or this Indenture, or other notice or formalities to the Issuer or any Subsidiary Guarantor of any kind whatsoever.

SECTION 13.14. ***No Obligation To Take Action Against the Issuer*.**

Neither the Trustee nor any other Person shall have any obligation to enforce or exhaust any rights or remedies or to take any other steps under any security for the Issuer's obligations under the notes or this Indenture, or against the Issuer or any other Person or any Property of the Issuer or any other Person before the Trustee is entitled to demand payment and performance by any or all Subsidiary Guarantors of their liabilities and obligations under their Subsidiary Guarantees or under this Indenture.

SECTION 13.15. ***Dealing with the Issuer and Others*.**

The Holders, without releasing, discharging, limiting or otherwise affecting in whole or in part the obligations and liabilities of any Subsidiary Guarantor under this Indenture and without the consent of or notice to any Subsidiary Guarantor, may:

(a) grant time, renewals, extensions, compromises, concessions, waivers, releases, discharges and other indulgences to the Issuer or any other Person;

(b) take or abstain from taking security or collateral from the Issuer or from perfecting security or collateral of the Issuer;

(c) release, discharge, compromise, realize, enforce or otherwise deal with or do any act or thing in respect of (with or without consideration) any and all collateral, mortgages or other security given by the Issuer or any third party with respect to the obligations or matters contemplated by this Indenture or the Notes;

(d) accept compromises or arrangements from the Issuer;

(e) apply all monies at any time received from the Issuer or from any security upon such part of the Issuer's obligations under the Notes and this Indenture as the Holders may see fit or change any such application in whole or in part from time to time as the Holders may see fit; and

(f) otherwise deal with, or waive or modify their right to deal with, the Issuer and all other Persons and any security as the Holders or the Trustee may see fit.

SECTION 13.16. ***Default and Enforcement*.**

If any Subsidiary Guarantor fails to pay in accordance with Section 12.6 hereof, the Trustee may proceed in its name as trustee under this Indenture in the enforcement of the Subsidiary Guarantee of any such Subsidiary Guarantor and such Subsidiary Guarantor's obligations thereunder and under this Indenture by any remedy provided by law, whether by legal proceedings or otherwise, and to recover from such Subsidiary Guarantor its obligations thereunder and under this Indenture.

SECTION 13.17. ***Amendment, Etc*.**

No amendment, modification or waiver of any provision of this Indenture relating to any Subsidiary Guarantor or consent to any departure by any Subsidiary Guarantor or any other Person from any such provision will in any event be effective unless it is signed by such Subsidiary Guarantor and the Trustee.

SECTION 13.18. ***Acknowledgment*.**

Each Subsidiary Guarantor hereby acknowledges communication of the terms of this Indenture and the Notes and consents to and approves of the same.

SECTION 13.19. ***Costs and Expenses*.**

Each Subsidiary Guarantor shall pay on demand by the Trustee any and all reasonable costs, fees and expenses (including, without limitation, legal fees on a solicitor and client basis)

incurred by the Trustee, its agents, advisors and counsel or any of the Holders in enforcing any of their rights under any Subsidiary Guarantee.

SECTION 13.20. ***No Merger or Waiver; Cumulative Remedies*.**

No Subsidiary Guarantee shall operate by way of merger of any of the obligations of a Subsidiary Guarantor under any other agreement, including, without limitation, this Indenture. No failure to exercise and no delay in exercising, on the part of the Trustee or the Holders, any right, remedy, power or privilege under this Indenture or the Notes shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege under this Indenture or the Notes preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges in the Subsidiary Guarantee and under this Indenture, the Notes and any other document or instrument between a Subsidiary Guarantor and/or the Issuer and the Trustee are cumulative and not exclusive of any rights, remedies, powers and privilege provided by law.

SECTION 13.21. ***Survival of Obligations*.**

Without prejudice to the survival of any of the other obligations of each Subsidiary Guarantor under this Indenture, the obligations of each Subsidiary Guarantor under Section 12.1 shall survive the payment in full of the Issuer's obligations under the Notes and this Indenture and shall be enforceable against such Subsidiary Guarantor without regard to and without giving effect to any defense, right of offset or counterclaim available to or which may be asserted by the Issuer or any Subsidiary Guarantor.

SECTION 13.22. ***Subsidiary Guarantee in Addition to Other Obligations*.**

The obligations of each Subsidiary Guarantor under its Subsidiary Guarantee and this Indenture are in addition to and not in substitution for any other obligations to the Trustee or to any of the Holders in relation to this Indenture or the Notes and any guarantees or security at any time held by or for the benefit of any of them.

SECTION 13.23. ***Severability*.**

Any provision of this Article XII which is prohibited or unenforceable in any jurisdiction shall not invalidate the remaining provisions and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction unless its removal would substantially defeat the basic intent, spirit and purpose of this Indenture and this Article XII.

SECTION 13.24. ***Successors and Assigns***.

Each Subsidiary Guarantee shall be binding upon and inure to the benefit of each Subsidiary Guarantor and the Trustee and the other Holders and their respective successors and permitted assigns, except that no Subsidiary Guarantor may assign any of its obligations under this Indenture or thereunder.

[Signature pages follow]

IN WITNESS WHEREOF, the parties hereto have caused this Indenture to be duly executed as of the date first written above.

ISSUER:

CHAPARRAL ENERGY, INC.

By: _____
Name:
Title:

SUBSIDIARY GUARANTORS:

CHAPARRAL RESOURCES, L.L.C.
CHAPARRAL REAL ESTATE, L.L.C.
CHAPARRAL CO2, L.L.C.
CEI PIPELINE, L.L.C.
CHAPARRAL ENERGY, L.L.C.
[CEI ACQUISITION, L.L.C.
GREEN COUNTRY SUPPLY, INC.
CHAPARRAL BIOFUELS, L.L.C.
CHAPARRAL EXPLORATION, L.L.C.
ROADRUNNER DRILLING, L.L.C.]
CHARLES ENERGY, L.L.C
CHESTNUT ENERGY, L.L.C.
TRABAJO ENERGY, L.L.C.

By: _____
Name:
Title:

WILMINGTON SAVINGS FUND SOCIETY
FSB, as Trustee and as Collateral Agent

By: _____
Name:
Title:

EXHIBIT 1

Blackline of New Corporate Governance Documents

FOURTH AMENDED AND RESTATED

CERTIFICATE OF INCORPORATION

of

CHAPARRAL ENERGY, INC.

CHAPARRAL ENERGY, INC., a corporation organized and existing under the laws of the State of Delaware, hereby certifies as follows:

A. The name of the corporation is CHAPARRAL ENERGY, INC. (the "Corporation"). The Corporation was originally incorporated by the filing of a Certificate of Incorporation with the Secretary of State of the State of Delaware on September 14, 2005 (the "Incorporation Date"), which was amended and restated on September 26, 2006, again on April 12, 2010, and again on March 21, 2017 (as amended, the "Original Certificate of Incorporation").

B. This Fourth Amended and Restated Certificate of Incorporation (this "Certificate of Incorporation") has been duly adopted in accordance with Sections 242, 245 and 303 of the Delaware General Corporation Law (the "DGCL"), pursuant to the authority granted to the Corporation under Section 303 of the DGCL and in accordance with the *Debtors' Joint Prepackaged Chapter 11 Plan of Reorganization*, as confirmed by that certain order of the United States Bankruptcy Court for the District of Delaware entered on [●], 2020 (as confirmed, including any amendments and supplements thereto, the "Plan"), in *In re: Chaparral Energy, Inc., et al.*, No. 20-11947 (MFW) under Chapter 11 of the United States Bankruptcy Code (11 U.S.C. §§ 101-1330), as amended (the "Bankruptcy Code").

C. The Original Certificate of Incorporation is hereby amended and restated to read in its entirety as follows:

1. **Name.** The name of the corporation is CHAPARRAL ENERGY, INC. (the "Corporation"). Capitalized terms used and not otherwise defined in this Certificate of Incorporation shall have the meanings given to them in Section 19 hereof.

2. **Registered Office and Agent.** The address of the registered office of the Corporation in the State of Delaware is [●]. The name of the registered agent of the Corporation at such address is [●].

3. **Purpose.** The nature of the business or purposes to be conducted or promoted by the Corporation is to engage in any lawful act or activity for which corporations may be organized under the DGCL.

4. **Authorized Capital Stock; Number of Shares.** The total number of shares of all classes of capital stock that the Corporation shall have the authority to issue is [●] ([●])] shares, of which (a) [●] million ([●])] shares shall be common stock, $0.01 par value per share ("Common Stock"); and (b) [●] ([●])] shares shall be preferred stock, $0.01 par value per share ("Preferred Stock"), which may be issued in one or more series as set forth below.

Notwithstanding anything herein to the contrary, the Corporation shall not issue any non-voting equity securities to the extent prohibited by Section 1123(a)(6) of the Bankruptcy Code; *provided*, *however*, that the foregoing restriction (i) shall have no further force and effect beyond that required under Section 1123(a)(6) of the Bankruptcy Code, (ii) shall only have such force and effect to the extent and for so long as such Section 1123(a)(6) is in effect and applies to the Corporation and (iii) may be amended or eliminated in accordance with applicable law as from time to time may be in effect.

5. **Rights of Stockholders.**

5.1 ***Preferred Stock.*** Shares of Preferred Stock may be issued from time to time in one or more series. The rights, restrictions and other terms applicable to the shares of Preferred Stock of any such series shall be set forth in a Certificate of Designation for such series filed by the Corporation with the Secretary of State of the State of Delaware (each, a "Certificate of Designation"). Subject to applicable law and to the terms of the Stockholders Agreement (as defined below) and the provisions of this Certificate of Incorporation, the Board of Directors is authorized to determine the designation of any series of Preferred Stock, to fix the number of shares of any series of the Preferred Stock, and to determine the rights, powers (including voting powers, if any), preferences, privileges, limitations and restrictions granted to or imposed upon any series of Preferred Stock and, within the limits and restrictions stated in any resolution or resolutions of the Board of Directors originally fixing the number of shares constituting any series of Preferred Stock, to increase or decrease (but not below the number of shares of such series then outstanding) the number of shares of such series at any time subsequent to the designation of such series by the Board of Directors. If the number of shares of any series of Preferred Stock shall be so decreased, the shares constituting such decrease shall resume the status which they had prior to the adoption of the resolution(s) originally fixing the number of shares of such series.

5.2 ***Common Stock.***

5.2.1 *Relative Rights*. The Common Stock shall be limited by, and subject to, all of the rights, powers, preferences, privileges and priorities of any outstanding series of Preferred Stock.

5.2.2 *Dividends*. Subject to the terms of the Stockholders Agreement and the rights of any outstanding series of Preferred Stock, the Board of Directors may cause dividends to be declared and paid on outstanding shares of Common Stock out of funds legally available for the payment of dividends. When, as and if dividends on Common Stock are declared by the Board of Directors, whether payable in cash, in property, in stock or otherwise, in accordance with this Certificate of Incorporation and the Bylaws of the Corporation, as in effect from time to time (the "Bylaws"), out of the assets of the Corporation which are at law available therefor, the holders of outstanding shares of Common Stock shall be entitled to share equally in, and to receive in

accordance with the number of shares of Common Stock held by each such holder, all such dividends.

5.2.3 *Liquidation Rights*. In the event of any liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, and subject to the rights of any outstanding series of Preferred Stock, the holders of issued and outstanding shares of Common Stock shall be entitled to share, ratably according to the number of shares of Common Stock held by each such holder, in the remaining assets of the Corporation available for distribution to its stockholders after the payment, or provision for payment, of all debts and other liabilities of the Corporation.

5.2.4 *Stockholder Voting Rights*. Subject to applicable law and except as otherwise expressly provided elsewhere in this Certificate of Incorporation or the Bylaws, and subject to the voting rights, if any, of any outstanding series of Preferred Stock, each holder of record of one or more issued and outstanding shares of Common Stock shall be entitled to one vote for each share of Common Stock standing in such holder's name on the books of the Corporation.

5.3 ***Consideration*.** Subject to applicable law and except as otherwise provided in this Certificate of Incorporation and the Stockholders Agreement, the capital stock of the Corporation, regardless of class or series, may be issued for such consideration and for such corporate purposes as the Board of Directors may from time to time determine.

5.4 ***Special Approval Requirements for Certain Actions***. In addition to any other vote of stockholders or stockholder or Board of Directors approval that may be required by law or by the provisions of this Certificate of Incorporation, so long as the Stockholders Agreement is in effect, whether or not specifically provided for in this Certificate of Incorporation, neither the Corporation nor any of its subsidiaries nor their Board of Directors shall take any action that under the terms of the Stockholders Agreement first requires a vote, consent or approval from one or more holders of Common Stock and/or members of the Board of Directors to be obtained, without first obtaining such required vote, consent or approval.

Stockholders Agreement. To the fullest extent permitted by law, every holder of shares of Common Stock shall be subject to, shall be required to enter into, and shall be deemed to have entered into and to be bound by, the Stockholders Agreement of the Corporation to be entered into pursuant to the Plan and dated as of the "Effective Date" under the Plan (such date, the "Plan Effective Date"), by and among the Corporation and its stockholders (as may be amended, supplemented or otherwise modified from time to time in accordance with the provisions thereof, the "Stockholders Agreement"), including without limitation the restrictions on transfer of Common Stock set forth therein, from and after such time as such holder receives any shares of Common Stock (whether by sale, gift, inheritance or other Transfer, as a distribution under the Plan, through the exercise or conversion of options, warrants, convertible notes or other convertible securities, by operation of law or otherwise), and the Stockholders Agreement shall be deemed to be a valid and binding obligation of such stockholder, enforceable against each such holder in accordance with its terms (including any provisions thereof that require the holder to waive or refrain from exercising any appraisal, dissenters or similar rights), in each case even if such holder has not actually executed a counterpart signature page or joinder (or other written instrument pursuant to which such holder agrees to be bound thereby) to the Stockholders Agreement. In the event the Stockholders Agreement is terminated at any time in accordance with

its terms, all references to "Stockholders Agreement" contained in this Certificate of Incorporation shall, from and after the effective time of such termination, automatically cease to be of any further force or effect. If any provisions of this Section 5.5 or the application thereof to any Person or circumstance are to any extent held by a court of competent jurisdiction to be invalid or unenforceable for any reason, the applicability of the remainder of this Section 5.5 to such Person or circumstance, and the application of such provision(s) to other Persons and circumstances, shall not be affected thereby and such provisions shall be enforced to the greatest extent permitted by law. The Corporation shall furnish without charge to each holder of record of shares of Common Stock a copy of the Stockholders Agreement upon written request to the Secretary of the Corporation at the Corporation's principal executive office.

6. **Transfers of Shares.**

6.1 ***Restrictions on Transfer***. Without limiting any other provisions or restrictions or conditions of this Section 6, unless otherwise waived by the Board of Directors in its sole discretion, no shares of Common Stock or Preferred Stock shall be Transferred by any stockholder (regardless of the manner in which the Transferor initially acquired such shares of Common Stock or Preferred Stock), if such Transfer (a) would, if consummated, result in any violation of the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder or any state securities laws or regulations, or any other applicable federal or state laws or order of any Governmental Authority having jurisdiction over the Corporation or (b) is not made in accordance with the applicable provisions of the Stockholders Agreement.

6.2 ***Legends on Certificates***. All certificates (if any) evidencing shares of Common Stock or Preferred Stock shall conspicuously bear, or shall be deemed to conspicuously bear (even if such certificate does not actually bear such legends), the legends required by the Stockholders Agreement (to the extent the Stockholders Agreement requires such certificates to bear such legends) and such other legends as the Board of Directors determines are necessary or appropriate. Each stockholder shall be deemed to have actual knowledge of the terms, provisions, restrictions and conditions set forth in this Certificate of Incorporation and the Stockholders Agreement (including, without limitation, the restrictions on Transfer set forth in this Section 6 and the restrictions on Transfer set forth in the Stockholders Agreement) for all purposes of this Certificate of Incorporation, the Stockholders Agreement and applicable law (including, without limitation, the DGCL and the Uniform Commercial Code as adopted and in effect in any applicable jurisdiction), whether or not any certificate evidencing shares of Common Stock or Preferred Stock owned or held by such stockholder bear the legends required by the Stockholders Agreement or whether or not any such stockholder received a separate notice of such terms, provisions, restrictions and conditions.

6.3 ***Prohibited Transfers Void***. The Corporation shall not record upon its books any sale or other Transfer of securities except in accordance with the provisions of this Certificate of Incorporation and (to the extent applicable) the Stockholders Agreement. Any purported sale or Transfer in violation of such provisions shall be void *ab initio* and shall not be recognized by the Corporation for any purpose.

7. **Board of Directors**.

7.1 ***General***. Except as may otherwise be provided in this Certificate of Incorporation, the Bylaws, the Stockholders Agreement or the DGCL, the business of the Corporation shall be managed by the Board of Directors. This Section 7 is inserted for the management and conduct of the business and affairs of the Corporation and is intended to be in furtherance of and not in limitation or exclusion of the powers conferred on the Board of Directors by applicable law.

7.2 ***Composition of the Board of Directors; Term; Removal***.

7.2.1 The number of directors constituting the whole Board of Directors shall be fixed from time to time by a vote of a majority of the directors then in office; provided, that upon the Plan Effective Date such number shall be fixed at seven (7) and shall not subsequently be fixed at fewer than five (5) directors nor more than seven (7) directors except with the prior approval by holders of a majority of the aggregate voting power of the shares of capital stock then outstanding. Except as otherwise provided in the Stockholders Agreement, each director shall hold office until the next annual meeting of stockholders and until his or her successor is duly elected and qualified in accordance with the terms of this Certificate of Incorporation, the Bylaws and the Stockholders Agreement, or his or her earlier death, resignation or removal.

7.2.2 Except as otherwise provided by the Stockholders Agreement, and subject to the voting rights, if any, of holders of any outstanding series of Preferred Stock, at each annual meeting of stockholders, directors shall be elected for a one-year term by affirmative vote of a ~~majority~~plurality (or such other threshold as may be specified in the Stockholders Agreement) of the aggregate combined voting power of the Corporation's then issued and outstanding shares of Common Stock, present in person or represented by proxy at a meeting called for the purpose of electing directors. Directors may also be elected by written consent of the stockholders if and to the extent provided for in the Stockholders Agreement. There shall not be cumulative voting for directors.

7.2.3 Any director may be removed at any time in accordance with the Stockholders Agreement. In the event the chief executive officer of the Corporation is serving as a director and his or her employment as chief executive officer is terminated for any reason, such Person shall automatically, upon such termination, cease to serve as a director and be deemed to have resigned from the Board of Directors.

7.2.4 Except as otherwise provided by the Stockholders Agreement, any vacancies in the Board of Directors resulting from any director's death, resignation, removal or other cause, shall be filled as provided in the Bylaws.

8. **Compromise, Arrangement or Reorganization.** Whenever a compromise or arrangement is proposed between the Corporation and its creditors or any class of them and/or between the Corporation and its stockholders or any class of them, any court of equitable jurisdiction within the State of Delaware may, on the application in a summary way of the Corporation or of any creditor or stockholder thereof or on the application of any receiver or receivers appointed for the Corporation under the provisions of Section 291 of the DGCL or on the application of trustees in dissolution or of any receiver or receivers appointed for the

Corporation under the provisions of Section 279 of the DGCL, order a meeting of the creditors or class of creditors, and/or of the stockholders or class of stockholders of the Corporation, as the case may be, to be summoned in such manner as the said court directs. If a majority in number representing three-fourths in value of the creditors or class of creditors, and/or of the stockholders or class of stockholders of the Corporation, as the case may be, agree to any compromise or arrangement and to any reorganization of the Corporation as a consequence of such compromise or arrangement, the said compromise or arrangement and the said reorganization shall, if sanctioned by the court to which the said application has been made, be binding on all the creditors or class of creditors, and/or on all the stockholders or class of stockholders, of the Corporation, as the case may be, and also on the Corporation.[1]

9. **Limitation of Liability.** To the fullest extent permitted by the DGCL, no director of the Corporation serving in such capacity (at any time, including prior to the date hereof) shall be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director arising from acts or omissions (at any time, including prior to the date hereof), including breaches resulting from such director's grossly negligent behavior, except for liability (a) for any breach of the director's duty of loyalty to the Corporation or its stockholders, (b) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (c) under Section 174 of the DGCL or (d) for any transaction from which the director derived any improper personal benefits. If the DGCL is hereafter amended to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of the Corporation arising from acts or omissions (at any time, including prior to the date hereof) shall be eliminated or limited to the fullest extent permitted by the DGCL, as so amended. Any amendment, repeal or modification of this Section 9 by the stockholders of the Corporation shall not adversely affect any right or protection of a director of the Corporation existing at or prior to the time of such amendment, repeal or modification.

10. **Corporate Opportunity.** The Corporation hereby renounces, to the fullest extent permitted by law, any interest or expectancy of the Corporation in, or in being offered an opportunity to participate in, business ventures or opportunities that are presented to any of its directors who are not employed by the Corporation or any of its subsidiaries ("Non-Employee Directors") or to any Affiliate of any such director; *provided*, *however*, that notwithstanding anything contained herein, this Section 10 shall not apply to business ventures or opportunities presented or offered to a Non-Employee Director solely in his or her capacity as a director of the Corporation (including as a member of any committee of the Board of Directors or any governing body of any subsidiary of the Corporation). Without limiting the generality of the foregoing, the Corporation specifically renounces any rights the Corporation might have in any business venture or business opportunity of any Non-Employee Director or Affiliate thereof, and no Non-Employee Director shall have any obligation to offer any interest in any such business venture or opportunity to the Corporation or otherwise account to the Corporation in respect of any such business ventures or opportunities, even if the business venture or opportunity is one that the Corporation or its subsidiaries might reasonably be deemed to have pursued or had the ability or desire to pursue if granted the opportunity to do so. Furthermore, (a) it shall not be deemed a breach of any fiduciary or other duty, whether express or implied, for any Non-Employee Director or any of its Affiliates

[1] Note to Draft: Delaware counsel reviewing.

to engage in a business venture or opportunity in preference or to the exclusion of the Corporation and (b) a Non-Employee Director or Affiliate thereof shall have no obligation to (i) disclose to the Board of Directors or the Corporation any information in the possession of such Non-Employee Director or Affiliate thereof regarding any business ventures or opportunities even if it is material and relevant to the Corporation and/or the Board of Directors or (ii) refrain from engaging in any line of business or from investing in or doing business with any Person. Any Person purchasing or otherwise acquiring any interest in capital stock of the Corporation shall be deemed to have notice of and to have consented to the provisions of this Section 10.

11. **DGCL Section 203.** The Company expressly elects not to be governed by Section 203 of the DGCL.

12. **Indemnification.**

12.1 To the fullest extent permitted by law, the Corporation shall indemnify any Person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding ("Proceeding"), whether civil, criminal, administrative or investigative (other than an action by or in the right of the Corporation) with respect to any act or omission by reason of the fact that the Person is or was a director or officer of the Corporation (at any time, including prior to the date hereof), or is or was (at any time, including prior to the date hereof) serving at the request of the Corporation as a director or officer of another corporation, partnership, joint venture, trust or other enterprise ("Other Entity"), against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by the Person in connection with such Proceeding if the Person acted in good faith and in a manner the Person reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe the Person's conduct was unlawful. The termination of any Proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the Person did not act in good faith and in a manner which the Person reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that the Person's conduct was unlawful. To the fullest extent permitted by law, the Corporation shall indemnify any Person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Corporation to procure a judgment in its favor with respect to any act or omission by reason of the fact that the Person is or was a director, officer, employee or agent of the Corporation (at any time, including prior to the date hereof), or is or was (at any time, including prior to the date hereof) serving at the request of the Corporation as a director, officer, employee or agent of an Other Entity, against expenses (including attorneys' fees) actually and reasonably incurred by the Person in connection with the defense or settlement of such action or suit if the Person acted in good faith and in a manner the Person reasonably believed to be in or not opposed to the best interests of the Corporation, except that no indemnification shall be made in respect of any claim, issue or matter as to which such Person shall have been adjudged to be liable to the Corporation unless and only to the extent that the Court of Chancery of the State of Delaware (the "Court of Chancery") or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the

circumstances of the case, such Person is fairly and reasonably entitled to indemnity for such expenses which the Court of Chancery or such other court shall deem proper.

12.2 The Corporation shall, from time to time, reimburse or advance to any director or officer entitled to indemnification hereunder the funds necessary for payment of expenses, including reasonable attorneys' fees and disbursements, incurred in connection with any Proceeding, in advance of the final disposition of such Proceeding; *provided*, *however*, that, if required by the DGCL, such expenses incurred by or on behalf of any director or officer may be paid in advance of the final disposition of a Proceeding only upon receipt by the Corporation of an undertaking, by or on behalf of such director or officer, to repay any such amount so advanced if it shall ultimately be determined by final judicial decision from which there is no further right of appeal that such director or officer is not entitled to be indemnified for such expenses.

12.3 The rights to indemnification and reimbursement or advancement of expenses provided by, or granted pursuant to, this Section 12 shall not be deemed exclusive of any other rights to which a Person seeking indemnification or reimbursement or advancement of expenses may have or hereafter be entitled under any statute, this Certificate of Incorporation, the Bylaws, any agreement (including any policy of insurance purchased or provided by the Corporation under which directors, officers, employees and other agents of the Corporation are covered), any vote of stockholders or disinterested directors or otherwise, both as to action in his or her official capacity and as to action in another capacity while holding such office.

12.4 The rights to indemnification and reimbursement or advancement of expenses provided by, or granted pursuant to, this Section 12 shall continue as to a Person who has ceased to be a director or officer and shall inure to the benefit of the executors, administrators, legatees and distributees of such Person.

12.5 The Corporation shall maintain insurance on behalf of any Person who is or was a director or officer of the Corporation (at any time, including prior to the date hereof), or is or was (at any time, including prior to the date hereof) serving at the request of the Corporation as a director or officer of an Other Entity, against any liability asserted against such Person and incurred by such Person in any such capacity, or arising out of such Person's status as such, whether or not the Corporation would have the power to indemnify such Person against such liability under the provisions of this Section 12, the Bylaws, the Stockholders Agreement or under Section 145 of the DGCL or any other provision of law.

12.6 The provisions of this Section 12 shall be a contract between the Corporation, on the one hand, and each director and officer who serves in such capacity at any time while this Section 12 is in effect, on the other hand, pursuant to which the Corporation and each such director or officer intend to be legally bound. Notwithstanding anything to the contrary contained in this Certificate of Incorporation, no amendment, repeal or modification of this Section 12 shall affect any rights or obligations with respect to any state of facts then or theretofore existing or any proceeding theretofore or thereafter brought or threatened based in whole or in part upon any such state of facts.

12.7 The rights to indemnification and reimbursement or advancement of expenses provided by, or granted pursuant to, this Section 12 shall be enforceable by any Person entitled to

such indemnification or reimbursement or advancement of expenses in any court of competent jurisdiction. Neither the failure of the Corporation (including its Board of Directors, its independent legal counsel and its stockholders) to have made a determination prior to the commencement of such action that such indemnification or reimbursement or advancement of expenses is proper in the circumstances nor an actual determination by the Corporation (including its Board of Directors, its independent legal counsel and its stockholders) that such Person is not entitled to such indemnification or reimbursement or advancement of expenses shall constitute a defense to the action or create a presumption that such Person is not so entitled. Such a Person shall also be indemnified, to the fullest extent permitted by law, for any expenses incurred in connection with successfully establishing his or her right to such indemnification or reimbursement or advancement of expenses, in whole or in part, in any such action.

12.8 Any director or officer of the Corporation serving in any capacity in (i) another corporation of which a majority of the shares entitled to vote in the election of its directors is held, directly or indirectly, by the Corporation or (ii) any employee benefit plan of the Corporation or any corporation referred to in clause (i) shall be deemed to be doing so at the request of the Corporation.

12.9 Any Person entitled to be indemnified or to reimbursement or advancement of expenses as a matter of right pursuant to this Section 12 may elect to have the right to indemnification or reimbursement or advancement of expenses interpreted on the basis of the applicable law in effect at the time of the occurrence of the event or events giving rise to the applicable Proceeding, to the extent permitted by law, or on the basis of the applicable law in effect at the time such indemnification or reimbursement or advancement of expenses is sought. Such election shall be made, by a notice in writing to the Corporation, at the time indemnification or reimbursement or advancement of expenses is sought; *provided*, *however*, that if no such notice is given, the right to indemnification or reimbursement or advancement of expenses shall be determined by the law in effect at the time indemnification or reimbursement or advancement of expenses is sought.

12.10 It is the intent that with respect to all advancement, reimbursement and indemnification obligations under this Section 12, the Corporation shall be the indemnitor of first resort (*i.e.*, its obligations to indemnitees under this Certificate of Incorporation are primary and any obligation of any stockholder (or any of its Affiliates) to provide advancement or indemnification for the same losses incurred by indemnitees are secondary), and if a stockholder pays or causes to be paid, for any reason, any amounts otherwise indemnifiable hereunder or under any other indemnification agreement (whether pursuant to this Certificate of Incorporation, the Bylaws, the Stockholders Agreement, contract, law or regulation), then (i) such stockholder (or such Affiliate, as the case may be) shall be fully subrogated to all rights hereunder of the indemnitee with respect to such payment and (ii) the Corporation shall reimburse such stockholder (or such Affiliate, as the case may be) for the payments actually made and waive any right of subrogation, reimbursement, exoneration, contribution or indemnification and any right to participate in any claim or remedy of such stockholder (or such Affiliate, as the case may be).

13. **Books and Records.** The books and records of the Corporation may be kept (subject to any provision contained in the DGCL or other applicable law) at such place or places as may be designated from time to time by the Board of Directors or in the Bylaws.

14. **Notices.** All notices, requests, waivers and other communications made pursuant to this Certificate of Incorporation shall be in writing and shall be deemed to have been effectively given or delivered (a) when personally delivered to the party to be notified; (b) if given by electronic transmission in the manner provided in Section 232 of the DGCL; (c) three (3) Business Days after deposit in the United States mail, postage prepaid, by certified or registered mail with return receipt requested, addressed to the party to be notified; or (d) one (1) Business Day after deposit with a national overnight delivery service, postage prepaid, addressed to the party to be notified with next-Business Day delivery guaranteed, in each case as follows: (i) in the case of any stockholder, to such stockholder at its address or facsimile number set forth in the stock records of the Corporation; and (ii) in the case of the Corporation, to the Secretary of the Corporation at the Corporation's principal executive office. A party may change its address for purposes of notice hereunder by giving notice of such change in the manner provided in this Section 14.

15. **Amendments.** The Corporation reserves the right to amend, alter, change or repeal any provision contained in this Certificate of Incorporation, in the manner now or hereafter prescribed by the DGCL and in accordance with the terms of the Stockholders Agreement.

16. **Forum**. Unless the Corporation consents in writing to the selection of an alternative forum, the Court of Chancery shall, to the fullest extent permitted by law, be the sole and exclusive forum for (a) any derivative action or proceeding brought on behalf of the Corporation, (b) any action asserting a claim for breach of a fiduciary duty owed by any director, officer, employee or agent of the Corporation to the Corporation or the Corporation's stockholders, (c) any action asserting a claim arising pursuant to any provision of the DGCL, this Certificate of Incorporation or the Bylaws, or (d) any action asserting a claim governed by the internal affairs doctrine, in each case subject to said Court of Chancery having personal jurisdiction over the indispensable parties named as defendants therein. Any Person purchasing or otherwise acquiring shares of capital stock of the Corporation shall be deemed to have notice of and consented to the provisions of this Section 16.

17. **Enforceability; Severability**. Each provision of this Certificate of Incorporation shall be enforceable in accordance with its terms to the fullest extent permitted by law, but in case any one or more of the provisions contained in this Certificate of Incorporation shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Certificate of Incorporation, and this Certificate of Incorporation shall be construed as if such invalid, illegal or unenforceable provision or provisions had never been contained herein.

18. **Bylaws; Inconsistent Provisions**. In furtherance and not in limitation of the powers conferred by law and except as otherwise set forth in the Stockholders Agreement, the Board of Directors is expressly authorized and empowered to adopt, amend or repeal any or all of the Bylaws without any action on the part of the stockholders of the Corporation, subject to the power of the stockholders of the Corporation to amend or repeal any Bylaws adopted or amended by the Board of Directors. If there is any conflict between the provisions of the Stockholders Agreement and this Certificate of Incorporation, the provisions of the Stockholders Agreement will prevail unless for them to do so would be in contravention of the requirements of the DGCL.

19. **Certain Definitions.** As used in this Certificate of Incorporation, the following terms shall have the following meanings:

(i) "Affiliate" means, with respect to any Person, any other Person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the specified Person, and shall also include (i) any Related Fund of such Person and (ii) in the case of a specified Person who is an individual, any Family Member of such Person; *provided*, *however*, that a Stockholder (or any Affiliate thereof) shall not be deemed an Affiliate of any another Person solely by reason of the Stockholder's being a party to the Stockholders Agreement. For purposes hereof, the term "control" (including the terms "controlling", "controlled by" and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract, or otherwise.

(ii) "Business Day" means any day, other than a day which is a Saturday, Sunday or other day on which banks in New York City, New York are required or authorized to be closed.

(iii) "Family Member" means, with respect to any individual, (i) any of such individual's parents, spouse, siblings, children and grandchildren or (ii) any trust the sole beneficiaries of which are such individual or one or more of such individual's parents, spouse, siblings, children and grandchildren.

(iv) "Person" means an individual, partnership, corporation, unincorporated organization, joint stock company, limited liability company, association, trust or joint venture, or a governmental agency or political subdivision thereof.

(v) "Related Fund" means, with respect to any Person, any fund, account or investment vehicle that is controlled or managed by (x) such Person or an Affiliate thereof, (y) the same investment manager or advisor as such Person or (z) an Affiliate of such investment manager or advisor.

(vi) "Transfer" means any direct or indirect sale, transfer, gift, hypothecation, pledge, assignment, devise or other disposition of Common Stock or Preferred Stock (including (x) the granting of any option or entering into any agreement for the future sale, transfer or other disposition of Common Stock or Preferred Stock, or (y) the sale, transfer, assignment or other disposition of any securities or rights convertible into, or exchangeable or exercisable for, Common Stock or Preferred Stock), whether voluntary or involuntary, whether of record, constructively or beneficially and whether by operation of law or otherwise, including by recapitalization, merger, consolidation, liquidation, dissolution, dividend, distribution or otherwise. Notwithstanding the foregoing, any transaction in which a stockholder lends or borrows any shares of Common Stock or Preferred Stock to or from brokers, banks, or other financial institutions for the purpose of effecting margin transactions, or pledges or otherwise encumbers shares of Common Stock or Preferred Stock in connection with such stockholder's financing arrangements, in any case in the ordinary course of business, shall not constitute a Transfer of shares of Common Stock or

Preferred Stock for purposes of this Certificate of Incorporation; provided, however, that any foreclosure (including the retention of shares of Common Stock in satisfaction of any obligations) on shares of Common Stock or Preferred Stock by any such broker, bank or other financial institution shall be deemed a Transfer of shares of Common Stock or Preferred Stock for purposes of this Certificate of Incorporation. The terms "Transferee," "Transferor," "Transferred," and other forms of the word "Transfer" shall have the correlative meanings.

[*Remainder of Page Intentionally Left Blank*]

IN WITNESS WHEREOF, the undersigned has executed this Fourth Amended and Restated Certificate of Incorporation as of this [●] day of [●], 2020.

CHAPARRAL ENERGY, INC.

By: _____
Name:
Title:

Summary report: **Litera® Change-Pro for Word 10.10.0.103 Document comparison done on 9/23/2020 11:07:26 AM**	
Style name: Comments+Color Legislative Moves+Images	
Intelligent Table Comparison: Active	
Original filename: (78181089_3) CHAP - A&R Certificate of Incorp - Reorganized Chaparral.DOC	
Modified filename: (78181089_6) CHAP - A&R Certificate of Incorp - Reorganized Chaparral.DOC	
Changes:	
Add	4
~~Delete~~	1
~~Move From~~	0
Move To	0
Table Insert	0
~~Table Delete~~	0
Table moves to	0
~~Table moves from~~	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
Total Changes:	5

CHAPARRAL ENERGY, INC.

STOCKHOLDERS AGREEMENT

This STOCKHOLDERS AGREEMENT (this "Agreement"), dated as of [●], 2020, is made by and among CHAPARRAL ENERGY, INC., a Delaware corporation (the "Company"), each of the Initial Stockholders (as defined below) that has executed a counterpart signature page to this Agreement or is deemed to have entered into this Agreement pursuant to the Plan (as defined below) as described in Section 12.8 hereof, and each other Person (as defined below) that hereafter becomes a Stockholder (as defined below). Capitalized terms used and not otherwise defined herein shall have the meanings set forth for such terms in Article I hereof.

W I T N E S S E T H :

WHEREAS, (a) on August 16, 2020, the Company and certain of its Subsidiaries filed voluntary petitions for relief in the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court"), commencing cases under Chapter 11 of title 11 of the United States Code (the "Bankruptcy Code"), (b) on [●], 2020, the Bankruptcy Court entered an order (*In re Chaparral Energy, Inc., et al.,* No. 20-11947 (MFW)) (the Confirmation Order") confirming the *Debtors' Joint Prepackaged Chapter 11 Plan of Reorganization* (as confirmed, including any amendments and supplements thereto, the "Plan"), and (c) the "Effective Date" of the Plan (the "Effective Date") is occurring on the date of this Agreement;

WHEREAS, pursuant to the Plan and the Confirmation Order, on the Effective Date, (a) the holders of Senior Notes Claims (as defined in the Plan) received or became entitled to receive, in partial satisfaction of such claims, shares of the Company's newly issued Common Stock, par value $0.01 per share (the "Common Stock"), representing in the aggregate one hundred percent (100%) of the Company's outstanding capital stock as of the Effective Date, and (b) the Convertible Notes were issued to the Backstop Parties and the holders of Senior Notes Claims who subscribed for Convertible Notes in the Rights Offering (as defined in the Plan);

WHEREAS, as of the Effective Date, each of the Initial Stockholders has executed and delivered to the Company a counterpart signature page to this Agreement or, pursuant to the Plan and the Confirmation Order, is bound by and is deemed to have agreed to, this Agreement; and

NOW THEREFORE, in consideration of the premises and the mutual agreements, covenants and provisions contained herein, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound hereby, agree as follows:

ARTICLE I

CERTAIN DEFINITIONS

Section 1.1 As used in this Agreement, the following terms shall have the definitions set forth below:

(a) "Accelerated Purchaser" has the meaning specified in Section 5.1(f).

(b) "Accelerated Sale" has the meaning specified in Section 5.1(f).

(c) ~~(a)~~ "Accredited Investor" has the meaning given to such term in Rule 501 under the Securities Act.

(d) ~~(b)~~ "Affiliate" means, with respect to any Person, any other Person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the specified Person, and shall also include (i) any Related Fund of such Person and (ii) in the case of a specified Person who is an individual, any Family Member of such Person; *provided*, *however*, that a Stockholder (or any Affiliate thereof) shall not be deemed an Affiliate of any another Person solely by reason of the Stockholder's being a party to this Agreement. For purposes hereof, the term "control" (including the terms "controlling", "controlled by" and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract, or otherwise.

(e) ~~(c)~~ "Agreement" has the meaning specified in the preamble of this Agreement.

(f) ~~(d)~~ "Amzak Stockholders" has the meaning specified in Section 6.2(b).

(g) ~~(e)~~ "At-Large Director" means an independent Director who (i) is not a Designated Director, (ii) is nominated in accordance with the Bylaws and (iii) is elected by the Company's stockholders in accordance with the Bylaws.

(h) ~~(f)~~ "Avenue Stockholders" has the meaning specified in Section 6.2(b).

(i) ~~(g)~~ "Backstop Party" has the meaning given to such term in the Backstop Purchase Agreement.

(j) ~~(h)~~ "Backstop Purchase Agreement" means the Backstop Purchase Agreement, dated as of August 15, 2020, by and among the Company, its Subsidiaries, and the Backstop Parties party thereto.

(k) ~~(i)~~ "Bankruptcy Code" has the meaning specified in the recitals to this Agreement.

(l) ~~(j)~~ "Bankruptcy Court" has the meaning specified in the recitals to this Agreement.

(b) "beneficial owner" (and related terms such as "beneficial ownership") shall have the meaning given to such term in Rule 13d-3 under the Exchange Act, and any Person's beneficial ownership of securities shall be calculated in accordance with the provisions of such Rule.

(c) "Board of Directors" means the Board of Directors of the Company.

(d) "Business Day" means any day other than a day which is a Saturday, Sunday or other day on which banks in New York City, New York are required or authorized to be closed.

(e) "Bylaws" means the Third Amended and Restated Bylaws of the Company in the form attached hereto as Exhibit A, as may be amended in accordance with the terms thereof and the terms of this Agreement and in effect from time to time.

(f) "CEO" means the Chief Executive Officer of the Company.

(g) "Certificate of Incorporation" means the Fourth Amended and Restated Certificate of Incorporation of the Company in the form attached hereto as Exhibit B, as filed by the Company with the Secretary of State of the State of Delaware on or prior to the date hereof, as may be amended in accordance with the terms thereof and the terms of this Agreement and in effect from time to time.

(h) "Chairman of the Board" means the Chairman of the Board of Directors.

(i) "Common Stock" has the meaning specified in the recitals to this Agreement. For purposes of this Agreement, if the Common Stock has been reclassified or changed, or if the Company pays a dividend or makes a distribution on the Common Stock in shares of capital stock, or subdivides (or combines) the outstanding shares of Common Stock into a greater (or smaller) number of shares of Common Stock, a share of Common Stock shall be deemed to be such number of shares of stock and amount of other securities to which a holder of a share of Common Stock outstanding immediately prior to such change, reclassification, exchange, dividend, distribution, subdivision or combination would be entitled to hold as a result of such change, reclassification, exchange, dividend, distribution, subdivision or combination.

(j) "Company Asset Sale" means the bona fide sale, lease, transfer, conveyance or other disposition to a Third Party Purchaser, in a single transaction or a series of related transactions, of all or substantially all of the consolidated assets of the Company and its Subsidiaries, taken as a whole, whether directly or indirectly.

(k) "Company Entities" means, collectively, the Company and all of its wholly-owned Subsidiaries.

~~(e) "Company ROFO Notice" has the meaning specified in Section 10.2(c).~~

~~(f) "Company ROFO Period" has the meaning specified in Section 10.2(c).~~

~~(g) "Company ROFO Right" has the meaning specified in Section 10.2(d).~~

(l) ~~(h)~~ "Company Stock Sale" means the bona fide sale, transfer, conveyance or other disposition to a Third Party Purchaser, in a single transaction or a series of related transactions, of all of the outstanding shares of Common Stock ~~and [, if applicable,] the Convertible Notes~~, whether directly or indirectly, or by way of any merger, consolidation, statutory share exchange, recapitalization, sale of equity, reclassification, consolidation or other business combination transaction or purchase of beneficial ownership.

(m) ~~(i)~~ "Competitor" means any Person identified on a list of competitors maintained by the Board of Directors, which list shall be made available to all Stockholders upon reasonable request, and which list may be updated from time to time by the Board of Directors. The determination of whether any particular Person is a Competitor shall be made by the Company in its good faith business judgment.

(n) ~~(j)~~ "Confirmation Order" has the meaning specified in the recitals to this Agreement.

(o) ~~(k)~~ "Company" has the meaning specified in the preamble of this Agreement.

(p) "Company ROFO Offer" has the meaning specified in Section 10.2(b).

(q) ~~(l)~~ "Convertible Notes" means the 9.0%/13.0% Second Lien Secured Convertible PIK Toggle Notes due 2025 issued pursuant to the ~~New~~ Convertible Notes Indenture ~~(as defined in the Plan)~~, in the initial aggregate principal amount as of the Effective Date of $35,000,000.

(r) "Convertible Notes Indenture" means the indenture governing the Convertible Notes, dated as of the Effective Date, by and among the Company, as issuer, and the New Convertible Notes Trustee (as defined in the Plan).

(s) ~~(m)~~ "Data Room" has the meaning specified in Section 7.1(a).

(t) ~~(n)~~ "Designated Director" means, with respect to any Designating Stockholder (x) any Director for whom the Designating Stockholder is identified as such in Schedule 6.2 and (y) any other Director who was elected as a result of being nominated or designated pursuant to such Designating Stockholder's exercise of its Designation Right, in each case for so long as such individual continues to serve as a Director.

(u) ~~(o)~~ "Designating Stockholders" means, collectively, the Millstreet Stockholders, the Avenue Stockholders, the Amzak Stockholders, and, if applicable, any other Stockholder to whom a Designation Right has been Transferred in accordance with this Agreement, in each case so long as it has a Designation Right. A Designating Stockholder shall automatically cease to be a Designating Stockholder if and when it ceases to have any Designation Rights.

(v) ~~(p)~~ "Designation Right" means any of the following: (i) the exclusive right of the Millstreet Stockholders to nominate one or more Directors pursuant to Section 6.2(b)(i), (ii) the exclusive right of the Avenue Stockholders to nominate a Director pursuant to

Section 6.2(b)(ii), (iii) the exclusive right of the Amzak Stockholders to nominate a Director pursuant to Section 6.2(b)(iii), (iv) if applicable, the right of any Designating Stockholder to whom any of the foregoing rights have been Transferred in accordance with this Agreement and (v) the right of the Designating Stockholders to collectively nominate an independent Director pursuant to Section 6.2(b)(iv), in each case together with the exclusive right to remove, at any time, the Director serving in such Designated Director seat and to fill vacancies with respect to such Designated Director seat in accordance with Section 6.3.

(w) ~~(q)~~ "Director" means, at any time of determination, any director then serving on the Board of Directors .

(x) ~~(r)~~ "Disinterested Director Approval" means, with respect to any particular matter, the affirmative vote at a duly held meeting of the Board of Directors (at which a quorum is present) of a majority of the Directors then in office who are "disinterested" with respect to such matter, or the unanimous written consent of all Directors then in office so long as at least one of the Directors is "disinterested" with respect to such matter.

(y) ~~(s)~~ "DGCL" means the General Corporation Law of the State of Delaware.

(z) ~~(t)~~ "Drag-Along ~~Documents~~Closing" has the meaning specified in Section 3.1(~~i~~a).

(aa) ~~(u)~~ "Drag-Along Notice" has the meaning specified in Section 3.1(a).

(bb) ~~(v)~~ "Drag-Along Purchaser" has the meaning specified in Section 3.1(a).

(cc) ~~(w)~~ "Drag-Along Sale" has the meaning specified in Section 3.1(b).

(dd) ~~(x)~~ "Dragged Holders" has the meaning specified in Section 3.1(a).

(ee) ~~(y)~~ "Effective Date" has the meaning specified in the recitals to this Agreement.

~~(z) "Equity Holder" means any Person who is a Stockholder and/or a holder of Convertible Notes.~~

(ff) ~~(aa)~~ "~~Equity Securities" means~~ ~~any shares of Common Stock or Convertible Notes.~~Electing Tag-Along Seller" has the meaning specified in Section 4.1(a).

(gg) ~~(bb)~~ "Exchange Act" means the Securities Exchange Act of 1934, as amended, and the rules and regulations of the SEC promulgated thereunder.

(hh) ~~(cc)~~ "Excluded Issuance" means (i) the issuance and distribution of shares of Common Stock pursuant to and in accordance with the Plan; (ii) any issuance of shares of Common Stock upon conversion of Convertible Notes or upon exercise of New Warrants (as defined in the Plan), (iii) any issuance of shares of Common Stock by means of a *pro rata* distribution to all Stockholders; (iv) any issuance of shares of Common Stock or other equity awards pursuant to the Management Incentive Plan or any future director or employee equity plan

approved by the Board of Directors, including shares of Common Stock issued upon the vesting of awards issued pursuant thereto; (v) any issuance of shares of Common Stock as purchase price consideration in a merger or acquisition transaction approved by the Board of Directors, or as an "equity kicker" to the lenders in a bona fide debt financing transaction approved by the Board of Directors and (vi) the issuance of shares of Common Stock in an initial Public Offering.

(ii) ~~(dd)~~ "Family Member" means, with respect to any individual, (i) any of such individual's parents, spouse, siblings, children and grandchildren or (ii) any trust the sole beneficiaries of which are such individual or one or more of such individual's parents, spouse, siblings, children and grandchildren.

(jj) "Final Tag-Along Percentage" has the meaning specified in Section 4.1(a).

(kk) ~~(ee)~~ "GAAP" means United States generally accepted accounting principles.

(ll) ~~(ff)~~ "Holder ROFO ~~Right~~Offer" has the meaning specified in Section 10.2(~~d~~b).

(mm) ~~(gg)~~ "Information" has the meaning specified in Section 12.3(a).

~~(hh) "Initial Board" has the meaning specified in Section 6.2(a).~~

(nn) ~~(ii)~~ "Initial Stockholder" means any Person that has received or is entitled to receive a distribution of shares of Common Stock pursuant to the Plan and has duly executed and delivered to the Company a counterpart signature page to this Agreement, or is deemed to have entered into this Agreement pursuant to the Plan as further specified in Section 12.8 hereof and in Section IV.C(3) of the Plan and the Confirmation Order.

(oo) ~~(jj)~~ "Initiating Drag-Along Holders" has the meaning specified in Section 3.1(a).

~~(kk) "Initiating Holders" means (a) with respect to any Drag-Along Sale, the Initiating Drag-Along Holders and (b) with respect to any Tag-Along Sale, the Initiating Tag-Along Holders.~~

(pp) ~~(ll)~~ "Initiating Tag-Along Holders" has the meaning specified in Section 4.1(a).

(qq) ~~(mm)~~ "Joinder Agreement" means a Joinder Agreement in the form attached hereto as Exhibit C, or otherwise in form and substance acceptable to the Board of Directors in its discretion, pursuant to which a Person agrees to become bound as a Stockholder party to this Agreement.

(rr) ~~(nn)~~ "Key Action" means any of the following:

(i) any direct or indirect sale or other disposition (including by way of equity sale, asset sale, lease, merger, consolidation or similar transaction), in one

transaction or a series of related transactions, of all or substantially all of the consolidated assets of the Company and its Subsidiaries, taken as a whole; *provided*, *however*, that any such transaction that is solely between two or more Company Entities (excluding any Company Entity that is not a wholly-owned Subsidiary) shall not constitute a Key Action;

(ii) the dissolution and/or winding up of the Company;

(iii) any material amendment or modification to the Certificate of Incorporation or the Bylaws;

(iv) any change to the size of the Board of Directors;

(v) the incurrence of indebtedness, by the Company and its Subsidiaries on a consolidated basis, in an aggregate principal amount greater than fifty million dollars ($50,000,000), excluding any indebtedness incurred in an amount necessary to refinance amounts outstanding (at the time of such refinancing) under the Exit Revolving Facility (as defined in the Plan), the Second Out Term Loan Facility (as defined in the Plan) and/or any other indebtedness previously approved as a Key Action;

(vi) hiring or terminating the CEO;

(vii) declaring or making dividends or distributions to, or redeeming or repurchasing shares from, the Company's stockholders, other than (A) repurchases or redemptions contemplated by the terms of this Agreement or the terms of any employment or similar agreement entered into with the Company or any of its Subsidiaries (including the Management Incentive Plan) or (B) dividends or other distributions by a wholly owned Subsidiary of the Company to the Company or another wholly owned Subsidiary of the Company;

(viii) any acquisition, disposition or sale of assets by any Company Entity outside the ordinary course of business for a purchase price that exceeds fifty million dollars ($50,000,000); *provided*, *however*, that any such transaction that is solely between two or more Company Entities (excluding any Company Entity that is not a wholly-owned Subsidiary) shall not constitute a Key Action; or

~~(ix) adoption of any stockholder rights plan, share purchase rights plan, poison pill or similar plan which is designed to impede the acquisition of a Common Stock and/or other equity interests in excess of a specified threshold; or~~

(ix) ~~(x)~~ entering into any binding agreement or commitment to do any of the foregoing.

(ss) ~~(oo)~~ "Lien" means any lien, encumbrance, claim, right, demand, charge, option, pledge, security interest or similar interest, title defect, hypothecation, right of first refusal, preemptive right, judgment, and all other impositions, imperfections, defects, limitations or restrictions of any nature or kind whatsoever.

(tt) ~~(pp)~~ "Majority Stockholder Approval" means the approval of one or more Stockholders holding, in the aggregate, more than fifty percent (50.0%) of the outstanding shares of Common Stock, which approval is obtained (i) by the affirmative vote of such Stockholders at a duly convened stockholder meeting or (ii) by the written consent of such Stockholders in accordance with the Bylaws.

(uu) ~~(qq)~~ "Management Incentive Plan" means the management incentive plan to be established and implemented with respect to the Company (and/or its Subsidiaries) by the Board of Directors after the Effective Date, as provided for in the Plan.

(vv) ~~(rr)~~ "MD&A" has the meaning specified in Section 7.1(b).

(ww) ~~(ss)~~ "Millstreet Stockholders" has the meaning specified in Section 6.2(b).

(xx) ~~(tt)~~ "New Securities" has the meaning specified in Section 5.1(a).

(yy) ~~(uu) "Non-Employee Director~~"New Securities Issuance" has the meaning specified in Section ~~6.5~~5.1(a).

(zz) ~~(vv) "Offered Shares~~"Non-Employee Director" has the meaning specified in Section ~~10.2(b)~~6.5.

(aaa) ~~(ww)~~ "Offering ~~Equity~~ Holder" has the meaning specified in Section 10.2(a).

(bbb) ~~(xx)~~ "Permitted Lien" means any Liens that are imposed (i) by this Agreement or (ii) under applicable securities laws.

(ccc) ~~(yy)~~ "Person" means any natural person, corporation, limited liability, partnership, unincorporated organization, joint stock company, association, joint venture, trust, or other legal entity, or a governmental agency or political subdivision thereof.

(ddd) ~~(zz)~~ "Plan" has the meaning specified in the recitals to this Agreement.

(eee) ~~(aaa)~~ "Preemptive Rights Election Notice" has the meaning specified in Section 5.1(~~a~~b).

(fff) ~~(bbb) "Pro Rata Portion~~"Preemptive Rights Offer Notice" has the meaning specified in Section 5.1(a).

(ggg) "Preemptive Rights Offer Period" has the meaning specified in Section 5.1(b).

(hhh) "Pro Rata Portion" means, for any Significant Stockholder with respect to any New Securities Issuance, (x) the total amount of New Securities offered in the New Securities Issuance, *multiplied by* (y) a fraction in which the numerator is the total number of shares of Common Stock then held by such Significant Stockholder and the denominator is the total number

of shares of Common Stock then held, in the aggregate, by all Significant Stockholders, in each case as of the date of the applicable Preemptive Rights Offer Notice.

(iii) ~~(ccc)~~ "Public Offering" means a public offering of Common Stock or other capital stock of the Company pursuant to an effective registration statement under the Securities Act (other than on Form S-4, Form S-8 or any successor to such forms).

(jjj) ~~(ddd)~~ "Qualified Institutional Buyer" has the meaning given to such term in Rule 144A under the Securities Act.

(kkk) ~~(eee)~~ "Qualified Public Offering" means (A) a bona fide, marketed underwritten Public Offering of Common Stock after the closing of which the Common Stock is listed or quoted on the New York Stock Exchange, the NASDAQ Stock Market or any other national securities exchange~~,~~ or (B) a "direct listing" of the Common Stock on any such exchange, in ~~either~~the case of clause (A) which satisfies at least one of the following two criteria: (i) the gross cash proceeds of such offering exceed seventy-five million dollars ($75,000,000) or (ii) at least twenty percent (20%) of the outstanding shares of Common Stock shall have been issued or sold to the public in such offering.

(lll) ~~(fff)~~ "Related Fund" means, with respect to any Person, any fund, account or investment vehicle that is controlled or managed by (x) such Person or an Affiliate thereof, (y) the same investment manager or advisor as such Person or (z) an Affiliate of such investment manager or advisor.

(mmm)~~(ggg)~~ "Related Party" means: (i) any Director or member of a Subsidiary Governing Body, any executive officer of a Company Entity, or an immediate family member of any such Person; (ii) any Person (other than a Company Entity) of which an individual described in clause (i) hereof is a partner, director or executive officer; (iii) any Person (or any Affiliate thereof) that beneficially owns, or otherwise controls (or shares control of), at least ten percent (10.0%) of the Total Equity Interests; or (iv) any director or executive officer of a Person described in clause (iii) hereof (or an immediate family member of any such director or executive officer).

(nnn) ~~(hhh)~~ "Related Party Transaction" means any transaction, contract, agreement, understanding, arrangement, loan, advance or guarantee (or series of related transactions, contracts, agreements, understandings, arrangements, loans, advances or guarantees) between any Company Entity and a Related Party, but shall exclude the following: (i) any purchase of conventional insurance products from national insurance companies for the benefit of the Company and its Subsidiaries in the ordinary course of the Company's business; (ii) any dividend payments or distributions to all holders of Common Stock that are approved by the Board of Directors; (iii) any payment of reasonable and customary compensation and fees to, and indemnities provided for the benefit of, and reimbursement of expenses incurred by, officers, directors, employees or consultants of any Company Entity in the ordinary course of the Company's business, in each case, as approved by the Board of Directors; (iv) any employment agreements, benefit plans (including the Management Incentive Plan) and similar arrangements for employees and directors of any Company Entity (including the issuance of Common Stock or other equity interests thereunder) which, in each case, are approved by the Board of Directors; (v) any advances and loans to officers, employees or consultants of any Company Entity in an amount

less than one hundred thousand dollars ($100,000) in the aggregate outstanding at any time, in each case, in connection with the anticipated incurrence of business expenses by such officers, employees or consultants or the relocation of such officers, employees or consultant in connection with such individual's services to the Company; (vi) transactions with Related Parties that were the subject of a competitive bidding process involving multiple third-party bidders in the ordinary course consistent with past practice; and (vii) any transactions wholly between or among two or more Company Entities.

~~(iii) "Remaining Shares" has the meaning specified in Section 10.2(c).~~

(ooo) ~~(jjj)~~ "Representative" means, with respect to any Person, any and all directors, officers, employees, consultants, financial advisors, counsel, accountants and other agents of such Person.

(ppp) ~~(kkk)~~ "ROFO ~~Holder~~Acceptance Notice" has the meaning specified in Section 10.2(~~a~~d).

(qqq) ~~(lll)~~ "ROFO ~~Notice~~Holder" has the meaning specified in Section 10.2(~~b~~a).

(rrr) ~~(mmm)~~ "ROFO ~~Portion~~Offer" has the meaning specified in Section 10.2(~~d~~e).

(sss) ~~(nnn)~~ "ROFO ~~Securities~~Sale" has the meaning specified in Section 10.2(a).

(ttt) ~~(ooo)~~ "ROFO ~~Terms~~Sale Notice" has the meaning specified in Section 10.2(b).

(uuu) "ROFO Shares" has the meaning specified in Section 10.2(a).

(vvv) ~~(ppp)~~ "Securities Act" means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

~~(qqq) "Shares" has the meaning specified in Section 6.1.~~

(www) ~~(rrr)~~ "Significant Stockholder" means each ~~Equity Holder~~Stockholder that (i) was a Backstop Party (or is an Affiliate of a Backstop Party) and (ii) at the time of determination holds (including shares held by its Affiliates) at least the lesser of (x) five percent (5.0%) of the Total Equity Interests and (y) fifty percent (50.0%) of the Total Equity Interests that such ~~Equity Holder~~Stockholder (together with its Affiliates) received or was entitled to receive on the Effective Date.

(xxx) "Specified Tag-Along Shares" has the meaning specified in Section 4.1(a).

(yyy) ~~(sss)~~ "Stockholders" means, collectively, (i) the Initial Stockholders and (ii) all other Persons who (A) become a holder of shares of Common Stock (*provided*, that the Transfer or issuance by which such Person acquired such shares was made in accordance with the applicable provisions of this Agreement) and (B) become a party to this Agreement by duly executing and

delivering to the Company a Joinder Agreement or are deemed or required by the Plan, the Confirmation Order, this Agreement or the Certificate of Incorporation to become a party hereto.

(zzz) ~~(ttt)~~ "Subsidiary" means any Person in which the Company, directly or indirectly through one or more Subsidiaries or otherwise, beneficially owns more than fifty percent (50.0%) of either the equity interests in, or the voting control of, such Person.

(aaaa) ~~(uuu)~~ "Subsidiary Governing Body" means the board of directors, board of managers or other governing body of any wholly-owned Subsidiary of the Company.

(bbbb) ~~(vvv)~~ "Supermajority Stockholder Approval" means the approval of one or more Stockholders holding, in the aggregate, more than sixty-six and two-thirds percent (66-2/3%) of the outstanding shares of Common Stock, which approval is obtained (i) by the affirmative vote of such Stockholders at a duly convened stockholder meeting or (ii) by the written consent of such Stockholders in accordance with the Bylaws.

(cccc) ~~(www)~~ "Tag-Along Buyer" has the meaning specified in Section 4.1(a).

(dddd) "Tag-Along Closing" has the meaning specified in Section 4.1(c).

(eeee) "Tag-Along ~~Sale~~Election Deadline" has the meaning specified in Section 4.1(a).

(ffff) "Tag-Along Percentage" means, with respect to any Tag-Along Sale, the quotient, expressed as a percentage, of (x) the total number of shares of Common Stock that the Initiating Tag-Along Holders are proposing to Transfer to the Tag-Along Buyer pursuant to the Tag-Along Sale, divided by (y) the total number of shares of Common Stock held by the Initiating Tag-Along Holders.

(gggg) "Tag-Along Sale" has the meaning specified in Section 4.1(a).

(hhhh) ~~(yyy)~~ "Tag-Along Sale Notice" has the meaning specified in Section 4.1(a).

(iiii) ~~(zzz)~~ "Tag-Along Sellers" has the meaning specified in Section 4.1(a).

(jjjj) "Tag-Along Share Cap" has the meaning specified in Section 4.1(a).

(kkkk) ~~(aaaa)~~ "Third Party Purchaser" means, with respect to any Drag-Along Sale, any Person (other than the Company, the Initiating Drag-Along Holders, or any Affiliate thereof or any Related Party) or group of such Persons that is the purchaser in such Drag-Along Sale.

(llll) ~~(bbbb)~~ "Total Equity Interests" means, at any time of determination, a number of shares of Common Stock equal to the sum of (w) the total shares of Common Stock then outstanding *plus* (x) the total shares of Common Stock issuable upon conversion of all Convertible Notes then outstanding. For any Person, the percentage of the Total Equity Interests held by such Person at any time of determination shall be equal to the quotient (expressed as a percentage) of (y) the sum of the shares of Common Stock then held by such Person *plus* the shares

of Common Stock issuable upon conversion of all Convertible Notes then held by such Person, *divided by* (z) the Total Equity Interests.

(mmmm) ~~(cccc)~~ "Transfer" means any direct or indirect sale, transfer, gift, hypothecation, pledge, assignment, devise or other disposition of ~~Equity Securities~~Common Stock (including (x) the granting of any option or entering into any agreement for the future sale, transfer or other disposition of Common Stock ~~or Convertible Notes~~, or (y) the sale, transfer, assignment or other disposition of any securities or rights convertible into, or exchangeable or exercisable for, Common Stock ~~or Convertible Notes~~), whether voluntary or involuntary, whether of record, constructively or beneficially and whether by operation of law or otherwise, including by recapitalization, merger, consolidation, liquidation, dissolution, dividend, distribution or otherwise. Notwithstanding the foregoing, the following transactions shall not constitute a Transfer of ~~Equity Securities~~Common Stock for purposes of this Agreement: (i~~) [the issuance, sale or other Transfer of publicly traded equity interests in an investment fund or pooled investment vehicle that is an Equity Holder or the direct or indirect parent of an Equity Holder, (ii~~) the issuance, sale or other Transfer of publicly traded equity securities in any Person that is ~~an Equity Holder~~a Stockholder or the direct or indirect parent of ~~an Equity Holder~~a Stockholder (for purposes hereof, "publicly traded equity interests" means equity interests of a class that is registered under Section 12(b) or 12(g) of the Securities Act ~~[~~and~~][or]~~ is actively traded on a national securities exchange or any of the OTC markets), and (~~iii~~ii)~~]~~ any transaction in which ~~an Equity Holder~~a Stockholder lends or borrows any ~~Equity Securities~~shares of Common Stock to or from brokers, banks, or other financial institutions for the purpose of effecting margin transactions, or pledges or otherwise encumbers ~~Equity Securities~~shares of Common Stock in connection with such ~~Equity Holder's~~Stockholder's internal financing arrangements, in any case in the ordinary course of such ~~Equity Holder's~~Stockholder's business~~, shall not constitute a Transfer of Equity Securities for purposes of this Agreement~~; *provided*, *however*, that any redemption or foreclosure (including the retention of shares of Common Stock in satisfaction of any obligations) on shares of Common Stock by any such broker, bank or other financial institution shall be deemed a Transfer of shares of Common Stock for purposes of this Agreement. The terms "Transferee," "Transferor," "Transferred," and other forms of the word "Transfer" shall have the correlative meanings.

(nnnn) ~~(dddd)~~ "Transfer Notice" has the meaning specified in Section 10.1(c).

(oooo) "Unsubscribed New Securities" has the meaning specified in Section 5.1(d).

(pppp) ~~(eeee)~~ "Whole Board" means, at any time of determination, the total number of Directors which the Company would have at such time if there were no vacancies on the Board of Directors.

(qqqq) ~~(ffff)~~ "Whole Board Approval" has the meaning specified in Section 8.1.

Section 1.2 Interpretation. The definitions in this Article I shall apply equally to both the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. All references herein to Articles, Sections, Schedules and Exhibits shall be deemed to be references to Articles and Sections of, and Schedules and Exhibits to, this Agreement unless the context shall otherwise

require. All Schedules and Exhibits attached hereto shall be deemed incorporated herein as if set forth in full herein and, unless otherwise defined therein, all terms used in any Schedule or Exhibit shall have the meaning ascribed to such term in this Agreement. The words "include," "includes" and "including" shall be deemed to be followed by the phrase "without limitation." All accounting terms not defined in this Agreement shall have the meanings determined by GAAP. The words "hereof," "herein" and "hereunder" and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. Unless otherwise expressly provided herein, any agreement, instrument or statute defined or referred to herein or in any agreement or instrument that is referred to herein means such agreement, instrument or statute as from time to time amended, modified or supplemented, including (in the case of agreements or instruments) by waiver or consent and (in the case of statutes) by succession of comparable successor statutes and references to all attachments thereto and instruments incorporated therein. Any reference in this Agreement to "$" or "dollars" shall mean United States dollars. In calculating any Stockholder's ownership of Common Stock or Total Equity ~~Securities~~Interests for the purposes of determining whether such Stockholder shall have certain rights under this Agreement that are subject to a minimum ownership threshold, all shares of Common Stock and (for purposes of determining ownership of Total Equity ~~Securities~~Interests) shares of Common Stock issuable upon conversion of Convertible Notes held by such Stockholder and by Affiliates of such Stockholder shall be aggregated for the purposes of such determination.

ARTICLE II

STOCKHOLDERS; VOTING RIGHTS

Section 2.1 Stockholders; Voting Rights.

(a) Each share of Common Stock shall be entitled to one (1) vote on all matters for which Stockholders are entitled to vote under the terms of this Agreement, the Certificate of Incorporation or under applicable law. Except as expressly set forth herein, no Stockholder shall have any special or preferential voting or blocking rights.

(b) A Person shall automatically cease to be a Stockholder for all purposes of this Agreement upon the disposition of all of such Person's ~~[~~shares of Common Stock~~][Equity Interests]~~ in accordance with Article X hereof; *provided*, *however*, that such Person shall continue to be bound by the provisions of Section 12.3.

Section 2.2 Limited Liability for Stockholders. Without prejudice to any additional or further limitations on liability applicable to Stockholders, no Stockholder shall be personally liable to any other Stockholder or to the Company or any Affiliate or creditor of any of the foregoing or to any other Person for any losses, claims, damages, debts, obligations, or liabilities incurred by such other Stockholder or the Company or any Affiliate or creditor of any of the foregoing or to any other Person, whether such losses, claims, damages, debts, liabilities or obligations arise in contract, tort, or otherwise, solely by reason of being a Stockholder.

~~Section 2.3~~

ARTICLE III

DRAG-ALONG SALE

Section 3.1 Drag-Along Sale.[1]

(a) [If at any time after the date that is twelve (12) months after the Effective Date any one or more Equity HoldersStockholders then holding, in the aggregate, more than fifty percent (50.0%) of the Total Equity Interestsoutstanding shares of Common Stock desire to effectuate a Company Stock Sale or (subject to subsection (h)) a Company Asset Sale, then such Stockholder(s) (collectively, the "Initiating Drag-Along Holders") shall have the right to elect to require that all Equity HoldersStockholders (including Stockholders holding shares of Common Stock issued or deemed issued prior to or concurrently with the closing of the Drag-Along Sale (the "Drag-Along Closing"), whether pursuant to any actual or deemed conversion of Convertible Notes or otherwise) participate in such transaction (a "Drag-Along Sale") on the terms and conditions set forth in this Article III, by delivering written notice of such election to the Company, and the Company shall promptly deliver a copy of such notice to all the other Equity HoldersStockholders (collectively, the "Dragged Holders") in accordance with Section 12.2 , and to all holders of New Convertible Notes in accordance with the Convertible Notes Indenture. Any such notice (a "Drag-Along Notice") shall contain a reasonably detailed summary of the material terms and conditions of the Drag-Along Sale, including the identity of the applicable Third Party Purchaser (the "Drag-Along Purchaser"), the amount and form of the consideration to be paid by the Drag-Along Purchaser, including the amount and form of consideration to be paid for each outstanding share of Common Stock, and shall be delivered promptly by the Company to the Dragged Holders. With respect to (stated on both an aggregate basis and, for any Drag-Along Sale [, the Initiating Stockholders in their sole discretion may require (provided that such requirement is set forth in the Drag-Along Notice that it delivers to the Company)] that all (but not less than all) Convertible Notes outstanding immediately prior to the closing of any Drag-Along Sale shall automatically be converted into shares of Common Stock pursuant to the Convertible Notes Indenture, and all such shares shall receive the same treatment in the Drag-Along Sale as the other outstanding shares of Common Stock (and the holders of such shares shall have the same rights and be subject to the same obligations under this Article III with respect thereto as apply to holders of the other outstanding shares of Common Stock with respect to such other outstanding shares), and the Company, the Initiating Holder and each of the Dragged Holders shall take such actions as may reasonably be required in order to effectuate such conversion.that is a Company Stock Sale, on a per-share basis based on the number of shares of Common Stock outstanding when the Drag-Along Notice is delivered).

(b) In connection with any Drag-Along Sale, each of the Dragged Holders shall be obligated to do each of the following, in each case to the extent applicable to such transaction and subject in all cases to Section 3.1(c): (i) at the closing of such Drag-Along Sale, sell or transfer to the Drag-Along Purchaser, for the same type and amount of per-share consideration and on the same terms as the Initiating HoldersDrag-Along Holders (except that if any Stockholder is given an option as to the form of consideration to be received in respect of its Common Stock, each other Stockholder shall be given the same option), all of such Dragged Holder's Equity Securitiesshares

[1] Under review.

of Common Stock free and clear of any Liens (other than Permitted Liens) and duly endorsed for transfer, or accompanied by duly endorsed stock powers; (ii) to the extent such Dragged Holder is entitled to vote thereon, vote all such Dragged Holder's shares of Common Stock, whether by proxy, voting agreement or otherwise, in favor of the Drag-Along Sale; (iii) ~~enter into reasonable and customary agreements with the Drag-Along Purchaser on terms substantially identical to those applicable to the Initiating Holders (including with respect to representations, warranties, indemnities, covenants, conditions, escrow agreements and other provisions and agreements relating to such Drag-Along Sale as requested by the Drag-Along Purchaser), so long as the terms of any such agreements are not more onerous (on a per share basis) with respect to the Dragged Holders than with respect to the Initiating Holders; (iv)~~ use commercially reasonable efforts to obtain any consents necessary for such Dragged Holder to consummate the Drag-Along Sale; (~~v~~iv) waive and refrain from exercising any appraisal or dissenters rights with respect to such Drag-Along Sale; (~~vi~~v) effectuate the allocation and distribution of the aggregate consideration upon the Drag-Along Sale as set forth below; (~~vii~~vi) refrain from directly or indirectly taking (or causing any other Person to take) any action that is prejudicial to or inconsistent with such Drag-Along Sale; and (~~viii~~vii) take any and all reasonably necessary action in furtherance of the foregoing, to the extent requested by the Initiating Drag-Along Holders or the Board of Directors, at the Company's sole expense~~; *provided*, *however*, that no Dragged Holder shall be required to enter into any non-competition, non-solicitation or similar agreement in connection with any Drag-Along Sale. Each Equity Holder shall receive, in respect of each share of Common Stock sold by such Equity Holder in any Drag-Along Sale, the same form and amount of consideration paid to each other Equity Holder (including the Initiating Holders) in respect of their shares of Common Stock, except that if any Equity Holder is given an option as to the form of consideration to be received in respect of its Common Stock, each other Equity Holder shall be given the same option.~~.

(c) Notwithstanding anything to the contrary in this Article III, no Dragged Holder shall be required to agree to any covenants ~~[~~that do not also apply to the Initiating Drag-Along Holders~~]~~, make any representations or warranties with respect to the Company or its Subsidiaries or their respective businesses or assets, or provide any indemnity in connection with any Drag-Along Sale, except that each Dragged Holder may be required to (x) provide customary representations, warranties, covenants and agreements (and customary indemnification~~, on a several basis,~~ with respect thereto) with respect to itself and its ~~Equity Securities~~Common Stock (in respect of which such Dragged Holder may be required to bear 100% of the damages resulting from such Dragged Holder's breach thereof) and/or (y) bear its *pro rata* share (in proportion to its ownership of Common Stock) of any escrows, holdbacks or adjustments in respect of the purchase price related obligations or, in the case of representations and warranties with respect to the Company or its Subsidiaries or their respective businesses or assets or covenants or other agreements of the Company or its Subsidiaries, any indemnification obligations (*provided*, in the case of any damages resulting from such Dragged Holder's breach, such Dragged Holder may be required to bear 100% of such damages); *provided*, that no Dragged Holder shall be obligated (A) to indemnify~~, other than on a several basis,~~ any Person in connection with ~~the Drag-Along Sale, (B)~~a breach by any other Stockholder of its representations, warranties, covenants or other agreements, (B) in the case of representations and warranties with respect to the Company or its Subsidiaries or their respective businesses or assets, to incur liability to any Person in connection with the Drag-Along Sale, including under any indemnity, in excess of the lesser of (1) such Dragged Holder's *pro rata* share of such liability based on the relative amount of proceeds payable to the ~~Equity Holders~~Stockholders in such sale (other than in the case of fraud or willful breach of

such Dragged Holder) and (2) the proceeds payable to such Dragged Holder in such Drag-Along Sale (other than in the case of fraud or willful breach of such Dragged Holder) ~~or~~, (C) to agree to any non-competition, non-solicitation, non-disparagement or non-hire covenants or similar restrictive covenants or (D) provide any representations, warranties, covenants or agreements the terms of which are more onerous (on a per-share basis) with respect to the Dragged Holders than the Initiating Drag-Along Holders.

~~(d) Upon consummation of a Drag-Along Sale, or as otherwise expressly provided in paragraph (b) above, the Initiating Holders and the Dragged Holders shall receive, with respect to their shares of Common Stock, the same proportion (on a per-share basis) of the aggregate consideration from such Drag-Along Sale that such Equity Holders would have received if such aggregate consideration had been distributed by the Company in complete liquidation pursuant to the rights and preferences set forth in the Certificate of Incorporation and under the DGCL.~~

(d) In connection with any Drag-Along Sale:

(i) The Initiating Drag-Along Holders in their sole discretion may elect to require (by so specifying in the Drag-Along Notice) that the Company exercise its right under the Convertible Notes Indenture to redeem the Convertible Notes at a redemption price equal to 100% of the aggregate principal amount plus all accrued and unpaid interest, such that all Convertible Notes that have not been converted or deemed converted and are outstanding immediately prior to the Drag-Along Closing will be redeemed, with such redemption to be effective upon (and contingent upon the occurrence of) the Drag-Along Closing; *provided*, that the Drag-Along Closing shall be expressly conditioned upon the redemption price being paid in full in accordance with the Convertible Notes Indenture prior to or contemporaneously therewith.

(ii) The Company shall take such actions and provide such cooperation as may reasonably be requested by the Initiating Drag-Along Holder in connection with seeking consents or elections from holders of Convertible Notes to cause all Convertible Notes outstanding immediately prior to the Drag-Along Closing to be converted into Shares of Common Stock pursuant to the Convertible Notes Indenture's mandatory conversion provision. Any such mandatory conversion shall be deemed effective immediately prior to (but shall be contingent upon the occurrence of) the Drag-Along Closing, and each holder of such mandatorily converted Convertible Notes will receive, in lieu of each share of Common Stock that would otherwise be issued upon conversion of such Convertible Notes (which shares of Common Stock will be issued at the time of the Drag-Along Closing directly to or at the direction of the Drag-Along Buyer), the same per-share consideration as is received by the other Dragged Holders in the Drag-Along Sale, and each such noteholder's receipt of such consideration shall be conditioned on the converting noteholder's written agreement to be bound as a Stockholder and Dragged Holder by the applicable provisions of the Stockholders Agreement. For purposes of this Section 3.1 as it applies to such Drag-Along Sale, the shares of Common Stock that would be issuable upon a conditional election to convert in connection with a Drag-Along Sale pursuant to the Convertible Note Indenture or which are to be converted pursuant to the Convertible Note Indenture's mandatory conversion provision shall, subject to such holder's written agreement to be bound as a Stockholder and Dragged Holder hereunder,

be treated as if such shares of Common Stock are outstanding, and the holder of the underlying Convertible Notes shall be treated as a Stockholder and Dragged Holder hereunder.

(e) Each Initiating Drag-Along Holder and each Dragged Holder will bear its *pro rata* share (based upon the net proceeds received by each such holder in the Drag-Along Sale) of the costs of any Drag-Along Sale to the extent such costs are incurred for the benefit of all such holders and are not otherwise paid by the Company or the Drag-Along Purchaser. Costs incurred by such holders on their own behalf will not be considered costs of the Drag-Along Sale.

(f) The Company shall ~~use~~ take, and shall use commercially reasonable efforts to cause the Board of Directors to take, any such actions as may reasonably be required or requested by the Initiating Drag-Along Holder to ensure that the Drag-Along Sale is consummated in accordance with the terms and conditions set forth in this Article III and any other applicable provisions of the Agreement, including by using commercially reasonable efforts to cause its officers, employees, agents, contractors and others under its control to cooperate in any proposed Drag-Along Sale and not to take any action which might impede any such Drag-Along Sale; *provided*, *however*, that in the case of a Drag-Along Sale that is structured as a merger or a Company Asset Sale, the Board of Directors shall act in accordance with its duties under applicable law. Pending the completion of any proposed Drag-Along Sale, the Company shall use commercially reasonable efforts to operate in the ordinary course of business and to maintain all existing business relationships in good standing.

(g) The Initiating Drag-Along Holders shall have power and authority, subject to the requisite Board of Directors approval in the case of a Drag-Along Sale that is structured as a merger or a Company Asset Sale, to cause the Company to enter into the definitive agreement for such Drag-Along Sale and to take any and all such further action in connection therewith as the Initiating Drag-Along Holders may reasonably deem necessary or appropriate in order to consummate or abandon any such Drag-Along Transaction; *provided*, *however*, that in the case of a Company Asset Sale or merger, the Board of Directors shall act in accordance with its duties under applicable law; *provided further*, *however*, that to the fullest extent permitted by law, the Initiating Drag-Along Holders shall not have any liability to any other Person if a Drag-Along Sale is not consummated for any reason (except due to the Initiating Drag-Along Holders' breach of any of their obligations under any definitive written agreement entered into in connection therewith, but subject to the limitations set forth therein). Subject to any required approval by the Board of Directors (in the case of a Drag-Along Sale that is structured as a merger or a Company Asset Sale), the issuance of the Drag-Along Notice and the other provisions of this Section 3.1, the Initiating Drag-Along Holders, in exercising their rights under this Section 3.1, shall have complete discretion over the terms and conditions of the Drag-Along Sale effected thereby, including per-share price, payment terms, conditions to closing, representations, warranties, affirmative covenants, negative covenants, indemnification, holdbacks and escrows.~~]~~

ARTICLE IV

TAG-ALONG SALE

Section 4.1 Tag-Along Sale.[2]

(a) [In the event of any proposed Transfer by one or more Stockholders (the "Initiating Tag-Along Holders") of more than fifty percent (50.0%) of the outstanding shares of Common Stock to a single Person or group of related Persons (the "Tag-Along Buyer"), in a single transaction or series of related transactions over a twelve month period (a "Tag-Along Sale"), the Initiating Tag-Along Holders shall first give written notice of such proposed Transfer (a "Sale Notice") to the Company, and the Company shall promptly deliver a copy of such notice to each of the other Stockholders, in accordance with Section 12.2. Such notice (a "Tag-Along Sale Notice") shall offer to each of the other Stockholders that that is a Significant Stockholder or holds at least two percent (2%) of the Total Equity Intereststotal outstanding shares of Common Stock (collectively, the "Tag-Along Sellers"), in accordance with Section 12.2; *provided*, *however*, that any such Transfer to an Affiliate of the Initiating Tag-Along Holders shall not constitute a Tag-Along Sale. Such Notice (a "Tag-Along Sale Notice") shall offer to each of the Tag-Along Sellers the option to participate in such Tag-Along Sale on the same terms and conditions as the Initiating Tag-Along Holders, and at the same per-share sale price and in the same form of consideration as the Initiating Holders. The Tag-Along Sale NoticeHolders, and shall includeset forth (i) the names of the Tag-Along Buyer and the Tag-Along Seller,Initiating Tag-Along Holders, (ii) the number of shares of Common Stock that the Initiating Tag-Along Holder is proposing to Transfer to the Tag-Along Buyer pursuant to the Tag-Along Sale (the "Specified Tag-Along Shares"), (iii) the Tag-Along Percentage, and (iv) a reasonably detailed summary of the material terms and conditions of the proposed Tag-Along Sale, andincluding the proposed amount and form of consideration per share of Common Stock and the terms and conditions of payment contemplated by the proposed Tag-Along Sale. Each Tag-Along Seller may irrevocably elect, by written notice delivered to the Initiating Tag-Along Holders (or their designated representative) delivered within ten (10) calendar days after delivery of the Tag-Along Sale Notice, elect (which election shall be irrevocable (the "Tag-Along Election Deadline"), to sell up to the Tag-Along Percentage of its shares of Common Stock in such Tag-Along Sale, on the terms and conditions set forth in the Tag-Along Sale Notice; *provided*, *however*, that if the Tag-Along Buyer is not willing to purchase on such terms and conditions thean aggregate amountnumber of shares of Common Stock proposed to be soldequal to the Specified Tag-Along Shares plus all shares of Common Stock that the Tag-Along Sellers irrevocably elect to sell in the Tag-Along Sale by the Initiating Holders and any Tag-Along Sellers electing to participate in the Tag-Along Sale, then the Initiating Tag-Along Holders in their sole discretion may elect to either (A) terminate such Tag-Along Sale with respect to the Initiating Holders and each Tag-Along Seller or (B) consummate the Tag-Along Sale and sellwith respect to the Tag-Along Buyertotal such number of shares as itthe Tag-Along Buyer is willing to purchase on such terms and conditions, and the Initiating Holders and (such number of shares, the "Tag-Along Share Cap"), and in such event (1) each of the Tag-Along Sellers electing to participate in suchthat irrevocably elected to sell shares in the Tag-Along Sale (each, an "Electing Tag-Along Seller") shall each be permitted to sell to the Tag-Along Buyer a number of

[2] Under review.

shares of Common Stock owned by ~~the Initiating Holders or electing~~such Electing Tag-Along ~~Sellers, as the case may be,~~Seller equal to the ~~product of (x) the total~~ Final Tag-Along Percentage (as defined below) of the shares that it irrevocably elected to sell in the Tag-Along Sale, and (2) the Initiating Tag-Along Holders shall be permitted to sell to the Tag-Along Buyer a number of shares of Common Stock ~~to be purchased~~owned by the Tag-Along ~~Buyer and (y) such Initiating Holder's or Tag-Along Seller's proportionate percentage of the total~~ Holders equal to the Final Tag-Along Percentage of the Specified Tag-Along Shares. As used herein, "Final Tag-Along Percentage" means, with respect to any Tag-Along Sale, the quotient, expressed as a percentage, of (x) the Tag-Along Share Cap *divided by* (y) an aggregate number of shares of Common Stock ~~held, in the aggregate, by the Initiating Holders and electing~~equal to the Specified Tag-Along Shares plus all shares of Common Stock that the Tag-Along Sellers irrevocably elect to sell in the Tag-Along Sale.

(b) Whether a Stockholder qualifies as an Tag-Along Seller shall be determined based on such Stockholder's ownership of shares of Common Stock and the number of shares of Common Stock outstanding as of the Tag-Along Election Deadline; *provided*, *however*, that for the purposes of such calculation, any shares of Common Stock issuable upon conversion of Convertible Notes to such holder (although not, for the avoidance of doubt, issuable to any other holder) for which an irrevocable conversion election is submitted by the Tag-Along Election Deadline in accordance with the Convertible Notes Indenture, shall be deemed outstanding as of such date, and, for purposes of this Section 4.1 as it applies to such Tag-Along Sale, the shares of Common Stock that would be issuable upon such conversion shall, subject to such holder's written agreement to be bound as a Stockholder and Tag-Along Seller hereunder, be treated as if such shares of Common Stock are outstanding, and the holder of the underlying Convertible Notes shall be treated as a Stockholder and Tag-Along Seller hereunder. The number of shares of Common Stock that each Tag-Along Seller may elect to sell pursuant to this Section 4.1 shall be determined based on the ownership of Common Stock and the number of shares of Common Stock outstanding as of the Tag-Along Election Deadline (on an as-converted basis inclusive of any Common Shares issuable to all holders upon conversion of Convertible Notes for which an irrevocable conversion election is submitted by the Tag-Along Election Deadline in accordance with the Convertible Notes Indenture).

(c) ~~(b)~~ In no event shall any Tag-Along Seller have any rights under this Section 4.1 or otherwise with respect to a sale by any Initiating Tag-Along Holders of any securities of the Company other than the Common Stock. In connection with any Tag-Along Sale, no Tag-Along Seller shall be required to agree to any covenants that do not also apply to the Initiating Tag-Along Holders, ~~or~~ make any representations or warranties with respect to the Company or its Subsidiaries or their respective businesses or assets, or provide any indemnity in connection with any Tag-Along Sale, except such Tag-Along Seller may ~~(x)~~ be required to (x) provide customary representations, warranties, covenants and agreements (and customary indemnification with respect thereto) with respect to itself and its Common Stock (in respect of which such Tag-Along Seller may be required to bear 100% of damages resulting from such Tag-Along Seller's breach thereof) and/or (y) ~~be required to~~ bear its *pro rata* share (in proportion to its ownership of Common Stock) of any escrows, holdbacks or adjustments in respect of the purchase price related obligations or, in the case of representations and warranties with respect to the Company or its Subsidiaries or their respective businesses or assets or covenants or other agreements of the Company or its Subsidiaries, any indemnification obligations (*provided*, in the

case any damages resulting from such Tag-Along Seller's breach, such Tag-Along Seller may be required to bear 100% of such damages); *provided*, that no Tag-Along Seller shall be obligated (A) to indemnify~~, other than on a several basis,~~ any Person in connection with ~~the Tag-Along Sale, (B)~~a breach by any other Stockholder of its representations, warranties, covenants or other agreements, (B) in the case of representations and warranties with respect to the Company or its Subsidiaries or their respective businesses or assets, to incur liability to any Person in connection with the Tag-Along Sale, including under any indemnity, in excess of the lesser of (1) ~~its~~such Tag-Along Seller's *pro rata* share of such liability based on the relative amount of proceeds payable to the ~~applicable~~ Stockholders in such sale (other than in the case of fraud or willful breach of such Tag-Along Seller) and (2) the proceeds payable to such Tag-Along Seller in such Tag-Along Sale (other than in the case of fraud or willful breach of such Tag-Along Seller), ~~or~~ (C) to agree to any non-competition, non-solicitation, non-disparagement or non-hire covenants or similar restrictive covenants or (D) provide any representations, warranties, covenants or agreements the terms of which are more onerous (on a per-share basis) with respect to the Tag-Along Sellers than the Initiating Tag-Along Holders. The election by any Tag-Along Seller to sell or not to sell all or any portion of such Tag-Along Seller's Common Stock in any Tag-Along Sale shall be irrevocable (except with the express consent of the Initiating Tag-Along Holders in their sole discretion) and shall not adversely affect such Tag-Along Seller's right to participate in any future Tag-Along Sale.

(d) ~~(c)~~ At the closing of any Tag-Along Sale (the "Tag-Along Closing"), each Initiating Tag-Along Holder and Tag-Along Seller shall deliver, against payment of the purchase price therefor, certificates (or other evidence thereof reasonably acceptable to the transferee of such Common Stock) representing their Common Stock to be sold, duly endorsed for Transfer or accompanied by duly endorsed stock powers, evidence of good title to the Common Stock to be sold, the absence of Liens (other than Permitted Liens), encumbrances and adverse claims with respect thereto and such other documents as are deemed reasonably necessary by the Initiating Tag-Along Holders and the Company for the proper Transfer of such Common Stock on the books of the Company.

(e) ~~(d)~~ The provisions of this Section 4.1 shall not apply to any proposed Transfer (i) between Significant Stockholders, (ii) by a Stockholder to any of its Affiliates or Related Funds, or (iii) pursuant to Section 3.1.~~]~~

ARTICLE V

PREEMPTIVE RIGHTS

Section 5.1 Preemptive Rights.

(a) The Company shall not sell or issue to any Person (including any then-current Stockholder) after the Effective Date any shares of Common Stock, or other equity securities or debt convertible into or exchangeable for shares of Common Stock, or options, warrants conferring any right to acquire Common Stock or other rights to acquire Common Stock, or any debt securities (any of the foregoing, the "New Securities"~~) (other than the shares of Common Stock issued pursuant to the Plan, and any~~ and such sale or issuance, the "New Securities ~~issued pursuant to an Excluded~~ Issuance"), unless the Company first ~~submits~~delivers a written

notice thereof (the "Preemptive Rights Offer Notice") to each Significant Stockholder ~~identifying~~ in accordance with Section 12.2. The Preemptive Rights Offer Notice shall set forth the terms of the New Securities (including the price, number or aggregate principal amount and type of securities, and all other material terms) and ~~offers~~offer to each Significant Stockholder the opportunity to purchase up to its Pro Rata Portion of the New Securities (prior to giving effect to such offering) and its Pro Rata Portion of any New Securities not purchased by other Significant Stockholders, in each case on terms and conditions, including price, not less favorable to the Significant ~~Stockholder~~Stockholders than those on which the Company is proposing to sell or issue the New Securities~~. With respect to any sale or issuance of~~ , as set forth in this Section 5.1. Notwithstanding anything contained herein, an Excluded Issuance shall not constitute a New Securities ~~that is~~Issuance and shall not be subject to this Section 5.1~~, the portion of such New Securities that each Significant Stockholder will be entitled to purchase (its "Pro Rata Portion") shall be equal to (x) the total number of New Securities subject to the sale or issuance *multiplied by* (y) a fraction in which the numerator is the total number of shares of Common Stock then held by such Significant Stockholder and the denominator is the total shares of Common Stock then outstanding and held by Significant Stockholders.~~.

(b) The Company's offer to ~~a~~each Significant Stockholder pursuant to the Preemptive Rights Offer Notice shall remain open ~~for a period of~~until 5:00 p.m. New York City Time on the date that is twenty (20) ~~calendar~~ days after the Company's delivery of the Preemptive Rights Offer Notice ~~is delivered in accordance with~~ Section 12.2(or such later date and time as the Company may specify in the Preemptive Rights Offer Notice), during which time (the "Preemptive Rights Offer Period") the Significant Stockholder may irrevocably elect to accept such offer by ~~written notice~~delivering to the Company ~~setting forth the~~, in accordance with Section 12.2 or as otherwise specified in the Preemptive Rights Offer Notice, a duly executed written notice (a "Preemptive Rights Election Notice") that (i) refers to and expressly accepts the offer set forth in the Preemptive Rights Offer Notice, (ii) sets forth the maximum number of such New Securities ~~to be purchased by such~~that the Significant Stockholder~~, up to a maximum amount equal to such Significant Stockholder's Pro Rata Portion.~~[3] is electing to purchase, (iii) includes a representation that the Significant Stockholder is a Qualified Institutional Buyer or an Accredited Investor, and (iv) provides such other information as may be reasonably requested in the Preemptive Rights Offer Notice.

(c) With respect to any New Securities Issuance, each Significant Stockholder who does not timely elect to purchase any New Securities by delivering a Preemptive Rights Offer Notice to the Company during the Preemptive Rights Offer Period shall be deemed to have irrevocably waived its rights under this Section 5.1 with respect to such New Securities Issuance. Each Significant Stockholder who timely elects to purchase New Securities as provided in Section 5.1(b) shall be allocated a number of New Securities equal to the aggregate number of New Securities to be issued in such New Securities Issuance multiplied by such Significant Stockholder's Pro Rata Portion (or, if less, the number of New Securities that the Significant Stockholder elected to purchase as set forth in such Significant Stockholder's Preemptive Rights Election Notice) and, if fewer than all of the Significant Stockholders elect to purchase all of their respective Pro Rata Portions of the New Securities to be issued in such New Securities Issuance,

[3] ~~Under review.~~

the unallocated New Securities shall be allocated to those Significant Stockholders who elected in their Preemptive Rights Election Notice to purchase more than their Pro Rata Portions (pro rata based on their respective Pro Rata Portions, subject to any limitations specified by the applicable Significant Stockholder in its Preemptive Rights Election Notice).

(d) In the event the total number of New Securities offered in the New Securities Issuance exceeds the aggregate number of shares that Significant Stockholders elect to purchase pursuant to this Section 5.1 (the "Unsubscribed New Securities"), the Company or its applicable Subsidiary will have sixty (60) days after expiration of the Preemptive Rights Offer Period to sell such Unsubscribed New Securities, at a price no less than the price set forth in the Preemptive Rights Offer Notice and on other terms and conditions not more favorable, in the aggregate, to the purchaser thereof, than those specified in the Preemptive Rights Offer Notice. Following the date of the expiration of the sixty (60) day period referred to in the immediately preceding sentence, the Company will not, and the Company shall cause its Subsidiaries not to, issue or sell any Unsubscribed New Securities without again complying with this Section 5.1, which shall be treated as a new New Securities Issuance hereunder.

(e) ~~(c)~~ Any Significant Stockholder shall have the right to assign, to any one or more of its Affiliates, its right to purchase and/or receive delivery of all or any portion of the New Securities that such Significant Stockholder elects to purchase pursuant to this Section 5.1, by written notice to the Company, which notice (i) shall be duly executed by the Significant Stockholder and the assignee and shall include representations, in form and substance satisfactory to the Company, that ~~each of~~ the assignee ~~and the assigning Significant Stockholder (A)~~ is a Qualified Institutional Buyer or an Accredited Investor and (~~B) is not a Competitor and (ii)~~ii) if the assignee is not already a party hereto, shall be accompanied by a Joinder Agreement, duly ~~completed and~~ executed by the ~~Transferee, if such New Securities includes shares of Common Stock and the assignee has not already executed and delivered to the Company a counterpart signature page to this Agreement or a Joinder Agreement~~assignee. Notwithstanding the foregoing, no such assignment shall relieve the Significant Stockholder from its obligations ~~(including its obligation to purchase such securities)~~ under this Section 5.1 with respect to ~~such~~the New Securities that it elected to purchase pursuant to this Section 5.1, and no such assignment shall be permitted if the assignee's purchase of such New Securities would result in any of the consequences described in Section 10.1(a).

(a) Notwithstanding the foregoing provisions of this Section 5.1, the Company may proceed with any issuance or sale of New Securities (including to any Significant Stockholder) to any Person (an "Accelerated Purchaser") prior to having complied with such foregoing provisions (an "Accelerated Sale") if the Board of Directors determines in good faith that it is in the best interests of the Company to consummate such issuance or sale without having first complied with such provisions; *provided* that:

(i) the Company shall provide each Significant Stockholder with prompt written notice of such Accelerated Sale, specifying the actual price per share paid for such New Securities;

(ii) the Company shall offer to issue to each Significant Stockholder additional New Securities up to the amount that, if purchased by each Significant

Stockholder, would, (A) with respect to shares of Common Stock, result in each such Significant Stockholder maintaining the same percentage (or increasing such percentage by the maximum amount any other Person increased its percentage) of the total number of shares of Common Stock then held by such Significant Stockholder (relative to the total number of shares of Common Stock then held, in the aggregate, by all Significant Stockholders) that such Significant Stockholder owned immediately prior to the issuance or sale of additional shares of Common Stock pursuant to this Section 5.1(g)(ii) and (B) with respect to any other additional New Securities, be equal to the amount that such Significant Stockholder would have been entitled to purchase pursuant to Section 5.1(a) if the Company complied with the foregoing provisions of this Section 5.1 with respect to the Accelerated Sale, in each case at the same price per share and on the same terms applicable to the Accelerated Sale;

(iii) the Company shall keep such offer available to each Significant Stockholder for a period of twenty (20) days after the delivery of such notice, during which period, each Significant Stockholder may accept such offer by delivering a notice to the Company to purchase New Securities in an amount no greater than the amount offered by the Company to such Significant Stockholder pursuant to Section 5.1(f)(ii);

(iv) if one or more Significant Stockholders exercise their right to accept such offer to purchase New Securities, the Company shall give effect to each such exercise by (A) requiring that the Accelerated Purchaser sell down a portion of its New Securities, (B) issuing additional new Securities to such Significant Stockholder or (C) a combination of (A) and (B), so long as such action effectively provides such Significant Stockholder with the opportunity to hold the same percentage of the total outstanding New Securities (after giving effect to the issuance of New Securities to all Significant Stockholders exercising such right) that such Significant Stockholder would have been entitled to purchase had this Section 5.1(f) not been invoked; and

(v) any dilution in any Significant Stockholder's percentage ownership of Common Stock or Total Equity Interests resulting from an Accelerated Issuance shall not be given effect for purposes of any provision of this Agreement of any rights under this Agreement that are tied to such percentage ownership Agreement until the Company has complied with its obligations under this Section 5.1(f) and issued the New Securities, if any, to be issued to the Significant Stockholders pursuant to this Section 5.1(f).

Any offer, issuance or sale of New Securities to Significant Stockholders pursuant to this Section 5.1(f) shall be conducted in accordance with the provisions applicable to New Securities acquired pursuant to a Preemptive Rights Election Notice under Sections 5.1(b), 5.1(c), 5.1(d) and 5.1(e), mutatis mutandis.

ARTICLE VI

BOARD OF DIRECTORS

Section 6.1 Agreement to Vote. Each Stockholder hereby agrees to hold all of the shares of Common Stock registered in its name (and any other voting securities of the Company

issued with respect to, upon conversion of, or in exchange or substitution of any Common Stock, and any other voting securities of the Company subsequently acquired by such Stockholder) subject to the provisions of this Article VI, and to vote all such securities at regular or special meetings of stockholders, and give written consents with respect to all such securities, as necessary to give full effect to the Designation Rights and the provisions of this Article VI, and to cause the Board of Directors to at all times be constituted as provided in this Article VI. The Company shall use commercially reasonable efforts to cause the Board of Directors to at all times be constituted as provided in this Article VI, and to give full effect to the Designation Rights and the provisions of this Article VI.

Section 6.2 Composition of the Board of Directors.

(a) The Board of Directors shall at all times consist of seven (7) Directors, unless the size of the Board of Directors is increased or decreased by the Board of Directors pursuant to the affirmative vote of a majority of the Directors then in office; *provided*, *however*, that the size of the Board of Directors shall not be decreased to fewer than five (5) Directors nor increased to more than seven (7) Directors except with Majority Stockholder Approval. The Board of Directors, as of the Effective Date, shall be comprised of the seven (7) individuals listed in Schedule 6.2 attached hereto ~~(the "Initial Board")~~[1].

(b) Following the Effective Date, and notwithstanding anything to the contrary in this Agreement or in the Bylaws:

(i) for so long as Millstreet Capital Management LLC and its Affiliates and Related Funds (collectively, the "Millstreet Stockholders") own, in the aggregate, (A) at least fifty percent (50.0%) of the Total Equity Interests that the Millstreet Stockholders received on the Effective Date pursuant to the Plan and the Backstop Purchase Agreement, the Millstreet Stockholders shall have a designation right with respect to two (2) seats on the Board of Directors, pursuant to which the Millstreet Stockholders shall have the exclusive right to nominate individuals for election to such Director seats, and (B) at least twenty-five percent (25.0%) (but less than fifty percent (50.0%)) of the Total Equity Interests that the Millstreet Stockholders received on the Effective Date pursuant to the Plan and the Backstop Purchase Agreement, the Millstreet Stockholders shall have a designation right with respect to one (1) seat on the Board of Directors, pursuant to which the Millstreet Stockholders shall have the exclusive right to nominate an ~~individuals~~individual for election to such Director seat;

(ii) for so long as Avenue Energy Opportunities Fund, L.P. and its Affiliates and Related Funds (collectively, the "Avenue Stockholders") own, in the aggregate, at least fifty percent (50.0%) of the Total Equity Interests that the Avenue Stockholders received on the Effective Date pursuant to the Plan and the Backstop Purchase Agreement, the Avenue Stockholders shall have a designation right with respect to one (1) seat on the Board of Directors, pursuant to which the Avenue Stockholders shall have the exclusive right to nominate an individual for election to such Director seat;

[1] Note to Draft: These 7 Directors will be the individuals named as initial Directors in the Plan Supplement or otherwise selected in accordance with the Plan and Governance Term Sheet (as defined in the Plan).

(iii) for so long as Amzak Capital Management, LLC and its Affiliates and Related Funds (collectively, the "Amzak Stockholders") own, in the aggregate, at least fifty percent (50.0%) of the Total Equity Interests that the Amzak Stockholders received on the Effective Date pursuant to the Plan and the Backstop Purchase Agreement, the Amzak Stockholders shall have a designation right with respect to one (1) seat on the Board of Directors, pursuant to which the Amzak Stockholders shall have the exclusive right to nominate an individual for election to such Director seat;

(iv) for so long as the Designating Stockholders have, in the aggregate, Designation Rights with respect to at least two (2) Director seats, the Designating Stockholders shall collectively have a designation right with respect to one (1) seat on the Board of Directors, pursuant to which the Designating Stockholders shall have the exclusive right to nominate an individual for election to such Director seat;

(v) the Board of Directors shall include at least one At-Large Director; and

(vi) at all times the individual then serving as the CEO, if any, shall automatically be a Director (the "CEO Director"), *provided*, that any such individual's status as a director shall automatically terminate upon their ceasing to be the CEO.

(c) If at any time a Designating Stockholder loses a Designation Right because it ceases to satisfy the applicable Total Equity Interest ownership threshold set forth in subsection (b) of this Section 6.2, then the term of the Designated Director then serving on the Board of Directors as a result of such terminated Designation Right shall expire at the next annual meeting of stockholders following such termination, and thereafter such Director seat shall be an At-Large Director seat and that (including at such annual meeting) is subject to election by the Company's stockholders at such annual meeting or by written consent. Notwithstanding anything to the contrary in this Section 6.2, the then-current term of a Designated Director shall not be affected solely by the applicable Designating Stockholder's loss of its Designation Right.

(d) A Designating Stockholder may not assign or otherwise Transfer its Designation Rights to any Person, except that (i) any Designating Stockholder may freely assign Designation Rights to any of its controlled Affiliates or Related Funds, (ii) any Designating Stockholder may assign its Designation Rights to the Transferee in connection with any Transfer of all (but not less than all) of the shares of Common Stock and Convertible Notes that such Designating Stockholder received or was entitled to receive on the Effective Date pursuant to the Plan and the Backstop Purchase Agreement, and (iii) any Designating Stockholder may assign its Designation Rights with respect to one (1) Director seat, to the Transferee in connection with any Transfer of shares of Common Stock and/or Convertible Notes representing at least ten percent (10.0%) of the Total Equity Interests, *provided*, that in each case the Designating Stockholder provides the Company with prior written notice of such assignment, and *provided further*, that in the case of (ii) and (iii), (x) the Transfer of Common Stock and/or Convertible Notes complies with all applicable provisions of this Agreement and the Transferee (if not already a signatory hereto) executes and delivers a Joinder Agreement and (y) the applicable Transferee shall only retain such Designation Rights so long as Transferee owns, in the aggregate, the minimum amount

of Total Equity Interests that the Transferor would have been required to own pursuant to this Agreement in order to retain such Designation Rights in lieu of the Transfer to Transferee.

Section 6.3 Removal; Vacancies. At any time, a Director may be removed with or without cause by Majority Stockholder Approval. In the event of the death, resignation or removal of a Director, or if there is a vacancy on the Board of Directors for any other reason, the vacancy shall be promptly filled by the remaining Directors, in accordance with the Bylaws, subject (in the case of any Director seat that is subject to a Designation Right) to the exclusive right of the Designating Stockholder to designate the individual to fill such vacancy. Notwithstanding anything to the contrary in this Article VI, a Designating Stockholder shall have the exclusive right (exercisable at any time in its sole discretion) to remove its respective Designated Director and to fill any vacancy with respect to the Director seat to which its Designation Right relates.

Section 6.4 Voting. Except as otherwise provided in this Agreement, approval of the Board of Directors of any action or decision will require unanimous written consent of all Directors then in office or approval of a majority of the Directors present at a validly convened meeting of the Board of Directors at which a quorum is present.

Section 6.5 Director Compensation. From and after the Effective Date, each Director who is not an employee of the Company or any of its Subsidiaries (each, a "Non-Employee Director") shall be entitled to such market-rate compensation (which may include cash and/or equity awards) from the Company, as shall have been determined by the Required Backstop Parties (as defined in the Backstop Purchase Agreement) and the Company prior to the Effective Date and set forth in a written notice given to the Company prior to the Effective Date, subject to such changes as may be approved from time to time by the Board of Directors; *provided*, *however*, that such compensation shall not be increased (other than reasonable annual cost of living increases) unless such increase shall have been approved by Majority Stockholder Approval. Any equity awards granted to Non-Employee Directors shall be in addition to the equity awards provided under the Management Incentive Plan. All Directors will be reimbursed by the Company for all reasonable and documented expenses incurred in connection with his or her service as a Director and (as applicable) committee member, and will be entitled to customary indemnification/advancement and exculpation provisions and directors' and officers' liability insurance coverage.

Section 6.6 Chairman of the Board. The initial Chairman of the Board, as of the Effective Date, shall be the Director identified as such in Schedule 6.2. Following each annual meeting of the stockholders, the Board of Directors shall elect the Chairman of the Board from among the Directors.

Section 6.7 Committees of the Board of Directors. The Board of Directors shall establish and maintain an Audit Committee and a Compensation Committee. In addition, the Board of Directors may, by a majority vote of the Whole Board, establish one or more additional committees from time to time, in each case in accordance with the Certificate of Incorporation and the Bylaws.

Section 6.8 Subsidiary Boards. The Company shall (except as otherwise determined by the Required Backstop Parties prior to the Effective Date) use commercially reasonable efforts to

cause the size and composition of the board of directors, board of managers or similar governing body of each of the Company's wholly-owned Subsidiaries to at all times be identical to that of the Board of Directors; *provided*, *however*, that the foregoing requirement shall not apply to any wholly-owned Subsidiary which is (i) a limited liability company that is managed by its members, (ii) a limited partnership that is managed by its general partner, or (iii) required by law or contract to have a different composition.

ARTICLE VII

INFORMATION RIGHTS

Section 7.1 Information Rights.

(a) For so long as the Company is not required to file periodic reports under the Exchange Act, the Company shall provide to each Stockholder who is not a Competitor the information, reports and other materials that Stockholders are entitled to receive under this Article VII, within the time periods and subject to the applicable terms and conditions set forth in this Article VII; *provided*, *however*, that notwithstanding anything contained in this Article VII, any Stockholder that has not duly executed and delivered to the Company a counterpart signature page to this Agreement or a Joinder Agreement (and has not otherwise entered into a confidentiality agreement, in form and substance acceptable to the Board of Directors in its sole discretion, with respect to such information, reports and other materials) shall not be entitled to receive any such information, reports or other materials, or access to the Data Room. All information, reports and other materials that the Company is required to provide to Stockholders under this Article VII shall be posted to an electronic data room on a secure website or electronic data room to which all Stockholders entitled to receive such information, reports and other materials are given access (the "Data Room"). The Company shall also provide access to the Data Room, upon request by any Stockholder entitled to such access, to any Transferee or potential Transferee of shares of Common Stock to whom such Stockholder would be entitled to disclose Information pursuant to Section 12.3, *provided*, that such Transferee or potential Transferee is a Qualified Institutional Buyer or Accredited Investor (or is otherwise acceptable to the Board of Directors, in its reasonable discretion). All information provided by the Company to Stockholders pursuant to this Article VII (including all information provided to or obtained by any Significant Stockholder pursuant to Section 7.1(d)) shall be subject to the confidentiality provisions set forth in Section 12.3.

(b) Each Stockholder who is not a Competitor shall have the right to receive, (i) within ninety (90) days after the end of each fiscal year of the Company, audited consolidated financial statements of the Company for such fiscal year (including balance sheets, statements of operations and statements of cash flows), certified by a national accounting firm and prepared in accordance with GAAP, along with a reasonably detailed management's discussion and analysis, in narrative form, commenting on the audited consolidated financial statements ("MD&A"), (ii) within sixty (60) days after the end of each of the first three fiscal quarters of each fiscal year of the Company, unaudited condensed consolidated financial statements of the Company for such quarter and the year-to-date period and the comparable period of the prior fiscal year (including balance sheets, statements of operations and statements of cash flows, prepared in accordance with GAAP, along with an MD&A with respect thereto.

(c) Within a reasonable time after it provides quarterly or annual financial statements to Stockholders pursuant to Section 7.1(b), the Company shall hold quarterly conference calls with the Stockholders (and reasonable prior notice and dial-in information will be provided to each Stockholder entitled to participate in such call) to discuss the Company's results of operations and financial performance for the immediately preceding fiscal quarter and year-to-date, including a reasonable question and answer session. Notwithstanding the foregoing, the Company in its sole discretion may exclude from any such calls any Stockholder who is a Competitor.

(d) If at any time following the Effective Date the Company is required to register the Common Stock or any other class of equity security under Section 12(g) of the Exchange Act because the number of holders of record of such class exceeds any of the applicable thresholds, the Company shall provide a minimum of thirty (30) days prior written notice of such registration to all ~~Equity Holders~~Stockholders, and the Company shall not otherwise register the Common Stock or any class of equity security under Section 12 of the Exchange Act at any time prior to consummation of a Qualified Public Offering. The Common Stock will not be listed or quoted on the New York Stock Exchange, the NASDAQ Stock Market or any other national securities exchange at any time prior to the consummation of a Qualified Public Offering.

ARTICLE VIII

KEY ACTIONS

Section 8.1 Approval Requirements for Key Actions. In addition to any vote of stockholders of the Company that may be required by applicable law or by the provisions of the Certificate of Incorporation, the Company shall not directly or indirectly take (and, as applicable, the Company shall cause its Subsidiaries to refrain from taking) any Key Action without first obtaining approval of such Key Action by the Board of Directors pursuant to either (i) the affirmative vote, at a duly held meeting, of Directors that constitute a majority of the Whole Board or (ii) the unanimous written consent of all Directors then in office ("Whole Board Approval"). Notwithstanding the foregoing, Whole Board Approval shall not be required with respect to any Company Stock Sale or Company Asset Sale effectuated pursuant to the terms and conditions set forth in Article III hereof.

ARTICLE IX

RELATED PARTY TRANSACTIONS

Section 9.1 Approval Requirements for Related Party Transactions. In addition to any other vote of Stockholders of the Company that may be required by law or by the provisions of the Certificate of Incorporation, the Company shall not enter into, or permit any other Company Entity to enter into, any Related Party Transaction (or series of Related Party Transactions) that requires or (as determined by the disinterested members of the Board of Directors) would reasonably be expected to involve more than five million dollars ($5,000,000) in cash payments or other consideration or value, without first (i) obtaining approval of such Related Party Transaction(s) by Disinterested Director Approval, and (ii) (A) prior to obtaining Disinterested Director Approval described in clause (i) above, obtaining a fairness opinion from with respect to such proposed

Related Party Transaction from a nationally recognized investment banking or valuation firm, or (B) obtaining prior approval of the Stockholders by Majority Stockholder Approval (excluding for such purpose any shares held by the applicable Related Party or any of its Affiliates).

ARTICLE X

TRANSFERS

Section 10.1 Restrictions on Transfer.[4]

(a) [Each Stockholder covenants and agrees that it shall not Transfer any [shares of Common Stock][Equity Interests] except in accordance with the provisions of this Section 10.1 and the other applicable provisions of this Agreement. The Board of Directors, in its sole discretion, may at any time and from time to time waive any of the restrictions or requirements set forth in this Section 10.1, other than clause (i) of Section 10.1(b). The Board of Directors may delegate, to one or more specified officers of the Company, all or any portion of its authority to make decisions and determinations pursuant to this Section 10.1. Any Transfer must comply with Section 3.1, Section 4.1 and Section 5.1, as applicable.

(b) [Shares of Common Stock][Equity Interests] shall not be Transferred by any Stockholder in any Transfer that would, if consummated, (i) would result in a violation of the Securities Act or any state securities laws or regulations, or any other applicable federal or state laws or order of any Governmental Authority having jurisdiction over the Company, or (ii) would result in the Company's having (after taking into account any other pending Transfers for which a Transfer Notice has previously been given to the Company but have not yet been consummated, and assuming solely for purposes of this clause (ii) that all outstanding Convertible Notes have been fully converted into shares of Common Stock and that all such shares have been issued to the holders of such Convertible Notes prior to the effectiveness of such Transfer), (A) three hundred (300) or morea number of "holders of record" (as such concept is understood for purposes of Section 12(g) of the Exchange Act) of Common Stock, that (A) is three hundred (300) or more (except to the extent the Board of Directors, with respect to any Transfer determines, at any time after January 1, 2021, determines after consultation with based on advice of outside counsel, that such number of holders would not trigger an obligation for the Company to file reports pursuant to the Exchange Act, (B) such number of holders of record of Common Stock as would trigger an obligation for the Companythreshold is not applicable for purposes of determining whether the Company will be subject to periodic reporting obligations under the Exchange Act), (B) exceeds the applicable threshold for the Company's having to register the Common Stock under Section 12(g) of the Exchange Act or (C) such number of holders of record of Common Stock as would otherwise subject the Company to reporting obligations under Section 13 or Section 15 of the Exchange Act (if, at any time after January 1, 2021, it is not already subject to such reporting obligations at such time).). In calculating the number of holders of record of Common Stock for purposes of the immediately preceding sentence, (x) any pending Transfers for which a Transfer Notice (as defined below) has previously been given to the Company shall be taken into account and (y) all then-outstanding Convertible Notes shall be treated as if they were fully converted into

[4] Under review.

shares of Common Stock with all such shares issued to and held by the holders of such Convertible Notes.

(c) It shall be a condition precedent to any Stockholder's Transfer of shares of Common Stock that, prior to the consummation thereof, the Stockholder provide written notice of such Transfer to the Company (a "Transfer Notice"). A Transfer Notice shall be delivered to the Company in accordance with Section 12.2 and, except as determined otherwise by the Board of Directors in its sole discretion, shall include (A) the name, address, telephone number and email address of the Transferor and the Transferee, (B) the number of shares of Common Stock ~~(and, if applicable, the aggregate principal amount of Convertible Notes)~~ proposed to be Transferred (C) the total shares of Common Stock ~~and aggregate principal amount of Convertible Notes~~ then held by the Transferor, (D) the date on which the Transfer is expected to take place and (E) such additional information and documentation as may be reasonably requested by the Company and the Company's stock transfer agent. So long as the applicable provisions of this Agreement and the Certificate of Incorporation shall have been fully satisfied and complied with to the satisfaction of the Board, the Company shall, within seven (7) Business Days after delivery of the Transfer Notice (including, without limitation, the provision of any information and documentation requested pursuant to the foregoing clause (E) and, if applicable, the Joinder Agreement and/or legal opinion required by subsection (d) below), cause the Transfer to be registered on the books of the Company, unless the Board of Directors determines that the Transfer is not permitted pursuant to the terms of this Section 10.1, in which case the Company shall promptly inform the Transferor of such determination.

(d) It shall be a condition precedent to any Stockholder's Transfer of ~~[~~shares of Common Stock~~][Equity Interests]~~ that the Transferee shall have delivered to the Company a Joinder Agreement, duly completed and executed by the Transferee, if the Transferee was not an original signatory to this Agreement and has not previously executed and delivered a Joinder Agreement. It shall also be a condition precedent to any Stockholder's Transfer of shares of Common Stock that, if requested by the Board of Directors in its sole discretion, the Transferor shall have delivered to the Company a legal opinion reasonably acceptable to the Board of Directors, stating that registration of the shares of Common Stock that are the subject of such proposed Transfer is not required under the Securities Act. Notwithstanding the foregoing, such a legal opinion shall not be required for any Transfer of shares of Common Stock that were issued under the Plan in reliance on the registration exemption provided by Section 1145 of the Bankruptcy Code, unless the Company has reason to believe that such shares are "restricted securities" as such term is defined in Rule 144 under the Securities Act or that the Transferor may be an Affiliate of the Company or an "underwriter" (as such term is defined in Section 1145(b) of the Bankruptcy Code) with respect to such shares.

(e) Certificates. All certificates (if any) evidencing shares of Common Stock shall conspicuously bear the applicable legends set forth below, with such changes as the Board of Directors, in its discretion, deems to be necessary and appropriate, and any other legends required by the Certificate of Incorporation. Each Stockholder shall be deemed to have actual knowledge of the terms, provisions, restrictions and conditions set forth in the Certificate of Incorporation and this Agreement (including the restrictions on Transfer set forth in this Section 10.1), whether or not any certificate evidencing shares of Common Stock owned or held by such Stockholder bear

the legends set forth below and whether or not any such Stockholder received a separate notice of such terms, provisions, restrictions and conditions.[5]2

Each certificate, if any, representing shares of Common Stock issued under the Plan in reliance on the Securities Act exemption provided by Section 1145 of the Bankruptcy Code shall include a legend substantially to the following effect:

> "THE SHARES REPRESENTED BY THIS CERTIFICATE (THE "SECURITIES") WERE ORIGINALLY ISSUED IN RELIANCE UPON AN EXEMPTION FROM THE REGISTRATION REQUIREMENT OF SECTION 5 OF THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT"), PROVIDED BY SECTION 1145 OF THE U.S. BANKRUPTCY CODE. THE SECURITIES HAVE NOT BEEN REGISTERED UNDER THE ACT OR ANY STATE SECURITIES LAW, AND TO THE EXTENT THE HOLDER OF THE SECURITIES IS AN "UNDERWRITER", AS DEFINED IN SECTION 1145(B)(1) OF THE BANKRUPTCY CODE, MAY NOT BE SOLD OR TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR AN EXEMPTION THEREFROM. THE SECURITIES ARE ALSO SUBJECT TO THE PROVISIONS OF THE COMPANY'S STOCKHOLDERS AGREEMENT DATED AS OF [•], 2020, INCLUDING RESTRICTIONS ON TRANSFER. THE SECURITIES ARE TRANSFERABLE ONLY IN ACCORDANCE WITH THE PROVISIONS OF THE STOCKHOLDERS AGREEMENT, AND ALL HOLDERS OF SHARES OF THE COMPANY (WHETHER ACQUIRED UPON ISSUANCE OR TRANSFER) SHALL BE, AND BE DEEMED TO BE, A PARTY TO AND BOUND BY SUCH AGREEMENT. A COPY OF THE STOCKHOLDERS AGREEMENT WILL BE FURNISHED WITHOUT CHARGE BY THE COMPANY TO THE HOLDER HEREOF UPON WRITTEN REQUEST."

Each certificate, if any, representing shares of Common Stock issued in reliance on the Securities Act exemption provided by Section 4(a)(2) of the Securities Act shall include a legend substantially to the following effect:

> "THE SHARES REPRESENTED BY THIS CERTIFICATE (THE "SECURITIES") WERE ORIGINALLY ISSUED IN RELIANCE UPON AN EXEMPTION FROM THE REGISTRATION REQUIREMENT OF SECTION 5 OF THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT"), PROVIDED BY SECTION 4(a)(2) OF THE SECURITIES ACT. THE SECURITIES HAVE NOT BEEN REGISTERED UNDER THE ACT OR ANY STATE SECURITIES LAW, AND MAY NOT BE SOLD OR TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR AN EXEMPTION THEREFROM. THE SECURITIES ARE ALSO SUBJECT TO THE PROVISIONS OF THE COMPANY'S STOCKHOLDERS AGREEMENT DATED AS OF [•], 2020, INCLUDING RESTRICTIONS ON TRANSFER. THE SECURITIES ARE TRANSFERABLE ONLY IN ACCORDANCE WITH THE PROVISIONS OF THE STOCKHOLDERS AGREEMENT, AND ALL HOLDERS OF SHARES OF THE COMPANY (WHETHER ACQUIRED UPON ISSUANCE OR

[5] ~~Under review~~2 Note to Draft: Consider inserting language regarding the removal of legends.

TRANSFER) SHALL BE, AND BE DEEMED TO BE, A PARTY TO AND BOUND BY SUCH AGREEMENT. A COPY OF THE STOCKHOLDERS AGREEMENT WILL BE FURNISHED WITHOUT CHARGE BY THE COMPANY TO THE HOLDER HEREOF UPON WRITTEN REQUEST."

Each certificate, if any, representing other shares of Common Stock shall contain such legends as the Board of Directors, in its discretion, deems to be necessary and appropriate.

(f) Certain Restricted Transfers. ~~[~~Shares of Common Stock~~][Equity Interests]~~ shall not be Transferred by any Stockholder to a Competitor, except with the prior written approval of the Board of Directors in its sole discretion. ~~[~~Shares of Common Stock~~][Equity Interests]~~ shall not be Transferred by any Stockholder pursuant to any Transfer (other than to an Affiliate of the Transferor) that would, if consummated, result in the Transferee (together with its Affiliates) becoming the holder of more than five percent (5%) of the ~~Total Equity Interests~~outstanding shares of Common Stock , except with the prior written approval of the Board of Directors in its sole discretion, *provided*, *however*, that such restriction shall not apply to any ~~if the Transferee is~~Transfer to a Significant Stockholder, or if the Transferee (together with its Affiliates) already holds more than five percent (5%) of the ~~Total Equity Interests~~outstanding shares of Common Stock and was the Transferee in another Transfer approved pursuant to this Section 10.1(f). The foregoing restrictions shall not apply to Transfers (i) between Significant Stockholders, (ii) in a Drag-Along Sale pursuant to Article III hereof, or (iii) by any Tag-Along Seller in a Tag-Along Sale pursuant to Article IV hereof.

(g) Transfers Not in Compliance. Any Transfer or attempted Transfer of any ~~[~~shares of Common Stock~~][Equity Interests]~~ that does not fully comply with the applicable provisions of this Agreement shall be null and void ab initio and of no force or effect whatsoever, and shall not be recognized by the Company. Any such Transfer or attempted Transfer shall not be recorded on the Company's books and the purported Transferee shall not be treated as the owner of such shares of Common Stock ~~[or Convertible Notes]~~ for any purpose. The Company may institute legal proceedings to force rescission of any Transfer made in violation of any provision of this Agreement and to seek any other remedy available to it at law, in equity or otherwise, including an injunction prohibiting any such Transfer.~~]~~

Section 10.2 Right of First Offer.[6]

(a) In the event that any ~~[~~Stockholder~~][Equity Holder]~~ proposes to Transfer shares of Common Stock ~~and/or Convertible Notes~~ that represent more than five percent (5%) of the ~~Total Equity Interests (such securities~~outstanding shares of Common Stock in a single transaction or series of related transactions (such shares, the "ROFO ~~Securities~~Shares", and such ~~[~~Stockholder~~][Equity Holder]~~, the "Offering ~~Equity~~ Holder"), the Company shall have a right of first offer with respect to such proposed Transfer of the ROFO ~~Securities~~Shares (a "ROFO Sale") and, if the Company does not exercise such right to purchase all the ROFO ~~Securities~~Shares, each Significant Stockholder (excluding the Offering ~~Equity~~ Holder and its Affiliates, to the extent any of them is a Significant Stockholder) (a "ROFO Holder") shall have a right of first offer with

[6] ~~Under review.~~

respect to the ROFO ~~Securities~~Shares, which rights of first offer shall be subject to, and be exercised in accordance with, the provisions of this Section 10.2.

(b) With respect to any ~~such~~ proposed ~~Transfer of Equity Securities~~ROFO Sale, the Offering ~~Equity~~ Holder shall first deliver written notice thereof to the Company and each of the ROFO Holders ~~(the~~in accordance with Section 12.2 (a "ROFO Sale Notice"), which ROFO Sale Notice shall ~~include a description of the material terms and conditions of the proposed Transfer, including~~set forth the number of ~~shares of Common Stock and/or Convertible Notes~~ROFO Shares proposed to be Transferred ~~(the "Offered Shares") and the purchase price per Offered Share (which must be a fixed price and not a range) (such material terms and conditions, collectively, the "ROFO Terms"). Delivery of a ROFO Notice shall constitute an irrevocable offer by the Offering Equity Holder to sell the Offered Shares to the Company and/or the ROFO Holders on the ROFO Terms pursuant to~~ . The Company shall have the right, exercisable within five (5) Business Days following delivery of the ROFO Sale Notice to make a written offer to the Offering Holder (a "Company ROFO Offer") to purchase (either directly or through one or more Affiliates) all, but not less than all, of the ROFO Shares at a cash purchase price specified in the Company ROFO Offer. If the Company does not exercise such right within the five (5) Business Days following delivery of the ROFO Transfer Notice or expressly declines to exercise such right, the Company shall give prompt written notice thereof to each the ROFO Holders, and each ROFO Holder shall have the right, exercisable within five (5) Business Days following the Company's delivery of such notice to the ROFO Holders, to make a written offer (a "Holder ROFO Offer") to purchase (either directly or through one or more Affiliates) all, but not less than all, of the ROFO Shares at a cash price specified in the Holder ROFO Offer. For the avoidance of doubt, if the Company exercises its right to make a ROFO Offer, then the ROFO Holders shall not be entitled to any rights described in this Section 10.2.

(c) ~~For a period of ten (10) Business Days after the delivery of the ROFO Notice (the "Company ROFO Period"), the Company shall have the right to elect to purchase on the ROFO Terms all or any portion of the Offered Shares, which election shall be made by delivering written notice (the "Company ROFO Notice") thereof to the Offering Equity Holder. If the Company does not elect to purchase all of the Offered Shares within the Company ROFO Period, then the Offered Shares that the Company does not elect to purchase (the "Remaining Shares") shall be subject to purchase by the ROFO Holders pursuant to Section 10.2(d).~~If the Company makes a Company ROFO Offer and the Offering Holder accepts such Company ROFO Offer, subject to Section 10.2(e) below, the Company shall be irrevocably obligated to purchase (either directly or through one or more Affiliates, as applicable), and the offering Holder shall be irrevocably obligated to sell, all, but not less than all, of the ROFO Shares at the price specified in the Company ROFO Offer, and on the terms and subject to the conditions set forth in this Section 10.2.

~~(d) If there are Remaining Shares after the expiration of the Company ROFO Period (or such earlier date that Company delivers the Company ROFO Notice to the Offering Equity Holder or the date on which the Company notifies the Offering Equity Holder in writing that it will not elect to purchase any of the Offered Shares), then the ROFO Holders shall have the right (the "Holder ROFO Right"), for a period of ten (10) Business Days after the earlier of the expiration of the Company ROFO Period (or such earlier date that Company delivers the Company ROFO Notice to the Offering Equity Holder or the date on which the Company notifies the~~

~~Offering Equity Holder in writing that it will not elect to purchase any of the Offered Shares), to elect to purchase on the ROFO Terms its ROFO Portion of the Remaining Shares, which election shall be made by delivering written notice thereof to the Offering Equity Holder. A ROFO Holder's "ROFO Portion" with respect to the Remaining Shares shall be equal to the product of (i) the total number of Remaining Shares and (ii) a fraction, the numerator of which is the number of Total Equity Interests owned or held by such ROFO Holder, and the denominator of which is the number of Total Equity Interests owned or held by all ROFO Holders. If not all ROFO Holders subscribe for their full ROFO Portion of Remaining Shares, then the Offering Equity Holder shall notify in writing the fully-subscribing ROFO Holders and the Company of such fact and offer such fully-subscribing ROFO Holders the right to acquire such unsubscribed Remaining Shares on the ROFO Terms. Subject to the preceding sentence, each fully-subscribing ROFO Holder shall have the right to elect to purchase its *pro rata* share of such unsubscribed Remaining Shares (in proportion to the ROFO Portions of all fully-subscribing ROFO Holders), by delivering written notice thereof to the Offering Equity Holder and the Company within two (2) Business Days from the date the notice from the Offering Equity Holder is delivered to such ROFO Holders. To the extent the procedure described in the preceding sentence does not result in the subscription of all unsubscribed Remaining Shares, such procedure shall be repeated until either (A) there are no unsubscribed Remaining Shares or (B) no ROFO Holder elects to purchase any unsubscribed Remaining Shares.~~

(d) If the Company does not exercise its right to make a Company ROFO Offer, and the Offering Holder receives Holder ROFO Offers from one or more ROFO Holders, then the Offering Holder shall have the right, exercisable within five (5) Business Days following the last day a timely Holder ROFO Offer could have been made by a ROFO Holder for the ROFO Shares, to accept the highest Holder ROFO Offer by sending written notice of its acceptance to the ROFO Holder making such Holder ROFO Offer (a "ROFO Acceptance Notice"); *provided*, that if two or more Holder ROFO Offers provide for the same purchase price and the Offering Holder wishes to accept a ROFO Offer at such price, then the Offering Holder shall accept each such Holder ROFO Offer in part, with each such ROFO Offer to be accepted by allocating the ROFO Shares proportionately in accordance with the respective ownership of Common Stock (calculated as of the date of the ROFO Sale Notice) by each of the ROFO Holders making such Holder ROFO Offers. Upon the Offering Holder's acceptance of a one or more Holder ROFO Offers in accordance with this Section 10.2(d), the ROFO Holder(s) making such Holder ROFO Offer(s) shall be irrevocably obligated to purchase (either directly or through one or more Affiliates), and the Offering Holder shall be irrevocably obligated to sell, in each case the ROFO Holder Shares with respect to which such Holder ROFO Offer(s) was accepted, at the price specified in such Holder ROFO Offer(s), and on the terms and subject to the conditions set forth in this Section 10.2.

(e) ~~If~~In the event the Offering Holder accepts a Company ~~and/~~ROFO Offer or one or more Holder ROFO ~~Holders elect to purchase all of the Offered Shares~~Offers (each, a "ROFO Offer"), the closing for such purchase and sale of the ROFO Shares pursuant thereto shall take place within ten (10) Business Days after the ~~expiration of the Company ROFO Period or, if there are Remaining Shares after the end of the Company ROFO Period (or such earlier date that Company delivers the Company ROFO Notice to the Offering Equity Holder or the date on which the Company notifies the Offering Equity Holder in writing that it will not elect to purchase any of the Offered Shares), the expiration of the last period in which ROFO Holders could elect to purchase Remaining Shares.~~

~~(f)~~ Offering Holder's delivery of the applicable ROFO Acceptance Notice, and at such ~~At the~~ closing ~~of any purchase and sale of Offered Shares under this Section 10.2~~, (i) the Offering ~~Equity~~ Holder shall deliver, against payment of the purchase price therefor, ~~in accordance with the ROFO Terms,~~ certificates (if any) or other documentation (or other evidence thereof reasonably acceptable to the ~~Company and/or the ROFO Holders~~purchaser) representing such ~~Offered~~ROFO Shares, duly endorsed for transfer or accompanied by duly endorsed instruments of transfer, and such other documents as are deemed reasonably necessary by the ~~Company and/or the ROFO Holders~~purchaser for the proper transfer of such ~~Offered~~ROFO Shares on the books of the Company free and clear of any Liens (other than Permitted Liens) and (ii) the ~~Company and/or the ROFO Holders that have elected to purchase Offered Shares~~purchasers shall deliver to the Offering ~~Equity~~ Holder the purchase price for such ~~Offered Shares in accordance with the ROFO Terms.~~ROFO Shares. The Offering Holder shall not be required to provide any representations or warranties in the definitive Transfer documentation for such purchase and sale of the ROFO Shares, other than with respect to (i) the authority of the Offering Holder to execute the relevant Transfer documents and Transfer the ROFO Shares pursuant thereto, (ii) the due execution and delivery of the relevant Transfer documents by the Offering Holder and (iii) the Offering Holder's ownership of the ROFO Shares free and clear of adverse interests and other liens.

~~(g) In the event that the Company and/or the ROFO Holders do not elect to purchase all of the Offered Shares, or fail to timely close the purchase of the Offered Shares in accordance with this Section 10.2, then (i) neither the Company nor any ROFO Holder shall be entitled to purchase any of the Offered Shares and (ii) the Offering Equity Holder will have one hundred and eighty (180) days after the earlier of (x) the expiration of the last period in which ROFO Holders could elect to purchase Remaining Shares and (y) the failure of the Company and/or the ROFO Holders that have elected to purchase Offered Shares to close the purchase of the Offered Shares in accordance with this Section 10.2, to Transfer all, but not less than all, of the Offered Shares to a third party (subject to compliance with the terms set forth in this Agreement, including Article IV, if applicable), at a price no less than one hundred and ten percent (110%) of the price set forth in the ROFO Notice and on other terms not more favorable to the Offering Equity Holder, in the aggregate, than the other ROFO Terms. In the event the Offering Equity Holder has not sold the Offered Shares within such one hundred and eighty (180) day period, the Offering Equity Holder shall not thereafter Transfer such Offered Shares to any Person without first offering such Offered Shares to the ROFO Holders in the manner provided in this Section 10.2.~~

(f) If the Offering Holder does not receive a timely ROFO Offer, the Offering Holder shall have the right to Transfer the ROFO Shares, in whole or in part, to one or more third parties at such price as it so determines. If the Offering Holder receives one or more timely ROFO Offers but the Offering Holder elects not to accept any such ROFO Offer, the Offering Holder shall have the right, within 180 days thereafter, to Transfer all, but not less than all, of its ROFO Shares to one or more third parties; *provided*, *however*, that no such Transfers shall be made at a price that is less than 110% of the highest price set forth in any timely ROFO Offer not accepted by the Offering Holder. If the Offering Holder desires to Transfer the ROFO Shares at a price less than 110% of the highest price set forth in any timely ROFO Offer, or more than 180 days after a ROFO Offer was received, then it shall not be permitted to do so without re-commencing the right of first offer process set forth in this Section 10.2.

(g) ~~(h)~~ The foregoing restrictions shall not apply to Transfers (i) between Significant Stockholders, (ii) by a Stockholder to any of its Affiliates, (iii) in a Drag-Along Sale pursuant to Article III hereof, or (iv) by any Tag-Along Seller in a Tag-Along Sale pursuant to Article IV hereof.

ARTICLE XI
REPRESENTATIONS AND WARRANTIES

Section 11.1 ~~Equity Holder~~Stockholder Representations and Warranties. Each ~~Equity Holder~~Stockholder executing or otherwise becoming a party to this Agreement, severally and not jointly, hereby represents and warrants to the Company that as of the date of such execution or its becoming a party hereto, (a) such ~~Equity Holder~~Stockholder is duly organized and validly existing under the laws of the jurisdiction of its organization and is in good standing thereunder, (b) such ~~Equity Holder~~Stockholder and its signatories have the requisite power and authority to enter into, deliver and perform its obligations under this Agreement and (c) this Agreement constitutes the valid and binding obligation of such ~~Equity Holder~~Stockholder, enforceable in accordance with its terms (except as limited by applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance and other laws relating to or affecting creditors' rights generally and the effect and application of general principles of equity and the availability of equitable remedies).

ARTICLE XII

MISCELLANEOUS

Section 12.1 Term and Termination.

(a) This Agreement shall terminate automatically upon consummation of a Qualified Public Offering, a Company Asset Sale or Company Stock Sale, subject to compliance with all applicable provisions of this Agreement relating to rights of Stockholders in connection with such transaction; *provided,* Section 12.3 (and any other provisions of this Agreement necessary to give effect to Section 12.3) shall survive any termination hereof.

(b) Notwithstanding anything to the contrary in this Agreement, in the event of any termination of this Agreement, (i) the provisions of this Agreement shall survive to the extent necessary for any Party to enforce any right of such Party that accrued hereunder prior to or on account of such termination and (ii) Section 12.3 shall survive such termination.

Section 12.2 Notices. All notices, requests, waivers and other communications made pursuant to this Agreement shall be in writing and shall be deemed to have been effectively given (a) when personally delivered to the party to be notified; (b) when sent by confirmed facsimile or electronic mail to the party to be notified; (c) three (3) Business Days after deposit in the United States mail, postage prepaid, by certified or registered mail with return receipt requested, addressed to the party to be notified; or (d) one (1) Business Day after deposit with a national overnight delivery service, postage prepaid, addressed to the party to be notified with next-Business Day delivery guaranteed, in each case as follows:

In the case of any Stockholder, to such Stockholder at its address, electronic mail address or facsimile number set forth in the stock records of the Company; *provided*, that

any Stockholder may change its address for purposes of notice hereunder at any time by giving notice of such change to the Company in the manner provided in this Section 12.2. Pursuant to Section 7.1, a copy of any notice or other written communication given by or on behalf of the Company to the Stockholders generally shall be posted to the Data Room on the same date as such notice or other written communication is given.

In the case of the Company, as follows (provided, that the Company may change its address for purposes of notice hereunder at any time by giving notice of such change to all other parties in the manner provided in this Section 12.2):

Chaparral Energy, Inc.
701 Cedar Lake Blvd.
Oklahoma City, OK 73114
Attn: Charles Duginski, Chief Executive Officer,
Justin Byrne, Vice President and General Counsel
E-mail: chuck.duginski@chaparralenergy.com
justin.byrne@chaparralenergy.com

Section 12.3 Confidentiality.

(a) Each Stockholder shall, and shall cause its Representatives to, keep confidential and not divulge any information (including all budgets, business plans and analyses) concerning the Company and its Subsidiaries, including its assets, business, operations, financial condition, liabilities or business prospects ("Information"), and shall use, and cause its Representatives to use, such Information only in connection with the operation of the Company and its investment in the Company; *provided*, *however*, that nothing herein shall prevent any Stockholder from disclosing such Information (i) upon the order of any court or administrative agency, (ii) upon the request or demand of any regulatory agency or authority having jurisdiction over such Stockholder, (iii) to the extent compelled by legal process or required or requested pursuant to subpoena, interrogatories or other discovery requests, (iv) to the extent necessary in connection with the exercise of any remedy hereunder, (v) to other Stockholders who have entered into this Agreement, (vi) to such Stockholder's Representatives that in the reasonable judgment of such Stockholder need to know such Information and have an obligation to maintain the confidentiality of such Information, (vii) to any Related Party as long as the Related Party agrees in writing to be bound by the provisions of this Section 12.3 as if it were a Stockholder, (viii) to a potential Transferee of shares of Common Stock, to the extent reasonably necessary in connection with an actual or potential Transfer to such Person that would be permitted by this Agreement, *provided* that such potential Transferee is not a Competitor and (prior to such disclosure) enters into a non-disclosure agreement in a form approved by the Board of Directors pursuant to which the potential Transferee agrees in writing to maintain the confidential nature of such Information in accordance with the terms of this Section 12.3, or (ix) with the prior written consent of the Company; *provided further*, *that* in the case of clause (i), (ii) or (iii), the applicable Stockholder shall notify the Company in writing of the proposed disclosure as far in advance of such disclosure as practicable and use reasonable efforts to ensure that any Information so disclosed is accorded confidential treatment, when and if available.

(b) The restrictions set forth in Section 12.3(a) shall not apply to any information that (i) is or becomes generally available to the public other than as a result of a disclosure by a Stockholder or any of its Representatives in violation of this Agreement; (ii) is or becomes available to a Stockholder or any of its Representatives on a non-confidential basis prior to its disclosure by or on behalf of the Company to the receiving Stockholder and any of its Representatives, (iii) is or has been independently developed or conceived by such Stockholder or any of its Representatives without use of the Company's Information or (iv) becomes available to the receiving Stockholder or any of its Representatives on a non-confidential basis from a source other than the Company, any other Stockholder or any of their respective Representatives, *provided*, that such source is not known by the recipient of the information to be bound by a confidentiality agreement with the disclosing party or any of its Representatives.

Section 12.4 Binding Effect; No Assignment. This Agreement shall be binding upon and inure to the benefit of the respective successors and permitted assigns of the parties hereto. Except as expressly provided otherwise in this Agreement, no party to this Agreement may assign any of its respective rights (including Significant Stockholder status and/or any rights resulting from such status) or delegate any of its respective obligations under this Agreement, and any attempted assignment or delegation in violation of the foregoing shall be null and void *ab initio*. Notwithstanding the foregoing, (a) any Person to whom shares of Common Stock are Transferred in accordance with the provisions of Article X hereof will (by virtue of having executed a Joinder Agreement) have the rights and obligations of a Stockholder hereunder (b) any Significant Stockholder may freely assign, by written notice to the Company, Significant Stockholder rights to any of its Affiliates that ~~hold Equity Securities~~are Stockholders.

Section 12.5 Entire Agreement. Subject to Section 12.13, this Agreement supersedes all prior discussions and agreements among any of the parties hereto (and their Affiliates) with respect to the subject matter hereof and contains the sole entire understanding of the parties with respect to the subject matter hereof.

Section 12.6 Amendments.

(a) This Agreement may not be amended or modified without first obtaining Majority Stockholder Approval and Whole Board Approval. In addition, any amendment or modification to this Agreement shall, if applicable, require the following additional approvals in the circumstances set forth below:

(i) ~~[~~Supermajority Stockholder Approval shall be required for any amendment or modification to this Section 12.6, or any provisions of ~~[~~Article II (Stockholders; Voting Rights), Article III (Drag-Along Sale), Article IV (Tag-Along Sale), Article V (Preemptive Rights), Section 6.6 (Management), Article VII (Information Rights), Article VIII (Key Actions), Article IX (Related Party Transactions), Section 12.1 (Termination), Section 12.3 (Confidentiality) and Article I (Certain Definitions), to the extent relating to any of the foregoing Articles or Sections~~]~~, in each case to the extent that

such amendment or modification adversely affects, in any material respect, the rights or obligations of the Stockholders under ~~such~~any of the foregoing provisions~~]~~;[7]

(ii) any amendment or modification to the provisions of this Agreement that apply specifically to Significant Stockholders (including the definition thereof) shall require the prior written consent of all such Significant Stockholders, and any amendment or modification to the provisions of this Agreement that apply specifically to Designating Stockholders or Designation Rights shall require the prior written consent of such Designating Stockholders, in each case to the extent such amendment or modification would adversely affect such Significant Stockholders, Designating Stockholders or Designation Rights, as the case may be; and

(iii) any provision of this Agreement that by its terms confers consent or approval rights on a specified number or percentage of the Stockholders (or a specified subset of the Stockholders) shall not be amended without the prior written consent of such number or percentage of the Stockholders (or subset of the Stockholders, as applicable).

(b) Notwithstanding anything to the contrary in this Section 12.6, the Board of Directors, in its sole discretion and without the need for any Stockholder approval, may amend or modify this Agreement to correct any typographical or ministerial error as long as such amendment or modification does not have an adverse impact on the rights or obligations of any of the Stockholders.

(c) Each Stockholder agrees to vote all of its Common Stock or execute proxies or written consents, as the case may be, and to take all other actions necessary, to ensure that the Certificate of Incorporation or the Bylaws (i) facilitate, and do not at any time conflict with, any provision of this Agreement and (ii) permit each Stockholder to receive the benefits to which each such Stockholder is entitled under this Agreement. Each of the Parties agrees that it will not authorize or consent to any amendment, modification or repeal of any provision of the Certificate of Incorporation or the Bylaws that affects, in any material respect any of the provisions of this Agreement that apply specifically to Significant Stockholders (including the definition thereof) without the prior written consent of all Significant Stockholders, and any amendment or modification to the provisions of this Agreement that apply specifically to Designating Stockholders or Designation Rights shall require the prior written consent of all Designating Stockholders, in each case to the extent such amendment, modification or repeal would adversely affect the Significant Stockholders, Designating Stockholders or Designation Rights, as the case may be.

Section 12.7 No Third Party Beneficiary. The terms and provisions of this Agreement are intended solely for the benefit of each party hereto and its successors and permitted assigns, and it is not the intention of the parties to confer third-party beneficiary rights upon any other Person.

Section 12.8 Deemed Execution; Effective Date. On the Effective Date, pursuant to [the Confirmation Order and] Article IV Section C.3 of the Plan, the Company and each holder of

[7] ~~Under review.~~

Common Stock then outstanding shall be deemed to be parties to this Agreement, and this Agreement shall be binding on the Company and all Persons receiving Common Stock and all holders of Common Stock, in each case regardless of whether such Person actually executes this Agreement. This Agreement shall take effect immediately and automatically on the Effective Date.

Section 12.9 Headings. The headings of the various sections of this Agreement have been inserted for convenience of reference only and shall not be deemed to be a part of this Agreement.

Section 12.10 Governing Law; Consent to Jurisdiction and Service of Process. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, without regard to its conflicts of law doctrine. The Company and each Stockholder hereby submits to the exclusive jurisdiction of (i) the Bankruptcy Court, and (ii) the courts of the State of Delaware, and any judicial proceeding brought against the Company or any Stockholder with respect to any dispute arising out of this Agreement or any matter related hereto shall be brought only in such courts. The Company and each Stockholder hereby irrevocably waives, to the fullest extent permitted by law, any objection it may have or hereafter have to the laying of the venue of any such proceeding brought in such a court and any claim that any such proceeding brought in such a court has been brought in an inconvenient forum. The Company and each Stockholder hereby consents to process being served in any such proceeding by the mailing of a copy thereof by registered or certified mail, postage prepaid, to the address specified in Section 12.2, or in any other manner permitted by law. THE COMPANY AND EACH STOCKHOLDER HEREBY KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVES ANY RIGHTS IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY SUCH ACTION OR PROCEEDING.

Section 12.11 Injunctive Relief. It is hereby agreed and acknowledged that it will be impossible to measure in money the damages that would be suffered if the parties to this Agreement fail to comply with any of the obligations imposed on them by this Agreement and that in the event of any such failure, an aggrieved Person will be irreparably damaged and will not have an adequate remedy at law. Any such Person shall, therefore, be entitled to injunctive relief, including specific performance, to enforce such obligations, and if any action should be brought in equity to enforce any of the provisions of this Agreement, none of the parties hereto shall raise the defense that there is an adequate remedy at law. The parties hereby waive, and cause their respective representatives to waive, any requirement for the securing or posting of any bond in connection with any action brought for injunctive relief hereunder.

Section 12.12 Severability. The invalidity or unenforceability of any provisions of this Agreement in any jurisdiction shall not affect the validity, legality or enforceability of the remainder of this Agreement in such jurisdiction or the validity, legality or enforceability of any provision of this Agreement in any other jurisdiction, it being intended that all rights and obligations of the parties hereunder shall be enforceable to the fullest extent permitted by law.

Section 12.13 Conflicts. In the event that any of the terms or provisions of this Agreement conflict with any of the terms or provisions of the Certificate of Incorporation, the terms and provisions of the Certificate of Incorporation shall control. In the event that any of the terms or

provisions of this Agreement conflict with any of the terms or provisions of the Plan, the terms and provisions of this Agreement shall control.

Section 12.14 Recapitalization, etc. In the event that any capital stock or other securities are issued in respect of, in exchange for, or in substitution of, shares of capital stock of the Company by reason of any reorganization, recapitalization, reclassification, merger, consolidation, spin-off, partial or complete liquidation, stock dividend, split-up, sale of assets, distribution to Stockholders or combination of Common Stock or any other change in the Company's capital structure, appropriate adjustments shall be made to the provisions of this Agreement so as to fairly and equitably preserve, as far as practicable, the original rights and obligations of the parties hereto under this Agreement.

Section 12.15 Withholding. All actual or constructive payments, dividends and distributions on, or in redemption of, the Common Stock and all Common Stock delivered upon exercise or conversion of the New Warrants or New Convertible Notes shall be subject to withholding and backup withholding of tax to the extent required by law, and amounts withheld, if any, shall be treated as received by the holders of such Common Stock, New Warrants, or New Convertible Notes, as the case may be, in respect of which such amounts were withheld. Without limiting the forgoing, if the Company is required by applicable law to pay withholding tax, the Company may, at its option, (a) apply a portion of any cash distribution or consideration to be made or paid to the applicable holder to pay such withholding taxes and/or (b) liquidate a portion of any non-cash distribution or consideration to be made or delivered to the applicable holder to generate sufficient funds to pay such withholding taxes.

[*Signature Page Follows*]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first written above.

CHAPARRAL ENERGY, INC.

By: _____
Name:
Title:

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first written above.

STOCKHOLDERS:

[NAME OF STOCKHOLDER]

By: _____
Name:
Title:

Schedule 6.2

INITIAL BOARD OF DIRECTORS

Director Name		**Designating Stockholder (if applicable)**
[●]		Millstreet Stockholders
[●]		Millstreet Stockholders
[●]		Avenue Stockholders
[●]		Amzak Stockholders
[●]		All Designating Stockholders
[●]		N/A (CEO Director)
[●]		N/A (At-Large Director)

* Initial Chairman of the Board

Exhibit A

Bylaws

Exhibit B

Certificate of Incorporation

Exhibit C

Form of Joinder to Stockholders Agreement

The undersigned hereby (a) acknowledges that it has received and reviewed a complete copy of the Stockholders Agreement, dated as of [•], 2020 (as may be amended from time to time, the "Agreement"), by and among CHAPARRAL ENERGY, INC., a Delaware corporation (the "Company"), and the equity holders of the Company party thereto and (b) agrees that, effective as of the date hereof, the undersigned (i) shall become a party to the Agreement and be subject to and fully bound by the Agreement and all of the provisions thereof that are applicable to ~~[~~Stockholders~~]~~ ~~[Equity Holder]~~ (and entitled to all the rights incidental thereto), as though an original party to the Agreement and (ii) shall be included within the term ~~[~~"Stockholder"~~] [~~"Equity Holder"~~]~~ for all purposes under the Agreement. Capitalized terms used but not otherwise defined herein shall have the meanings given to them in the Agreement.

The undersigned hereby makes the representations and warranties set forth in Section 11.1 of the Agreement, and represents and warrants to the Company that the undersigned (a) is a Qualified Institutional Buyer or an Accredited Investor and (b) is not a Competitor.

The mailing address, e-mail address and (if applicable) facsimile number to which notices and other communications made pursuant to the Agreement, the Certificate of Incorporation or the Bylaws may be sent to the undersigned are as follows:

Mailing address:

E-mail address:
Facsimile number:

Date:

_____
Name:

Summary report: **Litera® Change-Pro for Word 10.10.0.103 Document comparison done on 9/23/2020 11:06:20 AM**	
Style name: Comments+Color Legislative Moves+Images	
Intelligent Table Comparison: Active	
Original filename: (78181090_3) CHAP - Stockholders Agreement.DOCX	
Modified filename: (78181090_3) CHAP - Stockholders Agreement.DOCX	
Changes:	
Add	413
~~Delete~~	392
~~Move From~~	53
Move To	53
Table Insert	0
~~Table Delete~~	0
Table moves to	0
~~Table moves from~~	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
Total Changes:	911

EXHIBIT 2

Blackline of New Convertible Notes Indenture

CHAPARRAL ENERGY, INC.,
as the Issuer,

EACH OF THE GUARANTORS PARTY HERETO

and

WILMINGTON SAVINGS FUND SOCIETY FSB,
as Trustee and Collateral Agent

INDENTURE[1]

Dated as of [__], 2020

9.0%/13.0% Second Lien Secured Convertible PIK Toggle Notes due 2025

[1] NTD: This draft Indenture is subject to further review and comment in all respects, including pending review of draft RBL Credit Agreement, by local counsel, by Trustee's counsel and by subject matter specialists.

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ARTICLE IV.

ARTICLE V.

ARTICLE VI.

INDENTURE, dated as of [__], 2020, among Chaparral Energy, Inc., a Delaware corporation (the "Issuer"), the Subsidiary Guarantors (as defined herein) from time to time party hereto and Wilmington Savings Fund Society FSB, a federal savings bank, as Trustee (together with its successors and assigns in such capacity, the "Trustee") and as Collateral Agent (together with its successors and assigns in such capacity, the "Collateral Agent").

The Issuer has duly authorized the creation of an original issue of $35,000,000.00 aggregate initial principal amount of 9.0%/13.0% Second Lien Secured Convertible PIK Toggle Notes due 2025 (the "Notes") and, to provide therefor, the Issuer and the Subsidiary Guarantors have duly authorized the execution and delivery of this Indenture. All things necessary to make the Notes, when duly issued and executed by the Issuer, and authenticated and delivered under this Indenture, the valid obligations of the Issuer, and to make this Indenture a valid and binding agreement of the Issuer, have been done.

Each party hereto agrees as follows for the benefit of the other party and for the equal and ratable benefit of the Holders of the Notes.

ARTICLE I.

DEFINITIONS AND INCORPORATION BY REFERENCE

SECTION 1.1. ***Definitions***.

"144A Global Note" means a Global Note substantially in the form of Exhibit A hereto bearing the Global Note Legend and the Private Placement Legend and deposited with or on behalf of, and registered in the name of, the Depository or its nominee that will be issued in a denomination equal to the outstanding principal amount of the Notes sold in reliance on Rule 144A.

"Acquired Indebtedness" means Indebtedness (i) of a Person or any of its Subsidiaries existing at the time such Person becomes, or is merged with and into, a Restricted Subsidiary or (ii) assumed in connection with the acquisition of assets from such Person, in each case whether or not Incurred by such Person in connection with, or in anticipation or contemplation of, such Person becoming a Restricted Subsidiary or such acquisition. Acquired Indebtedness shall be deemed to have been Incurred, with respect to clause (i) of the preceding sentence, on the date such Person becomes, or is merged with and into, a Restricted Subsidiary and, with respect to clause (ii) of the preceding sentence, on the date of consummation of such acquisition of assets.

"Additional Assets" means:

(1) any properties or assets to be used by the Issuer or a Restricted Subsidiary in the Oil and Gas Business;

(2) capital expenditures by the Issuer or a Restricted Subsidiary in the Oil and Gas Business;

(3) the Capital Stock of a Person that becomes a Restricted Subsidiary as a result of the acquisition of such Capital Stock by the Issuer or a Restricted Subsidiary; or

(4) Capital Stock constituting a minority interest in any Person that at such time is a Restricted Subsidiary;

provided, *however*, that, in the case of clauses (3) and (4), such Restricted Subsidiary is primarily engaged in the Oil and Gas Business.

"Additional Notes" means Notes, in addition to, and having identical terms (except for a date of original issuance different than the Issue Date) as, the $35.0 million aggregate initial principal amount of Notes issued on the Issue Date, issued pursuant to Article II and in compliance with Section 4.12.

"Adjusted Consolidated Net Tangible Assets" of a Person means (without duplication), as of the date of determination, the remainder

(a) the sum of:

(i) discounted future net revenues from Proved Reserves of such Person and its Restricted Subsidiaries calculated in accordance with SEC guidelines before any state or federal income taxes, as estimated in a reserve report prepared as of the end of such Person's most recently completed fiscal year (or, if such date of determination is within 45 days after the end of such most recently completed fiscal year and no reserve report as of the end of such fiscal year has at the time been prepared or audited by independent petroleum engineers, the Person's second preceding fiscal year) or, at such Person's option, such Person's most recently completed fiscal quarter for which internal financial statements are available, in each case, which reserve report is prepared or audited by independent petroleum engineers as to Proved Reserves accounting for at least 80% of all such discounted future net revenues and by such Person's petroleum engineers with respect to any other Proved Reserves covered by such report, as increased by, as of the date of determination, the estimated discounted future net revenues from:

(A) estimated Proved Reserves of such Person and its Restricted Subsidiaries acquired since such year-end, which reserves were not reflected in such year-end or quarterly reserve report, as applicable, and

(B) estimated Proved Reserves of such Person and its Restricted Subsidiaries attributable to extensions, discoveries and other additions and upward revisions of estimates of Proved Reserves (including previously estimated development costs Incurred during the period and the accretion of discount since the prior period end) since the date of such year-end or quarterly reserve report, as applicable, due to exploration, development or exploitation, production or other activities, which would, in accordance with standard industry practice, cause

such revisions, in each case calculated in accordance with SEC guidelines (utilizing the prices for the fiscal quarter ending prior to the date of determination), and decreased by, as of the date of determination, the estimated discounted future net revenues from:

(C) estimated Proved Reserves of such Person and its Restricted Subsidiaries reflected in such reserve report produced or disposed of since the date of such year-end or quarterly reserve report, as applicable, and

(D) estimated Proved Reserves of such Person and its Restricted Subsidiaries reflected in such reserve report attributable to downward revisions of estimates of Proved Reserves since the date of such year-end or quarterly reserve report, as applicable, due to changes in geological conditions or other factors which would, in accordance with standard industry practice, cause such revisions, in each case calculated on a pre-tax basis and substantially in accordance with SEC guidelines (utilizing the prices for the fiscal quarter ending prior to the date of determination); *provided*, *however*, that in the case of each of the determinations made pursuant to clauses

(E) through (D) above, such increases and decreases shall be as estimated by the Issuer's petroleum engineers;

(ii) the capitalized costs that are attributable to oil and gas properties of such Person and its Restricted Subsidiaries to which no Proved Reserves are attributable, based on such Person's books and records as of a date no earlier than the date of such Person's latest available annual or quarterly financial statements;

(iii) the Net Working Capital of such Person on a date no earlier than the date of such Person's latest annual or quarterly financial statements; and

(iv) the greater of:

(A) the net book value of other tangible assets of such Person and its Restricted Subsidiaries, as of a date no earlier than the date of such Person's latest annual or quarterly financial statement, and

(B) the appraised value, as estimated by independent appraisers, of other tangible assets of such Person and its Restricted Subsidiaries, as of a date no earlier than the date of such Person's latest audited financial statements;

minus

(b) the sum of:

(i) Minority Interests;

(ii) any net gas balancing liabilities of such Person and its Restricted Subsidiaries reflected in such Person's latest audited balance sheet;

(iii) to the extent included in clause (a)(i) above, the discounted future net revenues, calculated in accordance with SEC guidelines (utilizing the prices utilized in such Person's year-end reserve report), attributable to reserves which are required to be delivered to third parties to fully satisfy the obligations of the Issuer and its Restricted Subsidiaries with respect to Volumetric Production Payments (determined, if applicable, using the schedules specified with respect thereto); and

(iv) the discounted future net revenues, calculated in accordance with SEC guidelines, attributable to reserves subject to Dollar- Denominated Production Payments which, based on the estimates of production and price assumptions included in determining the discounted future net revenues specified in clause (a)(i) above, would be necessary to fully satisfy the payment obligations of such Person and its Subsidiaries with respect to Dollar-Denominated Production Payments (determined, if applicable, using the schedules specified with respect thereto).

If the Issuer changes its method of accounting from the full cost method of accounting to the successful efforts or a similar method, "Adjusted Consolidated Net Tangible Assets" will continue to be calculated as if the Issuer were still using the full cost method of accounting.

"Affiliate" of any specified Person means any other Person, directly or indirectly, controlling or controlled by or under direct or indirect common control with such specified Person. For the purposes of this definition, "control" when used with respect to any Person means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms "controlling" and "controlled" have meanings correlative to the foregoing; *provided* that beneficial ownership of 10% or more of the Voting Stock of a Person shall be deemed to be control.

"Affiliate Transaction" has the meaning provided in Section 4.11.

"Agent" means any Registrar, Collateral Agent, Paying Agent, Conversion Agent or co-Registrar.

"Allowed Notes" has the meaning provided in Section 10.2(c).

"Applicable Percentage" has the meaning provided in Section 10.2(c).

"Applicable Procedures" means, with respect to any transfer or exchange of or for beneficial interests in any Global Note, the rules and procedures of the Depository, Euroclear and/or Clearstream that apply to such transfer or exchange.

"ASC" means the Financial Accounting Standards Board's Accounting Standards Codification, as in effect from time to time.

"Asset Disposition" means any direct or indirect sale, lease (other than an operating lease entered into in the ordinary course of the Oil and Gas Business), transfer, issuance or other

disposition, or a series of related sales, leases, transfers, issuances or dispositions that are part of a common plan, of (A) shares of Capital Stock of a Restricted Subsidiary (other than directors' qualifying shares or shares required by applicable law to be held by a Person other than the Issuer or a Restricted Subsidiary), (B) all or substantially all the assets of any division or line of business of the Issuer or any Restricted Subsidiary, or (C) any other assets of the Issuer or any Restricted Subsidiary outside of the ordinary course of business of the Issuer or such Restricted Subsidiary (each referred to for the purposes of this definition as a "disposition"), in each case by the Issuer or any of its Restricted Subsidiaries, including any disposition by means of a merger, consolidation or similar transaction.

Notwithstanding the preceding, the following items shall not be deemed to be Asset Dispositions:

(1) a disposition by a Restricted Subsidiary to the Issuer or by the Issuer or a Restricted Subsidiary to a Wholly Owned Subsidiary;

(2) the sale of Cash Equivalents in the ordinary course of business;

(3) a disposition of Hydrocarbons or mineral products inventory in the ordinary course of business;

(4) a disposition of damaged, unserviceable, obsolete or worn out equipment or equipment that is no longer necessary for the proper conduct of the business of the Issuer and its Restricted Subsidiaries or other equipment otherwise disposed of in each case in the ordinary course of business;

(5) transactions in accordance with Section 5.1;

(6) an issuance of Capital Stock by a Restricted Subsidiary to the Issuer or to a Wholly Owned Subsidiary;

(7) for purposes of Section 4.16 only, the making of a Permitted Investment or a Restricted Payment (or a disposition that would constitute a Restricted Payment but for the exclusions from the definition thereof) permitted in Section 4.10;

(8) an Asset Swap;

(9) any single transaction or series of related transactions that involves assets with a Fair Market Value in each case of less than $~~[___]~~[2] 10.0 million;

(10) Permitted Liens;

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[2] ~~NTD: Under review.~~

(11) dispositions of receivables in connection with the compromise, settlement or collection thereof in the ordinary course of business or in bankruptcy or similar proceedings and exclusive of factoring or similar arrangements;

(12) the licensing or sublicensing of intellectual property or other general intangibles and licenses, leases or subleases of other property in the ordinary course of business which do not materially interfere with the business of the Issuer and its Restricted Subsidiaries;

(13) foreclosure on assets;

(14) any Production Payments and Reserve Sales; *provided* that any such Production Payments and Reserve Sales, other than incentive compensation programs on terms that are reasonably customary in the Oil and Gas Business for geologists, geophysicists and other providers of technical services to the Issuer or a Restricted Subsidiary, shall have been created, Incurred, issued, assumed or Guaranteed in connection with the financing of, and within 60 days after the acquisition of, the property that is subject thereto;

(15) [reserved];

(16) surrender or waiver of contract rights, oil and gas leases, concessions or the settlement, release or surrender of contract, tort or other claims of any kind;

(17) the abandonment, farm-out, lease or sublease of developed or undeveloped oil and gas properties in the ordinary course of business; and

(18) the sale or transfer (whether or not in the ordinary course of business) of any oil and gas property or interest therein to which no proved reserves are attributable at the time of such sale or transfer.

"Asset Disposition Offer" has the meaning set forth in Section 4.16.

"Asset Disposition Offer Amount" has the meaning set forth in Section 4.16.

"Asset Disposition Offer Period" has the meaning set forth in Section 4.16.

"Asset Disposition Purchase Date" has the meaning set forth in Section 4.16.

"Asset Swap" means any substantially contemporaneous (and in any event occurring within 180 days of each other) purchase and sale or exchange of any oil or natural gas property used or useful in the Oil and Gas Business, an interest therein or equity interest in an entity that owns only such property between the Issuer or any of its Restricted Subsidiaries and another Person; *provided* that the Fair Market Value of the properties or assets traded or exchanged by the Issuer or such Restricted Subsidiary (together with any cash) is reasonably equivalent to the Fair Market Value of the properties or assets (together with any cash) to be received by the Issuer or such Restricted Subsidiary; and *provided*, *further*, that any cash received in connection

with such purchase and sale or exchange must be applied in accordance with Section 4.16 as if the Asset Swap were an Asset Disposition.

"Authenticating Agent" has the meaning provided in Section 2.2.

"Authentication Order" has the meaning provided in Section 2.2.

"Average Life" means, as of the date of determination, with respect to any Indebtedness or Preferred Stock, the quotient obtained by dividing (1) the sum of the products of the numbers of years from the date of determination to the dates of each successive scheduled principal payment of such Indebtedness or redemption or similar payment with respect to such Preferred Stock multiplied by the amount of such payment by (2) the sum of all such payments.

"Bankruptcy Court" means the United States Bankruptcy Court for the District of Delaware.

"Bankruptcy Law" means Title 11, U.S. Code or any similar federal, state or foreign law for the relief of debtors.

"Bankruptcy Proceedings" means the bankruptcy proceedings of the Issuer and certain of its Subsidiaries in the Bankruptcy Court under Chapter 11 of the United States Bankruptcy Code, commenced by the voluntary petitions for relief filed by the Issuer and such Subsidiaries on August 16, 2020.

"Beneficial Owner" has the meaning assigned to such term in Rule 13d-3 and Rule 13d-5 under the Exchange Act, except that in calculating the beneficial ownership of any particular "person" (as that term is used in Section 13(d)(3) of the Exchange Act), such "person" will be deemed to have beneficial ownership of all securities that such "person" has the right to acquire by conversion or exercise of other securities, whether such right is currently exercisable or is exercisable only after the passage of time. The terms "Beneficially Owns" and "Beneficially Owned" have a corresponding meaning.

"Board of Directors" means, as to any Person that is a corporation, the board of directors of such Person or any duly authorized committee thereof or as to any Person that is not a corporation, the board of managers or such other individual or group serving a similar function.

"Book-Entry Note" means an uncertificated Note evidenced by a book entry on the records maintained by the Registrar and registered in the name of the Holder thereof.

"Borrowing Base" means, with respect to borrowings under the Senior Secured Credit Agreement and any amendment to and/or modification or replacement of the foregoing in the form of a reserve-based borrowing base credit facility, in each case with lenders that include commercial banks regulated by the U.S. Office of the Comptroller of the Currency, the maximum amount determined or re-determined by the lenders thereunder as the aggregate lending value to be ascribed to the Oil and Gas Properties and other assets of the Issuer and its Restricted Subsidiaries against which such lenders are prepared to provide loans, letters of credit

or other Indebtedness to the credit parties, using customary practices and standards for determining reserve-based borrowing base loans and which are generally applied to borrowers in the Oil and Gas Business by commercial lenders, as determined semi-annually during each year and/or on such other occasions as may be required or provided for therein.

"Business Day" means each day that is not a Saturday, Sunday or other day on which commercial banking institutions in New York, New York or Dallas/Fort Worth, Texas are authorized or required by law to close.

"Capital Stock" of any Person means any and all shares, interests, rights to purchase, warrants, options, participations or other equivalents of or interests in (however designated) equity of such Person, including any Preferred Stock, but excluding any debt securities convertible into such equity.

"Capitalized Lease Obligations" means an obligation that is required to be classified and accounted for as a capital lease for financial reporting purposes in accordance with GAAP, and the amount of Indebtedness represented by such obligation will be the capitalized amount of such obligation at the time any determination thereof is to be made as determined in accordance with GAAP, and the Stated Maturity thereof will be the date of the last payment of rent or any other amount due under such lease prior to the first date such lease may be terminated without penalty.

"Cash Equivalents" means:

(1) securities issued or directly and fully guaranteed or insured by the United States Government or any agency or instrumentality of the United States (*provided* that the full faith and credit of the United States is pledged in support thereof), having maturities of not more than one year from the date of acquisition;

(2) marketable general obligations issued by any state of the United States of America or any political subdivision of any such state or any public instrumentality thereof maturing within one year from the date of acquisition (*provided* that the full faith and credit of the United States is pledged in support thereof) and, at the time of acquisition, having a credit rating of "A" (or the equivalent thereof) or better from either S&P or Moody's;

(3) certificates of deposit, time deposits, eurodollar time deposits, overnight bank deposits or bankers' acceptances having maturities of not more than one year from the date of acquisition thereof issued by any commercial bank the long-term debt of which is rated at the time of acquisition thereof at least "A-2" or the equivalent thereof by S&P or "P-2" or the equivalent thereof by Moody's and having combined capital and surplus in excess of $500.0 million;

(4) repurchase obligations with a term of not more than seven days for underlying securities of the types described in clauses (1), (2) and (3) entered into with any bank meeting the qualifications specified in clause (3) above;

(5) commercial paper rated at the time of acquisition thereof at least "A-2" or the equivalent thereof by S&P or "P-2" or the equivalent thereof by Moody's, or carrying an equivalent rating by a nationally recognized rating agency, if both of the two named rating agencies cease publishing ratings of investments, and in any case maturing within one year after the date of acquisition thereof; and

(6) interests in any investment company or money market fund which invests 95% or more of its assets in instruments of the type specified in clauses (1) through (5) above.

"Cash Interest" has the meaning provided in Section 4.1(d).

"Catch-Up Mechanism" has the meaning provided in Section 10.2(c).

"Change of Control" means:

(1) any "person" or "group" of related persons (as such terms are used in Sections 13(d) and 14(d) of the Exchange Act), other than Parent, is or becomes the Beneficial Owner, directly or indirectly, of more than 50% of the total voting power of the Voting Stock of the Issuer (or its successor by merger, consolidation or purchase of all or substantially all of its assets) (for the purposes of this clause (1), such person or group shall be deemed to Beneficially Own any Voting Stock of the Issuer held by a parent entity, if such person or group Beneficially Owns, directly or indirectly, more than 50% of the total voting power of the Voting Stock of such parent entity);

(2) the sale, lease, transfer, conveyance or other disposition (other than by way of merger or consolidation), in one or a series of related transactions, of all or substantially all of the assets of the Issuer and its Restricted Subsidiaries taken as a whole to any "person" (as such term is used in Sections 13(d) and 14(d) of the Exchange Act);

(3) the adoption by the stockholders of the Issuer of a plan or proposal for the liquidation or dissolution of the Issuer; or

(4) [the first day on which Parent ceases to own 100% of the outstanding Capital Stock of the Issuer (after having acquired such Capital Stock).][32]

"Change of Control Offer" has the meaning provided in Section 4.15.

"Change of Control Payment" has the meaning provided in Section 4.15.

"Change of Control Payment Date" has the meaning provided in Section 4.15.

"Clearstream" means Clearstream Banking, s*ociété anonyme*.

"Code" means the Internal Revenue Code of 1986, as amended.

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[32] NTD: ~~Under~~ Subject to final review of capital structure.

"Collateral" means collateral as such term is defined in the Security Documents, and any other property, whether now owned or hereafter acquired, upon which a Lien securing the Note Obligations, the Security Documents, the Notes or the Note Guarantees is granted under any Security Document.

"Collateral Agent" means Wilmington Savings Fund Society FSB, acting in its capacity as the collateral agent for the Holders until a successor replaces it in accordance with the provisions of this Indenture and thereafter means any such successor.

"Commodity Agreements" means, in respect of any Person, any forward contract, commodity swap agreement, commodity option agreement or other similar agreement or arrangement in respect of Hydrocarbons used, produced, processed or sold by such Person that is customary in the Oil and Gas Business and designed to protect such Person against fluctuation in Hydrocarbon prices and not for speculative purposes.

"Common Stock" means with respect to any Person, any and all shares, interests or other participations in, and other equivalents (however designated and whether voting or nonvoting) of such Person's common stock whether or not outstanding on the Issue Date, and includes, without limitation, all series and classes of such common stock.

"Competitor" has the meaning set forth in the Stockholders Agreement.

"Conditional Voluntary Conversion" has the meaning set forth in Section 10.2(b).

"Consolidated Coverage Ratio" means as of any date of determination, the ratio of (x) the aggregate amount of Consolidated EBITDA of such Person for the period of the most recent four consecutive fiscal quarters ending prior to the date of such determination for which internal financial statements are in existence to (y) Consolidated Interest Expense for such four fiscal quarters; *provided*, *however*, that:

(1) if the Issuer or any Restricted Subsidiary:

(a) has Incurred any Indebtedness since the beginning of such period that remains outstanding on such date of determination or if the transaction giving rise to the need to calculate the Consolidated Coverage Ratio is an Incurrence of Indebtedness, Consolidated EBITDA and Consolidated Interest Expense for such period will be calculated after giving effect on a pro forma basis to such Indebtedness and the use of proceeds thereof as if such Indebtedness had been Incurred on the first day of such period and such proceeds had been applied as of such date (except that in making such computation, (x) the amount of Indebtedness under any revolving credit facility outstanding on the date of such calculation will be deemed to be (i) the average daily balance of such Indebtedness during such four fiscal quarters or such shorter period for which such facility was outstanding or (ii) if such facility was created after the end of such four fiscal quarters, the average daily balance of such Indebtedness during the period from the date of creation of such facility to the date of such calculation, in each case, provided that such average daily balance shall take into account any repayment of Indebtedness under such facility as

provided in clause (b) below and (y) Indebtedness Incurred or issued on the date of determination pursuant to the second paragraph of Section 4.12, shall not be given pro forma effect); or

(b) has repaid, repurchased, defeased or otherwise discharged any Indebtedness since the beginning of the period, including with the proceeds of such new Indebtedness, that is no longer outstanding on such date of determination or if the transaction giving rise to the need to calculate the Consolidated Coverage Ratio involves a discharge of Indebtedness (in each case other than Indebtedness Incurred under any revolving credit facility unless such Indebtedness has been permanently repaid and the related commitment terminated), Consolidated EBITDA and Consolidated Interest Expense for such period will be calculated after giving effect on a pro forma basis to such discharge of such Indebtedness as if such discharge had occurred on the first day of such period;

(2) if, since the beginning of such period, the Issuer or any Restricted Subsidiary will have made any Asset Disposition or if the transaction giving rise to the need to calculate the Consolidated Coverage Ratio is such an Asset Disposition, Consolidated EBITDA for such period will be reduced by an amount equal to the Consolidated EBITDA (if positive) directly attributable to the assets which are the subject of such Asset Disposition for such period or increased by an amount equal to the Consolidated EBITDA (if negative) directly attributable thereto for such period and Consolidated Interest Expense for such period shall be reduced by an amount equal to the Consolidated Interest Expense directly attributable to any Indebtedness of the Issuer or any Restricted Subsidiary repaid, repurchased, defeased or otherwise discharged with respect to the Issuer and its continuing Restricted Subsidiaries in connection with or with the proceeds from such Asset Disposition for such period (or, if the Capital Stock of any Restricted Subsidiary is sold, the Consolidated Interest Expense for such period directly attributable to the Indebtedness of such Restricted Subsidiary to the extent the Issuer and its continuing Restricted Subsidiaries are no longer liable for such Indebtedness after such sale);

(3) if since the beginning of such period the Issuer or any Restricted Subsidiary (by merger or otherwise) will have made an Investment in any Restricted Subsidiary (or any Person which becomes a Restricted Subsidiary or is merged with or into the Issuer or a Restricted Subsidiary) or an acquisition (or will have received a contribution) of assets, including any acquisition or contribution of assets occurring in connection with a transaction causing a calculation to be made hereunder, which constitutes all or substantially all of a company, division, operating unit, segment, business, group of related assets or line of business, Consolidated EBITDA and Consolidated Interest Expense for such period will be calculated after giving pro forma effect thereto (including the Incurrence of any Indebtedness) as if such Investment or acquisition or contribution had occurred on the first day of such period; and

(4) if since the beginning of such period any Person (that subsequently became a Restricted Subsidiary or was merged with or into the Issuer or any Restricted Subsidiary since the beginning of such period) made any Asset Disposition or any Investment or acquisition of assets that would have required an adjustment pursuant to clause (2) or (3) above if made by the Issuer or a Restricted Subsidiary during such period, Consolidated EBITDA and Consolidated

Interest Expense for such period will be calculated after giving pro forma effect thereto as if such Asset Disposition or Investment or acquisition of assets had occurred on the first day of such period.

For purposes of this definition, whenever pro forma effect is to be given to any calculation under this definition, the pro forma calculations will be determined in good faith by a responsible financial or accounting Officer of the Issuer (including pro forma expense and cost reductions calculated on a basis consistent with Regulation S-X under the Securities Act). If any Indebtedness bears a floating rate of interest and is being given pro forma effect, the interest expense on such Indebtedness will be calculated as if the average rate in effect from the beginning of such period to the date of determination had been the applicable rate for the entire period (taking into account any Interest Rate Agreement applicable to such Indebtedness, but if the remaining term of such Interest Rate Agreement is less than 12 months, then such Interest Rate Agreement shall only be taken into account for that portion of the period equal to the remaining term thereof). If any Indebtedness that is being given pro forma effect bears an interest rate at the option of the Issuer, the interest rate shall be calculated by applying such optional rate chosen by the Issuer. Interest on Indebtedness that may optionally be determined at an interest rate based upon a factor of a prime or similar rate, a eurocurrency interbank offered rate, or other rate, shall be deemed to have been based upon the rate actually chosen, or, if none, then based upon such optional rate chosen as the Issuer may designate.

"Consolidated EBITDA" for any period means, without duplication, the Consolidated Net Income for such period, *plus* the following, without duplication and to the extent deducted (and not added back) in calculating such Consolidated Net Income:

(1) Consolidated Interest Expense;

(2) Consolidated Income Taxes of the Issuer and its Restricted Subsidiaries;

(3) consolidated depletion and depreciation expense of the Issuer and its Restricted Subsidiaries;

(4) consolidated amortization expense or impairment charges of the Issuer and its Restricted Subsidiaries recorded in connection with the application of Statement of Financial Accounting Standard No. 142—ASC Topic 350 Intangibles—Goodwill and Other, and Statement of Financial Accounting Standard No. 144—ASC Topic 360 Property, Plant & Equipment;

(5) other non-cash charges of the Issuer and its Restricted Subsidiaries (including non-cash losses from the adoption of fresh start accounting in connection with the consummation of the Plan of Reorganization but excluding any such non-cash charge to the extent it represents an accrual of or reserve for cash charges in any future period or amortization of a prepaid cash expense that was paid in a prior period not included in the calculation);

(6) consolidated exploration expense of the Issuer and its Restricted Subsidiaries, if applicable for such period;

(7) actual fees and transaction costs incurred by the Issuer and the Subsidiary Guarantors in connection with the closing of the Senior Secured Credit Agreement on or about the date hereof, the borrowings and issuance of letters of credit thereunder and the granting of Liens with respect thereto occurring on or about such date (other than, for the avoidance of doubt, severance payments and consulting fees paid to former officers and employees);

(8) severance payments and consulting fees paid to former officers and employees not later than ten (10) days following the consummation of the Plan of Reorganization in connection with the Bankruptcy Proceedings in an amount not to exceed $[___]5.0 million; and

(9) any fees and expenses or charges incurred in connection with the implementation of fresh start accounting in an amount not to exceed $[___]2.0 million,

and less, to the extent included in calculating such Consolidated Net Income and in excess of any costs or expenses attributable thereto that were deducted (and not added back) in calculating such Consolidated Net Income, the sum of (x) the amount of deferred revenues that are amortized during such period and are attributable to reserves that are subject to Volumetric Production Payments, (y) amounts recorded in accordance with GAAP as repayments of principal and interest pursuant to Dollar-Denominated Production Payments and (z) other non-cash gains (excluding any non-cash gain to the extent it represents the reversal of an accrual or reserve for a potential cash item that reduced Consolidated EBITDA in any prior period).

Notwithstanding the preceding sentence, clauses (2) through (6) relating to amounts of a Restricted Subsidiary of a Person will be added to Consolidated Net Income to compute Consolidated EBITDA of such Person only to the extent (and in the same proportion) that the net income (loss) of such Restricted Subsidiary was included in calculating the Consolidated Net Income of such Person and, to the extent the amounts set forth in clauses (2) through (6) are in excess of those necessary to offset a net loss of such Restricted Subsidiary or if such Restricted Subsidiary has net income for such period included in Consolidated Net Income, only if a corresponding amount would be permitted at the date of determination to be paid by dividend to the Issuer by such Restricted Subsidiary without prior approval (that has not been obtained), pursuant to the terms of its charter and all agreements, instruments, judgments, decrees, orders, statutes, rules and governmental regulations applicable to that Restricted Subsidiary or its stockholders.][4]

"Consolidated Income Taxes" means, with respect to any Person for any period, taxes imposed upon such Person or other payments required to be made by such Person to any governmental authority which taxes or other payments are calculated by reference to the income, profits or capital of such Person or such Person and its Restricted Subsidiaries (to the extent such income or profits were included in computing Consolidated Net Income for such period),

[4] NTD: Under review.

regardless of whether such taxes or payments are required to be remitted to any governmental authority.

"Consolidated Interest Expense" means, for any period, the total consolidated interest expense of the Issuer and its Restricted Subsidiaries, whether paid or accrued, *plus*, to the extent not included in such interest expense and without duplication:

(1) interest expense attributable to Capitalized Lease Obligations and the interest component of any deferred payment obligations;

(2) amortization of debt discount and debt issuance cost (*provided* that any amortization of bond premium will be credited to reduce Consolidated Interest Expense unless, pursuant to GAAP, such amortization of bond premium has otherwise reduced Consolidated Interest Expense);

(3) non-cash interest expense;

(4) commissions, discounts and other fees and charges owed with respect to letters of credit and bankers' acceptance financing;

(5) the interest expense on Indebtedness of another Person that is Guaranteed by the Issuer or one of its Restricted Subsidiaries or secured by a Lien on assets of the Issuer or one of its Restricted Subsidiaries;

(6) costs associated with Interest Rate Agreements (including amortization of fees); *provided*, *however*, that if Interest Rate Agreements result in net benefits rather than costs, such benefits shall be credited to reduce Consolidated Interest Expense unless, pursuant to GAAP, such net benefits are otherwise reflected in Consolidated Net Income;

(7) the consolidated interest expense of such Person and its Restricted Subsidiaries that was capitalized during such period;

(8) all dividends paid or payable in cash, Cash Equivalents or Indebtedness or accrued during such period on any series of Disqualified Stock of the Issuer or on Preferred Stock of its Restricted Subsidiaries payable to a party other than the Issuer or a Wholly Owned Subsidiary; and

(9) the cash contributions to any employee stock ownership plan or similar trust to the extent such contributions are used by such plan or trust to pay interest or fees to any Person (other than the Issuer) in connection with Indebtedness Incurred by such plan or trust;

minus, to the extent included above, write-off of deferred financing costs and interest attributable to Dollar-Denominated Production Payments.

For the purpose of calculating the Consolidated Coverage Ratio in connection with the Incurrence of any Indebtedness described in the final paragraph of the definition of

"Indebtedness," the calculation of Consolidated Interest Expense shall include all interest expense (including any amounts described in clauses (1) through (9) above) relating to any Indebtedness of the Issuer or any Restricted Subsidiary described in the final paragraph of the definition of "Indebtedness."

"Consolidated Net Income" means, for any period, the aggregate net income (loss) (excluding non-controlling interests) of the Issuer and its consolidated Subsidiaries determined in accordance with GAAP and before any reduction in respect of preferred stock dividends of such Person; *provided*, *however*, that there will not be included in such Consolidated Net Income:

(1) any net income (loss) of any Person (other than the Issuer) if such Person is not a Restricted Subsidiary, except that:

(a) subject to the limitations contained in clauses (3), (4) and (5) below, the Issuer's equity in the net income of any such Person for such period will be included in such Consolidated Net Income up to the aggregate amount of cash actually distributed by such Person during such period to the Issuer or a Restricted Subsidiary as a dividend or other distribution (subject, in the case of a dividend or other distribution to a Restricted Subsidiary, to the limitations contained in clause (2) below); and

(b) the Issuer's equity in a net loss of any such Person for such period will be included in determining such Consolidated Net Income to the extent such loss has been funded with cash from the Issuer or a Restricted Subsidiary during such period;

(2) any net income (but not loss) of any Restricted Subsidiary if such Subsidiary is subject to restrictions, directly or indirectly, on the payment of dividends or the making of distributions by such Restricted Subsidiary, directly or indirectly, to the Issuer, except that:

(a) subject to the limitations contained in clauses (3), (4) and (5) below, the Issuer's equity in the net income of any such Restricted Subsidiary for such period will be included in such Consolidated Net Income up to the aggregate amount of cash that could have been distributed by such Restricted Subsidiary during such period to the Issuer or another Restricted Subsidiary as a dividend or other distribution (subject, in the case of a dividend or other distribution paid to another Restricted Subsidiary, to the limitation contained in this clause); and

(b) the Issuer's equity in a net loss of any such Restricted Subsidiary for such period will be included in determining such Consolidated Net Income;

(3) any gain (loss) realized upon the sale or other disposition of any property, plant or equipment of the Issuer or its consolidated Subsidiaries (including pursuant to any Sale/Leaseback Transaction) which is not sold or otherwise disposed of in the ordinary course of business and any gain (loss) realized upon the sale or other disposition of any Capital Stock of any Person;

(4) any extraordinary or nonrecurring gains or losses, together with any related provision for taxes on such gains or losses and all related fees and expenses;

(5) the cumulative effect of a change in accounting principles;

(6) any asset impairment writedowns on Oil and Gas Properties of the Issuer and the Restricted Subsidiaries under GAAP or SEC guidelines;

(7) any unrealized non-cash gains or losses or charges in respect of Hedging Obligations (including those resulting from the application of FASB ASC 815);

(8) income or loss attributable to discontinued operations (including, without limitation, operations disposed of during such period whether or not such operations were classified as discontinued); and

(9) any non-cash compensation charge arising from any grant of stock, stock options or other equity-based awards; *provided* that the proceeds resulting from any such grant will be excluded from Section 4.10(c)(ii).

Consolidated Net Income will be reduced by the amount of Permitted Payments to Parent paid during such period to the extent that the related taxes have not reduced Consolidated Net Income by at least such amount.

"Consolidated Total Debt" means, at any date, (a) all Indebtedness of the Issuer and its Restricted Subsidiaries on a consolidated basis, excluding (i) non-cash obligations under FASB ASC 815, (ii) accounts payable and other accrued liabilities (for the deferred purchase price of property or services) from time to time incurred in the ordinary course of business (A) which are not greater than ninety (90) days past the date of receipt of the invoice or delinquent or (B) which are being contested in good faith by appropriate action and for which adequate reserves have been maintained in accordance with GAAP, (iii) Indebtedness with respect to letters of credit to the extent such letters of credit have not been drawn, (iv) obligations with respect to surety or performance bonds and similar instruments entered into in the ordinary course of business in connection with the operation of Oil and Gas Properties and (v) Indebtedness of the type described in clauses (6), (7), (8) and (10) of the definition of "Indebtedness," ~~and~~less (b) ~~less~~, so long as there are no loans outstanding under the Senior Secured Credit Agreement on such date, the lesser of (i) the unrestricted cash and cash equivalents of the Issuer and its Restricted Subsidiaries on such date and (ii) $~~[ ]~~35.0 million.

"Consolidated Total Debt Ratio" means, as of any date, the ratio of (a) Consolidated Total Debt of the Issuer and the Restricted Subsidiaries as of such date to (b) the aggregate amount of EBITDA of the Issuer and the Restricted Subsidiaries for the period of the most recently completed four consecutive full fiscal quarters for which internal financial statements are available, with such pro forma adjustments to Consolidated Total Debt and Consolidated EBITDA as are appropriate and consistent with the pro forma adjustment provisions set forth in the definition of "Consolidated Coverage Ratio."

"Conversion Agent" has the meaning set forth in Section 2.3 hereof.

"Conversion Date" has the meaning set forth in Section 10.2(c) hereof.

"Conversion Rate" means the conversion rate of [_____][5][3] shares of New Common Stock (subject to adjustment as provided in Article 10 hereof) per $1,000 of Converting Amount.

"Converting Amount" has the meaning set forth in Section 10.1(b) hereof.

"Corporate Trust Office" means the office of the Trustee at which at any particular time its corporate trust business shall be principally administered, which office at the date of execution of this Indenture is located at ~~500 Delaware Avenue, Wilmington, Delaware 19801,~~ [___],[4] or at any other time at such other address as the Trustee may designate from time to time by notice to the Holders and the Issuer, or the principal corporate trust office of any successor Trustee (or such other address as such successor Trustee may designate from time to time by notice to the Holders and the Issuer).

"Covenant Defeasance" has the meaning set forth in Section 8.1.

"Credit Facility" means, with respect to the Issuer or any Subsidiary Guarantor, one or more debt facilities (including, without limitation, the Senior Secured Credit Agreement), indentures or commercial paper facilities providing for revolving credit loans, term loans, term debt, debt securities, receivables financing (including through the sale of receivables to such lenders or to special purpose entities formed to borrow from such lenders against such receivables) or letters of credit, in each case, as amended, restated, amended and restated, modified, renewed, refunded, replaced or refinanced in whole or in part from time to time (and whether or not with the original administrative agent and lenders or another administrative agent or agents or other lenders and whether provided under the original Senior Secured Credit Agreement or any other credit or other agreement or indenture).

"Currency Agreement" means in respect of a Person any foreign exchange contract, currency swap agreement, futures contract, option contract or other similar agreement as to which such Person is a party or a beneficiary.

"Custodian" means any receiver, trustee, assignee, liquidator, sequestrator or similar official under any Bankruptcy Law.

"Default" means any event which is, or after notice or passage of time or both would be, an Event of Default.

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[5][3] NTD: ~~Under review~~To be a number of shares of New Common Stock equal to 50% of the total shares of New Common Stock issued and outstanding as of the Effective Date (before any interest accrues thereon and after giving effect to conversions of all Notes).

[4] NTD: Trustee to confirm current contact information.

"Default Interest Payment Date" has the meaning provided in Section 2.12.

"Definitive Note" means a certificated Note registered in the name of the Holder thereof and issued in accordance with Section 2.6(c) hereof, substantially in the form of Exhibit A hereto, except that such Note shall not bear the Global Note Legend.

[~~"Depository" or "DTC" means The Depository Trust Company, its nominees and any successors thereto.~~[6]]5

"Designated Non-cash Consideration" means the Fair Market Value of non-cash consideration received by the Issuer or a Restricted Subsidiary in connection with an Asset Disposition that is so designated as Designated Non-cash Consideration pursuant to an Officers' Certificate, setting forth the basis of such valuation and executed by the chief financial officer or treasurer and one other officer of the Issuer, less the amount of cash or Cash Equivalents received in connection with a subsequent sale of or collection on such Designated Non-cash Consideration.

"Disqualified Stock" means, with respect to any Person, any Capital Stock of such Person which by its terms (or by the terms of any security into which it is convertible or for which it is exchangeable) at the option of the holder of the Capital Stock or upon the happening of any event:

(1) matures or is mandatorily redeemable (other than redeemable only for Capital Stock of such Person which is not itself Disqualified Stock) pursuant to a sinking fund obligation or otherwise;

(2) is convertible or exchangeable for Indebtedness or Disqualified Stock (excluding Capital Stock which is convertible or exchangeable solely at the option of the Issuer or a Restricted Subsidiary); or

(3) is redeemable at the option of the holder of the Capital Stock in whole or in part, in each case on or prior to the date that is 91 days after the earlier of the date (a) of the Stated Maturity of the Notes or (b) on which there are no Notes outstanding; *provided* that only the portion of Capital Stock which so matures or is mandatorily redeemable, is so convertible or exchangeable or is so redeemable at the option of the holder thereof prior to such date will be deemed to be Disqualified Stock; *provided*, *further*, that any Capital Stock that would constitute Disqualified Stock solely because the holders thereof have the right to require the Issuer to repurchase such Capital Stock upon the occurrence of a change of control or asset sale (each defined in a substantially identical manner to the corresponding definitions in this Indenture) shall not constitute Disqualified Stock if the terms of such Capital Stock (and all such securities

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[6] ~~NTD: Under review.~~

[5] NTD: Notes will not be traded through DTC. Holders of New Second Lien Notes shall not be permitted to transfer any such notes to the extent such transfer would cause the total pro forma Stockholders of the Company to exceed 300 in number (including all current Stockholders and Noteholders that would become Stockholders upon a conversion of the New Second Lien Notes).

into which it is convertible or for which it is exchangeable) provide that (i) the Issuer may not repurchase or redeem any such Capital Stock (and all such securities into which it is convertible or for which it is exchangeable) pursuant to such provision prior to compliance by the Issuer with the provisions of this Indenture described under Section 4.15 and Section 4.16 and (ii) such repurchase or redemption will be permitted solely to the extent also permitted in accordance with the provisions of this Indenture described under Section 4.10.

The amount of any Disqualified Stock that does not have a fixed redemption, repayment or repurchase price will be calculated in accordance with the terms of such Disqualified Stock as if such Disqualified Stock were redeemed, repaid or repurchased on any date on which the amount of such Disqualified Stock is to be determined pursuant to this Indenture; *provided*, *however*, that if such Disqualified Stock could not be required to be redeemed, repaid or repurchased at the time of such determination, the redemption, repayment or repurchase price will be the book value of such Disqualified Stock as reflected in the most recent financial statements of such Person.

"Dollar-Denominated Production Payments" means production payment obligations recorded as liabilities in accordance with GAAP, together with all undertakings and obligations in connection therewith.

"Drag-Along Closing" has the meaning set forth in the Stockholders Agreement.

"Drag-Along Notice" has the meaning set forth in the Stockholders Agreement.

"Drag-Along Sale" has the meaning set forth in the Stockholders Agreement.

"Dragged Holder" has the meaning set forth in the Stockholders Agreement.

"Equity Offering" means (i) a public offering for cash by the Issuer of Capital Stock (other than Disqualified Stock) made pursuant to a registration statement, other than public offerings registered on Form S-4 or S-8, and (ii) a private offering for cash by the Issuer of its Capital Stock (other than Disqualified Stock) (except that prior to the first underwritten public offering of the New Common Stock, such private offering may only be made to non-Affiliates).

"Euroclear" means Euroclear S.A./N.V., as operator of the Euroclear system.

"Event of Default" has the meaning provided in Section 6.1.

"Excess Notes" has the meaning specified in Section 10.2(c).

"Excess Proceeds" has the meaning set forth in Section 4.16.

"Exchange Act" means the Securities Exchange Act of 1934, as amended, and the rules and regulations of the SEC promulgated thereunder.

"Excluded Assets" has the meaning set forth in the Security Documents.

"Fair Market Value" means, with respect to any asset or property, the sale value that would be obtained in an arm's-length transaction between an informed and willing seller under no compulsion to sell and an informed and willing buyer under no compulsion to buy, in the case of any asset or property other than cash (whose Fair Market Value shall be the face amount thereof), as determined in good faith by the Board of Directors of the Issuer, whose determination shall be conclusive.

"FASB ASC 815" means Financial Accounting Standards Board Accounting Standards Codification Topic No. 815, Derivatives and Hedging.

"Foreign Subsidiary" means any Restricted Subsidiary that is not organized under the laws of the United States of America or any state thereof or the District of Columbia.

"Fulfillment Date" has the meaning set forth in Section 10.2(c).

"GAAP" means generally accepted accounting principles in the United States of America as in effect from time to time; *provided* that any leases shall be accounted for under GAAP as in effect on the Issue Date. All ratios and computations based on GAAP contained in this Indenture will be computed in conformity with GAAP. At any time after the Issue Date, the Issuer may elect to apply IFRS accounting principles in lieu of GAAP and, upon any such election, references herein to GAAP shall thereafter be construed to mean IFRS (except as otherwise provided in this Indenture); *provided* that any such election, once made, shall be irrevocable, unless otherwise required by the SEC; *provided*, *further*, that any calculation or determination in this Indenture that requires the application of GAAP for periods that include fiscal quarters ended prior to the Issuer's election to apply IFRS shall remain as previously calculated or determined in accordance with GAAP. The Issuer shall give notice of any such election made in accordance with this definition to the Trustee and the Holders of the Notes.

"Global Note" has the meaning provided in Section 2.1.

"Global Note Legend" means the legend set forth in Section 2.15(a)(ii) hereof, which is required to be placed on all Global Notes issued under this Indenture.

"Guarantee" means any obligation, contingent or otherwise, of any Person directly or indirectly guaranteeing any Indebtedness of any other Person and any obligation, direct or indirect, contingent or otherwise, of such Person:

(1) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness of such other Person (whether arising by virtue of partnership arrangements, or by agreement to keep-well, to purchase assets, goods, securities or services, to take-or-pay, or to maintain financial statement conditions or otherwise); or

(2) entered into for purposes of assuring in any other manner the obligee of such Indebtedness of the payment thereof or to protect such obligee against loss in respect thereof (in whole or in part);

provided, *however*, that the term "Guarantee" will not include endorsements for collection or deposit in the ordinary course of business or any obligation to the extent it is payable only in Capital Stock of the Subsidiary Guarantor that is not Disqualified Stock. The term "Guarantee" used as a verb has a corresponding meaning.

"Guarantor Subordinated Obligation" means, with respect to a Subsidiary Guarantor, any Indebtedness of such Subsidiary Guarantor (whether outstanding on the Issue Date or thereafter Incurred) which is expressly subordinate in right of payment to the obligations of such Subsidiary Guarantor under its Subsidiary Guarantee pursuant to a written agreement.

"Hedging Obligations" of any Person means the obligations of such Person pursuant to any Interest Rate Agreement, Currency Agreement or Commodity Agreement.

"Holder" means a Person in whose name a Note is registered on the registrar's books.

"Hydrocarbons" means oil, natural gas, casing head gas, drip gasoline, natural gasoline, condensate, distillate, liquid hydrocarbons, gaseous hydrocarbons and all other hydrocarbons and all constituents, elements or compounds thereof and products refined or processed therefrom.

"IFRS" means the International Financial Reporting Standards as adopted by the International Accounting Standards Board.

"Immaterial Subsidiary" means, as of any date, any Restricted Subsidiary if and for so long as (a) such Restricted Subsidiary has total assets having a Fair Market Value of $2.0 million or less and (b) such Restricted Subsidiary, together with all other Immaterial Subsidiaries, does not have total assets having a Fair Market Value at any time exceeding $5.0 million; *provided* that a Restricted Subsidiary will not be considered to be an Immaterial Subsidiary if it, directly or indirectly, Guarantees or otherwise provides direct credit support for any Indebtedness of the Issuer.

"Incur" means issue, create, assume, Guarantee, incur or otherwise become directly or indirectly liable for, contingently or otherwise; *provided*, *however*, that any Indebtedness or Capital Stock of a Person existing at the time such Person becomes a Restricted Subsidiary (whether by merger, consolidation, acquisition or otherwise) will be deemed to be Incurred by such Restricted Subsidiary at the time it becomes a Restricted Subsidiary; and the terms "Incurred" and "Incurrence" have meanings correlative to the foregoing.

"Indebtedness" means, with respect to any Person on any date of determination (without duplication, whether or not contingent):

(1) the principal of and premium (if any) in respect of indebtedness of such Person for borrowed money;

(2) the principal of and premium (if any) in respect of obligations of such Person evidenced by bonds, debentures, notes or other similar instruments;

(3) the principal component of all obligations of such Person in respect of letters of credit, bankers' acceptances or other similar instruments (including reimbursement obligations with respect thereto except to the extent such reimbursement obligation relates to a trade payable, to the extent such letters of credit are not drawn upon or, if and to the extent drawn upon, such obligation is satisfied within 30 days of payment on the letter of credit);

(4) the principal component of all obligations of such Person (other than obligations payable solely in Capital Stock that is not Disqualified Stock) to pay the deferred and unpaid purchase price of property (except accrued expenses and accounts payable and other accrued liabilities (for the deferred purchase price of property or services) from time to time incurred in the ordinary course of business which are not greater than ninety (90) days past the date of receipt of the invoice or delinquent or (B) which are being contested in good faith by appropriate action and for which adequate reserves have been maintained in accordance with GAAP), which purchase price is due more than six months after the date of placing such property in service or taking delivery and title thereto to the extent such obligations would appear as liabilities upon the consolidated balance sheet of such Person in accordance with GAAP;

(5) Capitalized Lease Obligations of such Person to the extent such Capitalized Lease Obligations would appear as liabilities on the consolidated balance sheet of such Person in accordance with GAAP;

(6) the principal component or liquidation preference of all obligations of such Person with respect to the redemption, repayment or other repurchase of any Disqualified Stock or, with respect to any Subsidiary that is not a Subsidiary Guarantor, any Preferred Stock (but excluding, in each case, any accrued dividends);

(7) the principal component of all Indebtedness of other Persons secured by a Lien on any asset of such Person, whether or not such Indebtedness is assumed by such Person; *provided*, *however*, that the amount of such Indebtedness will be the lesser of (a) the Fair Market Value of such asset at such date of determination and (b) the amount of such Indebtedness of such other Persons;

(8) the principal component of Indebtedness of other Persons to the extent Guaranteed by such Person;

(9) to the extent not otherwise included in this definition, net obligations of such Person under Commodity Agreements, Currency Agreements and Interest Rate Agreements (the amount of any such obligations to be equal at any time to the termination value of such agreement or arrangement giving rise to such obligation that would be payable by such Person at such time); and

(10) any Guarantee by such Person of production or payment with respect to a Production Payment (but, for the avoidance of doubt, excluding all other obligations associated with such Production Payments, such as guarantees with respect to operation and maintenance of

the related oil and gas properties in a prudent manner, delivery of the associated production (if required) and other such contractual obligations);

provided, *however*, that any indebtedness which has been defeased in accordance with GAAP or defeased pursuant to the deposit of cash or Cash Equivalents (in an amount sufficient to satisfy all such indebtedness obligations at maturity or redemption, as applicable, and all payments of interest and premium, if any) in a trust or account created or pledged for the sole benefit of the holders of such indebtedness, and subject to no other Liens, shall not constitute "Indebtedness." Subject to the preceding sentence, neither Dollar-Denominated Production Payments nor Volumetric Production Payments shall be deemed to be Indebtedness.

The amount of Indebtedness of any Person at any date will be the outstanding balance at such date of all unconditional obligations as described above and the maximum liability, upon the occurrence of the contingency giving rise to the obligation, of any contingent obligations at such date.

Notwithstanding the preceding, "Indebtedness" shall not include:

(1) [reserved];

(2) any obligation of a Person in respect of a farm-in agreement or similar arrangement whereby such Person agrees to pay all or a share of the drilling, completion or other expenses of an exploratory or development well (which agreement may be subject to a maximum payment obligation, after which expenses are shared in accordance with the working or participation interest therein or in accordance with the agreement of the parties) or perform the drilling, completion or other operation on such well in exchange for an ownership interest in an oil or gas property;

(3) any obligations under Currency Agreements, Commodity Agreements and Interest Rate Agreements; *provided*, that such Agreements are entered into for bona fide hedging purposes of the Issuer or its Restricted Subsidiaries (as determined in good faith by the Board of Directors or senior management of the Issuer, whether or not accounted for as a hedge in accordance with GAAP) and, in the case of Currency Agreements or Commodity Agreements, such Currency Agreements or Commodity Agreements are related to business transactions of the Issuer or its Restricted Subsidiaries entered into in the ordinary course of business and, in the case of Interest Rate Agreements, such Interest Rate Agreements substantially correspond in terms of notional amount, duration and interest rates, as applicable, to Indebtedness of the Issuer or its Restricted Subsidiaries Incurred without violation of this Indenture;

(4) any obligation arising from agreements of the Issuer or a Restricted Subsidiary providing for indemnification, Guarantees, adjustment of purchase price, holdbacks, contingency payment obligations or similar obligations (other than Guarantees of Indebtedness), in each case, Incurred or assumed in connection with the acquisition or disposition of any business, assets or Capital Stock of a Restricted Subsidiary; *provided* that such Indebtedness is not reflected on the face of the balance sheet of the Issuer or any Restricted Subsidiary;

(5) any obligation arising from the honoring by a bank or other financial institution of a check, draft or similar instrument (except in the case of daylight overdrafts) drawn against insufficient funds in the ordinary course of business; *provided*, *however*, that such Indebtedness is extinguished within five business days of Incurrence;

(6) in-kind obligations relating to net oil or natural gas balancing positions arising in the ordinary course of business; and

(7) all contracts and other obligations, agreements, instruments or arrangements described in clauses (20), (21), (22), (29)(a) or (30) of the definition of "Permitted Liens."

In addition, "Indebtedness" of any Person shall include Indebtedness described in the first paragraph of this definition of "Indebtedness" that would not appear as a liability on the balance sheet of such Person if:

(1) such Indebtedness is the obligation of a partnership or joint venture that is not a Restricted Subsidiary (a "Joint Venture");

(2) such Person or a Restricted Subsidiary of such Person is a general partner of the Joint Venture or otherwise liable for all or a portion of the Joint Venture's liabilities (a "General Partner"); and

(3) there is recourse, by contract or operation of law, with respect to the payment of such Indebtedness to property or assets of such Person or a Restricted Subsidiary of such Person; and then such Indebtedness shall be included in an amount not to exceed:

(a) the lesser of (i) the net assets of the General Partner and (ii) the amount of such obligations to the extent that there is recourse, by contract or operation of law, to the property or assets of such Person or a Restricted Subsidiary of such Person; or

(b) if less than the amount determined pursuant to subclause (a) immediately above, the actual amount of such Indebtedness that is recourse to such Person or a Restricted Subsidiary of such Person, if the Indebtedness is evidenced by a writing and is for a determinable amount.

"Indenture" means this Indenture, as amended or supplemented from time to time in accordance with the terms hereof.

"Indirect Participant" means a Person who holds a beneficial interest in a Global Note through a Participant.

"Initial Lien" has the meaning provided in Section 4.18.

"Initiating Drag-Along Holders" has the meaning provided in the Stockholders Agreement.

"Intercreditor Agreement" means an intercreditor agreement establishing the priority of the Liens securing any priority lien obligations over the Liens securing the Note Obligations, in form and substance reasonably acceptable to Holders of a majority in aggregate principal amount of the then-outstanding Notes, as it may be amended, restated, supplemented or otherwise modified from time to time.

"interest" when used with respect to any Note means the amount of all interest accruing on such Note, including any applicable defaulted interest pursuant to Section 2.12.

"Interest Make-Whole Premium" means, in respect of any event described in Section 4.1(i) herein with respect to any Notes, a make-whole premium with respect to such Notes in an amount equal to the sum of the value (as set forth in the immediately succeeding sentence) of all interest payments that would have been payable on the principal amount of such Notes (including all interest that has previously been paid in kind by increasing the principal amount of the Notes and any interest that would have been payable on interest that would have been added to such principal) from the last Interest Payment Date on which interest was paid on such Notes immediately prior to the date of the relevant acceleration or Interest Make-Whole Trigger Event, as the case may be, through, and including, the Maturity Date as though such Notes had remained outstanding through the Maturity Date. The Interest Make-Whole Premium shall be calculated on a net present value basis as of the date of the payment of principal or repurchase following such acceleration or Interest Make-Whole Trigger Event, as the case may be, using a discount rate equal to the Treasury Rate, plus 50 basis points.

"Interest Make-Whole Trigger Event" means, with respect to any Note, a bankruptcy or insolvency event with respect to the Issuer.

"Interest Payment Date" means the stated maturity of an installment of interest on the Notes.

"Interest Rate" has the meaning set forth in Section 4.1(b).

"Interest Rate Agreement" means, with respect to any Person, any interest rate protection agreement, interest rate future agreement, interest rate option agreement, interest rate swap agreement, interest rate cap agreement, interest rate collar agreement, interest rate hedge agreement or other similar agreement or arrangement as to which such Person is party or a beneficiary.

"Investment" means, with respect to any Person, all investments by such Person in other Persons (including Affiliates) in the form of any direct or indirect advance, loan or other extensions of credit (including by way of Guarantee or similar arrangement, but excluding any debt or extension of credit represented by a bank deposit other than a time deposit and advances or extensions of credit to customers in the ordinary course of business) or capital contribution to (by means of any transfer of cash or other property to others or any payment for property or services for the account or use of others), or any purchase or acquisition of Capital Stock, Indebtedness or other similar instruments (excluding any interest in a crude oil or natural gas

leasehold to the extent constituting a security under applicable law) issued by, such other Person and all other items that are or would be classified as investments on a balance sheet prepared in accordance with GAAP; *provided* that none of the following will be deemed to be an Investment:

(1) Hedging Obligations entered into in the ordinary course of business and in compliance with this Indenture;

(2) endorsements of negotiable instruments and documents in the ordinary course of business; and

(3) an acquisition of assets, Capital Stock or other securities by the Issuer or a Subsidiary for consideration to the extent such consideration consists of New Common Stock.

The amount of any Investment shall not be adjusted for increases or decreases in value, write-ups, writedowns or write-offs with respect to such Investment.

For purposes of the definition of "Unrestricted Subsidiary" and Section 4.10,

(1) "Investment" will include the portion (proportionate to the Issuer's equity interest in a Restricted Subsidiary to be designated as an Unrestricted Subsidiary) of the Fair Market Value of the net assets of such Restricted Subsidiary at the time that such Restricted Subsidiary is designated an Unrestricted Subsidiary; *provided*, *however*, that upon a redesignation of such Subsidiary as a Restricted Subsidiary, the Issuer will be deemed to continue to have a permanent "Investment" in an Unrestricted Subsidiary in an amount (if positive) equal to (a) the Issuer's "Investment" in such Subsidiary at the time of such redesignation less (b) the portion (proportionate to the Issuer's equity interest in such Subsidiary) of the Fair Market Value of the net assets of such Subsidiary at the time that such Subsidiary is so redesignated a Restricted Subsidiary; and

(2) any property transferred to or from an Unrestricted Subsidiary will be valued at its Fair Market Value at the time of such transfer.

"Investment Grade Rating" means a rating equal to or higher than Baa3 (or the equivalent) by Moody's and BBB- (or the equivalent) by S&P (or the equivalent rating by any successor rating agency).

"Investment Grade Status" shall occur when the Notes receive an Investment Grade Rating from both Moody's and S&P (or, if any such entity ceases to rate the Notes for reasons outside of the control of the Issuer, the equivalent investment grade credit rating from any other "nationally recognized statistical rating organization" registered under Section 15E of the Exchange Act selected by the Issuer as a replacement agency).

"Issue Date" means [____], 2020, the date of the original issuance of the Notes under this Indenture.

"Issuer" has the meaning assigned to such term in the introductory paragraph of this Indenture.

"Joinder Agreement" has the meaning provided in Section 10.2(a).

"Legal Defeasance" has the meaning set forth in Section 8.1.

"Legal Holiday" has the meaning provided in Section 11.7.

"Lien" means, with respect to any asset, any mortgage, lien (statutory or otherwise), pledge, hypothecation, charge, security interest, preference, priority or encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected under applicable law, including any conditional sale or other title retention agreement, any lease in the nature thereof, any option or other agreement to %sell or give a security interest in and any filing of or agreement to give any financing statement under the Uniform Commercial Code (or equivalent statutes) of any jurisdiction; *provided* that in no event shall an operating lease be deemed to constitute a Lien.

[["Liquidity" means at any date the Issuer's [consolidated cash and Cash Equivalents plus all funds available to the Issuer and its subsidiaries within 30 days under any credit agreement.]][7]

"Mandatory Conversion Date" means the Conversion Date for any Note that results in satisfaction of the Mandatory Conversion Trigger.

"Mandatory Conversion Trigger" has the meaning set forth in Section 10.3(a).

"Maturity Date" means [____][8][6], 2025.

"Minimum Liquidity" has the meaning set forth in Section 4.23.

"Minority Interest" means the percentage interest represented by any shares of any class of Capital Stock of a Restricted Subsidiary that are not owned by the Issuer or a Restricted Subsidiary.

"Moody's" means Moody's Investors Service, Inc. or any successor to the rating agency business thereof.

"Net Available Cash" from an Asset Disposition means cash payments received (including any cash payments received by way of deferred payment of principal pursuant to a note or installment receivable or otherwise and net proceeds from the sale or other disposition of any securities received as consideration, but only as and when received, but excluding any other consideration received in the form of assumption by the acquiring Person of Indebtedness or

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[7] NTD: Under review.

[8][6] NTD: Under review To be the earlier of (i) May 31, 2025 and (ii) the date that is fifty-two (52) months after the Effective Date.

other obligations relating to the properties or assets that are the subject of such Asset Disposition or received in any other non-cash form) therefrom, in each case net of:

(1) all legal, accounting, investment banking, title and recording tax expenses, commissions and other fees and expenses Incurred, and all federal, state, provincial, foreign and local taxes required to be paid or accrued as a liability under GAAP (after taking into account any available tax credits or deductions and any tax sharing agreements), as a consequence of such Asset Disposition;

(2) all payments made on any Indebtedness which is secured by any assets subject to such Asset Disposition, in accordance with the terms of any Lien upon such assets, or which must by its terms, or in order to obtain a necessary consent to such Asset Disposition, or by applicable law be repaid out of the proceeds from such Asset Disposition;

(3) all distributions and other payments required to be made to minority interest holders in Subsidiaries or joint ventures or to holders of royalty or similar interests as a result of such Asset Disposition; and

(4) the deduction of appropriate amounts to be provided by the seller as a reserve, in accordance with GAAP, against any liabilities associated with the assets disposed of in such Asset Disposition and retained by the Issuer or any Restricted Subsidiary after such Asset Disposition.

"Net Cash Proceeds," with respect to any issuance or sale of Capital Stock or any contribution to equity capital, means the cash proceeds of such issuance, sale or contribution net of attorneys' fees, accountants' fees, underwriters' or placement agents' fees, listing fees, discounts or commissions and brokerage, consultant and other fees and charges actually Incurred in connection with such issuance, sale or contribution and net of taxes paid or payable as a result of such issuance or sale (after taking into account any available tax credit or deductions and any tax sharing arrangements).

"Net Working Capital" means (a) all current assets of the Issuer and its Restricted Subsidiaries except current assets from commodity price risk management activities arising in the ordinary course of the Oil and Gas Business, less (b) all current liabilities of the Issuer and its Restricted Subsidiaries, except current liabilities included in Indebtedness and any current liabilities from commodity price risk management activities arising in the ordinary course of the Oil and Gas Business, in each case as set forth in the consolidated financial statements of the Issuer prepared in accordance with GAAP.

"New Common Stock" means the common stock of the Issuer, par value $[_.__] per share, at the date of this Indenture, subject to Section 10.12.

"Non-Recourse Debt" means Indebtedness of a Person:

(1) as to which neither the Issuer nor any Restricted Subsidiary (a) provides any Guarantee or credit support of any kind (including any undertaking, guarantee, indemnity, agreement or instrument that would constitute Indebtedness) or (b) is directly or indirectly liable (as a guarantor or otherwise);

(2) no default with respect to which (including any rights that the holders thereof may have to take enforcement action against an Unrestricted Subsidiary) would permit (upon notice, lapse of time or both) any holder of any other Indebtedness of the Issuer or any Restricted Subsidiary to declare a default under such other Indebtedness or cause the payment thereof to be accelerated or payable prior to its stated maturity; and

(3) the explicit terms of which provide there is no recourse against any of the assets of the Issuer or its Restricted Subsidiaries.

"Non-U.S. Person" means a person who is not a U.S. person, as defined in Regulation S.

"Note Documents" means (a) this Indenture, the Notes, the Note Guarantees, the Security Documents and each of the other agreements, documents or instruments evidencing or governing any Note Obligations and (b) any other related documents or instruments executed and delivered pursuant to any Note Document described in clause (a) above evidencing or governing any obligations thereunder (including Note Obligations), in each case, as amended, restated, modified, renewed, refunded, replaced (whether upon or after termination or otherwise) or refinanced (including by means of sales of debt securities to institutional investors) in whole or in part from time to time.

"Note Guarantee" means the guarantee by each Subsidiary Guarantor of the Issuer's obligations under this Indenture and the Notes executed pursuant to the provisions of this Indenture.

"Note Obligations" means, without duplication, any principal, interest (including any interest accruing subsequent to the filing of a petition in bankruptcy, reorganization or similar proceeding at the rate provided for in the documentation with respect thereto, whether or not such interest is an allowed claim under applicable state, federal or foreign law), premium (including, without limitation, any Interest Make-Whole Premium), penalties, fees, indemnifications, reimbursements (including, without limitation, reimbursement obligations with respect to letters of credit and banker's acceptances), damages and other liabilities, and guarantees of payment of such principal, interest, premium (including, without limitation, any Interest-Make Whole Premium), penalties, fees, indemnifications, reimbursements, damages and other liabilities, in each case, payable under this Indenture, the Notes or any other Note Documents.

"Note Transfer Notice" has the meaning provided in Section 2.6(h)(xi).

"Notes" has the meaning provided in the preamble to this Indenture.

"Notice of Conversion" has the meaning provided in Section 10.2(a).

"Officer" means the Chairman of the Board, the Chief Executive Officer, the President, the Chief Financial Officer, Chief Operating Officer, any Vice President, the Treasurer or the Secretary of the Issuer. Officer of any Subsidiary Guarantor has a correlative meaning.

"Officers' Certificate" means a certificate signed by two Officers of the Issuer.

"Oil and Gas Business" means: (1) the business of acquiring, exploring, exploiting, developing, producing, operating and disposing of interests in oil, natural gas, liquid natural gas and other Hydrocarbon and mineral properties or products produced in association with any of the foregoing; (2) the business of gathering, marketing, distributing, treating, processing, storing, refining, selling and transporting of any production from such interests or properties and products produced in association therewith and the marketing of oil, natural gas, other Hydrocarbons and minerals obtained from unrelated Persons; (3) any business or activity relating to exploration for or development, production, treatment, processing, refining, storage, transportation or marketing of oil, natural gas, Hydrocarbons and other minerals and products produced in association therewith; (4) any other related energy business, including power generation and electrical transmission business, directly or indirectly, from oil, natural gas and other Hydrocarbons and minerals produced substantially from properties in which the Issuer or its Restricted Subsidiaries, directly or indirectly, participates; (5) any business relating to oil field sales and service and any other business providing assets or services used or useful in connection with the activities described in clauses (1) through (4) of this definition, including the sale, leasing, ownership or operation of drilling rigs, fracturing units or other assets used or useful in any such business; and (6) any business or activity relating to, ancillary to, arising from, or necessary, appropriate or incidental to the activities described in the foregoing clauses (1) through (5) of this definition.

"Oil and Gas Properties" means all properties, including equity or other ownership interest therein, owned by such Person or any of its Restricted Subsidiaries which contain or are believed to contain Proved Reserves.

"Opinion of Counsel" means a written opinion from legal counsel who is acceptable to the Trustee. The counsel may be an employee of or counsel to the Issuer or the Trustee.

[~~[~~"Parent" means any entity that acquires 100% of the outstanding Capital Stock of the Issuer in a transaction in which the Beneficial Owners of the Issuer immediately prior to such transaction are Beneficial Owners in the same proportion of the Issuer immediately after such transaction.~~]~~

"Pari Passu Indebtedness" means Indebtedness that ranks equally in right of payment to the Notes.

"Pari Passu Notes" has the meaning provided in Section 4.16.

"Participant" means, with respect to the Depository, Euroclear or Clearstream, a Person who has an account with the Depository, Euroclear or Clearstream, respectively (and, with respect to DTC, shall include Euroclear and Clearstream).

"Paying Agent" has the meaning provided in Section 2.3. "payment default" has the meaning provided in Section 6.1(6)(a).

"Permitted Business Investment" means any Investment made in the ordinary course of, and of a nature that is or shall have become customary in, the Oil and Gas Business including investments or expenditures for actively exploiting, exploring for, acquiring, developing, producing, processing, gathering, marketing or transporting oil, natural gas or other Hydrocarbons and minerals through agreements, transactions, interests or arrangements which permit one to share risks or costs, comply with regulatory requirements regarding local ownership or satisfy other objectives customarily achieved through the conduct of the Oil and Gas Business jointly with third parties, including, without limitation:

(1) ownership interests in oil, natural gas, other Hydrocarbons and minerals properties or any interest therein or liquid natural gas facilities, processing facilities, gathering systems, transportation systems, pipelines, storage facilities or related systems or ancillary real property interests;

(2) Investments in the form of or pursuant to operating agreements, working interests, royalty interests, mineral leases, processing agreements, farm-in agreements, farm-out agreements, contracts for the sale, transportation or exchange of oil, natural gas, other hydrocarbons and minerals, production sharing agreements, participation agreements, development agreements, area of mutual interest agreements, unitization agreements, pooling agreements, joint bidding agreements, service contracts, joint venture agreements, partnership agreements (whether general or limited), subscription agreements, stock purchase agreements, stockholder agreements and other similar agreements (including for limited liability companies) with third parties (including Unrestricted Subsidiaries); and

(3) direct or indirect ownership interests in drilling rigs, fracturing units and related equipment, including, without limitation, transportation equipment, or in Persons that own or provide such equipment.

"Permitted Investment" means an Investment by the Issuer or any Restricted Subsidiary in:

(1) the Issuer, a Restricted Subsidiary or a Person which will, upon the making of such Investment, become a Restricted Subsidiary; *provided*, *however*, that the primary business of such Restricted Subsidiary is the Oil and Gas Business;

(2) another Person whose primary business is the Oil and Gas Business if as a result of such Investment such other Person becomes a Restricted Subsidiary or is merged or consolidated with or into, or transfers or conveys all or substantially all its assets to, the Issuer or

a Restricted Subsidiary and, in each case, any Investment held by such Person; *provided* that such Investment was not acquired by such Person in contemplation of such acquisition, merger, consolidation or transfer;

(3) cash and Cash Equivalents;

(4) receivables owing to the Issuer or any Restricted Subsidiary created or acquired in the ordinary course of business and payable or dischargeable in accordance with customary trade terms; *provided*, *however*, that such trade terms may include such concessionary trade terms as the Issuer or any such Restricted Subsidiary deems reasonable under the circumstances;

(5) payroll, commission, travel, relocation and similar advances to cover matters that are expected at the time of such advances ultimately to be treated as expenses for accounting purposes and that are made in the ordinary course of business;

(6) loans or advances to employees made in the ordinary course of business consistent with past practices of the Issuer or such Restricted Subsidiary not in excess of $[___]5.0 million outstanding at any one time, in the aggregate;

(7) Capital Stock, obligations or securities received in settlement of debts created in the ordinary course of business and owing to the Issuer or any Restricted Subsidiary or in satisfaction of judgments;

(8) Investments made as a result of the receipt of non-cash consideration from an Asset Disposition that was made pursuant to and in compliance with Section 4.16;

(9) Investments in existence on the Issue Date;

(10) Commodity Agreements, Currency Agreements, Interest Rate Agreements and related Hedging Obligations, which transactions or obligations are Incurred in compliance with Section 4.12;

(11) Guarantees issued in accordance with Section 4.12;

(12) any Asset Swap or acquisition of Additional Assets made in accordance with Section 4.16;

(13) Investments in any Unrestricted Subsidiary having an aggregate Fair Market Value, taken together with all other Investments made pursuant to this clause (13) that are at the time outstanding, not to exceed $[___]5.0 million (with the Fair Market Value of such Investment being measured at the time such Investment is made and without giving effect to subsequent changes in value); *provided* that no Default or Event of Default exists at the time of such Investment or would result therefrom;

(14) Permitted Business Investments;

(15) any Person where such Investment was acquired by the Issuer or any of its Restricted Subsidiaries (a) in exchange for any other Investment or accounts receivable held by the Issuer or any such Restricted Subsidiary in connection with or as a result of a bankruptcy, workout, reorganization or recapitalization of the issuer of such other Investment or accounts receivable or (b) as a result of a foreclosure by the Issuer or any of its Restricted Subsidiaries with respect to any secured Investment or other transfer of title with respect to any secured Investment in default;

(16) any Person to the extent such Investments consist of prepaid expenses, negotiable instruments held for collection and lease, utility and workers' compensation, performance and other similar deposits made in the ordinary course of business by the Issuer or any Restricted Subsidiary;

(17) Guarantees of performance or other obligations (other than Indebtedness) arising in the ordinary course in the Oil and Gas Business, including obligations under oil and natural gas exploration, development, joint operating, and related agreements and licenses or concessions related to the Oil and Gas Business;

(18) acquisitions of assets, Capital Stock or other securities by the Issuer for consideration consisting of common equity securities of the Issuer;

(19) Investments in the Notes; and

(20) Investments by the Issuer or any of its Restricted Subsidiaries, together with all other Investments pursuant to this clause (20), in an aggregate amount outstanding at any one time not to exceed the greater of (x) $[ ]10.0 million and (y) 2.5% of the Issuer's Adjusted Consolidated Net Tangible Assets determined as of the date such Investment is made after giving effect to such Investment (with the Fair Market Value of such Investment being measured at the time such Investment is made and without giving effect to subsequent changes in value).

"Permitted Liens" means, with respect to any Person:

(1) Liens securing Indebtedness and other obligations under, and related Hedging Obligations and Liens on assets of Restricted Subsidiaries securing Guarantees of Indebtedness and other obligations of the Issuer under, any Credit Facility permitted to be Incurred under this Indenture under the provisions described in clause (1) of the second paragraph of Section 4.12;

(2) pledges or deposits by such Person under workmen's compensation laws, unemployment insurance laws, social security or old age pension laws or similar legislation, or good faith deposits in connection with bids, tenders, contracts (other than for the payment of Indebtedness) or leases to which such Person is a party, or deposits (which may be secured by a Lien) to secure public or statutory obligations of such Person including letters of credit and bank guarantees required or requested by the United States, any State thereof or any foreign government or any subdivision, department, agency, organization or instrumentality of any of the foregoing in connection with any contract or statute (including lessee or operator obligations

under statutes, governmental regulations, contracts or instruments related to the ownership, exploration and production of oil, natural gas, other hydrocarbons and minerals on State, Federal or foreign lands or waters), or deposits of cash or United States government bonds to secure indemnity performance, surety or appeal bonds or other similar bonds to which such Person is a party, or deposits as security for contested taxes or import or customs duties or for the payment of rent, in each case Incurred in the ordinary course of business;

(3) statutory and contractual Liens of landlords and Liens imposed by law, including carriers', warehousemen's, mechanics', materialmen's and repairmen's Liens, in each case for sums not yet due or being contested in good faith by appropriate proceedings if a reserve or other appropriate provisions, if any, as shall be required by GAAP shall have been made in respect thereof;

(4) Liens for taxes, assessments or other governmental charges or claims not yet delinquent or which are being contested in good faith by appropriate proceedings; *provided* that adequate reserves, if any, required pursuant to GAAP have been made in respect thereof;

(5) Liens in favor of issuers of surety or performance bonds or letters of credit or bankers' acceptances issued pursuant to the request of and for the account of such Person in the ordinary course of its business; *provided*, *however*, that such letters of credit do not constitute Indebtedness;

(6) survey exceptions, encumbrances, ground leases, easements or reservations of, or rights of others for, licenses, rights of way, sewers, electric lines, telegraph and telephone lines and other similar purposes, or zoning, building codes or other restrictions (including, without limitation, minor defects or irregularities in title and similar encumbrances) as to the use of real properties or Liens incidental to the conduct of the business of such Person or to the ownership of its properties which do not in the aggregate materially adversely affect the value of the assets of such Person and its Restricted Subsidiaries, taken as a whole, or materially impair their use in the operation of the business of such Person;

(7) Liens securing Hedging Obligations (excluding Hedging Obligations not entered into in the ordinary course of business) so long as the related Indebtedness is, and is permitted to be under this Indenture, secured by a Lien on the same property securing such Hedging Obligation;

(8) leases, licenses, subleases and sublicenses of assets (including, without limitation, real property and intellectual property rights) which do not materially interfere with the ordinary conduct of the business of the Issuer or any of its Restricted Subsidiaries;

(9) prejudgment Liens and judgment Liens not giving rise to an Event of Default so long as such Lien is adequately bonded and any appropriate legal proceedings which may have been duly initiated for the review of such judgment have not been finally terminated or the period within which such proceedings may be initiated has not expired;

(10) Liens for the purpose of securing the payment of all or a part of the purchase price of, or Capitalized Lease Obligations, purchase money obligations or other payments Incurred to finance the acquisition, lease, improvement or construction of or repairs or additions to, assets or property acquired or constructed in the ordinary course of business; *provided* that:

(a) the aggregate principal amount of Indebtedness secured by such Liens is otherwise permitted to be Incurred under this Indenture; and

(b) such Liens are created within 180 days of the later of the acquisition, lease, completion of improvements, construction, repairs or additions or commencement of full operation of the assets or property subject to such Lien and do not encumber any other assets or property of the Issuer or any Restricted Subsidiary other than such assets or property and assets affixed or appurtenant thereto;

(11) Liens arising solely by virtue of any statutory or common law provisions relating to banker's Liens, rights of set-off or similar rights and remedies as to deposit accounts or other funds maintained with a depositary institution; *provided* that:

(a) such deposit account is not a dedicated cash collateral account and is not subject to restrictions against access by the Issuer in excess of those set forth by regulations promulgated by the Federal Reserve Board; and

(b) such deposit account is not intended by the Issuer or any Restricted Subsidiary to provide collateral to the depository institution;

(12) Liens arising from Uniform Commercial Code financing statement filings regarding operating leases entered into by the Issuer and its Restricted Subsidiaries in the ordinary course of business;

(13) Liens existing on the Issue Date (other than Liens securing Indebtedness under the Senior Secured Credit Facility);

(14) Liens on property or shares of Capital Stock of a Person at the time such Person becomes a Subsidiary; *provided*, *however*, that such Liens are not created, Incurred or assumed in connection with, or in contemplation of, such other Person becoming a Subsidiary; *provided further*, *however*, that any such Lien may not extend to any other property owned by the Issuer or any Restricted Subsidiary (other than assets or property affixed or appurtenant thereto);

(15) Liens on property at the time the Issuer or any of its Subsidiaries acquired the property, including any acquisition by means of a merger or consolidation with or into the Issuer or any of its Subsidiaries; *provided*, *however*, that such Liens are not created, Incurred or assumed in connection with, or in contemplation of, such acquisition; *provided further*, *however*, that such Liens may not extend to any other property owned by the Issuer or any Restricted Subsidiary (other than assets or property affixed or appurtenant thereto);

(16) [reserved];

(17) Liens securing the Notes, Subsidiary Guarantees and other obligations under this Indenture;

(18) Liens securing Refinancing Indebtedness Incurred to refinance Indebtedness that was previously so secured; *provided* that any such Lien is limited to all or part of the same property or assets (*plus* improvements, accessions, proceeds or dividends or distributions in respect thereof) that secured (or, under the written arrangements under which the original Lien arose, could secure) the Indebtedness being refinanced or is in respect of property or assets that is the security for a Permitted Lien hereunder;

(19) any interest or title of a lessor under any Capitalized Lease Obligation or operating lease;

(20) Liens in respect of Production Payments and Reserve Sales, which Liens shall be limited to the property that is the subject of such Production Payments and Reserve Sales;

(21) Liens arising under oil and gas leases or subleases, assignments, farm-out agreements, farm-in agreements, division orders, contracts for the sale, purchase, exchange, transportation, gathering or processing of Hydrocarbons, unitizations and pooling designations, declarations, orders and agreements, development agreements, joint venture agreements, partnership agreements, operating agreements, royalties, working interests, net profits interests, joint interest billing arrangements, participation agreements, production sales contracts, area of mutual interest agreements, gas balancing or deferred production agreements, injection, repressuring and recycling agreements, salt water or other disposal agreements, seismic or geophysical permits or agreements, licenses, sublicenses and other agreements which are customary in the Oil and Gas Business; *provided*, *however*, in all instances that such Liens are limited to the assets that are the subject of the relevant agreement, program, order or contract;

(22) Liens on pipelines or pipeline facilities that arise by operation of law;

(23) Liens securing Indebtedness (other than Subordinated Obligations and Guarantor Subordinated Obligations) in an aggregate principal amount outstanding at any one time, added together with all other Indebtedness secured by Liens Incurred pursuant to this clause (23), not to exceed the greater of (x) $[ ]2.0 million and (y) 3.0% of the Issuer's Adjusted Consolidated Net Tangible Assets determined as of the date of the Incurrence of such Lien;

(24) Liens in favor of the Issuer or any Subsidiary Guarantor;

(25) deposits made in the ordinary course of business to secure liability to insurance carriers;

(26) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods in the ordinary course of business;

(27) Liens deemed to exist in connection with Investments in repurchase agreements permitted in Section 4.12; *provided* that such Liens do not extend to any assets other than those that are the subject of such repurchase agreement;

(28) Liens encumbering reasonable customary initial deposits and margin deposits and similar Liens attaching to commodity trading accounts or other brokerage accounts incurred in the ordinary course of business and not for speculative purposes;

(29) any (a) interest or title of a lessor or sublessor under any lease, liens reserved in oil, gas or other Hydrocarbons, minerals, leases for bonus, royalty or rental payments and for compliance with the terms of such leases; (b) restriction or encumbrance that the interest or title of such lessor or sublessor may be subject to (including, without limitation, ground leases or other prior leases of the demised premises, mortgages, mechanics' liens, tax liens, and easements); or (c) subordination of the interest of the lessee or sublessee under such lease to any restrictions or encumbrance referred to in the preceding clause (b);

(30) Liens (other than Liens securing Indebtedness) on, or related to, assets to secure all or part of the costs incurred in the ordinary course of the Oil and Gas Business for the exploration, drilling, development, production, processing, transportation, marketing, storage or operation thereof;

(31) Liens upon specific items of inventory or other goods and proceeds of any Person securing such Person's obligations in respect of bankers' acceptances issued or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or other goods;

(32) Liens arising under this Indenture in favor of the Trustee for its own benefit and similar Liens in favor of other trustees, agents and representatives arising under instruments governing Indebtedness permitted to be incurred under this Indenture; *provided*, *however*, that such Liens are solely for the benefit of the trustees, agents or representatives in their capacities as such and not for the benefit of the holders of such Indebtedness;

(33) Liens arising from the deposit of funds or securities in trust for the purpose of decreasing or defeasing Indebtedness so long as such deposit of funds or securities and such decreasing or defeasing of Indebtedness are permitted under Section 4.10;

(34) Liens in favor of collecting or payer banks having a right of setoff, revocation, or charge back with respect to money or instruments of the Issuer or any Subsidiary of the Issuer on deposit with or in possession of such bank; and

(35) Liens on the Capital Stock of an Unrestricted Subsidiary held by the Issuer or its Restricted Subsidiaries in favor of any lender to such Unrestricted Subsidiary.

In each case set forth above, notwithstanding any stated limitation on the assets that may be subject to such Lien, a Permitted Lien on a specified asset or group or type of assets may

include Liens on all improvements, additions and accessions thereto and all products and proceeds thereof (including dividends, distributions and increases in respect thereof).

"Permitted Payments to Parent" means, for any taxable period ending after the Issue Date for which the Issuer and/or any of the Issuer's Subsidiaries is a member of a group filing a consolidated, combined or similar income tax return of which a direct or indirect parent of the Issuer is the common parent (a "Tax Group"), payments to the direct or indirect parent in respect of the portion of any such consolidated, combined or similar income taxes for such taxable period that is attributable to the taxable income of the Issuer and its Subsidiaries ("Tax Payments"). The Tax Payments in respect of any taxable period shall not exceed the amount of any such income taxes that the Issuer and/or its applicable Subsidiaries would have been required to pay in respect of such taxable period if they had been stand-alone corporate taxpayers or a stand-alone Tax Group for all applicable taxable periods ending after the Issue Date; *provided* that the portion of any such payments attributable to any taxes of an Unrestricted Subsidiary shall be limited to the amount actually paid by such Unrestricted Subsidiary to the Issuer or any Subsidiary Guarantor for the purpose of paying such consolidated or combined income taxes. Any Tax Payments received from the Issuer shall be paid over to the appropriate taxing authority within 30 days of the direct or indirect parent's receipt of such Tax Payments or refunded to the Issuer.

"Person" means any individual, corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated organization, limited liability company, government or any agency or political subdivision hereof or any other entity.

"PIK Interest" means interest paid in the form of (i) an increase in the outstanding principal amount of the Notes or (ii) the issuance of PIK Notes.

"PIK Interest Payment" means the payment of PIK Interest.

"PIK Notes" has the meaning set forth in Section 2.01(d) hereof.

"Plan of Reorganization" means the *Debtors' Joint Prepackaged Chapter 11 Plan of Reorganization*, dated August 15, 2020 (together with all exhibits and schedules thereto), filed with the Bankruptcy Court, which was confirmed pursuant to an Order entered by the Bankruptcy Court on [_____], 2020.

"Preferred Stock" as applied to the Capital Stock of any corporation, means Capital Stock of any class or classes (however designated) which is preferred as to the payment of dividends, or as to the distribution of assets upon any voluntary or involuntary liquidation or dissolution of such corporation, over shares of Capital Stock of any other class of such corporation.

"principal" of any Indebtedness (including the Notes) means the principal amount of such Indebtedness.

"Private Placement Legend" means the legend initially set forth on the Notes in the form set forth in Section 2.15(a)(i).

"pro forma" means, with respect to any calculation made or required to be made pursuant to the terms of this Indenture, a calculation in accordance with Article 11 of Regulation S-X under the Securities Act, as determined by the Board of Directors of the Issuer in consultation with its independent public accountants.

"Production Payments" means Dollar-Denominated Production Payments and Volumetric Production Payments, collectively. "Production Payments and Reserve Sales" means the grant or transfer by the Issuer or a Restricted Subsidiary to any Person of a royalty, overriding royalty, net profits interest, Production Payment, partnership or other interest in Oil and Gas Properties, reserves or the right to receive all or a portion of the production or the proceeds from the sale of production attributable to such properties where the holder of such interest has recourse solely to such production or proceeds of production, subject to the obligation of the grantor or transferor to operate and maintain, or cause the subject interests to be operated and maintained, in a reasonably prudent manner or other customary standard or subject to the obligation of the grantor or transferor to indemnify for environmental, title or other matters customary in the Oil and Gas Business, including any such grants or transfers pursuant to incentive compensation programs on terms that are reasonably customary in the Oil and Gas Business for geologists, geophysicists or other providers of technical services to the Issuer or a Restricted Subsidiary.

"Property" means, with respect to any Person, any interests of such Person in any kind of property or asset, whether real, personal or mixed, or tangible or intangible, including, without limitation, Capital Stock, partnership interests and other equity or ownership interests in any other Person.

"Proved Reserves" means crude oil and natural gas reserves (including natural gas liquids) constituting ''proved oil and gas reserves'' as defined in Rule 4-10 of Regulation S-X of the Securities Act.

"Rating Agencies" means Moody's and S&P or if Moody's or S&P or both cease to rate the Notes for reasons outside of the control of the Issuer, a nationally recognized statistical rating organization or organizations, as the case may be, registered under Section 15E of the Exchange Act, selected by the Issuer which shall be substituted for Moody's or S&P or both, as the case may be.

"Qualified Institutional Buyer" or "QIB" shall have the meaning specified in Rule 144A.

"Record Date" means, with respect to the Notes, the Record Dates specified in the Notes and, with respect to any dividend, distribution or other transaction or event in which the holders of Common Stock have the right to receive any cash, securities or other property or in which the Common Stock is exchanged for or converted into any combination of cash, securities or other property, the date fixed for determination of stockholders entitled to receive such cash, securities

or other property (whether such date is fixed by the Board of Directors of the Issuer or by statute, contract or otherwise).

"Redemption Date," when used with respect to any Note to be redeemed, means the date fixed for such redemption pursuant to this Indenture and the Notes.

"Redemption Price," when used with respect to any Note to be redeemed, means the price fixed for such redemption, including principal and premium, if any, pursuant to this Indenture and the Notes.

"Reference Property" has the meaning specified in Section 10.12.

"Refinancing Indebtedness" means Indebtedness that is Incurred to refund, refinance, replace, exchange, renew, repay, extend, prepay, redeem or retire (including pursuant to any defeasance or discharge mechanism) (collectively, "refinance," "refinances" and "refinanced" shall have correlative meanings) any Indebtedness (including Indebtedness of the Issuer that refinances Indebtedness of any Restricted Subsidiary and Indebtedness of any Restricted Subsidiary that refinances Indebtedness of another Restricted Subsidiary, but excluding Indebtedness of a Subsidiary that is not a Restricted Subsidiary that refinances Indebtedness of the Issuer or a Restricted Subsidiary), including Indebtedness that refinances Refinancing Indebtedness; *provided*, *however*, that:

(1) (a) if the Stated Maturity of the Indebtedness being refinanced is earlier than the Stated Maturity of the Notes, the Refinancing Indebtedness has a Stated Maturity no earlier than the Stated Maturity of the Indebtedness being refinanced or (b) if the Stated Maturity of the Indebtedness being refinanced is later than the Stated Maturity of the Notes, the Refinancing Indebtedness has a Stated Maturity at least 91 days later than the Stated Maturity of the Notes;

(2) the Refinancing Indebtedness has an Average Life at the time such Refinancing Indebtedness is Incurred that is equal to or greater than the Average Life of the Indebtedness being refinanced;

(3) such Refinancing Indebtedness is Incurred in an aggregate principal amount (or if issued with original issue discount, an aggregate issue price) that is equal to or less than the sum of the aggregate principal amount (or if issued with original issue discount, the aggregate accreted value) then outstanding of the Indebtedness being refinanced (*plus*, without duplication, any additional Indebtedness Incurred to pay interest, premiums or defeasance costs required by the instrument governing such existing Indebtedness and fees and expenses Incurred in connection therewith); and

(4) if the Indebtedness being refinanced is subordinated in right of payment to the Notes or the Subsidiary Guarantee, such Refinancing Indebtedness is subordinated in right of payment to the Notes or the Subsidiary Guarantee on terms at least as favorable to the Holders as those contained in the documentation governing the Indebtedness being refinanced.

For the avoidance of doubt, Refinancing Indebtedness shall not include Indebtedness Incurred under a Credit Facility pursuant to clause (1) of the second paragraph of Section 4.12.

"Registrar" has the meaning provided in Section 2.3.

"Regulation S" means Regulation S under the Securities Act.

"Regulation S Global Note" means a Regulation S Temporary Global Note or Regulation S Permanent Global Note, as applicable.

"Regulation S Permanent Global Note" means a permanent Global Note in the form of Exhibit A hereto bearing the Global Note Legend and the Private Placement Legend and deposited with or on behalf of and registered in the name of the Depository or its nominee, issued in a denomination equal to the outstanding principal amount of the Regulation S Temporary Global Note upon expiration of the Restricted Period.

"Regulation S Temporary Global Note" means a temporary Global Note in the form of Exhibit A hereto bearing the Global Note Legend, the Private Placement Legend and the Regulation S Temporary Global Note Legend and deposited with or on behalf of and registered in the name of the Depository or its nominee, issued in a denomination equal to the outstanding principal amount of the Notes initially sold in reliance on Rule 903.

"Regulation S Temporary Global Note Legend" means the legend set forth in Section 2.15(a)(iii) hereof.

"Restricted Definitive Note" means a Definitive Note bearing the Private Placement Legend.

"Restricted Global Note" means a Global Note bearing the Private Placement Legend.

"Restricted Investment" means any Investment other than a Permitted Investment.

"Restricted Payment" has the meaning set forth in Section 4.10.

"Restricted Period" means the 40-day distribution compliance period as defined in Regulation S.

"Restricted Subsidiary" means any Subsidiary of the Issuer other than an Unrestricted Subsidiary.

"Reversion Date" has the meaning set forth in Section 4.21.

"Rule 144" means Rule 144 promulgated under the Securities Act.

"Rule 144A" means Rule 144A promulgated under the Securities Act.

"Rule 903" means Rule 903 promulgated under the Securities Act.

"Rule 904" means Rule 904 promulgated under the Securities Act.

"S&P" means S&P Global Ratings, a division of The McGraw-Hill Companies, Inc., or any successor to the rating agency business thereof.

"Sale/Leaseback Transaction" means an arrangement relating to property now owned or hereafter acquired whereby the Issuer or a Restricted Subsidiary transfers such property to a Person and the Issuer or a Restricted Subsidiary leases it from such Person.

"SEC" means the United States Securities and Exchange Commission.

"Securities Act" means the Securities Act of 1933, as amended, and the rules and regulations of the SEC promulgated thereunder.

"Security Agreement" means the security agreement, dated as of the Issue Date, among the Issuer, the other parties thereto from time to time, and the Collateral Agent, as such agreement may be amended, supplemented, restated, amended and restated, or otherwise modified from time to time.

"Security Documents" means the Mortgages, the Security Agreement and the security agreements, pledge agreements, mortgages, deeds of trust, deeds to secure debt, collateral assignments, control agreements, any Intercreditor Agreement and related agreements (including, without limitation, financing statements under the Uniform Commercial Code of the relevant states), as amended, supplemented, restated, renewed, refunded, replaced, restructured, repaid, refinanced or otherwise modified from time to time, under which rights or remedies with respect to any Lien are governed.

"Senior Secured Credit Agreement" means that certain Eleventh Restated Credit Agreement, dated as of ~~[_____], 2020~~the date hereof, among the Issuer, as borrower, Royal Bank of Canada, as administrative agent, and the lenders party thereto from time to time, including any guarantees, collateral documents, instruments and agreements executed in connection therewith, and any amendments, supplements, modifications, extensions, renewals, restatements, refundings or refinancings thereof and any indentures or credit facilities or commercial paper facilities with banks or other institutional lenders or investors that replace, refund or refinance any part of the loans, notes, other credit facilities or commitments thereunder, including any such replacement, refunding or refinancing facility or indenture that increases the amount borrowable thereunder or alters the maturity thereof (*provided* that such increase in borrowings is permitted in Section 4.12).

"Share Exchange Event" has the meaning specified in Section 10.12.

"Significant Subsidiary" means any Restricted Subsidiary that would be a "Significant Subsidiary" of the Issuer within the meaning of Rule 1-02 under Regulation S-X promulgated by the SEC, as in effect on the Issue Date.

"Stated Maturity" means, with respect to any security, the date specified in such security as the fixed date on which the payment of principal of such security is due and payable, including pursuant to any mandatory redemption provision, but shall not include any contingent obligations to repay, redeem or repurchase any such principal prior to the date originally scheduled for the payment thereof.

"Stockholder" has the meaning provided in the Stockholders Agreement.

"Stockholders Agreement" means that certain shareholders agreement dated as of [●]the date hereof, 2020 by and among the Issuer and the holders listed therein, as may be amended from time to time.

"Subordinated Obligation" means any Indebtedness of the Issuer or a Subsidiary Guarantor (whether outstanding on the Issue Date or thereafter Incurred) that is subordinate or junior in right of payment to the Notes pursuant to a written agreement.

"Subsidiary" of any Person means (a) any corporation, association or other business entity (other than a partnership, joint venture, limited liability company or similar entity) of which more than 50% of the total ordinary voting power of shares of Capital Stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof (or Persons performing similar functions) or (b) any partnership, joint venture, limited liability company or similar entity of which more than 50% of the capital accounts, distribution rights, total equity and voting interests or general or limited partnership interests, as applicable, is, in the case of clauses (a) and (b), at the time owned or controlled, directly or indirectly, by (1) such Person, (2) such Person and one or more Subsidiaries of such Person or (3) one or more Subsidiaries of such Person. Unless otherwise specified herein, each reference to a Subsidiary (other than in this definition) will refer to a Subsidiary of the Issuer.

"Subsidiary Guarantee" means, individually, any Guarantee of payment of the Notes by a Subsidiary Guarantor pursuant to the terms of this Indenture and any supplemental indenture thereto, and, collectively, all such Guarantees. Each such Subsidiary Guarantee will be in the form prescribed by this Indenture.

"Subsidiary Guarantor" means [(i) [CEI Acquisition, L.L.C., a Delaware limited liability company,] CEI Pipeline, L.L.C., a Texas limited liability company, [Chaparral Biofuels, L.L.C., an Oklahoma limited liability company,] Chaparral CO2, L.L.C., an Oklahoma limited liability company, Chaparral Energy, L.L.C., an Oklahoma limited liability company, [Chaparral Exploration, L.L.C., a Delaware limited liability company,] Chaparral Real Estate, L.L.C., an Oklahoma limited liability company, Chaparral Resources, L.L.C., an Oklahoma limited liability company, Charles Energy, L.L.C., an Oklahoma limited liability company, Chestnut Energy, L.L.C., an Oklahoma limited liability company, [Green Country Supply, Inc., an Oklahoma corporation, Roadrunner Drilling, L.L.C., an Oklahoma limited liability company,] and Trabajo Energy, L.L.C., an Oklahoma limited liability company, and (ii) each other Restricted Subsidiary (other than a Foreign Subsidiary) that (x) Incurs orthat guarantees the Indebtedness under the Senior Secured Credit Agreement or (y) Incurs or guarantees any other Indebtedness created or

~~acquired by the Issuer or one or more of its Restricted Subsidiaries in an aggregate principal amount exceeding $[__] million.]~~[9]pursuant to Section 4.20.

"Suspended Covenants" has the meaning set forth in Section 4.21.

"Suspension Period" has the meaning set forth in Section 4.21.

"Tag-Along Closing" has the meaning set forth in the Stockholders Agreement.

"Tag-Along Notice" has the meaning set forth in the Stockholders Agreement.

"Tag-Along Sale" has the meaning set forth in the Stockholders Agreement.

"Tag-Along Seller" has the meaning set forth in the Stockholders Agreement.

"TIA" means the Trust Indenture Act of 1939 (15 U.S.C. §§ 77aaa-77bbbb), as in effect on the date of this Indenture; *provided* that in the event the Trust Indenture Act of 1939 is amended after such date, "TIA" means, to the extent required by any such amendment, the Trust Indenture Act of 1939 as so amended.

"Transfer Notice" means any "Transfer Notice" (as defined in the Stockholders Agreement) or Note Transfer Notice.

"Treasury Rate" means, as of the date of any payment of principal or repurchase of the Notes following the occurrence of an Interest Make-Whole Trigger Event, the yield to maturity at the time of computation of United States Treasury securities with a constant maturity (as compiled and published in the most recent Federal Reserve Statistical Release H.15 (519) which has become publicly available at least two Business Days prior to such date (or, if such Statistical Release is no longer published or the relevant information does not appear thereon, any publicly available source of similar market data)) most nearly equal to the period from such date to the Maturity Date; provided, however, that if the period from such date to the Maturity Date is not equal to the constant maturity of a United States Treasury security for which a weekly average yield is given, the Treasury Rate shall be obtained by linear interpolation (calculated to the nearest one-twelfth of a year) from the weekly average yields of United States Treasury securities for which such yields are given, except that if the period from such date to the Maturity Date is less than one year, the weekly average yield on actually traded United States Treasury securities adjusted to a constant maturity of one year shall be used. The Issuer shall (1) calculate the Treasury Rate as of the second Business Day preceding the applicable date of any payment of principal or repurchase of the Notes following the occurrence of an Interest Make-Whole Trigger Event and (2) prior to such date file with the Trustee an Officers' Certificate setting forth the Interest Make-Whole Premium and the Treasury Rate and showing the calculation in reasonable detail; provided that the Trustee shall not be responsible for such calculation.

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[9] ~~NTD: Under review.~~

"Trust Officer" means any officer within the Corporate Trust Office including any Vice President, Managing Director, Director, Assistant Vice President, Associate, or any other officer of the Trustee customarily performing functions similar to those performed by any of the above designated officers and also, with respect to a particular matter, any other officer to whom such matter is referred because of such officer's knowledge and familiarity with the particular subject and who shall have direct responsibility for the administration of this Indenture, or in the case of a successor trustee, an officer assigned to the department, division or group performing the corporation trust work of such successor and assigned to administer this Indenture.

"Trustee" means the party named as such in this Indenture until a successor replaces it in accordance with the provisions of this Indenture and thereafter means such successor.

"unit of Reference Property" has the meaning specified in Section 10.12.

"Unrestricted Subsidiary" means:

(1) any Subsidiary of the Issuer that at the time of determination shall be designated an Unrestricted Subsidiary by the Board of Directors of the Issuer in the manner provided below; and

(2) any Subsidiary of an Unrestricted Subsidiary.

The Board of Directors of the Issuer may designate any Subsidiary of the Issuer (including any newly acquired or newly formed Subsidiary or a Person becoming a Subsidiary through merger or consolidation or Investment therein) to be an Unrestricted Subsidiary only if:

(1) such Subsidiary or any of its Subsidiaries does not own any Capital Stock or Indebtedness of or have any Investment in, or own or hold any Lien on any property of, any other Subsidiary of the Issuer which is not a Subsidiary of the Subsidiary to be so designated or otherwise an Unrestricted Subsidiary;

(2) all the Indebtedness of such Subsidiary and its Subsidiaries shall, at the date of designation, and will at all times thereafter, consist of Non-Recourse Debt;

(3) on the date of such designation, such designation and the Investment of the Issuer in such Subsidiary complies with Section 4.10;

(4) such Subsidiary is a Person with respect to which neither the Issuer nor any of its Restricted Subsidiaries has any direct or indirect obligation:

(a) to subscribe for additional Capital Stock of such Person; or

(b) to maintain or preserve such Person's financial condition or to cause such Person to achieve any specified levels of operating results; and

(5) on the date such Subsidiary is designated an Unrestricted Subsidiary, such Subsidiary is not a party to any agreement, contract, arrangement or understanding with the Issuer or any Restricted Subsidiary with terms substantially less favorable to the Issuer than those that might have been obtained from Persons who are not Affiliates of the Issuer.

Any such designation by the Board of Directors of the Issuer shall be evidenced to the Trustee by filing with the Trustee a certified copy of a resolution of the Board of Directors of the Issuer giving effect to such designation and an Officers' Certificate certifying that such designation complies with the foregoing conditions. If, at any time, any Unrestricted Subsidiary would fail to meet the foregoing requirements as an Unrestricted Subsidiary, it shall thereafter cease to be an Unrestricted Subsidiary for purposes of this Indenture and any Indebtedness of such Subsidiary shall be deemed to be Incurred as of such date.

The Board of Directors of the Issuer may designate any Unrestricted Subsidiary to be a Restricted Subsidiary; *provided* that immediately after giving effect to such designation, (a) no Default or Event of Default shall have occurred and be continuing or would occur as a consequence thereof and (b) either (i) the Issuer could Incur at least $1.00 of additional Indebtedness under the first paragraph of Section 4.12 or (ii) the Consolidated Coverage Ratio for the Issuer and its Restricted Subsidiaries would be equal to or greater than immediately prior to such designation, in either case on a pro forma basis taking into account such designation.

"U.S. Government Obligations" means securities that are (a) direct obligations of the United States of America for the timely payment of which its full faith and credit is pledged or (b) obligations of a Person controlled or supervised by and acting as an agency or instrumentality of the United States of America the timely payment of which is unconditionally guaranteed as a full faith and credit obligation of the United States of America, which, in either case, are not callable or redeemable at the option of the issuer thereof, and shall also include a depositary receipt issued by a bank (as defined in Section 3(a)(2) of the Securities Act), as custodian with respect to any such U.S. Government Obligations or a specific payment of principal of or interest on any such U.S. Government Obligations held by such custodian for the account of the holder of such depositary receipt; *provided* that (except as required by law) such custodian is not authorized to make any deduction from the amount payable to the holder of such depositary receipt from any amount received by the custodian in respect of the U.S. Government Obligations or the specific payment of principal of or interest on the U.S. Government Obligations evidenced by such depositary receipt.

"U.S. Legal Tender" means such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts.

"Unrestricted Definitive Note" means one or more Definitive Notes that do not bear and are not required to bear the Private Placement Legend.

"Unrestricted Global Note" means a permanent Global Note, substantially in the form of Exhibit A attached hereto, that bears the Global Note Legend and that is deposited with or on

behalf of and registered in the name of the Depository, representing Notes that do not bear the Private Placement Legend.

"Volumetric Production Payments" means production payment obligations recorded as deferred revenue in accordance with GAAP, together with all undertakings and obligations in connection therewith.

"Voting Stock" of an entity means all classes of Capital Stock of such entity then outstanding and normally entitled to vote in the election of members of such entity's Board of Directors.

"Wholly Owned Subsidiary" means a Restricted Subsidiary, all of the Capital Stock of which (other than directors' qualifying shares) is owned by the Issuer or another Wholly Owned Subsidiary.

SECTION 1.2. ***No Incorporation by Reference of TIA***.

This Indenture is not qualified under the TIA, and the TIA shall not apply to or in any way govern the terms of this Indenture. As a result, no provisions of the TIA are incorporated into this Indenture unless expressly incorporated pursuant to this Indenture.

SECTION 1.3. ***Rules of Construction***.

Unless the context otherwise requires:

(1) a term has the meaning assigned to it;

(2) an accounting term not otherwise defined has the meaning assigned to it in accordance with GAAP;

(3) "or" is not exclusive;

(4) words in the singular include the plural, and words in the plural include the singular;

(5) "herein," "hereof" and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision;

(6) any reference to a statute, law or regulation means that statute, law or regulation as amended and in effect from time to time and includes any successor statute, law or regulation; *provided*, *however*, that any reference to the Bankruptcy Law shall mean the Bankruptcy Law as applicable to the relevant case;

(7) unless the context requires otherwise, references to "Notes" for all purposes of this Indenture shall include any PIK Notes that are actually issued and any increase in the principal amount of the outstanding Notes (including PIK Notes) as a result of a PIK Interest

Payment, and references to "principal amount" of the Notes include any increase in the principal amount of the outstanding Notes (including PIK Notes) as a result of a PIK Interest Payment;

(8) all references to "interest" on the Notes means Cash Interest or PIK Interest as the context may require;

(9) all references to unpaid accrued interest on the Notes in respect of an interest period for which the Issuer has not yet made an election (or deemed election) as to the method of payment for such interest, shall assume such interest accrues at the Interest Rate for Cash Interest; and

(10) references to sections of or rules under the Securities Act or the Exchange Act will be deemed to include substitute, replacement of successor sections enacted into law or rules adopted by the SEC, as the case may be, from time to time.

ARTICLE II.

THE NOTES

SECTION 2.1. ***Form and Dating***.

(a) General. The Notes and the Trustee's certificate of authentication relating thereto shall be substantially in the form of Exhibit A hereto, which is incorporated in and expressly made a part of this Indenture, or may be in the form of Book-Entry Notes (in the case of all Notes issued on the Issue Date, and if otherwise agreed in writing by the applicable Holder or Holders). The Notes may have notations, legends or endorsements required by law, stock exchange rule or depository rule or usage. The Issuer shall approve the form of the Notes and any notation, legend or endorsement on them. Each Note shall be dated the date of its issuance and shall show the date of its authentication.

The terms and provisions contained in the Notes, a form of which is annexed hereto as Exhibit A, shall constitute, and are hereby expressly made, a part of this Indenture and, to the extent applicable, the Issuer, the Subsidiary Guarantors and the Trustee, by their execution and delivery of this Indenture, expressly agree to such terms and provisions and to be bound thereby. However, to the extent any provision of any Note conflicts with the express provisions of this Indenture, the provisions of this Indenture shall govern and be controlling.

The aggregate principal amount of the Notes which may be authenticated and delivered under this Indenture is $35,000,000.00 in principal amount of Notes, plus any PIK Notes or any increases in the principal amount of the outstanding Notes as a result of a PIK Interest Payment (or otherwise pursuant to this Indenture), and Notes authenticated and delivered upon registration of transfer of, or in exchange for, or in lieu of, other Notes pursuant to the terms of this Indenture. The proceeds of the Notes shall be used only to fund certain payments and distributions as expressly set forth in the Plan of Reorganization and to provide the Issuer with

working capital for operations and for other general corporate purposes, in each case, after the effective date of the Plan of Reorganization.

(b) Global Notes. Notes issued in global form shall be substantially in the form of Exhibit A (the "Global Note") attached hereto (including the Global Note Legend thereon), which is incorporated in and expressly made a part of this Indenture. Notes issued in definitive form shall be substantially in the form of Exhibit A attached hereto (but without the Global Note Legend thereon). Each Global Note shall provide that it shall represent up to the aggregate principal amount of Notes from time to time endorsed thereon and that the aggregate principal amount of outstanding Notes represented thereby may from time to time be reduced or increased, as applicable, to reflect exchanges and redemptions. Any endorsement of a Global Note to reflect the amount of any increase or decrease in the aggregate principal amount of outstanding Notes represented thereby shall be made by the Trustee or the ~~[Custodian]~~custodian, at the direction of the Trustee, in accordance with instructions given by the Holder thereof as required by Section 2.6 hereof.

(c) PIK Notes. In connection with the payment of PIK Interest in respect of the Notes (including the PIK Notes), the Issuer shall be entitled, without the consent of the Holders, to increase the outstanding principal amount of the Notes or issue additional Notes (the "PIK Notes") under this Indenture on the same terms and conditions as the Notes issued on the Issue Date (other than the issuance dates and the date from which interest will accrue). The Notes and any PIK Notes subsequently issued under this Indenture shall be treated as a single class for all purposes under this Indenture, including waivers, amendments, redemptions and offers to purchase. Unless the context requires otherwise, references to "Notes" for all purposes of this Indenture shall include any PIK Notes that are actually issued and any increase in the principal amount of the outstanding Notes (including PIK Notes) as a result of a PIK Interest Payment, and references to "principal amount" of the Notes include any increase in the principal amount of the outstanding Notes (including PIK Notes) as a result of a PIK Interest Payment.

(d) Temporary Global Notes. Notes offered and sold in reliance on Regulation S shall be issued initially in the form of the Regulation S Temporary Global Note, which shall be deposited on behalf of the purchasers of the Notes represented thereby with the Trustee, as custodian for the Depository, and registered in the name of the Depository or the nominee of the Depository for the accounts of designated agents holding on behalf of Euroclear or Clearstream, duly executed by the Issuer and authenticated by the Trustee as hereinafter provided. The Restricted Period shall be terminated upon the receipt by the Trustee of:

(i) a written certificate from the Depository, together with copies of certificates from Euroclear and Clearstream certifying that they have received certification of non-United States beneficial ownership of 100% of the aggregate principal amount of the Regulation S Temporary Global Note (except to the extent of any beneficial owners thereof who acquired an interest therein during the Restricted Period pursuant to another exemption from registration under the Securities Act and who shall take delivery of a beneficial ownership interest in a 144A Global Note bearing a Private Placement Legend, all as contemplated by Section 2.6(b) hereof); and

(ii) an Officers' Certificate from the Issuer.

Following the termination of the Restricted Period, beneficial interests in the Regulation S Temporary Global Note shall be exchanged for beneficial interests in the Regulation S Permanent Global Note pursuant to the Applicable Procedures. Simultaneously with the authentication of the Regulation S Permanent Global Note, the Trustee shall cancel the Regulation S Temporary Global Note. The aggregate principal amount of the Regulation S Temporary Global Note and the Regulation S Permanent Global Note may from time to time be increased or decreased by adjustments made on the records of the Trustee and the Depository or its nominee, as the case may be, in connection with transfers of interest as hereinafter provided.

(e) Terms. The aggregate principal amount of Notes that may be authenticated and delivered under this Indenture is unlimited.

The Notes shall be subject to repurchase by the Issuer pursuant to a Change of Control Offer as provided in Section 4.15 hereof or an Asset Disposition Offer as provided under Section 4.16 hereof. The Notes shall not be redeemable, other than as provided in Article III.

Additional Notes ranking *pari passu* with the Notes issued on the Issue Date may be created and issued from time to time by the Issuer without notice to or consent of the Holders and shall be consolidated with and form a single class with the Notes issued on the Issue Date and shall have the same terms as to status, redemption or otherwise as the Notes issued on the Issue Date; *provided* that the Issuer's ability to issue Additional Notes shall be subject to the Issuer's compliance with Section 4.12 hereof. Any Additional Notes shall be issued with the benefit of an indenture supplemental to this Indenture.

(f) Euroclear and Clearstream Procedures Applicable. The provisions of the "Operating Procedures of the Euroclear System" and "Terms and Conditions Governing Use of Euroclear" and the "General Terms and Conditions of Clearstream Banking" and "Customer Handbook" of Clearstream shall be applicable to transfers of beneficial interests in the Regulation S Temporary Global Note and the Regulation S Permanent Global Notes that are held by Participants through Euroclear or Clearstream.

SECTION 2.2. ***Execution and Authentication; Aggregate Principal Amount***.

At least one Officer shall execute the Notes for the Issuer by manual or facsimile signature (including by means of an electronic transmission of a pdf or similar file).

If an Officer whose signature is on a Note or a Subsidiary Guarantee was an Officer at the time of such execution but no longer holds that office or position at the time the Trustee authenticates the Note, the Note shall nevertheless be valid.

A Note shall not be valid until an authorized signatory of the Trustee manually or by facsimile signs the certificate of authentication on the Note. The signature shall be conclusive evidence that the Note has been authenticated under this Indenture.

The Trustee shall authenticate (i) Notes for original issue on the Issue Date in the aggregate principal amount not to exceed $35.0 million, (ii) any PIK Notes and (iii) subject to Section 4.12, Additional Notes, in each case, upon a written order of the Issuer in the form of an Officers' Certificate (an "Authentication Order"). Each Authentication Order shall specify the amount of Notes to be authenticated and the date on which the Notes are to be authenticated, whether the Notes are to be Notes or Additional Notes and whether the Notes are to be issued as Book-Entry Notes, Definitive Notes or Global Notes or such other information as the Trustee may reasonably request. Any Additional Notes shall be part of the same issue as the Notes being issued on the Issue Date and will vote on all matters as one class with the Notes being issued on the Issue Date, including, without limitation, waivers, amendments, redemptions, Change of Control Offers and Asset Disposition Offers; *provided* that Additional Notes will not be issued with the same CUSIP or ISIN, as applicable, as the Notes issued on the Issue Date unless such Additional Notes are fungible with the Notes issued on the Issue Date for U.S. federal income tax purposes. For the purposes of this Indenture, except for Section 4.12, references to the Notes include Additional Notes, if any. In addition, with respect to authentication pursuant to clause (iii) of the first sentence of this paragraph, such written order from the Issuer shall be accompanied by an Opinion of Counsel of the Issuer in a form reasonably satisfactory to the Trustee stating that the issuance of the Additional Notes does not give rise to an Event of Default, complies with this Indenture and has been duly authorized by the Issuer.

The Trustee may appoint an authenticating agent (the "Authenticating Agent") reasonably acceptable to the Issuer to authenticate Notes. Unless otherwise provided in the appointment, an Authenticating Agent may authenticate Notes whenever the Trustee may do so. Each reference in this Indenture to authentication by the Trustee includes authentication by such Authenticating Agent. An Authenticating Agent has the same rights as an Agent to deal with the Issuer or with any Affiliate of the Issuer.

[The Notes shall be issuable in fully registered form only, without coupons, in denominations of at least $1,000 and any integral multiple of ~~$1,000~~1.00 thereafter (except, for the avoidance of doubt, as set forth in Section 2.3 in respect of PIK Interest Payments).][~~10~~7]

SECTION 2.3. ***Registrar, Paying Agent and Conversion Agent***.

The Issuer shall maintain an office or agency where (a) Notes may be presented or surrendered for registration of transfer or for exchange ("Registrar"), (b) Notes may be presented or surrendered for payment ("Paying Agent") and (c) Notes may be presented for conversion ("Conversion Agent"). The Registrar shall keep a register of the Notes and of their transfer and exchange. The Issuer, upon prior written notice to the Trustee, may have one or more co-Registrars and one or more additional paying agents and one or more additional conversion agents each reasonably acceptable to the Trustee. The term "Paying Agent" includes any additional Paying Agent and the term "Conversion Agent" includes any additional Conversion Agent. The Issuer may act as Paying Agent, Registrar or Conversion Agent, except that, for the purposes of payments on the Notes pursuant to Sections 4.15 and 4.16, neither the Issuer nor any

[~~10~~7] NTD: ~~Under review~~Trustee to confirm whether Notes can be initially issued in $1.00 increments over $1,000.

Affiliate of the Issuer may act as Paying Agent. The Issuer shall notify the Trustee in writing of the name and address of any Agent not a party to this Indenture. If the Issuer fails to appoint or maintain another entity as Paying Agent, Registrar or Conversion Agent, the Trustee shall act as such.

In authenticating any Notes under this Indenture, and accepting the additional responsibilities under this Indenture in relation to such Notes, the Trustee shall be entitled to receive, and shall be fully protected in relying upon an Opinion of Counsel stating:

(1) that the form or forms of such Notes have been established in conformity with the provisions of this Indenture; and

(2) that the terms of such Notes have been established in conformity with the provisions of this Indenture.

The Trustee shall not be required to authenticate the Notes if the issue of such Notes pursuant to this Indenture will affect the Trustee's own rights, duties, obligations or immunities under the Notes and this Indenture or otherwise in a manner that is not reasonably acceptable to the Trustee.

On any Interest Payment Date on which the Issuer pays PIK Interest with respect to a Global Note and/or one or more Book-Entry Notes, upon receipt of an Officers' Certificate stating the amount of PIK Interest due, directing the Trustee to increase the principal amount of the Global Note or Book-Entry Notes, the Trustee shall increase the aggregate principal amount of such Global Note or Book-Entry Notes by an amount equal to the interest payable, rounded to the nearest $1.00, for the relevant interest period on the aggregate principal amount of such Global Note or Book-Entry Notes as of the relevant Record Date for such Interest Payment Date. The foregoing notwithstanding, PIK Interest on a Global Note may be paid on an Interest Payment Date in the form of PIK Notes should the Applicable Procedures of the Depository, if any, so require or the Issuer so elects, in which case PIK Notes in a principal amount equal to the interest payable, rounded up to the nearest $1.00, for the relevant interest period will be issued to the Holders on the Record Date for such Interest Payment Date, *pro rata* in accordance with their interests, as provided in the Authentication Order from the Issuer to the Trustee pursuant to this Section 2.3.

On any Interest Payment Date on which the Issuer pays PIK Interest with respect to a Definitive Note, PIK Notes in a principal amount equal to the interest payable, rounded to the nearest $1.00, for the relevant interest period on the aggregate principal amount of such Definitive Notes as of the relevant Record Date for such Interest Payment Date will be issued to the Holders of such Definitive Notes as of such Record Date.

The Issuer shall enter into an appropriate agency agreement with any Agent not a party to this Indenture, which agreement shall implement the provisions of this Indenture that relate to such Agent. The Issuer shall notify the Trustee, in advance, of the name and address of any such

Agent. If the Issuer fails to maintain a Registrar or Paying Agent, or fails to give the foregoing notice, the Trustee shall act as such.

The Issuer initially appoints the Trustee as Registrar, Paying Agent and Conversion Agent and agent for service of demands and notices in connection with the Notes, until such time as the Trustee has resigned or a successor has been appointed. Any of the Registrar, the Paying Agent, the Conversion Agent or any other agent may resign upon 30 days' prior written notice to the Issuer. The Conversion Agent shall act solely as an agent of the Issuer, and will not thereby assume any obligation towards or relationship of agency or trust for or with any Holder.

SECTION 2.4. ***Paying Agent To Hold Assets in Trust***.

The Issuer shall require each Paying Agent other than the Trustee to agree in writing that such Paying Agent shall hold in trust for the benefit of the Holders or the Trustee all assets held by the Paying Agent for the payment of principal of, premium, if any, or interest on, the Notes (whether such assets have been distributed to it by the Issuer or any other obligor on the Notes), and the Issuer and the Paying Agent shall notify the Trustee of any Default by the Issuer (or any other obligor on the Notes) in making any such payment. The Issuer at any time may require a Paying Agent to distribute all assets held by it to the Trustee and account for any assets disbursed and the Trustee may at any time during the continuance of any payment Default, upon written request to a Paying Agent, require such Paying Agent to distribute all assets held by it to the Trustee and to account for any assets distributed. If the Issuer acts as Paying Agent, it shall segregate and hold in a separate trust fund for the benefit of the Holders all assets held by it as Paying Agent. Upon distribution to the Trustee of all assets that shall have been delivered by the Issuer to the Paying Agent, the Paying Agent (if other than the Issuer) shall have no further liability for such assets.

SECTION 2.5. ***Holder Lists***.

The Trustee shall preserve in as current a form as is reasonably practicable the most recent list available to it of the names and addresses of the Holders and shall otherwise comply with TIA § 312(a). If the Trustee is not the Registrar, the Issuer shall furnish or cause the Registrar to furnish to the Trustee before each Record Date and at such other times as the Trustee may request in writing a list as of such date and in such form as the Trustee may reasonably require of the names and addresses of the Holders, which list may be conclusively relied upon by the Trustee.

SECTION 2.6. ***Transfer and Exchange***.

(a) Transfer and Exchange of Global Notes. Except as otherwise set forth in this Section 2.6, a Global Note may be transferred, in whole and not in part, only to another nominee of the Depository or to a successor Depository or a nominee of such successor Depository. A beneficial interest in a Global Note may not be exchanged for a Definitive Note or a Book-Entry Note unless (i) the Depository (x) notifies the Issuer that it is unwilling or unable to continue as Depository for such Global Note or (y) has ceased to be a clearing agency registered under the

Exchange Act and, in either case, a successor Depository is not appointed by the Issuer within 90 days, (ii) the Issuer, at its option, notifies the Trustee in writing that the Issuer elects to cause the issuance of Definitive Notes or Book-Entry Notes or (iii) there shall have occurred and be continuing a Default with respect to the Notes and the Depository notifies the Trustee of its decision to cause the issuance of Definitive Notes or Book-Entry Notes. Upon the occurrence of any of the preceding events in clause (i) or (ii) above, Definitive Notes or Book-Entry Notes delivered in exchange for any Global Note or beneficial interests therein will be registered in the names, and issued in any approved denominations, requested by or on behalf of the Depository (in accordance with its customary procedures). Global Notes also may be exchanged or replaced, in whole or in part, as provided in Sections 2.7 and 2.10 hereof. Every Note authenticated and delivered in exchange for, or in lieu of, a Global Note or any portion thereof, pursuant to this Section 2.6 or Section 2.7 or 2.10 hereof, shall be authenticated and delivered in the form of, and shall be, a Global Note, except for Definitive Notes or Book-Entry Notes issued subsequent to any of the preceding events in clause (i) or (ii) above and pursuant to Section 2.6(c) hereof. A Global Note may not be exchanged for another Note other than as provided in this Section 2.6 (a); *provided*, *however*, beneficial interests in a Global Note may be transferred and exchanged as provided in Section 2.6(b) or (c) hereof.

(b) Transfer and Exchange of Beneficial Interests in the Global Notes. The transfer and exchange of beneficial interests in the Global Notes shall be effected through the Depository, in accordance with the provisions of this Indenture and the Applicable Procedures. Beneficial interests in the Restricted Global Notes shall be subject to restrictions on transfer comparable to those set forth herein to the extent required by the Securities Act. Transfers of beneficial interests in the Global Notes also shall require compliance with either subparagraph (i) or (ii) below, as applicable, as well as one or more of the other following subparagraphs, as applicable:

(i) Transfer of Beneficial Interests in the Same Global Note. Beneficial interests in any Restricted Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in the same Restricted Global Note in accordance with the transfer restrictions set forth in the Private Placement Legend; *provided*, *however*, that prior to the expiration of the Restricted Period, transfers of beneficial interests in the Regulation S Temporary Global Note may not be made to a U.S. Person or for the account or benefit of a U.S. Person. Beneficial interests in any Unrestricted Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in an Unrestricted Global Note. No written orders or instructions shall be required to be delivered to the Registrar to effect the transfers described in this Section 2.6(b)(i).

(ii) All Other Transfers and Exchanges of Beneficial Interests in Global Notes. In connection with all transfers and exchanges of beneficial interests that are not subject to Section 2.6(b)(i) hereof, the transferor of such beneficial interest must deliver to the Registrar either (A) (1) a written order from a Participant or an Indirect Participant given to the Depository in accordance with the Applicable Procedures directing the Depository to credit or cause to be credited a beneficial interest in another Global Note in an amount equal to the beneficial interest to be transferred or exchanged and (2) instructions given in accordance with the Applicable

Procedures containing information regarding the Participant account to be credited with such increase or (B) (1) a written order from a Participant or an Indirect Participant given to the Depository in accordance with the Applicable Procedures directing the Depository to cause to be issued a Definitive Note or a Book-Entry Note in an amount equal to the beneficial interest to be transferred or exchanged and (2) instructions given by the Depository to the Registrar containing information regarding the Person in whose name such Definitive Note or Book-Entry Note shall be registered to effect the transfer or exchange referred to in (1) above; *provided* that in no event shall Definitive Notes or Book-Entry Notes be issued upon the transfer or exchange of beneficial interests in the Regulation S Temporary Global Note prior to (A) the expiration of the Restricted Period and (B) the receipt by the Registrar of any certificates required pursuant to Rule 903. Upon satisfaction of all of the requirements for transfer or exchange of beneficial interests in Global Notes contained in this Indenture and the Notes or otherwise applicable under the Securities Act, the Trustee shall adjust the principal amount of the relevant Global Note(s) pursuant to Section 2.6(g) hereof.

(iii) Transfer of Beneficial Interests to Another Restricted Global Note. A beneficial interest in any Restricted Global Note may be transferred to a Person who takes delivery thereof in the form of a beneficial interest in another Restricted Global Note if the transfer complies with the requirements of Section 2.6(b)(ii) hereof and the Registrar receives the following:

(A) if the transferee will take delivery in the form of a beneficial interest in the 144A Global Note, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications in item (1) thereof; or

(B) if the transferee will take delivery in the form of a beneficial interest in the Regulation S Global Note, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications in item (2) thereof.

(iv) Transfer and Exchange of Beneficial Interests in a Restricted Global Note for Beneficial Interests in an Unrestricted Global Note. A beneficial interest in any Restricted Global Note may be exchanged by any holder thereof for a beneficial interest in an Unrestricted Global Note or transferred to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note if the exchange or transfer complies with the requirements of Section 2.6(b)(ii) hereof and the Registrar receives the following:

(A) if the holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a beneficial interest in an Unrestricted Global Note, a certificate from such Holder substantially in the form of Exhibit C hereto, including the certifications in item (1)(a) thereof; or

(B) if the holder of such beneficial interest in a Restricted Global Note proposes to transfer such beneficial interest to a Person who shall take delivery thereof in the form of a beneficial interest in an Unrestricted Global Note, a certificate from such holder in the form of Exhibit B hereto, including the certifications in item (4) thereof;

and, in each case set forth in this Section 2.6(b)(iv), if the Registrar so requests or if the Applicable Procedures so require, an Opinion of Counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

If any such transfer is effected pursuant to this Section 2.6(b)(iv) at a time when an Unrestricted Global Note has not yet been issued, the Issuer shall issue and, upon receipt of an Authentication Order in accordance with Section 2.2 hereof, the Trustee shall authenticate one or more Unrestricted Global Notes in an aggregate principal amount equal to the aggregate principal amount of beneficial interests transferred pursuant to this Section 2.6(b)(iv).

Beneficial interests in an Unrestricted Global Note cannot be exchanged for, or transferred to Persons who take delivery thereof in the form of, a beneficial interest in a Restricted Global Note.

(c) Transfer or Exchange of Beneficial Interests for Definitive Notes or Book-Entry Notes.

(i) Beneficial Interests in Restricted Global Notes to Restricted Definitive Notes or Restricted Book-Entry Notes. If any holder of a beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a Restricted Definitive Note or a Restricted Book-Entry Note or to transfer such beneficial interest to a Person who takes delivery thereof in the form of a Restricted Definitive Note or a Restricted Book-Entry Note, then, upon the occurrence of any of the events in paragraph (i) or (ii) of Section 2.6(a) hereof and receipt by the Registrar of the following documentation:

(A) if the holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a Restricted Definitive Note or a Restricted Book-Entry Note, a certificate from such holder substantially in the form of Exhibit C hereto, including the certifications in item (2)(a) thereof;

(B) if such beneficial interest is being transferred to a QIB in accordance with Rule 144A, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (1) thereof;

(C) if such beneficial interest is being transferred to a Non-U.S. Person in an offshore transaction in accordance with Rule 903 or Rule 904, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (2) thereof;

(D) if such beneficial interest is being transferred pursuant to an exemption from the registration requirements of the Securities Act other than in accordance with Rule 144, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (3)(a) thereof;

(E) if such beneficial interest is being transferred to the Issuer or any of its Restricted Subsidiaries, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (3)(b) thereof; or

(F) if such beneficial interest is being transferred pursuant to an effective registration statement under the Securities Act, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (3)(c) thereof, the Trustee shall cause the aggregate principal amount of the applicable Global Note to be reduced accordingly pursuant to Section 2.6(g) hereof, and the Issuer shall execute and, upon receipt of an Authentication Order in accordance with Section 2.2 hereof, the Trustee shall authenticate and send or create a book entry and credit, as applicable, to the Person designated in the instructions a Definitive Note or a Book-Entry Note in the applicable principal amount. Any Definitive Note or Book-Entry Note issued in exchange for a beneficial interest in a Restricted Global Note pursuant to this Section 2.6(c) shall be registered in such name or names and in such authorized denomination or denominations as the holder of such beneficial interest shall instruct the Registrar through instructions from the Depository and the Participant or Indirect Participant. The Trustee shall send or credit such Definitive Notes or Book-Entry Notes, as applicable, to the Persons in whose names such Notes are so registered. Any Definitive Note or Book-Entry Note issued in exchange for a beneficial interest in a Restricted Global Note pursuant to this Section 2.6(c)(i) (except transfers pursuant to clause (F) above) shall bear the Private Placement Legend and shall be subject to all restrictions on transfer contained therein.

(ii) Beneficial Interests in Regulation S Temporary Global Note to Definitive Notes or Book-Entry Notes. Notwithstanding Sections 2.6(c)(i)(A) and (C) hereof, a beneficial interest in the Regulation S Temporary Global Note may not be exchanged for a Definitive Note or a Book-Entry Note or transferred to a Person who takes delivery thereof in the form of a Definitive Note or a Book-Entry Note prior to (A) the expiration of the Restricted Period and (B) the receipt by the Registrar of any certificates required pursuant to Rule 903(b)(3)(ii)(B) of the Securities Act, except in the case of a transfer pursuant to an exemption from the registration requirements of the Securities Act other than Rule 903 or Rule 904.

(iii) Beneficial Interests in Restricted Global Notes to Unrestricted Definitive Notes or Book-Entry Notes. A holder of a beneficial interest in a Restricted Global Note may exchange such beneficial interest for an Unrestricted Definitive Note or an Unrestricted Book-Entry Note or may transfer such beneficial interest to a Person who takes delivery thereof in the form of an Unrestricted Definitive Note or an Unrestricted Book-Entry Note only upon the occurrence of any of the events in subsection (i) or (ii) of Section 2.6(a) hereof and if the Registrar receives the following:

(A) if the holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for an Unrestricted Definitive Note or an Unrestricted Book-Entry Note, a certificate from such holder substantially in the form of Exhibit C hereto, including the certifications in item (1)(b) thereof; or

(B) if the holder of such beneficial interest in a Restricted Global Note proposes to transfer such beneficial interest to a Person who shall take delivery thereof in the form of an Unrestricted Definitive Note or an Unrestricted Book-Entry Note, a certificate from such holder substantially in the form of Exhibit B hereto, including the certifications in item (4) thereof;

and, in each case set forth in this Section 2.6(c)(iii), if the Registrar so requests or if the Applicable Procedures so require, an Opinion of Counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

(iv) Beneficial Interests in Unrestricted Global Notes to Unrestricted Definitive Notes or Unrestricted Book-Entry Notes. If any holder of a beneficial interest in an Unrestricted Global Note proposes to exchange such beneficial interest for a Definitive Note or a Book-Entry Note or to transfer such beneficial interest to a Person who takes delivery thereof in the form of a Definitive Note or a Book-Entry Note, then, upon the occurrence of any of the events in subsection (i) or (ii) of Section 2.6(a) hereof and satisfaction of the conditions set forth in Section 2.6(b)(ii) hereof, the Trustee shall cause the aggregate principal amount of the applicable Global Note to be reduced accordingly pursuant to Section 2.6(g) hereof, and, upon receipt of an Authentication Order in accordance with Section 2.2 hereof, the Issuer shall execute and the Trustee shall authenticate and send or create a book entry and credit, as applicable, to the Person designated in the instructions a Definitive Note or a Book-Entry Note in the applicable principal amount. Any Definitive Note issued in exchange for a beneficial interest pursuant to this Section 2.6(c)(iv) shall be registered in such name or names and in such authorized denomination or denominations as the holder of such beneficial interest shall instruct the Registrar through instructions from or through the Depository and the Participant or Indirect Participant. The Trustee shall send or credit such Definitive Notes or Book-Entry Notes, as applicable, to the Persons in whose names such Notes are so registered. Any Definitive Note or Book-Entry Note issued in exchange for a beneficial interest pursuant to this Section 2.6(c)(iv) shall not bear the Private Placement Legend.

(d) Transfer and Exchange of Definitive Notes or Book-Entry Notes for Beneficial Interests.

(i) Restricted Definitive Notes or Restricted Book-Entry Notes to Beneficial Interests in Restricted Global Notes. If any Holder of a Restricted Definitive Note or a Restricted Book-Entry Note proposes to exchange such Note for a beneficial interest in a Restricted Global Note or to transfer such Restricted Definitive Note or Restricted Book-Entry Note to a Person who takes delivery thereof in the form of a beneficial interest in a Restricted Global Note, then, upon receipt by the Registrar of the following documentation:

(A) if the Holder of such Restricted Definitive Note or Restricted Book-Entry Note proposes to exchange such Note for a beneficial interest in a Restricted Global Note, a

certificate from such Holder substantially in the form of Exhibit C hereto, including the certifications in item (2)(b) thereof;

(B) if such Restricted Definitive Note or Restricted Book-Entry Note is being transferred to a QIB in accordance with Rule 144A, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (1) thereof;

(C) if such Restricted Definitive Note or Restricted Book-Entry Note is being transferred to a Non-U.S. Person in an offshore transaction in accordance with Rule 903 or Rule 904, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (2) thereof;

(D) if such Restricted Definitive Note or Restricted Book-Entry Note is being transferred pursuant to an exemption from the registration requirements of the Securities Act other than in accordance with Rule 144, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (3)(a) thereof;

(E) if such Restricted Definitive Note or Restricted Book-Entry Note is being transferred to the Issuer or any of its Restricted Subsidiaries, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (3)(b) thereof; or

(F) if such Restricted Definitive Note or Restricted Book-Entry Note is being transferred pursuant to an effective registration statement under the Securities Act, a certificate substantially in the form of Exhibit B hereto, including the certifications in item (3)(c) thereof,

the Trustee shall cancel the Restricted Definitive Note or Restricted Book-Entry Note to be reduced, increase or cause to be increased the aggregate principal amount of, in the case of clause (A) above, the applicable Restricted Global Note, in the case of clause (B) above, the applicable 144A Global Note, and in the case of clause (C) above, the applicable Regulation S Global Note.

(ii) Restricted Definitive Notes or Restricted Book-Entry Note to Beneficial Interests in Unrestricted Global Notes. A Holder of a Restricted Definitive Note or a Restricted Book-Entry Note may exchange such Note for a beneficial interest in an Unrestricted Global Note or transfer such Restricted Definitive Note or Restricted Book-Entry Note to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note only if the Registrar receives the following:

(A) if the Holder of such Definitive Notes or Restricted Book-Entry Notes proposes to exchange such Notes for a beneficial interest in the Unrestricted Global Note, a certificate from such Holder substantially in the form of Exhibit C hereto, including the certifications in item (1)(c) thereof; or

(B) if the Holder of such Definitive Notes or Book-Entry Notes proposes to transfer such Notes to a Person who shall take delivery thereof in the form of a beneficial interest

in the Unrestricted Global Note, a certificate from such Holder substantially in the form of Exhibit B hereto, including the certifications in item (4) thereof;

and, in each such case set forth in this Section 2.6(d)(ii), if the Registrar so requests or if the Applicable Procedures so require, an Opinion of Counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

Upon satisfaction of the applicable conditions of this Section 2.6(d)(ii), the Trustee shall cancel the Definitive Notes or the Book-Entry Notes and increase or cause to be increased the aggregate principal amount of the Unrestricted Global Note.

(iii) Unrestricted Definitive Notes or Unrestricted Book-Entry Notes to Beneficial Interests in Unrestricted Global Notes. A Holder of an Unrestricted Definitive Note or Unrestricted Book-Entry Note may exchange such Note for a beneficial interest in an Unrestricted Global Note or transfer such Definitive Notes or Book-Entry Notes to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note at any time. Upon receipt of a request for such an exchange or transfer, the Trustee shall cancel the applicable Unrestricted Definitive Note or Unrestricted Book-Entry Note and increase or cause to be increased the aggregate principal amount of one of the Unrestricted Global Notes.

If any such exchange or transfer from a Definitive Note or a Book-Entry Note to a beneficial interest is effected pursuant to Section 2.6(d)(ii) or (iii) above at a time when an Unrestricted Global Note has not yet been issued, the Issuer shall issue and, upon receipt of an Authentication Order in accordance with Section 2.2 hereof, the Trustee shall authenticate one or more Unrestricted Global Notes in an aggregate principal amount equal to the principal amount of Definitive Notes or Book-Entry Notes so transferred.

(e) Transfer and Exchange of Definitive Notes for Definitive Notes or Book-Entry Notes. Upon request by a Holder of Definitive Notes and such Holder's compliance with the provisions of this Section 2.6(e), the Registrar shall register the transfer or exchange of Definitive Notes. Prior to such registration of transfer or exchange, the requesting Holder shall present or surrender to the Registrar the Definitive Notes duly endorsed or accompanied by a written instruction of transfer or exchange in form satisfactory to the Registrar duly executed by such Holder or by its attorney, duly authorized in writing. In addition, the requesting Holder shall provide any additional certifications, documents and information, as applicable, required pursuant to the following provisions of this Section 2.6(e):

(i) Restricted Definitive Notes to Restricted Definitive Notes or Restricted Book-Entry Notes. Any Restricted Definitive Note may be transferred to and registered in the name of Persons who take delivery thereof in the form of a Restricted Definitive Note or Restricted Book-Entry Note if the Registrar receives the following:

(A) if the transfer will be made to a QIB in accordance with Rule 144A, then the transferor must deliver a certificate substantially in the form of Exhibit B hereto, including the certifications in item (1) thereof;

(B) if the transfer will be made pursuant to Rule 903 or Rule 904, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications in item (2) thereof; or

(C) if the transfer will be made pursuant to any other exemption from the registration requirements of the Securities Act, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications required by item (3) thereof, if applicable.

(ii) Restricted Definitive Notes to Unrestricted Definitive Notes or Unrestricted Book-Entry Notes. Any Restricted Definitive Note may be exchanged by the Holder thereof for an Unrestricted Definitive Note or an Unrestricted Book-Entry Note or transferred to a Person or Persons who take delivery thereof in the form of an Unrestricted Definitive Note or an Unrestricted Book-Entry Note if the Registrar receives the following:

(A) if the Holder of such Restricted Definitive Notes proposes to exchange such Notes for an Unrestricted Definitive Note or an Unrestricted Book-Entry Note, a certificate from such Holder substantially in the form of Exhibit C hereto, including the certifications in item (1)(d) thereof; or

(B) if the Holder of such Restricted Definitive Notes proposes to transfer such Notes to a Person who shall take delivery thereof in the form of an Unrestricted Definitive Note or an Unrestricted Book-Entry Note, a certificate from such Holder substantially in the form of Exhibit B hereto, including the certifications in item (4) thereof;

and, in each case set forth in this Section 2.6(e)(ii), if the Registrar so requests, an Opinion of Counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

(iii) Unrestricted Definitive Notes to Unrestricted Definitive Notes or Unrestricted Book-Entry Notes. A Holder of Unrestricted Definitive Notes may transfer such Notes to a Person who takes delivery thereof in the form of an Unrestricted Definitive Note or an Unrestricted Book-Entry Note. Upon receipt of a request to register such a transfer, the Registrar shall register the Unrestricted Definitive Notes pursuant to the instructions from the Holder thereof.

~~(f) [Rule 144. Notwithstanding anything to the contrary, transfers in reliance upon Rule 144 will not be permitted, even if then legally available.]~~[11]

(f) Transfer and Exchange of Book-Entry Notes for Definitive Notes or Book-Entry Notes. Upon request by a Holder of Book-Entry Notes and such Holder's compliance with the provisions of this Section 2.6(f), the Registrar shall register the transfer or exchange of Book-Entry Notes. Prior to such registration of transfer or exchange, the requesting Holder shall provide a written instruction of transfer or exchange in form satisfactory to the Registrar duly executed by such Holder or by its attorney, duly authorized in writing. In addition, the requesting Holder shall provide any additional certifications, documents and information, as applicable, required pursuant to the following provisions of this Section 2.6(f):

(i) Restricted Book-Entry Notes to Restricted Definitive Notes or Restricted Book-Entry Notes. Any Restricted Book-Entry Note may be transferred to and registered in the name of Persons who take delivery thereof in the form of a Restricted Definitive Note or a Restricted Book-Entry Note if the Registrar receives the following:

(A) if the transfer will be made to a QIB in accordance with Rule 144A, then the transferor must deliver a certificate substantially in the form of Exhibit B hereto, including the certifications in item (1) thereof;

(B) if the transfer will be made pursuant to Rule 903 or Rule 904, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications in item (2) thereof; or

(C) if the transfer will be made pursuant to any other exemption from the registration requirements of the Securities Act, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications required by item (3) thereof, if applicable.

(ii) Restricted Book-Entry Notes to Unrestricted Definitive Notes or Unrestricted Book-Entry Notes. Any Restricted Book-Entry Note may be exchanged by the Holder thereof for an Unrestricted Definitive Note or an Unrestricted Book-Entry Note or transferred to a Person or Persons who take delivery thereof in the form of an Unrestricted Definitive Note or an Unrestricted Book-Entry Note if the Registrar receives the following:

(A) if the Holder of such Restricted Book-Entry Notes proposes to exchange such Notes for an Unrestricted Definitive Note or an Unrestricted Book-Entry Note, a certificate from such Holder substantially in the form of Exhibit C hereto, including the certifications in item (1)(d) thereof; or

(B) if the Holder of such Restricted Book-Entry Notes proposes to transfer such Notes to a Person who shall take delivery thereof in the form of an Unrestricted Definitive Note

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~~[11] Under review.~~

or an Unrestricted Book-Entry Note, a certificate from such Holder substantially in the form of Exhibit B hereto, including the certifications in item (4) thereof;

and, in each case set forth in this Section 2.6(e)(ii), if the Registrar so requests, an Opinion of Counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

(iii) Unrestricted Book-Entry Notes to Unrestricted Definitive Notes or Unrestricted Book-Entry Notes. A Holder of Unrestricted Book-Entry Notes may transfer such Notes to a Person who takes delivery thereof in the form of an Unrestricted Definitive Note or an Unrestricted Book-Entry Note. Upon receipt of a request to register such a transfer, the Registrar shall register the Unrestricted Definitive Notes or Unrestricted Book-Entry Notes pursuant to the instructions from the Holder thereof.

(g) Cancellation and/or Adjustment of Global Notes. At such time as all beneficial interests in a particular Global Note have been exchanged for Definitive Notes or Book-Entry Notes or a particular Global Note has been redeemed, repurchased or canceled in whole and not in part, each such Global Note shall be returned to or retained and canceled by the Trustee in accordance with Section 2.11 hereof. At any time prior to such cancellation, if any beneficial interest in a Global Note is exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note or for Definitive Notes or for Book-Entry Notes, the principal amount of Notes represented by such Global Note shall be reduced accordingly and an endorsement shall be made on such Global Note by the Trustee or by the Depository at the direction of the Trustee to reflect such reduction; and if the beneficial interest is being exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note, such other Global Note shall be increased accordingly and an endorsement shall be made on such Global Note by the Trustee or by the Depository at the direction of the Trustee to reflect such increase.

(h) General Provisions Relating to Transfers and Exchanges.

(i) To permit registrations of transfers and exchanges, the Issuer shall execute and the Trustee shall authenticate Global Notes and Definitive Notes upon receipt of an Authentication Order in accordance with Section 2.2 hereof or at the Registrar's request.

(ii) No service charge shall be made to a holder of a beneficial interest in a Global Note or to a Holder of a Definitive Note for any registration of transfer or exchange, but the Issuer may require payment of a sum sufficient to cover any transfer tax or similar governmental charge payable in connection therewith (other than any such transfer taxes or similar governmental charge payable upon exchange or transfer pursuant to Sections 2.7, 2.10, 3.7, 4.15, 4.16 and 9.5 hereof).

(iii) Neither the Registrar nor the Issuer shall be required to register the transfer of or exchange any Note selected for redemption in whole or in part, except the unredeemed portion of any Note being redeemed in part; *provided* that new Notes will only be issued in minimum denominations of $1,000 and integral multiples of $[~~1,000~~1.00] thereafter.

(iv) All Global Notes and Definitive Notes issued upon any registration of transfer or exchange of Global Notes or Definitive Notes shall be the valid obligations of the Issuer, evidencing the same debt, and entitled to the same benefits under this Indenture, as the Global Notes or Definitive Notes surrendered upon such registration of transfer or exchange.

(v) The Issuer shall not be required (A) to issue, to register the transfer of or to exchange any Notes during a period beginning at the opening of business 15 days before the day of any selection of Notes for redemption under Section 3.2 hereof and ending at the close of business on the day of selection, (B) to register the transfer of or to exchange any Note so selected for redemption or tendered (and not withdrawn) for repurchase in connection with a Change of Control Offer, an Asset Disposition Offer or other tender offer in whole or in part, except the unredeemed portion of any Note being redeemed in part or (C) to register the transfer of or to exchange a Note between a Record Date and the next succeeding Interest Payment Date.

(vi) Prior to due presentment for the registration of a transfer of any Note, the Trustee, any Agent and the Issuer may deem and treat the Person in whose name any Note is registered as the absolute owner of such Note for the purpose of receiving payment of principal of (and premium, if any) and interest on such Notes and for all other purposes, and none of the Trustee, any Agent or the Issuer shall be affected by notice to the contrary.

(vii) Upon surrender for registration of transfer of any Note at the office or agency of the Issuer designated pursuant to Section 4.2 hereof, the Issuer shall execute, and the Trustee shall authenticate and send, in the name of the designated transferee or transferees, one or more replacement Notes of any authorized denomination or denominations of a like aggregate principal amount.

(viii) At the option of the Holder, Notes may be exchanged for other Notes of any authorized denomination or denominations of a like aggregate principal amount upon surrender of the Notes to be exchanged at such office or agency. Whenever any Global Notes or Definitive Notes are so surrendered for exchange, the Issuer shall execute, and the Trustee shall authenticate and send, the replacement Global Notes and Definitive Notes which the Holder making the exchange is entitled to in accordance with the provisions of Section 2.2 hereof.

(ix) All certifications, certificates and Opinions of Counsel required to be submitted to the Registrar pursuant to this Section 2.6 to effect a registration of transfer or exchange may be submitted by facsimile.

(x) Neither the Trustee nor the Registrar shall have any duty to monitor the Issuer's compliance with or have any responsibility with respect to the Issuer's compliance with any federal or state securities laws in connection with registrations of transfers and exchanges of

the Notes. The Trustee shall have no obligation or duty to monitor, determine or inquire as to compliance with any restrictions on transfer imposed under this Indenture or under applicable law with respect to any transfer of any interest in any Notes (including any transfers between or among the Depository's participants or beneficial owners of interests in any Global Note) other than to require delivery of such certificates and other documentation, as is expressly required by, and to do so if and when expressly required by, the terms of this Indenture or the Notes and to examine the same to determine substantial compliance as to form with the express requirements hereof.

(xi) The Issuer, the Trustee, and the Registrar reserve the right to require the delivery by any Holder or purchaser of a Note of such legal opinions, certifications or other evidence as may reasonably be required in order to determine that the proposed transfer of any Restricted Global Note or Restricted Definitive Note is being made in compliance with the Securities Act or the Exchange Act, or rules or regulations adopted by the SEC from time to time thereunder, and applicable state securities laws.

~~(xii) Transfers of Notes are subject to restrictions as set forth in the Stockholders Agreement. No transfer of any Note (or any beneficial interest therein, as applicable) will be effective or registered by the Registrar unless the transferee, if not already a party to the Stockholders Agreement, has delivered to the Issuer a duly completed and executed joinder agreement, in substantially the form attached as Exhibit [E] hereto, or other documentation in form and substance acceptable to the Issuer in its sole discretion (any such agreement or documentation, a "Joinder Agreement") pursuant to which such transferee agrees to be bound by, and acknowledges that all Notes, and shares of New Common Stock issued upon conversion thereof, will be subject to, the terms and conditions of the Stockholders Agreement.~~

(xii) [Notes shall not be transferred by any Holder in any transfer that, if consummated, would result in the Issuer's having a number of "holders of record" (as such concept is understood for purposes of Section 12(g) of the Exchange Act) of New Common Stock that (A) is three hundred (300) or more (except to the extent the Board of Directors determines, at any time after January 1, 2021 based on advice of outside counsel, that such threshold is not applicable for purposes of determining whether the Issuer will be subject to periodic reporting obligations under the Exchange Act), (B) exceeds the applicable threshold for the Issuer's having to register the New Common Stock under Section 12(g) of the Exchange Act or (C) would otherwise subject the Issuer to reporting obligations under Section 13 or Section 15 of the Exchange Act (if, at any time after January 1, 2021, it is not already subject to such reporting obligations). In calculating the number of holders of record of New Common Stock for purposes of the immediately preceding sentence, (x) any pending transfers of New Common Stock or Notes for which a Transfer Notice has previously been given to the Issuer shall be taken into account and (y) all then-outstanding Notes shall be treated as if they were fully converted into shares of New Common Stock with all such shares issued to and held by the holders of such Notes. It shall be a condition precedent to any Holder's transfer of Notes that, prior to the consummation thereof, the Holder provide written notice of such transfer to the Issuer (a "Note Transfer Notice"). A Note Transfer Notice shall be delivered to the Issuer in accordance with Section 12.2 and, except as determined otherwise by the Board of Directors of the Issuer in its

sole discretion, shall include (A) the name, address, telephone number and email address of the transferor and the transferee, (B) the aggregate principal amount of Notes proposed to be transferred, (C) the total shares of New Common Stock and aggregate principal amount of Notes then held by the transferor, (D) the date on which the transfer is expected to take place and (E) such additional information and documentation as may be reasonably requested by the Issuer, the Trustee and the Issuer's stock transfer agent.] [8]

SECTION 2.7. ***Replacement Notes***.

If a mutilated Note is surrendered to the Trustee or if the Holder of a Note claims that the Note has been lost, destroyed or wrongfully taken, the Issuer shall issue and the Trustee shall authenticate a replacement Note and the Subsidiary Guarantors shall execute a Subsidiary Guarantee thereon if the Trustee's requirements are met. If required by the Trustee or the Issuer, such Holder must provide an indemnity bond or other indemnity of reasonable tenor, sufficient in the reasonable judgment of the Issuer, the Subsidiary Guarantors and the Trustee, to protect the Issuer, the Subsidiary Guarantors, the Trustee or any Agent from any loss which any of them may suffer if a Note is replaced. Every replacement Note shall constitute an additional obligation of the Issuer and the Subsidiary Guarantors.

SECTION 2.8. ***Outstanding Notes***.

The Notes outstanding at any time are all the Notes that have been authenticated by the Trustee except for those canceled by it, those delivered to it for cancellation, those reductions in the interest in a Global Note effected by the Trustee in accordance with the provisions hereof and those described in this Section as not outstanding. Subject to the provisions of Section 2.9, a Note does not cease to be outstanding because the Issuer or any of its Affiliates holds the Note.

If a Note is replaced pursuant to Section 2.7 (other than a mutilated Note surrendered for replacement), it ceases to be outstanding unless the Trustee receives proof satisfactory to it that the replaced Note is held by a *bona fide* purchaser for value. A mutilated Note ceases to be outstanding upon surrender of such Note and replacement thereof pursuant to Section 2.7.

If on a Redemption Date or the Maturity Date the Paying Agent (other than the Issuer, a Subsidiary or an Affiliate of any thereof) holds U.S. Legal Tender or U.S. Government Obligations sufficient to pay all of the principal, premium, if any, and interest due on the Notes payable on that date and is not prohibited from paying such money to the Holders thereof pursuant to the terms of this Indenture, then on and after that date such Notes shall be deemed not to be outstanding and interest on them shall cease to accrue.

SECTION 2.9. ***Treasury Notes***.

In determining whether the Holders of the required principal amount of Notes have concurred in any direction, waiver, consent or notice, Notes owned by the Issuer or any

[8] NTD: To be conformed to Stockholders Agreement.

Subsidiary Guarantor ~~or an [Affiliate]~~[12] of the Issuer or any Subsidiary Guarantor shall be considered as though they are not outstanding, except that for the purposes of determining whether the Trustee shall be protected in relying on any such direction, waiver or consent, only Notes which a Trust Officer of the Trustee actually knows are so owned shall be so considered. The Issuer shall notify the Trustee, in writing, when, to its knowledge, any of its Affiliates repurchase or otherwise acquire Notes, of the aggregate principal amount of such Notes so repurchased or otherwise acquired and such other information as the Trustee may reasonably request and the Trustee shall be entitled to rely thereon.

SECTION 2.10. ***Temporary Notes*.**

Until definitive Notes are ready for delivery, the Issuer may prepare and the Trustee shall authenticate temporary Notes upon receipt of an Authentication Order. The Authentication Order shall specify the amount of temporary Notes to be authenticated and the date on which the temporary Notes are to be authenticated. Temporary Notes shall be substantially in the form of definitive Notes but may have variations that the Issuer considers appropriate for temporary Notes and so indicate in the Authentication Order. Without unreasonable delay, the Issuer shall prepare, the Trustee shall authenticate and the Subsidiary Guarantors shall execute Subsidiary Guarantees on, upon receipt of an Authentication Order in accordance with Section 2.2 hereof, definitive Notes in exchange for temporary Notes.

SECTION 2.11. ***Cancellation*.**

The Issuer at any time may deliver Notes to the Trustee for cancellation. The Registrar, Paying Agent and Conversion Agent shall forward to the Trustee any Notes surrendered to them for registration of transfer, exchange, conversion or payment. The Trustee, or at the direction of the Trustee, the Registrar or the Paying Agent, and no one else, shall cancel and, at the written direction of the Issuer, shall dispose, in its customary manner, of all Notes surrendered for registration of transfer, exchange, conversion, payment or cancellation. The Trustee shall maintain a record of all canceled Notes. Subject to Section 2.7, the Issuer may not issue new Notes to replace Notes that it has paid or delivered to the Trustee for cancellation. If the Issuer shall acquire any of the Notes, such acquisition shall not operate as a redemption or satisfaction of the Indebtedness represented by such Notes unless and until the same are surrendered to the Trustee for cancellation pursuant to this Section 2.11.

SECTION 2.12. ***Defaulted Interest*.**

Interest will be computed on the basis of a 360-day year comprised of twelve 30-day months, and, in the case of a partial month, the actual number of days elapsed. If the Issuer defaults in a payment of interest on the Notes, it shall pay the defaulted interest, *plus* (to the extent lawful) an additional amount at the rate of 2.0% per annum, payable in cash, to the Persons who are Holders on a subsequent special record date, which special record date shall be the fifteenth day next preceding the date fixed by the Issuer for the payment of defaulted interest

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[12] ~~Under review.~~

or the next succeeding Business Day if such date is not a Business Day. The Issuer shall notify the Trustee in writing of the amount of defaulted interest proposed to be paid on each Note and the date of the proposed payment (a "Default Interest Payment Date"), and at the same time the Issuer shall deposit with the Trustee an amount of money equal to the aggregate amount proposed to be paid in respect of such defaulted interest or shall make arrangements satisfactory to the Trustee for such deposit on or prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the Persons entitled to such defaulted interest as provided in this Section 2.12; *provided*, *however*, that in no event shall the Issuer deposit monies proposed to be paid in respect of defaulted interest later than 11:00 a.m. New York City time on the proposed Default Interest Payment Date. At least 15 days before the subsequent special record date, the Issuer shall send (or cause to be sent) to each Holder, as of a recent date selected by the Issuer, with a copy to the Trustee, a notice that states the subsequent special record date, the payment date and the amount of defaulted interest, and interest payable on such defaulted interest, if any, to be paid. Notwithstanding the foregoing, (a) any interest which is paid prior to the expiration of the 30-day period set forth in Section 6.1(1) shall be paid to Holders as of the regular record date for the Interest Payment Date for which interest has not been paid, and (b) the Issuer may make payment of any defaulted interest in any other lawful manner not inconsistent with the requirements of any securities exchange on which the Notes may be listed, and upon such notice as may be required by such exchange.

SECTION 2.13. ***CUSIP Number.***

The Issuer in issuing the Notes may use a "CUSIP" number, and, if so, the Trustee shall use the CUSIP number in notices of redemption or exchange as a convenience to Holders; *provided*, *however*, that no representation is hereby deemed to be made by the Trustee as to the correctness or accuracy of the CUSIP number printed in the notice or on the Notes, and that reliance may be placed only on the other identification numbers printed on the Notes. The Issuer shall promptly notify the Trustee of any change in the CUSIP number.

SECTION 2.14. ***Deposit of Monies.***

Prior to 11:00 a.m. New York City time on each Interest Payment Date, Maturity Date, Redemption Date, Change of Control Payment Date and Asset Disposition Purchase Date, the Issuer shall have deposited with the Paying Agent in immediately available funds money sufficient to make cash payments, if any, due on such Interest Payment Date, Maturity Date, Redemption Date, Change of Control Payment Date and Asset Disposition Purchase Date, as the case may be, in a timely manner which permits the Paying Agent to remit payment to the Holders on such Interest Payment Date, Maturity Date, Redemption Date, Change of Control Payment Date and Asset Disposition Purchase Date, as the case may be.

SECTION 2.15. ***Restrictive Legends.***

(a) Legends. The following legends shall appear on the face of all Global Notes and Definitive Notes issued under this Indenture unless specifically stated otherwise in the applicable provisions of this Indenture:

(i) Private Placement Legend.[9]

(A) Except as permitted by subparagraph (B) below, each Global Note and each Definitive Note (and all Notes issued in exchange therefor or substitution thereof and any shares of New Common Stock issued upon conversion thereof) shall bear the legend, and each Book-Entry Note shall be subject to the legend, in substantially the following form:

"THIS SECURITY AND THE COMMON STOCK, IF ANY, ISSUABLE UPON CONVERSION OF THIS SECURITY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT IN ACCORDANCE WITH THE FOLLOWING SENTENCE. BY ITS ACQUISITION HEREOF OR OF A BENEFICIAL INTEREST HEREIN, THE ACQUIRER:

(1) REPRESENTS THAT IT AND ANY ACCOUNT FOR WHICH IT IS ACTING IS [A "QUALIFIED INSTITUTIONAL BUYER" (WITHIN THE MEANING OF RULE 144A UNDER THE SECURITIES ACT)][AN "ACCREDITED INVESTOR" AS SUCH TERM IS DEFINED IN RULE 501 UNDER THE SECURITIES ACT][IS NOT A "U.S. PERSON" AS DEFINED IN REGULATION S UNDER THE SECURITIES ACT] AND THAT IT EXERCISES SOLE INVESTMENT DISCRETION WITH RESPECT TO EACH SUCH ACCOUNT, AND

(2) AGREES FOR THE BENEFIT OF CHAPARRAL ENERGY, INC. (THE "COMPANY") THAT IT WILL NOT OFFER, SELL, PLEDGE OR OTHERWISE TRANSFER THIS SECURITY OR ANY BENEFICIAL INTEREST HEREIN PRIOR TO THE APPLICABLE RESALE RESTRICTION TERMINATION DATE, EXCEPT:

(A) TO THE COMPANY OR ANY SUBSIDIARY THEREOF, OR

(B) PURSUANT TO A REGISTRATION STATEMENT WHICH HAS BECOME EFFECTIVE UNDER THE SECURITIES ACT, OR

(C) TO A QUALIFIED INSTITUTIONAL BUYER IN COMPLIANCE WITH RULE 144A UNDER THE SECURITIES ACT, OR

(D) IN COMPLIANCE WITH REGULATION S UNDER THE SECURITIES ACT, OR

(E) PURSUANT TO AN EXEMPTION FROM REGISTRATION PROVIDED BY RULE 144 UNDER THE SECURITIES ACT OR ANY OTHER AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT.

[9] NTD: Language subject to further review.

PRIOR TO THE REGISTRATION OF ANY TRANSFER IN ACCORDANCE WITH CLAUSE (2)(~~D~~E) ABOVE, THE COMPANY AND THE TRUSTEE RESERVE THE RIGHT TO REQUIRE THE DELIVERY OF SUCH LEGAL OPINIONS, CERTIFICATIONS OR OTHER EVIDENCE AS MAY REASONABLY BE REQUIRED IN ORDER TO DETERMINE THAT THE PROPOSED TRANSFER IS BEING MADE IN COMPLIANCE WITH THE SECURITIES ACT AND APPLICABLE STATE SECURITIES LAWS. NO REPRESENTATION IS MADE AS TO THE AVAILABILITY OF ANY EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT."

~~THIS SECURITY AND THE COMMON STOCK, IF ANY, ISSUABLE UPON CONVERSION OF THIS SECURITY, IS SUBJECT TO RESTRICTIONS ON TRANSFER AS SET FORTH IN THAT CERTAIN STOCKHOLDERS AGREEMENT AMONG THE COMPANY AND THE OTHER PARTIES THERETO DATED AS OF [____], 2020. ANY TRANSFEREE OF THIS SECURITY MUST, IF NOT ALREADY A PARTY TO SUCH STOCKHOLDERS AGREEMENT, DELIVER TO THE COMPANY A DULY COMPLETED AND EXECUTED JOINDER AGREEMENT, IN SUBSTANTIALLY THE FORM ATTACHED AS EXHIBIT [E] TO THE INDENTURE, OR OTHER DOCUMENTATION IN FORM AND SUBSTANCE ACCEPTABLE TO THE ISSUER IN ITS SOLE DISCRETION PURSUANT TO WHICH SUCH TRANSFEREE AGREES TO BE BOUND BY, AND ACKNOWLEDGES THAT THIS SECURITY, AND SHARES OF COMMON STOCK ISSUED UPON CONVERSION THEREOF, WILL BE SUBJECT TO, THE TERMS AND CONDITIONS OF THE STOCKHOLDERS AGREEMENT."~~

(B) Notwithstanding the foregoing, any Global Note ~~or~~, Definitive Note or Book-Entry Note issued pursuant to subparagraph (b)(iv), (c)(iii), (c)(iv), (d)(ii), (d)(iii), (e)(ii), (e)(iii), (f)(ii) or (f)(iii) of Section 2.6 (and all Notes issued in exchange therefor or substitution thereof) shall not bear the Private Placement Legend.

(ii) Global Note Legend. Each Global Note shall bear a legend in substantially the following form:

"THIS GLOBAL NOTE IS HELD BY THE DEPOSITORY (AS DEFINED IN THE INDENTURE GOVERNING THIS NOTE) OR ITS NOMINEE IN CUSTODY FOR THE BENEFIT OF THE BENEFICIAL OWNERS HEREOF, AND IS NOT TRANSFERABLE TO ANY PERSON UNDER ANY CIRCUMSTANCES EXCEPT THAT (I) THE TRUSTEE MAY MAKE SUCH NOTATIONS HEREON AS MAY BE REQUIRED PURSUANT TO SECTION 2.6(g) OF THE INDENTURE, (II) THIS GLOBAL NOTE MAY BE EXCHANGED IN WHOLE BUT NOT IN PART PURSUANT TO SECTION 2.6(a) OF THE INDENTURE, (III) THIS GLOBAL NOTE MAY BE DELIVERED TO THE TRUSTEE FOR CANCELLATION PURSUANT TO SECTION 2.11 OF THE INDENTURE AND (IV) THIS GLOBAL NOTE MAY BE TRANSFERRED TO A SUCCESSOR DEPOSITORY WITH THE PRIOR WRITTEN CONSENT OF THE ISSUER. UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE

OR IN PART FOR NOTES IN DEFINITIVE FORM, THIS NOTE MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITORY TO A NOMINEE OF THE DEPOSITORY OR BY A NOMINEE OF THE DEPOSITORY TO THE DEPOSITORY OR ANOTHER NOMINEE OF THE DEPOSITORY OR BY THE DEPOSITORY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITORY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITORY. UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY ("DTC") TO THE ISSUER OR ITS AGENTS FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR SUCH OTHER NAME AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR SUCH OTHER ENTITY AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN."

(iii) Regulation S Temporary Global Note Legend. The Regulation S Temporary Global Note shall bear a legend in substantially the following form:

"THE RIGHTS ATTACHING TO THIS REGULATION S TEMPORARY GLOBAL NOTE, AND THE CONDITIONS AND PROCEDURES GOVERNING ITS EXCHANGE FOR CERTIFICATED NOTES, ARE AS SPECIFIED IN THE INDENTURE (AS DEFINED HEREIN)."

(iv) Restrictions on Transfer Legend. All Notes shall bear a legend in substantially the following form:

"THIS SECURITY IS SUBJECT TO RESTRICTIONS ON TRANSFER AS SET FORTH IN THE INDENTURE GOVERNING THIS NOTE, AND THE COMMON STOCK, IF ANY, ISSUABLE UPON CONVERSION OF THIS SECURITY IS SUBJECT TO RESTRICTIONS ON TRANSFER AS SET FORTH IN THAT CERTAIN STOCKHOLDERS AGREEMENT AMONG THE COMPANY AND THE OTHER PARTIES THERETO DATED AS OF [ ], 2020, AS THE CASE MAY BE. THIS SECURITY IS TRANSFERABLE ONLY IN ACCORDANCE WITH THE PROVISIONS OF THE INDENTURE, AND SUCH COMMON STOCK IS TRANSFERABLE ONLY IN ACCORDANCE WITH THE PROVISIONS OF THE STOCKHOLDERS AGREEMENT."

SECTION 2.16. ***Designation*.**

The Indebtedness evidenced by the Notes and the Subsidiary Guarantees is hereby irrevocably designated as "senior indebtedness" or such other term denoting seniority for the

purposes of any other existing or future Indebtedness of the Issuer or a Subsidiary Guarantor, as the case may be, which the Issuer or such Subsidiary Guarantor, as the case may be, makes subordinate to any senior (or such other term denoting seniority) indebtedness of such Person.

SECTION 2.17. **OID Legend.**

Each Global Note, Regulation S Temporary Global Note and Definitive Note (and all Notes issued in exchange therefor or substitution thereof) shall bear the legend in substantially the following form:

> THIS SECURITY WAS ISSUED WITH "ORIGINAL ISSUE DISCOUNT" AS DEFINED IN SECTION 1273 OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED. YOU MAY OBTAIN INFORMATION REGARDING THE AMOUNT OF ORIGINAL ISSUE DISCOUNT, THE ISSUE PRICE, THE ISSUE DATE AND THE YIELD TO MATURITY BY CONTACTING THE CHIEF FINANCIAL OFFICER OF CHAPARRAL ENERGY INC. AT 701 CEDAR LAKE BOULEVARD, OKLAHOMA CITY, OKLAHOMA 73114 ATTN: CHARLES DUGINSKI.

ARTICLE III.

REDEMPTION

SECTION 3.1. ***Notices*** ~~***to Trustee***~~**.**

(a) If the Issuer elects to redeem Notes pursuant to ~~Paragraph 5 of the Notes, they~~this Indenture, the Issuer shall notify the Trustee and the Paying Agent in writing of the Redemption Date and the principal amount of the Notes to be redeemed.

The Issuer shall give each notice provided for in this Section 3.1(a) at least ~~60~~15 days before the Redemption Date (unless a shorter notice period shall be satisfactory to the Trustee, as evidenced in a writing signed on behalf of the Trustee), together with an Officers' Certificate stating that such redemption shall comply with the conditions contained herein and in the Notes.

(b) Each redemption notice, if delivered to Holders in the manner herein provided, shall be conclusively presumed to have been duly given, whether or not the Holder receives such notice. In any case, failure to duly give such redemption notice or any defect in the redemption notice to the Holder of any Note designated for redemption as a whole or in part shall not affect the validity of the proceedings for the redemption of any other Note. Each redemption notice to Holders shall specify:

(i) the anticipated redemption date or conditions to the occurrence thereof;

(ii) the Redemption Price;

(iii) that on the Redemption Date, the Redemption Price will become due and payable upon each Note to be redeemed, and that interest thereon, if any, shall cease to accrue on and after the Redemption Date;

(iv) the place or places where such Notes are to be surrendered for payment of the Redemption Price;

(v) that Holders may surrender their Notes for conversion at any time prior to the close of business on the Business Day immediately preceding the Redemption Date, and, if applicable, that any such conversion may be conditioned on the effectiveness of the relevant Drag-Along Sale;

(vi) the procedures a converting Holder must follow to convert its Notes; and

(vii) the Conversion Rate.

SECTION 3.2. ***Selection of Notes To Be Redeemed.***

If less than all of the Notes are to be redeemed at any time, selection of such Notes, or portions thereof, for redemption will be made by the Trustee on a pro rata basis (or, in the case of Notes in global form, the Notes will be selected for redemption based on DTC's applicable procedures); *provided* that no Notes with a principal amount of $2,000 or less shall be redeemed in part. If any Note is to be redeemed in part only, the notice of redemption that relates to such Note shall state the portion of the principal amount thereof to be redeemed. A new Note in a principal amount equal to the unredeemed portion thereof will be issued in the name of the Holder thereof upon cancellation of the original Note. On and after the applicable Redemption Date, interest will cease to accrue on such Notes or portions thereof called for redemption unless the Issuer defaults in the payment thereof. Redemption amounts shall only be paid upon presentation and surrender of any such Notes to be redeemed.

SECTION 3.3. ***Optional Redemption.***

Except in the manner expressly set forth in Section 4.15 in connection with a Change of Control Offer or as otherwise expressly set forth in Section 3.6, the Issuer will not be entitled to redeem any of the Notes prior to the Maturity Date.

SECTION 3.4. ~~***Mandatory Redemption.***~~[13] ***[Reserved].***

SECTION 3.5. ***[Reserved].***

SECTION 3.6. ~~***[Reserved]***~~***Redemption Upon Drag-Along Sale.***

If (x) requested in writing by the Initiating Drag-Along Holders of a Drag-Along Sale, or required by a definitive agreement relating to the Drag-Along Sale that is entered into by the

[13] ~~NTD: Under review.~~

Initiating Drag-Along Holders, or by the Issuer at the request of the Initiating Drag-Along Holders, and (y) set forth in the relevant Drag-Along Notice, all Notes outstanding at such time shall, immediately prior to the closing of the Drag-Along Sale (to the extent not previously converted into New Common Stock at the option of the Holders (including pursuant to a Conditional Voluntary Conversion) or pursuant to the "Mandatory Conversion" provision set forth in Section 10.3), be redeemed by the Issuer for cash at a Redemption Price equal to 100% of the principal amount of such Notes plus accrued and unpaid interest, if any, to (but excluding) the Redemption Date, which shall occur on the date of, and immediately prior to (but subject in all respects to the occurrence of), the effectiveness of such Drag-Along Sale and the Initiating Drag-Along Holders shall require, as a condition to consummation of any Drag-Along Sale, that the Notes be redeemed in full (and that the Redemption Price be paid with respect thereto as contemplated hereby) prior to (but subject in all respects to the occurrence of) such consummation. Notwithstanding the foregoing, the Issuer shall not be required to redeem the Notes pursuant to this Section 3.6 unless the applicable Drag-Along Purchaser (as defined in the Stockholders Agreement) funds the payment of the Redemption Price with respect to all Notes to be redeemed on the Redemption Date.

Each Holder shall receive no less than [fifteen (15)] Business Days prior written notice of the consummation of any Drag-Along Sale and, if applicable, related redemption of the Notes pursuant to this Section 3.6 (in accordance with Section 3.1(b) above). Each Holder shall receive notice of the relevant Redemption Date promptly once determined, and in no event less than two Business Days prior to such Redemption Date.

SECTION 3.7. ***Deposit of Redemption Price*.**

On or before the Redemption Date and in accordance with Section 2.14, the Issuer shall deposit with the Paying Agent U.S. Legal Tender sufficient to pay the Redemption Price *plus* unpaid accrued interest, if any, of all Notes to be redeemed on that date. The Paying Agent shall promptly return to the Issuer any U.S. Legal Tender so deposited which is not required for that purpose, except with respect to monies owed as obligations to the Trustee pursuant to Article VII.

Unless the Issuer fails to comply with the preceding paragraph and defaults in the payment of such Redemption Price *plus* unpaid accrued interest, if any, interest on the Notes to be redeemed will cease to accrue on and after the applicable Redemption Date, whether or not such Notes are presented for payment.

SECTION 3.8. ***Notes Redeemed in Part*.**

Upon surrender of a Note that is to be redeemed in part, upon receipt of an Authentication Order in accordance with Section 2.2 hereof, the Trustee shall authenticate for the Holder a new Note or Notes equal in principal amount to the unredeemed portion of the Note surrendered.

ARTICLE IV.

COVENANTS[14]

SECTION 4.1. ***Payment of Notes*.**

(a) The Issuer shall pay or cause to be paid the principal of, premium (including any Interest Make-Whole Premium), if any, on and interest, if any, on the Notes on the dates and in the manner provided in the Notes and in this Indenture. Principal of the Notes shall be payable in full on the Maturity Date (unless payable earlier pursuant to terms of this Indenture). Principal, premium (including any Interest Make-Whole Premium) and interest will be considered paid on the date due if the Paying Agent holds, as of 11:00 a.m. New York City time on the due date (or, if such due date is not a Business Day, then on the next Business Day thereafter) money deposited by or for the account of the Issuer in immediately available funds and designated for and sufficient to pay all principal, premium (including any Interest Make-Whole Premium), and interest then due; provided, however, that to the extent any such deposit is received by the Paying Agent after 11:00 a.m., New York City time on such date, such deposit will be deemed deposited the following Business Day.

(b) Interest on the Notes will accrue at the rate of 9.0% per annum, payable in cash on a quarterly basis, or, at the Issuer's election, 13.0% per annum, payable in kind on a quarterly basis (such applicable interest rate, together with any default interest, the "Interest Rate"). The Issuer may elect to pay such interest through a combination of cash and payment in kind, in each case, at the applicable Interest Rate as set forth in Section 4.1(d).

(c) The Issuer shall pay interest quarterly on March 31, June 30, September 30 and December 31 of each year (each, an "Interest Payment Date"), commencing December 31, 2020, and all outstanding interest shall be payable in cash on the scheduled maturity of the Notes. The Issuer shall pay interest on overdue principal at the rate therefor borne by the Notes, and it shall pay interest on overdue installments of interest at the same rate to the extent lawful.

(d) Subject to Section 4.1(b), interest on any Interest Payment Date will be payable, at the election of the Issuer (made by delivering a written notice to the Trustee on or before the Record Date for such Interest Payment Date), (1) entirely in cash ("Cash Interest"), (2) by increasing the principal amount of the Notes or by issuing additional PIK Notes or (3) with a combination of Cash Interest and PIK Interest. ~~[~~For the avoidance of doubt, any payment of interest by a combination of Cash Interest and PIK Interest shall be payable at the applicable Interest Rate in respect of the proportions of principal with respect to which such interest is being paid through Cash Interest or PIK Interest, as the case may be.~~]~~

(e) Interest on the Notes will accrue from the Issue Date or, if interest has already been paid, from the date it was most recently paid. Interest will be computed on the basis of a

~~[14] NTD: Under review.~~

360-day year comprised of twelve 30-day months and, for partial months, on the basis of the number of days actually elapsed in a 30-day month.

(f) PIK Interest shall be considered paid on the date due if on such date the Trustee has received (i) with respect to PIK Interest to be paid by increasing the outstanding amount of any Notes, an Officers' Certificate, pursuant to Section 2.2, to increase the outstanding amount of any Notes and (ii) with respect to any PIK Interest to be paid through the issuance of PIK Notes, PIK Notes duly executed by the Issuer together with an Authentication Order, pursuant to Section 2.2, and an Officers' Certificate and Opinion of Counsel requesting the authentication of such PIK Notes by the Trustee.

(g) PIK Interest on the Notes will be payable with respect to Notes represented by one or more Global Notes or Book-Entry Notes (x) by increasing the principal amount of the outstanding Note by an amount equal to the amount of PIK Interest for the applicable interest period (rounded to the nearest whole dollar)~~,~~ and making corresponding adjustments to reflect such increase on the books and records of the Registrar, as provided in the Officers' Certificate from the Issuer to the Trustee pursuant to Section 2.2, or (y) if so required by the Applicable Procedures of the Depository, if any, or if the Issuer so elects, by issuing PIK Notes in certificated form in an aggregate principal amount equal to the amount of PIK Interest for the applicable interest period (rounded up to the nearest whole dollar) as provided in the Authentication Order from the Issuer to the Trustee pursuant to Section 2.2. PIK Interest on the Notes will be payable with respect to Notes represented by one or more Definitive Notes by issuing PIK Notes in certificated form in an aggregate principal amount equal to the amount of PIK Interest for the applicable interest period (rounded to the nearest whole dollar), as provided in the Authentication Order from the Issuer to the Trustee pursuant to Section 2.2. In the case of Definitive Notes, if any, Holders shall be entitled to surrender to the Registrar for transfer or exchange Definitive Notes to receive one or more new Definitive Notes reflecting such increase in principal amount in accordance with the terms of this Indenture. Following an increase in the principal amount of the outstanding Global Notes or Book-Entry Notes, or any Definitive Notes, as a result of a PIK Interest Payment, the Notes will bear interest on such increased principal amount from and after the date of such PIK Interest Payment. Any PIK Notes will be dated as of the applicable Interest Payment Date and will bear interest from and after such date. All PIK Notes issued pursuant to a PIK Interest Payment will mature on the same date as the Notes issued on the Issue Date, will be governed by, and subject to the terms, provisions and conditions of, this Indenture and shall have the same rights and benefits as the Notes issued on the Issue Date. Any PIK Notes will be issued with the description "PIK" on the face of such PIK Notes.

(h) Upon the occurrence and during the continuance of an Event of Default under this Indenture, all principal, overdue interest, premium, fees and other amounts shall bear interest at the applicable rate for Cash Interest or PIK Interest ~~Interest~~ Rate specified in Section 4.1(a), plus an additional 2.0% per annum.

(i) Upon the principal of any Notes becoming payable (i) (x) pursuant to an acceleration (whether pursuant to an Event of Default, by operation of law or otherwise) or (y) an Interest Make-Whole Trigger Event or (ii) upon any payment, repurchase, redemption (other

than a Change of Control Redemption (as defined herein)) or purchase of any Notes by the Issuer or any Affiliate thereof after the occurrence of an Interest Make-Whole Trigger Event, the Holder(s) of such Notes becoming due pursuant to such an Interest Make-Whole Trigger Event, or being paid, repurchased, redeemed or purchased in connection therewith, shall be entitled to receive the Interest Make-Whole Premium with respect to such Notes. The Interest Make-Whole Premium shall be paid in cash.

SECTION 4.2. ***Maintenance of Office or Agency*.**

The Issuer shall maintain the office or agency (which may be an office of the Trustee or an affiliate of the Trustee, Registrar or co-registrar, or Paying Agent or Conversion Agent) required under Section 2.3 where Notes may be surrendered for registration of transfer, exchange, purchase, redemption or conversion and where notices and demands to or upon the Issuer in respect of the Notes and this Indenture may be served. The Issuer shall give prior written notice to the Trustee of the location, and any change in the location, of such office or agency. If at any time the Issuer shall fail to maintain any such required office or agency or shall fail to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the address of the Trustee set forth in Section 11.2.

The Issuer hereby designates the Corporate Trust Office of the Trustee as one such office or agency of the Issuer.

SECTION 4.3. ***Organizational Existence*.**

Except as otherwise permitted by Article V, the Issuer shall do or cause to be done, at its own cost and expense, all things necessary to preserve and keep in full force and effect its organizational existence and the organizational existence of each of its Restricted Subsidiaries in accordance with the respective organizational documents of each such Restricted Subsidiary and the material rights (charter and statutory) and franchises of the Issuer and each such Restricted Subsidiary; *provided*, *however*, that the Issuer shall not be required to preserve, with respect to itself, any material right or franchise and, with respect to any of its Restricted Subsidiaries, any such existence, material right or franchise, if the Board of Directors of the Issuer shall determine in good faith that the preservation thereof is no longer desirable in the conduct of the business of the Issuer and its Subsidiaries, taken as a whole.

SECTION 4.4. ***Payment of Taxes and Other Claims*.**

The Issuer shall pay or discharge or cause to be paid or discharged, before the same shall become delinquent, (i) all material taxes, assessments and governmental charges (including withholding taxes and any penalties, interest and additions to taxes) levied or imposed upon it or any of its Restricted Subsidiaries or properties of it or any of its Restricted Subsidiaries and (ii) all material lawful claims for labor, materials and supplies that, if unpaid, might by law become a Lien upon the property of the Issuer or any of its Restricted Subsidiaries; *provided*, *however*, that the Issuer shall not be required to pay or discharge or cause to be paid or discharged any such tax, assessment, charge or claim whose amount, applicability or validity is being contested in

good faith by appropriate negotiations or proceedings properly instituted and diligently conducted for which adequate reserves, to the extent required under GAAP, have been taken.

SECTION 4.5. ***Maintenance of Properties and Insurance*.**

(a) The Issuer shall, and shall cause each of the Restricted Subsidiaries to, maintain all properties used or useful in the conduct of its business in good working order and condition (subject to ordinary wear and tear) and make all necessary repairs, renewals, replacements, additions, betterments and improvements thereto and actively conduct and carry on its business; *provided*, *however*, that nothing in this Section 4.5 shall prevent the Issuer or any of the Restricted Subsidiaries from discontinuing the operation and maintenance of any of its properties, if such discontinuance is (i) in the ordinary course of business pursuant to customary business terms or (ii) in the good faith judgment of the respective Board of Directors or other governing body of the Issuer or such Restricted Subsidiary, as the case may be, desirable in the conduct of their respective businesses and is not disadvantageous in any material respect to the Holders.

(b) The Issuer shall provide or cause to be provided, for itself and each of the Restricted Subsidiaries, insurance (including appropriate self-insurance) against loss or damage of the kinds that, in the good faith judgment of the Issuer, are adequate and appropriate for the conduct of the business of the Issuer and its Restricted Subsidiaries in a prudent manner, with reputable insurers or with the government of the United States of America, Canada or an agency or instrumentality thereof, in such amounts, with such deductibles, and by such methods as shall be customary, in the good faith judgment of the Issuer, for companies similarly situated in the industry.

SECTION 4.6. ***Compliance Certificate; Notice of Default*.**

(a) The Issuer shall deliver to the Trustee, within 120 days after the end of each fiscal years of the Issuer, an Officers' Certificate (*provided*, *however*, that one of the signatories to each such Officers' Certificate must state that he or she is the Issuer's principal executive officer, principal financial officer or principal accounting officer), as to such Officers' knowledge, without independent investigation, of the Issuer's compliance with all conditions and covenants under this Indenture (without regard to any period of grace or requirement of notice provided under this Indenture) and in the event any Default under this Indenture exists, such Officers shall specify the nature of such Default. Each such Officers' Certificate shall also notify the Trustee should the Issuer elect to change the manner in which it fixes its fiscal year-end.

(b) So long as not contrary to the then current recommendations of the American Institute of Certified Public Accountants, the annual financial statements delivered pursuant to Section 4.8 shall be accompanied by a written report of the Issuer's independent certified public accountants (who shall be a firm of established national reputation) stating (A) that their audit examination has included a review of the terms of this Indenture and the form of the Notes as they relate to accounting matters, and (B) whether, in connection with their audit examination, any Default or Event of Default has come to their attention and if such a Default or Event of

Default has come to their attention, specifying the nature and period of existence thereof; *provided*, *however*, that, without any restriction as to the scope of the audit examination, such independent certified public accountants shall not be liable by reason of any failure to obtain knowledge of any such Default or Event of Default that would not be disclosed in the course of an audit examination conducted in accordance with generally accepted auditing standards.

(c) (i) If any Default or Event of Default has occurred and is continuing or (ii) if any Holder seeks to exercise any remedy under this Indenture with respect to a claimed Default under this Indenture or the Notes, the Issuer shall deliver to the Trustee, at its address set forth in Section 11.2 hereof, by registered or certified mail or by facsimile transmission followed by hard copy by registered or certified mail an Officers' Certificate specifying such event, notice or other action within 30 days of the occurrence thereof.

SECTION 4.7. ***Compliance with Laws*.**

The Issuer shall comply, and shall cause each of its Restricted Subsidiaries to comply, with all applicable statutes, rules, regulations, orders and restrictions of the United States of America, all states and municipalities thereof, and of any governmental department, commission, board, regulatory authority, bureau, agency and instrumentality of the foregoing, in respect of the conduct of its respective businesses and the ownership of its respective properties, except for such non-compliances as could not singly or in the aggregate reasonably be expected to have a material adverse effect on the financial condition or results of operations of the Issuer and the Restricted Subsidiaries taken as a whole.

SECTION 4.8. ***Reports to Holders*.**[~~15~~10]

(a) [*To be confirmed*].

SECTION 4.9. ***Waiver of Stay, Extension or Usury Laws*.**

The Issuer and each of the Subsidiary Guarantors covenants (to the extent that it may lawfully do so) that it will not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay or extension law or any usury law or other law that would prohibit or forgive the Issuer from paying all or any portion of the principal of or interest, if any, on the Notes as contemplated herein, wherever enacted, now or at any time hereafter in force, or which may affect the covenants or the performance of this Indenture; and (to the extent that it may lawfully do so) the Issuer and each of the Subsidiary Guarantors hereby expressly waives all benefit or advantage of any such law, and covenants that it will not hinder, delay or impede the execution of any power herein granted to the Trustee, but will suffer and permit the execution of every such power as though no such law had been enacted.

[~~15~~10] NTD: ~~Under review~~Reporting provisions to be conformed to RBL Credit Agreement reporting provisions upon finalization.

SECTION 4.10. ***Limitation on Restricted Payments*.**

The Issuer will not, and will not permit any of its Restricted Subsidiaries, directly or indirectly, to:

(1) declare or pay any dividend or make any payment or distribution on or in respect of the Issuer's Capital Stock (including any payment or distribution in connection with any merger or consolidation involving the Issuer or any of its Restricted Subsidiaries) except:

(a) dividends or distributions by the Issuer payable solely in Capital Stock of the Issuer (other than Disqualified Stock) or in options, warrants or other rights to purchase such Capital Stock of the Issuer; and

(b) dividends or distributions payable to the Issuer or a Restricted Subsidiary and if such Restricted Subsidiary is not a Wholly Owned Subsidiary, to minority stockholders (or owners of an equivalent interest in the case of a Subsidiary that is an entity other than a corporation) so long as the Issuer or a Restricted Subsidiary receives at least its pro rata share of such dividend or distribution;

(2) purchase, redeem, defease, retire or otherwise acquire for value any Capital Stock of the Issuer or any direct or indirect parent of the Issuer held by Persons other than the Issuer or a Restricted Subsidiary (other than in exchange for Capital Stock of the Issuer (other than Disqualified Stock));

(3) purchase, repurchase, redeem, defease or otherwise acquire or retire for value, prior to scheduled maturity, scheduled repayment or scheduled sinking fund payment, any Subordinated Obligations or Guarantor Subordinated Obligations (other than (x) Indebtedness permitted under clause (3) of the second paragraph of Section 4.12 or (y) the purchase, repurchase, redemption, defeasance or other acquisition or retirement of Subordinated Obligations or Guarantor Subordinated Obligations purchased in anticipation of satisfying a sinking fund obligation, principal installment or final maturity, in each case due within one year of the date of purchase, repurchase, redemption, defeasance or other acquisition or retirement); or

(4) make any Restricted Investment in any Person

(any such dividend, distribution, purchase, redemption, repurchase, defeasance, other acquisition, retirement or Restricted Investment referred to in clauses (1) through (4) shall be referred to herein as a "Restricted Payment"), if at the time the Issuer or such Restricted Subsidiary makes such Restricted Payment:

(a) a Default shall have occurred and be continuing (or would result therefrom);

(b) the Issuer is not able to Incur an additional $1.00 of Indebtedness pursuant to the first paragraph of Section 4.12 after giving effect, on a pro forma basis, to such Restricted Payment; or

(c) the aggregate amount of such Restricted Payment and all other Restricted Payments declared or made subsequent to the Issue Date would exceed the sum of:

(i) 50% of Consolidated Net Income for the period (treated as one accounting period) from the first day of the first full fiscal quarter after the Issue Date occurs to the end of the most recent fiscal quarter ending prior to the date of such Restricted Payment for which internal financial statements are in existence (or, in case such Consolidated Net Income is a deficit, *minus* 100% of such deficit);

(ii) 100% of the aggregate Net Cash Proceeds, and the Fair Market Value of property or securities other than cash (including Capital Stock of Persons engaged primarily in the Oil and Gas Business or assets used in the Oil and Gas Business), in each case received by the Issuer from the issue or sale of its Capital Stock (other than Disqualified Stock) or other capital contributions subsequent to the Issue Date (other than Net Cash Proceeds received from an issuance or sale of such Capital Stock to (x) management, employees, directors or any direct or indirect parent of the Issuer, to the extent such Net Cash Proceeds have been used to make a Restricted Payment pursuant to clause (5)(a) of the next succeeding paragraph, (y) a Subsidiary of the Issuer or (z) an employee stock ownership plan, option plan or similar trust (to the extent such sale to an employee stock ownership plan, option plan or similar trust is financed by loans from or Guaranteed by the Issuer or any Restricted Subsidiary unless such loans have been repaid with cash on or prior to the date of determination));

(iii) the amount by which Indebtedness of the Issuer or its Restricted Subsidiaries is reduced on the Issuer's balance sheet upon the conversion or exchange (other than by a Wholly Owned Subsidiary of the Issuer) subsequent to the Issue Date of any Indebtedness of the Issuer or its Restricted Subsidiaries convertible or exchangeable for Capital Stock (other than Disqualified Stock) of the Issuer (less the amount of any cash, or the Fair Market Value of any other property (other than such Capital Stock), distributed by the Issuer upon such conversion or exchange), together with the net proceeds, if any, received by the Issuer or any of its Restricted Subsidiaries upon such conversion or exchange; and

(iv) the amount equal to the aggregate net reduction in Restricted Investments made by the Issuer or any of its Restricted Subsidiaries in any Person resulting from:

(A) repurchases, repayments or redemptions of such Restricted Investments by such Person, proceeds realized upon the sale of such Restricted Investment (other than to a Subsidiary of the Issuer), repayments of loans or advances or other transfers of assets (including by way of dividend or distribution) by such Person to the Issuer or any Restricted Subsidiary;

(B) the redesignation of Unrestricted Subsidiaries as Restricted Subsidiaries (valued in each case as provided in the definition of "Investment") not to exceed, in the case of any Unrestricted Subsidiary, the amount of Investments previously made by the Issuer or any Restricted Subsidiary in such Unrestricted Subsidiary, which amount in each case under this clause

(C) was included in the calculation of the amount of Restricted Payments; *provided*, *however*, that no amount will be included under this clause (iv) to the extent it is already included in Consolidated Net Income; and

(D) the sale (other than to the Issuer or a Restricted Subsidiary) of the Capital Stock of an Unrestricted Subsidiary or a distribution from an Unrestricted Subsidiary or a dividend from an Unrestricted Subsidiary.

The provisions of the preceding paragraph will not prohibit:

(1) any Restricted Payment made by exchange for, or out of the proceeds of the substantially concurrent sale of, Capital Stock of the Issuer (other than Disqualified Stock and other than Capital Stock issued or sold to a Subsidiary or an employee stock ownership plan or similar trust to the extent such sale to an employee stock ownership plan or similar trust is financed by loans from or Guaranteed by the Issuer or any Restricted Subsidiary unless such loans have been repaid with cash on or prior to the date of determination) or a substantially concurrent cash capital contribution received by the Issuer from its shareholders; *provided*, *however*, that (a) such Restricted Payment will be excluded from subsequent calculations of the amount of Restricted Payments and (b) the Net Cash Proceeds from such sale of Capital Stock or capital contribution will be excluded from clause (c)(ii) of the preceding paragraph;

(2) any purchase, repurchase, redemption, defeasance or other acquisition or retirement of Subordinated Obligations of the Issuer or Guarantor Subordinated Obligations of any Subsidiary Guarantor made by exchange for, or out of the proceeds of the substantially concurrent sale of, Subordinated Obligations of the Issuer or any purchase, repurchase, redemption, defeasance or other acquisition or retirement of Guarantor Subordinated Obligations made by exchange for or out of the proceeds of the substantially concurrent sale of Guarantor Subordinated Obligations that, in each case, is permitted to be Incurred pursuant to Section 4.12; *provided*, *however*, that such purchase, repurchase, redemption, defeasance, acquisition or retirement will be excluded from subsequent calculations of the amount of Restricted Payments;

(3) any purchase, repurchase, redemption, defeasance or other acquisition or retirement of Disqualified Stock of the Issuer or a Restricted Subsidiary made by exchange for or out of the proceeds of the substantially concurrent sale of Disqualified Stock of the Issuer or such Restricted Subsidiary, as the case may be, that, in each case, is permitted to be Incurred pursuant to Section 4.12; *provided***,** *however*, that such purchase, repurchase, redemption, defeasance, acquisition or retirement will be excluded from subsequent calculations of the amount of Restricted Payments;

(4) dividends paid or distributions made within 60 days after the date of declaration if at such date of declaration such dividend or distribution would have complied with this Section 4.10; *provided*, *however*, that such dividends and distributions will be included in subsequent calculations of the amount of Restricted Payments; and *provided*, *however*, that for purposes of clarification, this clause (4) shall not include cash payments in lieu of the issuance of fractional shares included in clause (9) below;

(5) (a) so long as no Default has occurred and is continuing, the purchase of Capital Stock, or options, warrants, equity appreciation rights or other rights to purchase or acquire Capital Stock of Parent, the Issuer or any Restricted Subsidiary held by any existing or former employees, management or directors of Parent, the Issuer or any Subsidiary of the Issuer or their assigns, estates or heirs, in each case in connection with the repurchase provisions under employee stock option or stock purchase agreements or other agreements to compensate management, employees or directors; *provided* that such redemptions or repurchases pursuant to this subclause (a) during any calendar year will not exceed $[ ]10.0 million in the aggregate (with unused amounts in any calendar year being carried over to the immediately succeeding calendar year); *provided*, *further*, that such amount in any calendar year may be increased by an amount not to exceed (A) the cash proceeds received by the Issuer from the sale of Capital Stock of the Issuer to members of management or directors of the Issuer and its Restricted Subsidiaries that occurs after the Issue Date (to the extent the cash proceeds from the sale of such Capital Stock have not otherwise been applied to the payment of Restricted Payments by virtue of clause (c) of the preceding paragraph), *plus* (B) the cash proceeds of key man life insurance policies received by the Issuer and its Restricted Subsidiaries after the Issue Date, less (C) the amount of any Restricted Payments made pursuant to clauses (A) and (B) of this subclause (a); *provided*, *further*, *however*, that the amount of any such repurchase or redemption under this subclause (a) will be excluded in subsequent calculations of the amount of Restricted Payments and the proceeds received from any such sale will be excluded from clause (c)(ii) of the preceding paragraph; and

(b) the cancellation of loans or advances to employees or directors of the Issuer or any Subsidiary of the Issuer the proceeds of which are used to purchase Capital Stock of the Issuer, in an aggregate amount not in excess of $[ ]2.0 million at any one time outstanding; *provided*, *however*, that the Issuer and its Subsidiaries will comply in all material respects with all applicable provisions of the Sarbanes-Oxley Act of 2002 and the rules and regulations promulgated in connection therewith in connection with such loans or advances; *provided*, *further*, that the amount of such cancelled loans and advances will be included in subsequent calculations of the amount of Restricted Payments;

(6) repurchases, redemptions or other acquisitions or retirements for value of Capital Stock deemed to occur upon the exercise of stock options, warrants, rights to acquire Capital Stock or other convertible securities if such Capital Stock represents a portion of the exercise or exchange price thereof, and any repurchases, redemptions or other acquisitions or retirements for value of Capital Stock made in lieu of withholding taxes in connection with any exercise or exchange of warrants, options or rights to acquire Capital Stock; *provided*, *however*, that such repurchases will be excluded from subsequent calculations of the amount of Restricted Payments;

(7) the purchase, repurchase, redemption, defeasance or other acquisition or retirement for value of any Subordinated Obligation (i) at a purchase price not greater than 101% of the principal amount of such Subordinated Obligation in the event of a Change of Control in accordance with provisions similar to Section 4.15 or (ii) at a purchase price not greater than 100% of the principal amount thereof in accordance with provisions similar to Section 4.16;

provided that, prior to or simultaneously with such purchase, repurchase, redemption, defeasance or other acquisition or retirement, the Issuer has made the Change of Control Offer or Asset Disposition Offer, as applicable, as provided in such section with respect to the Notes and has completed the repurchase or redemption of all Notes validly tendered for payment in connection with such Change of Control Offer or Asset Disposition Offer; *provided*, *however*, that such repurchases will be included in subsequent calculations of the amount of Restricted Payments;

(8) payments or distributions to dissenting stockholders pursuant to applicable law or in connection with the settlement or other satisfaction of legal claims made pursuant to or in connection with a consolidation, merger or transfer of assets; *provided*, *however*, that any payment pursuant to this clause (8) shall be included in the calculation of the amount of Restricted Payments;

(9) cash payments in lieu of the issuance of fractional shares; *provided*, *however*, that any payment pursuant to this clause (9) shall be excluded in the calculation of the amount of Restricted Payments;

(10) Permitted Payments to Parent;

(11) payments by the Issuer on account of the purchase, redemption, retirement, acquisition, cancellation or termination of its Capital Stock in an amount not to exceed $~~[ ]~~10.0 million in the aggregate for all such payments during the term of the Notes; *provided* that in the case of this clause (11), (x) no Default shall exist at the time of such payment or result therefrom and (y) immediately after giving pro forma effect to such payment (and any Indebtedness Incurred in connection therewith), the Consolidated Total Debt Ratio does not exceed 3.00 to 1.00; *provided*, *further*, that any payment made pursuant to this clause (11) shall be excluded in the calculation of the amount of Restricted Payments; and

(12) Restricted Payments in an amount not to exceed $~~[ ]~~20.0 million at any one time outstanding; *provided*, *however*, that the amount of such Restricted Payments will be included in subsequent calculations of the amount of Restricted Payments.

For purposes of this Section 4.10, the phrase "substantially concurrent" is intended to mean within 90 days of the occurrence of the specified event.

For purposes of determining compliance with this Section 4.10, if a Restricted Payment meets the criteria of more than one of the types of Restricted Payments described in clauses (1)–(12) above, the Issuer, in its sole discretion, may order and classify, and subsequently re-order and re-classify, such Restricted Payment in any manner in compliance with this Section 4.10.

The amount of all Restricted Payments (other than cash) shall be the Fair Market Value on the date of such Restricted Payment of the asset(s) or securities proposed to be paid, transferred or issued by the Issuer or such Restricted Subsidiary, as the case may be, pursuant to such Restricted Payment. The Fair Market Value of any assets or securities that are required to be valued by this Section 4.10 shall be determined in accordance with the definition of Fair

Market Value. No later than the date of making any Restricted Payment or series of related Restricted Payments in an aggregate amount in excess of $[___]10.0 million, the Issuer shall deliver to the Trustee an Officers' Certificate stating that such Restricted Payment is permitted and setting forth the basis upon which the calculations required by this Section 4.10 were computed, together with a copy of any fairness opinion or appraisal required by this Indenture.

As of the Issue Date, all of the Issuer's Subsidiaries will be Restricted Subsidiaries. The Issuer will not permit any Unrestricted Subsidiary to become a Restricted Subsidiary except pursuant to the last sentence of the definition of "Unrestricted Subsidiary." For purpose of designating any Restricted Subsidiary as an Unrestricted Subsidiary, all outstanding Investments by the Issuer and its Restricted Subsidiaries (except to the extent repaid) in the Subsidiary so designated will be deemed to be Restricted Payments in an amount determined as set forth in the last sentence of the definition of "Investment." Such designation will be permitted only if a Restricted Payment in such amount would be permitted at such time, whether pursuant to the first paragraph of this Section 4.10 or under clause (12) of the second paragraph of this Section 4.10, or pursuant to the definition of "Permitted Investments," and if such Subsidiary otherwise meets the definition of an Unrestricted Subsidiary. Unrestricted Subsidiaries will not be subject to any of the restrictive covenants set forth in this Indenture.

SECTION 4.11. ***Limitations on Affiliate Transactions*.**

The Issuer will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly, enter into, make, amend or conduct any transaction (including making a payment to, the purchase, sale, lease or exchange of any property or the rendering of any service), contract, agreement or understanding with or for the benefit of any Affiliate of the Issuer (an "Affiliate Transaction") involving aggregate consideration to or from the Issuer or a Restricted Subsidiary in excess of $[___]1.0 million, unless:

(x) the terms of such Affiliate Transaction are no less favorable to the Issuer or such Restricted Subsidiary, as the case may be, than those that could be obtained in a comparable transaction at the time of such transaction in arm's-length dealings with a Person who is not such an Affiliate;

(y) if such Affiliate Transaction involves an aggregate consideration in excess of $[___]20.0 million, the terms of such transaction have been approved by a majority of the members of the Board of Directors of the Issuer and by a majority of the members of such Board having no personal stake in such transaction, if any (and such majority or majorities, as the case may be, determines that such Affiliate Transaction satisfies the criteria in clause (x) above); and

(z) if such Affiliate Transaction involves an aggregate consideration in excess of $[___]40.0 million, the Board of Directors of the Issuer has received a written opinion from an independent investment banking, accounting or appraisal firm of nationally recognized standing that such Affiliate Transaction is fair, from a financial standpoint, to the Issuer or such Restricted Subsidiary or is not materially less favorable than those that could reasonably be expected to be

obtained in a comparable transaction at such time on an arm's-length basis from a Person that is not an Affiliate.

The preceding paragraph will not apply to:

(1) any Restricted Payment permitted to be made pursuant to Section 4.10;

(2) any issuance of Capital Stock (other than Disqualified Stock), or other payments, awards or grants in cash, Capital Stock (other than Disqualified Stock) or otherwise pursuant to, or the funding of, employment or severance agreements and other compensation arrangements, options to purchase Capital Stock (other than Disqualified Stock) of the Issuer, restricted stock plans, long-term incentive plans, stock appreciation rights plans, participation plans or similar employee benefits plans and/or indemnity provided on behalf of directors, officers and employees approved by the Board of Directors of the Issuer;

(3) loans, advances or expense reimbursements to employees, officers or directors in the ordinary course of business of the Issuer or any of its Restricted Subsidiaries;

(4) any transaction between the Issuer and a Restricted Subsidiary or between Restricted Subsidiaries and Guarantees issued by the Issuer or a Restricted Subsidiary for the benefit of the Issuer or a Restricted Subsidiary, as the case may be, permitted under Section 4.12;

(5) any transaction with a joint venture or other entity which would constitute an Affiliate Transaction solely because the Issuer or a Restricted Subsidiary owns, directly or indirectly, an equity interest in or otherwise controls such joint venture or other entity;

(6) the issuance or sale of any Capital Stock (other than Disqualified Stock) of the Issuer or the receipt by the Issuer of any capital contribution from its shareholders;

(7) indemnities of officers, directors and employees of the Issuer or any of its Restricted Subsidiaries permitted by charter documents or statutory provisions and any employment agreement or other employee compensation plan or arrangement entered into in the ordinary course of business by the Issuer or any of its Restricted Subsidiaries;

(8) the payment of reasonable compensation and fees paid to, and indemnity provided on behalf of, officers or directors of the Issuer or any Restricted Subsidiary;

(9) the performance of obligations of the Issuer or any of its Restricted Subsidiaries under the terms of any agreement to which the Issuer or any of its Restricted Subsidiaries is a party as of or on the Issue Date, as these agreements may be amended, modified, supplemented, extended or renewed from time to time; *provided*, *however*, that any future amendment, modification, supplement, extension or renewal entered into after the Issue Date will be permitted to the extent that its terms are not materially more disadvantageous, taken as a whole, to the holders of the Notes than the terms of the agreements in effect on the Issue Date;

(10) transactions with customers, clients, suppliers, or purchasers or sellers of goods or services, in each case in the ordinary course of business and otherwise in compliance with the terms of this Indenture which are fair to the Issuer and its Restricted Subsidiaries, in the good faith determination of the Board of Directors of the Issuer or the senior management thereof, or are on terms at least as favorable as might reasonably have been obtained at such time from an unaffiliated party;

(11) any transaction in which the Issuer or any of its Restricted Subsidiaries, as the case may be, delivers to the Trustee a letter from an accounting, appraisal, advisory or investment banking firm of national standing stating that such transaction is fair to the Issuer or such Restricted Subsidiary from a financial point of view or that such transaction meets the requirements of clause (x) of the preceding paragraph;

(12) payments to an Affiliate in respect of the Notes or any other Indebtedness of the Issuer or any of its Restricted Subsidiaries on the same basis as concurrent payments are made or offered to be made in respect thereof to non-Affiliates;

(13) pledges by the Issuer or any Restricted Subsidiary of the Issuer of Capital Stock in Unrestricted Subsidiaries for the benefit of lenders or other creditors of such Unrestricted Subsidiaries; and

(14) in the case of contracts for exploring for, drilling, developing, producing, processing, gathering, transporting, marketing or storing Hydrocarbons, or activities or services reasonably related or ancillary thereto, or other operational contracts, any such contracts entered into in the ordinary course of business on terms substantially similar to those contained in similar contracts entered into by the Issuer or any of its Restricted Subsidiaries with unrelated third parties, or if neither the Issuer nor any Restricted Subsidiary has entered into a similar

(15) contract with a third party, then on the terms no less favorable than those available from third parties on an arm's length basis, in each case as determined in good faith by the Issuer.

SECTION 4.12. ***Limitation on Incurrence of Indebtedness and Preferred Stock*.**

The Issuer will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly, Incur any Indebtedness (including Acquired Indebtedness) and the Issuer will not permit any of its Restricted Subsidiaries to issue Preferred Stock; *provided*, *however*, that the Issuer may Incur Indebtedness and any of the Subsidiary Guarantors may Incur Indebtedness and issue Preferred Stock if on the date thereof:

(x) the Consolidated Coverage Ratio for the Issuer and its Restricted Subsidiaries is at least 2.25 to 1.00, determined on a pro forma basis (including a pro forma application of proceeds); and

(y) no Default will have occurred or be continuing or would occur as a consequence of Incurring the Indebtedness or transactions relating to such Incurrence.

The first paragraph of this Section 4.12 will not prohibit the Incurrence of the following Indebtedness:

(1) Indebtedness of the Issuer or any Subsidiary Guarantor Incurred pursuant to one or more Credit Facilities in an aggregate amount not to exceed the greatest of (a) $[ ]300.0 million, (b) [30]% of the Issuer's Adjusted Consolidated Net Tangible Assets determined as of the date of the Incurrence of such Indebtedness after giving effect to the application of the proceeds therefrom and (c) the Borrowing Base in effect under the Senior Secured Credit Agreement at the time of Incurrence, in each case outstanding at any one time;

(2) Guarantees by the Issuer or Subsidiary Guarantors of Indebtedness of the Issuer or a Subsidiary Guarantor, as the case may be, Incurred in accordance with the provisions of this Indenture; *provided* that in the event such Indebtedness that is being Guaranteed is a Subordinated Obligation or a Guarantor Subordinated Obligation, then the related Guarantee shall be subordinated in right of payment to the Notes or the Subsidiary Guarantee to at least the same extent as the Indebtedness being Guaranteed, as the case may be;

(3) Indebtedness of the Issuer owing to and held by any Restricted Subsidiary or Indebtedness of a Restricted Subsidiary owing to and held by the Issuer or any Restricted Subsidiary; *provided*, *however*, that (i) any subsequent issuance or transfer of Capital Stock or any other event which results in any such Indebtedness being held by a Person other than the Issuer or a Restricted Subsidiary of the Issuer and (ii) any sale or other transfer of any such Indebtedness to a Person other than the Issuer or a Restricted Subsidiary of the Issuer shall be deemed, in each case, to constitute an Incurrence of such Indebtedness by the Issuer or such Subsidiary, as the case may be;

(4) Indebtedness represented by (a) the Notes issued on the Issue Date (including the related Subsidiary Guarantees), (b) any PIK Notes issued after the date hereof in accordance with Section 4.1(d), (c) any Indebtedness (other than the Indebtedness described in clauses (1), (2) and (4)(a)) outstanding on the Issue Date and (ed) any Refinancing Indebtedness Incurred in respect of any Indebtedness described in this clause (4) or clause (5) or Incurred pursuant to the first paragraph of this Section 4.12;

(5) Indebtedness of a Person that becomes a Restricted Subsidiary or is acquired by the Issuer or a Restricted Subsidiary or merged into the Issuer or a Restricted Subsidiary in accordance with this Indenture and outstanding on the date on which such Person became a Restricted Subsidiary or was acquired by or was merged into the Issuer or such Restricted Subsidiary (other than Indebtedness Incurred (a) to provide all or any portion of the funds utilized to consummate the transaction or series of related transactions pursuant to which such Person became a Restricted Subsidiary or was otherwise acquired by or was merged into the Issuer or a Restricted Subsidiary or (b) otherwise in connection with, or in contemplation of, such acquisition); *provided*, *however*, that at the time such Person becomes a Restricted

Subsidiary or is acquired by or was merged into the Issuer or a Restricted Subsidiary, either (x) the Issuer would have been able to Incur $1.00 of additional Indebtedness pursuant to the first paragraph of this Section 4.12 or (y) the Consolidated Coverage Ratio for the Issuer and its Restricted Subsidiaries would be equal to or greater than immediately prior to such time, in either case after giving effect to the Incurrence of such Indebtedness pursuant to this clause (5);

(6) the Incurrence by the Issuer or any Restricted Subsidiary of Indebtedness represented by Capitalized Lease Obligations, mortgage financings or purchase money obligations, in each case Incurred for the purpose of financing all or any part of the purchase price or cost of construction or improvements or carrying costs of property used in the business of the Issuer or such Restricted Subsidiary, and Refinancing Indebtedness Incurred to Refinance any Indebtedness Incurred pursuant to this clause (6) in an aggregate outstanding principal amount which, when taken together with the principal amount of all other Indebtedness Incurred pursuant to this clause (6) and then outstanding, will not exceed $~~[ ]~~30.0 million at any time outstanding;

(7) Indebtedness Incurred in respect of (a) self-insurance obligations, bid, appeal, reimbursement, performance, surety and similar bonds and completion guarantees provided by the Issuer or a Restricted Subsidiary in the ordinary course of business and any Guarantees or letters of credit functioning as or supporting any of the foregoing bonds or obligations and (b) obligations represented by letters of credit for the account of the Issuer or a Restricted Subsidiary in order to provide security for workers' compensation claims (in the case of clauses (a) and (b) other than for an obligation for money borrowed);

(8) Capital Stock (other than Disqualified Stock) of the Issuer or of any of the Subsidiary Guarantors;

(9) any Guarantee by the Issuer or any Restricted Subsidiary that directly owns Capital Stock of an Unrestricted Subsidiary that is recourse only to, or secured only by, such Capital Stock;

(10) reimbursement obligations in respect of letters of credit; *provided* that the aggregate amount thereof at any time outstanding does not exceed $~~[ ]~~5.0 million and such obligations are reimbursed within 30 days after a draw on a letter of credit; and

(11) in addition to the items referred to in clauses (1) through (10) above, Indebtedness of the Issuer and its Subsidiary Guarantors in an aggregate outstanding principal amount which, when taken together with the principal amount of all other Indebtedness Incurred pursuant to this clause (11) and then outstanding, will not exceed the greater of (x) $~~[ ]~~35.0 million and (y) ~~[~~3~~]~~% of the Issuer's Adjusted Consolidated Net Tangible Assets determined as of the date of the Incurrence of such Indebtedness after giving effect to the application of the proceeds therefrom, in each case at any time outstanding.

For purposes of determining compliance with, and the outstanding principal amount of any particular Indebtedness Incurred pursuant to and in compliance with, this Section 4.12:

(i) in the event an item of that Indebtedness meets the criteria of more than one of the types of Indebtedness described in the first and second paragraphs of this Section 4.12, the Issuer, in its sole discretion, will classify such item of Indebtedness on the date of Incurrence, and in that connection shall be entitled to treat a portion of such Indebtedness as having been Incurred under the first paragraph and thereafter the remainder of such Indebtedness having been Incurred under the second paragraph, and, subject to clause (ii) below may later reclassify such item of Indebtedness and only be required to include the amount and type of such Indebtedness in one of such clauses;

(ii) all Indebtedness outstanding on the date of this Indenture under the Senior Secured Credit Agreement shall be deemed Incurred on the Issue Date under clause (1) of the second paragraph of this Section 4.12;

(iii) Guarantees of, or obligations in respect of letters of credit supporting, Indebtedness which is otherwise included in the determination of a particular amount of Indebtedness shall not be included;

(iv) if obligations in respect of letters of credit are Incurred pursuant to a Credit Facility and are being treated as Incurred pursuant to clause (1) of the second paragraph above and the letters of credit relate to other Indebtedness, then such other Indebtedness shall not be included;

(v) the principal amount of any Disqualified Stock of the Issuer or a Restricted Subsidiary, or Preferred Stock of a Restricted Subsidiary, will be equal to the greater of the maximum mandatory redemption or repurchase price (not including, in either case, any redemption or repurchase premium) or the liquidation preference thereof;

(vi) Indebtedness permitted by this Section 4.12 need not be permitted solely by reference to one provision permitting such Indebtedness but may be permitted in part by one such provision and in part by one or more other provisions of this Section 4.12 permitting such Indebtedness; and

(vii) the amount of Indebtedness issued at a price that is less than the principal amount thereof will be equal to the amount of the liability in respect thereof determined in accordance with GAAP.

Accrual of interest, accrual of dividends, the amortization of debt discount or the accretion of accreted value, the payment of interest in the form of additional Indebtedness, the payment of dividends in the form of additional shares of Preferred Stock or Disqualified Stock and unrealized losses or charges in respect of Hedging Obligations (including those resulting from the application of FASB ASC 815) will not be deemed to be an Incurrence of Indebtedness for purposes of this Section 4.12. The amount of any Indebtedness outstanding as of any date shall be (i) the accreted value thereof in the case of any Indebtedness issued with original issue discount and (ii) the principal amount or liquidation preference thereof, together with any interest thereon that is more than 30 days past due, in the case of any other Indebtedness.

If at any time an Unrestricted Subsidiary becomes a Restricted Subsidiary, any Indebtedness of such Subsidiary shall be deemed to be Incurred by a Restricted Subsidiary as of such date (and, if such Indebtedness is not permitted to be Incurred as of such date under this Section 4.12, the Issuer shall be in Default of this Section 4.12).

For purposes of determining compliance with any U.S. dollar-denominated restriction on the Incurrence of Indebtedness, the U.S. dollar-equivalent principal amount of Indebtedness denominated in a foreign currency shall be calculated based on the relevant currency exchange rate in effect on the date such Indebtedness was Incurred, in the case of term Indebtedness, or first committed, in the case of revolving credit Indebtedness; *provided* that if such Indebtedness is Incurred to refinance other Indebtedness denominated in a foreign currency, and such refinancing would cause the applicable U.S. dollar-denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such refinancing, such U.S. dollar-denominated restriction shall be deemed not to have been exceeded so long as the principal amount of such Refinancing Indebtedness does not exceed the principal amount of such Indebtedness being refinanced. Notwithstanding any other provision of this Section 4.12, the maximum amount of Indebtedness that the Issuer may Incur pursuant to this Section 4.12 shall not be deemed to be exceeded solely as a result of fluctuations in the exchange rate of currencies. The principal amount of any Indebtedness Incurred to refinance other Indebtedness, if Incurred in a different currency from the Indebtedness being refinanced, shall be calculated based on the currency exchange rate applicable to the currencies in which such Refinancing Indebtedness is denominated that is in effect on the date of such refinancing.

This Indenture will not treat (1) unsecured Indebtedness as subordinated or junior to secured Indebtedness merely because it is unsecured or (2) senior Indebtedness as subordinated or junior to any other senior Indebtedness merely because it has a junior priority with respect to the same collateral.

SECTION 4.13. ***Limitation on Restrictions on Distributions from Restricted Subsidiaries*.**

The Issuer will not, and will not permit any Restricted Subsidiary to, create or otherwise cause or permit to exist or become effective any consensual encumbrance or consensual restriction on the ability of any Restricted Subsidiary to:

(1) pay dividends or make any other distributions on its Capital Stock or pay any Indebtedness or other obligations owed to the Issuer or any Restricted Subsidiary (it being understood that the priority of any Preferred Stock in receiving dividends or liquidating distributions prior to dividends or liquidating distributions being paid on Common Stock shall not be deemed a restriction on the ability to make distributions on Capital Stock);

(2) make any loans or advances to the Issuer or any Restricted Subsidiary (it being understood that the subordination of loans or advances made to the Issuer or any Restricted Subsidiary to other Indebtedness Incurred by the Issuer or any Restricted Subsidiary shall not be deemed a restriction on the ability to make loans or advances); or

(3) sell, lease or transfer any of its property or assets to the Issuer or any Restricted Subsidiary.

The preceding provisions will not prohibit:

(i) any encumbrance or restriction pursuant to or by reason of an agreement in effect at or entered into on the Issue Date, including, without limitation, this Indenture in effect on such date;

(ii) any encumbrance or restriction with respect to a Person pursuant to or by reason of an agreement relating to any Capital Stock or Indebtedness Incurred by a Person on or before the date on which such Person was acquired by the Issuer or another Restricted Subsidiary (other than Capital Stock or Indebtedness Incurred as consideration in, or to provide all or any portion of the funds utilized to consummate, the transaction or series of related transactions pursuant to which such Person was acquired by the Issuer or a Restricted Subsidiary or in contemplation of the transaction) and outstanding on such date; *provided* that any such encumbrance or restriction shall not extend to any assets or property of the Issuer or any other Restricted Subsidiary other than the assets and property so acquired;

(iii) encumbrances and restrictions contained in contracts entered into in the ordinary course of business, not relating to any Indebtedness, and that do not, individually or in the aggregate, detract from the value of, or from the ability of the Issuer and the Restricted Subsidiaries to realize the value of, property or assets of the Issuer or any Restricted Subsidiary in any manner material to the Issuer or any Restricted Subsidiary;

(iv) any encumbrance or restriction with respect to an Unrestricted Subsidiary pursuant to or by reason of an agreement that the Unrestricted Subsidiary is a party to entered into before the date on which such Unrestricted Subsidiary became a Restricted Subsidiary; *provided* that such agreement was not entered into in anticipation of the Unrestricted Subsidiary becoming a Restricted Subsidiary and any such encumbrance or restriction shall not extend to any assets or property of the Issuer or any other Restricted Subsidiary other than the assets and property so acquired;

(v) with respect to any Foreign Subsidiary, any encumbrance or restriction contained in the terms of any Indebtedness or any agreement pursuant to which such Indebtedness was Incurred if:

(a) either (1) the encumbrance or restriction applies only in the event of a payment default or a default with respect to a financial covenant in such Indebtedness or agreement or (2) the Issuer determines that any such encumbrance or restriction will not materially affect the Issuer's ability to make principal or interest payments on the Notes, as determined in good faith by the Board of Directors of the Issuer, whose determination shall be conclusive; and

(b) the encumbrance or restriction is not materially more disadvantageous to the holders of the Notes than is customary in comparable financing (as determined by the Issuer);

(vi) any encumbrance or restriction with respect to a Restricted Subsidiary pursuant to an agreement effecting a refunding, replacement or refinancing of Indebtedness Incurred pursuant to an agreement referred to in clauses (i) through (v) or clause (xii) of this paragraph or this clause (vi) or contained in any amendment, restatement, modification, renewal, supplement, refunding, replacement or refinancing of an agreement referred to in clauses (i) through (v) or clause (xii) of this paragraph or this clause (vi); *provided*, *however*, that the encumbrances and restrictions with respect to such Restricted Subsidiary contained in any such agreement taken as a whole are no less favorable in any material respect to the holders of the Notes than the encumbrances and restrictions contained in such agreements referred to in clauses (i) through (v) or clause (xii) of this paragraph on the Issue Date or the date such Restricted Subsidiary became a Restricted Subsidiary or was merged into a Restricted Subsidiary, whichever is applicable, as determined in good faith by the Board of Directors of the Issuer, whose determination shall be conclusive;

(vii) in the case of clause (3) of the first paragraph of this Section 4.13, any encumbrance or restriction:

(a) that restricts in a customary manner the subletting, assignment or transfer of any property or asset that is subject to a lease (including leases governing leasehold interests or farm-in agreements or farm-out agreements relating to leasehold interests in oil and gas properties), license or similar contract, or the assignment or transfer of any such lease (including leases governing leasehold interests or farm-in agreements or farm-out agreements relating to leasehold interests in oil and gas properties), license or other contract;

(b) contained in mortgages, pledges or other security agreements permitted under this Indenture securing Indebtedness of the Issuer or a Restricted Subsidiary to the extent such encumbrances or restrictions restrict the transfer of the property subject to such mortgages, pledges or other security agreements;

(c) pursuant to customary provisions restricting dispositions of real property interests set forth in any reciprocal easement agreements of the Issuer or any Restricted Subsidiary;

(d) on cash or other deposits imposed by customers under contracts entered into in the ordinary course of business; or

(e) with respect to the disposition or distribution of assets or property in operating agreements, joint venture agreements, development agreements, area of mutual interest agreements and other agreements that are customary in the Oil and Gas Business and entered into in the ordinary course of business;

(viii) (A) purchase money obligations for property acquired in the ordinary course of business and (B) Capitalized Lease Obligations permitted under this Indenture, in each case, that impose encumbrances or restrictions of the nature described in clause (3) of the first paragraph of this Section 4.13 on the property so acquired;

(ix) any encumbrance or restriction with respect to a Restricted Subsidiary (or any of its property or assets) imposed pursuant to an agreement entered into for the direct or indirect sale or disposition of all or substantially all the Capital Stock or assets of such Restricted Subsidiary (or the property or assets that are subject to such restriction) pending the closing of such sale or disposition;

(x) any customary encumbrances or restrictions imposed pursuant to any agreement of the type described in the definition of "Permitted Business Investment";

(xi) encumbrances or restrictions arising or existing by reason of applicable law or any applicable rule, regulation or order; and

(xii) the Senior Secured Credit Agreement as in effect as of the Issue Date, and any amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings thereof; *provided* that such amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings are no more restrictive, taken as a whole, with respect to such dividend and other payment restrictions than those contained in the Senior Secured Credit Agreement as in effect on the Issue Date, as determined in good faith by the Board of Directors of the Issuer, whose determination shall be conclusive.

SECTION 4.14. ***[Reserved]*.**

SECTION 4.15. ***Offer to Repurchase upon Change of Control; Mandatory Conversion or Redemption of Notes*.**

If a Change of Control occurs~~,~~ (and to the extent such Notes are not redeemed or converted in connection with a Drag-Along Sale or converted into equity in connection with such Change of Control, in each case, as described below), each Holder will have the right to require the Issuer to repurchase all or any part (equal to $2,000 or an integral multiple of $[1,000] thereafter) of such Holder's Notes pursuant to the offer described below (a "Change of Control Offer") in cash on the terms set forth herein. The purchase price for any Notes in respect of any Change of Control Offer (a "Change of Control Payment") shall be an amount in cash equal to 100% of the aggregate principal amount of such Notes (including any interest previously paid by increasing the principal amount), plus all accrued and unpaid interest, if any, to the date of purchase, subject to the rights of Holders on the relevant Record Date to receive interest due on the relevant Interest Payment Date. For the avoidance of doubt, in no event shall any Change of Control Payment include any Interest Make-Whole Premium.

Within 30 days following any Change of Control, the Issuer will deliver such Change of Control Offer by first-class mail, with a copy to the Trustee, to each Holder to the address of such Holder appearing in the security register (or otherwise in accordance with the Applicable Procedures, if applicable), with the following information:

(1) that a Change of Control has occurred and that such Holder has the right to require the Issuer to purchase such Holder's Notes for the Change of Control Payment;

(2) the repurchase date (which shall be no earlier than 30 days nor later than 60 days (or such later date as may be extended as provided below) from the date such notice is sent) (the "Change of Control Payment Date");

(3) the last day of the offer period, which will be no later than the third Business Day prior to the Change of Control Payment Date;

(4) that unless the Issuer defaults in the payment of the Change of Control Payment, all Notes accepted for payment pursuant to the Change of Control Offer will cease to accrue interest on the Change of Control Payment Date;

(5) that Holders electing to have any Notes purchased pursuant to a Change of Control Offer will be required to surrender such Notes, with the form entitled "Option of Holder to Elect Purchase" on the reverse of such Notes completed, to the paying agent specified in the notice at the address specified in the notice prior to the close of business on the third Business Day preceding the Change of Control Payment Date;

(6) that Holders will be entitled to withdraw their tendered Notes and their election to require the Issuer to purchase such Notes; *provided* that the paying agent receives, not later than the close of business on the third Business Day preceding the Change of Control Payment Date, a telegram, telex, facsimile transmission or letter setting forth the name of the Holder, the principal amount of Notes tendered for purchase, and a statement that such Holder is withdrawing its tendered Notes and its election to have such Notes purchased;

(7) if such notice is mailed prior to the occurrence of a Change of Control, stating the Change of Control Offer is conditional on the occurrence of such Change of Control;

(8) that if the Issuer is redeeming less than all of the Notes, the Holders of the remaining Notes will be issued new Notes and such new Notes will be equal in principal amount to the unpurchased portion of the Notes surrendered. The unpurchased portion of the Notes must be equal to $2,000 or an integral multiple of $1,000 thereafter; and

(9) the procedures determined by the Issuer, consistent with this Indenture, that a Holder must follow in order to have its Notes repurchased.

On the Change of Control Payment Date, the Issuer will, to the extent lawful:

(x) accept for payment all Notes or portions of Notes (of at least $2,000 or an integral multiple of [$1,000] thereafter) properly tendered pursuant to the Change of Control Offer;

(y) deposit with the paying agent an amount equal to the Change of Control Payment in respect of all Notes or portions of Notes properly tendered and not properly withdrawn; and

(z) deliver or cause to be delivered to the Trustee the Notes so accepted together with an Officers' Certificate stating the aggregate principal amount of Notes or portions of Notes being purchased by the Issuer.

The Paying Agent will promptly mail to each Holder properly tendered and not properly withdrawn the Change of Control Payment for such Notes (or, if the Notes are in global form, make such payment through the facilities of DTC), and, upon receipt of an Authentication Order in accordance with Section 2.2 hereof, the Trustee will promptly authenticate and mail (or cause to be transferred by book entry) to each Holder a new Note equal in principal amount to any unpurchased portion of the Notes surrendered, if any; *provided* that each such new Note will be in a principal amount of $2,000 or an integral multiple of [$1,000] thereafter.

If the Change of Control Payment Date is on or after an interest Record Date and on or before the related Interest Payment Date, any accrued and unpaid interest, will be paid to the Person in whose name a Note is registered at the close of business on such Record Date, and no further interest will be payable to holders who tender pursuant to the Change of Control Offer.

The Change of Control provisions described above will be applicable whether or not any other provisions of this Indenture are applicable. Except as described above with respect to a Change of Control, this Indenture does not contain provisions that permit the Holders to require that the Issuer repurchase or redeem the Notes in the event of a takeover, recapitalization or similar transaction.

The Issuer will not be required to make a Change of Control Offer upon a Change of Control if a third party makes the Change of Control Offer in the manner, at the times and otherwise in compliance with the requirements set forth in this Indenture applicable to a Change of Control Offer made by the Issuer and purchases all Notes validly tendered and not withdrawn under such Change of Control Offer. Notwithstanding anything to the contrary herein, a Change of Control Offer may be made in advance of a Change of Control, conditional upon such Change of Control, if a definitive agreement is in place for the Change of Control at the time of making of the Change of Control Offer and the Change of Control Payment Date may be extended automatically until such Change of Control occurs.

If Holders of ~~not less~~more than ~~[51]~~50% in aggregate principal amount of the outstanding Notes validly tender and do not withdraw such Notes in a Change of Control Offer and the Issuer, or any third party making a Change of Control Offer in lieu of the Issuer as described above, purchases all of the Notes validly tendered and not withdrawn by such Holders, the Issuer or such third party will have the right, upon not less than 30 nor more than 60 days' prior notice, given not more than 30 days following such purchase pursuant to the Change of Control Offer described above, to redeem all Notes that remain outstanding following such purchase at a price in cash equal to 100% of the principal amount of the Notes *plus* accrued and unpaid interest, if any, to the date of purchase.

~~If~~For the avoidance of doubt, if Holders of a majority of the aggregate principal amount of the outstanding Notes elect to convert such Notes to New Common Stock following the

announcement of a Change of Control and prior to the last day of the related Change of Control Offer period, all other Notes that remain outstanding following such day shall be automatically converted pursuant to Section 10.3(a) as if such day were the Conversion Date.

The Issuer will comply, to the extent applicable, with the requirements of Rule 14e-1 of the Exchange Act and any other securities laws or regulations in connection with the repurchase of Notes as a result of a Change of Control. To the extent that the provisions of any securities laws or regulations conflict with provisions of this Indenture, or compliance with the Change of Control provisions of this Indenture would constitute a violation of any such laws or regulations, the Issuer will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations described in this Indenture by virtue of its compliance with such securities laws or regulations.

~~[All Notes outstanding immediately prior to the closing of any Drag-Along Sale (under and as defined in Section 3.1(a) of the Stockholders Agreement of the Issuer) shall automatically be converted into shares of Common Stock upon such Drag-Along Sale, and all such shares shall receive the same treatment in the Drag-Along Sale as the other outstanding shares of Common Stock (and the holders of such shares shall have the same rights and be subject to the same obligations under Article III of the Stockholders Agreement of the Issuer with respect thereto as apply to holders of the other outstanding shares of Common Stock with respect to such other outstanding shares), and the Issuer, the initiating Holders and each of the dragged Holders shall take such actions as may reasonably be required in order to effectuate such conversion.]~~[16]

SECTION 4.16. ***Limitation on Sales of Assets and Subsidiary Stock*.**

The Issuer will not, and will not permit any of its Restricted Subsidiaries to, make any Asset Disposition unless:

(1) the Issuer or such Restricted Subsidiary, as the case may be, receives consideration at the time of such Asset Disposition at least equal to the Fair Market Value (such Fair Market Value to be determined as of the date of such Asset Disposition (or, if earlier, as of the date of contractually agreeing to such Asset Disposition)), of the shares and assets subject to such Asset Disposition;

(2) at least 75% of the aggregate consideration received by the Issuer or such Restricted Subsidiary, as the case may be, from such Asset Disposition and all other Asset Dispositions since the Issue Date is in the form of cash or Cash Equivalents or Additional Assets, or any combination thereof; and

(3) except as provided in the next paragraph an amount equal to 100% of the Net Available Cash from such Asset Disposition is applied, within one year from the later of the date of such Asset Disposition or the receipt of such Net Available Cash, by the Issuer or such Restricted Subsidiary, as the case may be:

~~[16] NTD: Under review.~~

(a) to the extent the Issuer or any Restricted Subsidiary, as the case may be, elects (or is required by the terms of any Indebtedness) to prepay, repay, redeem or purchase Indebtedness of the Issuer under the Senior Secured Credit Agreement, any other Indebtedness of the Issuer or a Subsidiary Guarantor that is secured by a Lien permitted to be Incurred under this Indenture or Indebtedness (other than Disqualified Stock) of any Wholly Owned Subsidiary that is not a Subsidiary Guarantor; *provided*, *however*, that, in connection with any prepayment, repayment, redemption or purchase of Indebtedness pursuant to this subclause (a), the Issuer or such Restricted Subsidiary will retire such Indebtedness and will cause the related commitment (if any) to be permanently reduced in an amount equal to the principal amount so prepaid, repaid or purchased;

(b) to the extent the Issuer elects, to make an offer to the applicable Holders (and to holders of Pari Passu Notes with similar provisions requiring the Issuer to make an offer to purchase such Pari Passu Notes with the proceeds from any Asset Disposition) to purchase Notes (and such other Pari Passu Notes) pursuant to terms and subject to the conditions contained in this Indenture in respect of Asset Disposition Offers; or

(c) to invest in Additional Assets;

provided that pending the final application of any such Net Available Cash in accordance with this Section 4.16, the Issuer and its Restricted Subsidiaries may temporarily reduce Indebtedness or otherwise invest such Net Available Cash in any manner not prohibited by this Indenture.

Any Net Available Cash from Asset Dispositions that is not applied or invested as provided in the preceding paragraph will be deemed to constitute "Excess Proceeds." Not later than the day following the date that is one year from the later of the date of such Asset Disposition or the receipt of such Net Available Cash, if the aggregate amount of Excess Proceeds exceeds $[~~[~~]20.0 million, the Issuer will be required to make an offer ("Asset Disposition Offer") to all Holders and to the extent required by the terms of other Pari Passu Indebtedness, to all holders of other Pari Passu Indebtedness outstanding with similar provisions requiring the Issuer to make an offer to purchase such Pari Passu Indebtedness with the proceeds from any Asset Disposition ("Pari Passu Notes"), to purchase the maximum principal amount of Notes and any such Pari Passu Notes to which the Asset Disposition Offer applies that may be purchased out of the Excess Proceeds, at an offer price in cash in an amount equal to 100% of the principal amount (or, in the event such Pari Passu Indebtedness was issued with significant original issue discount, 100% of the accreted value thereof) of the Notes and Pari Passu Notes *plus* accrued and unpaid interest, if any (or in respect of such Pari Passu Indebtedness, such lesser price, if any, as may be provided for by the terms of such Indebtedness), to the date of purchase (subject to the right of holders of record on the relevant record date to receive interest due on the relevant Interest Payment Date), in accordance with the procedures set forth in this Indenture or the agreements governing the Pari Passu Notes, as applicable, in each case in denominations of at least $2,000 or an integral multiple of $1,000 thereafter. If the aggregate principal amount of Notes surrendered by holders thereof and other Pari Passu Notes surrendered by holders or lenders, collectively, exceeds the amount of Excess Proceeds, the Trustee shall select the Notes to be purchased on a pro rata basis (or, in the case of Notes in global form, the

Notes will be selected by such method as DTC or its nominee or successor may require or, where such nominee or successor is the Trustee, a method that most nearly approximates pro rata selection as the Trustee deems fair and appropriate) on the basis of the aggregate principal amount of tendered Notes and Pari Passu Notes. To the extent that the aggregate amount of Notes and Pari Passu Notes so validly tendered and not properly withdrawn pursuant to an Asset Disposition Offer is less than the amount of Excess Proceeds, the Issuer may use any remaining Excess Proceeds for general corporate purposes, subject to the other covenants contained in this Indenture. Upon completion of such Asset Disposition Offer, the amount of Excess Proceeds shall be reset at zero.

The requirement of clause (3)(c) of the first paragraph of this Section 4.16 shall be deemed to be satisfied if a bona fide binding commitment to make the investment referred to therein is entered into by the Issuer or any of its Restricted Subsidiaries with a Person other than an Affiliate of the Issuer within the time period specified in the first paragraph of this Section 4.16 and such Net Available Cash is subsequently applied in accordance with such commitment within 180 days following the date such commitment is entered into.

The Asset Disposition Offer will remain open for a period of 20 Business Days following its commencement, except to the extent that a longer period is required by applicable law (the "Asset Disposition Offer Period"). No later than five Business Days after the termination of the Asset Disposition Offer Period (the "Asset Disposition Purchase Date"), the Issuer will purchase the principal amount of Notes and Pari Passu Notes required to be purchased pursuant to this Section 4.16 (the "Asset Disposition Offer Amount") or, if less than the Asset Disposition Offer Amount has been so validly tendered, all Notes and Pari Passu Notes validly tendered in response to the Asset Disposition Offer.

If the Asset Disposition Purchase Date is on or after an interest record date and on or before the related Interest Payment Date, accrued and unpaid interest, if any, will be paid to the Person in whose name a Note is registered at the close of business on such record date, and no further interest will be payable to holders who tender Notes pursuant to the Asset Disposition Offer.

On or before the Asset Disposition Purchase Date, the Issuer will, to the extent lawful, accept for payment, on a pro rata basis to the extent necessary, the Asset Disposition Offer Amount of Notes and Pari Passu Notes or portions of Notes and Pari Passu Notes so validly tendered and not properly withdrawn pursuant to the Asset Disposition Offer, or if less than the Asset Disposition Offer Amount has been validly tendered and not properly withdrawn, all Notes and Pari Passu Notes so validly tendered and not properly withdrawn, in each case in denominations of at least $2,000 or an integral multiple of $1,000 thereafter. The Issuer will deliver to the Trustee an Officers' Certificate stating that such Notes or portions thereof were accepted for payment by the Issuer in accordance with the terms of this Section 4.16 and, in addition, the Issuer will deliver all certificates and notes required, if any, by the agreements governing the Pari Passu Notes. The Issuer or the paying agent, as the case may be, will promptly (but in any case not later than five Business Days after the termination of the Asset Disposition Offer Period) send or deliver (or, if the Notes are in global form, make such

payments through the facilities of DTC) to each tendering Holder or holder or lender of Pari Passu Notes, as the case may be, an amount equal to the purchase price of the Notes or Pari Passu Notes so validly tendered and not properly withdrawn by such holder or lender, as the case may be, and accepted by the Issuer for purchase, and the Issuer will promptly issue a new Note, and the Trustee, upon delivery of an Officers' Certificate from the Issuer, will authenticate and mail or deliver such new Note to such Holder, in a principal amount equal to any unpurchased portion of the Note surrendered; *provided* that each such new Note will be in a principal amount of $2,000 or an integral multiple of $1,000 thereafter. In addition, the Issuer will take any and all other actions required by the agreements governing the Pari Passu Notes. Any Note not so accepted will be promptly mailed or delivered by the Issuer to the Holder thereof. The Issuer will publicly announce the results of the Asset Disposition Offer on the Asset Disposition Purchase Date.

The Issuer will comply, to the extent applicable, with the requirements of Rule 14e-1 of the Exchange Act and any other securities laws or regulations in connection with the repurchase of Notes pursuant to this Indenture. To the extent that the provisions of any securities laws or regulations conflict with provisions of this Section 4.16, the Issuer will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under this Indenture by virtue of its compliance with such securities laws or regulations.

For the purposes of clause (2) of the first paragraph of this Section 4.16, the following will be deemed to be cash:

(1) the assumption by the transferee of Indebtedness (other than Subordinated Obligations or Disqualified Stock) of the Issuer or Indebtedness of a Restricted Subsidiary (other than Guarantor Subordinated Obligations or Disqualified Stock of any Restricted Subsidiary that is a Subsidiary Guarantor) and the release of the Issuer or such Restricted Subsidiary from all liability on such Indebtedness in connection with such Asset Disposition (or in lieu of such a release, the agreement of the acquirer or its parent company to indemnify and hold the Issuer or such Restricted Subsidiary harmless from and against any loss, liability or cost in respect of such assumed Indebtedness; *provided*, *however*, that such indemnifying party (or its long term debt securities) shall have an Investment Grade Rating (with no indication of a negative outlook or credit watch with negative implications, in any case, that contemplates such indemnifying party (or its long term debt securities) failing to have an Investment Grade Rating), in which case the Issuer will, without further action, be deemed to have applied such deemed cash to Indebtedness in accordance with clause (3)(a) of the first paragraph of this Section 4.16);

(2) securities, notes or other obligations received by the Issuer or any Restricted Subsidiary from the transferee that are converted by the Issuer or such Restricted Subsidiary into cash within 180 days after receipt thereof;

(3) any Designated Non-cash Consideration received by the Issuer or such Restricted Subsidiary in such Asset Disposition having an aggregate Fair Market Value, taken together with all other Designated Non-cash Consideration received pursuant to this clause (3), not to exceed

an amount equal to 3.0% of the Issuer's Adjusted Consolidated Net Tangible Assets (determined at the time of receipt of such Designated Non-cash Consideration), with the Fair Market Value of each item of Designated Non-cash Consideration being measured at the time received and without giving effect to subsequent changes in value; and

(4) with respect to any Asset Disposition of interests in oil and gas properties by the Issuer or any of its Restricted Subsidiaries where the Issuer or such Restricted Subsidiary retains an interest in such property, any agreement by the transferee (or an Affiliate thereof) to pay all or a portion of the Issuer's or such Restricted Subsidiary's allocable share of the costs and expenses related to the exploration, development, completion or production of such properties and activities related thereto.

Notwithstanding the foregoing, the 75% limitation referred to in clause (2) of the first paragraph of this Section 4.16 shall be deemed satisfied with respect to any Asset Disposition in which the cash or Cash Equivalents portion of the consideration received therefrom, determined in accordance with the foregoing provision on an after-tax basis, is equal to or greater than what the after-tax proceeds would have been had such Asset Disposition complied with the aforementioned 75% limitation.

The requirement of clause (3)(b) of the first paragraph of this Section 4.16 above shall be deemed to be satisfied if an agreement (including a lease, whether a capital lease or an operating lease) committing to make the acquisitions or expenditures referred to therein is entered into by the Issuer or its Restricted Subsidiary within the specified time period and such Net Available Cash is subsequently applied in accordance with such agreement within six months following such agreement.

SECTION 4.17. ***[Reserved]*.**

SECTION 4.18. ***Limitation on Liens*.**

The Issuer will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly, create, Incur or suffer to exist any Lien (the "Initial Lien") other than Permitted Liens upon any of its property or assets (including Capital Stock of Restricted Subsidiaries), including any income or profits therefrom, whether owned on the date of this Indenture or acquired after that date, which Lien is securing any Indebtedness, unless contemporaneously with the Incurrence of such Lien effective provision is made to secure the Indebtedness due under the Notes or, in respect of Liens on any Restricted Subsidiary's property or assets, any Subsidiary Guarantee of such Restricted Subsidiary, equally and ratably with (or senior in priority to in the case of Liens with respect to Subordinated Obligations or Guarantor Subordinated Obligations, as the case may be) the Indebtedness secured by such Lien for so long as such Indebtedness is so secured.

Any Lien created for the benefit of the holders of the Notes pursuant to the preceding paragraph shall provide by its terms that such Lien shall be automatically and unconditionally released and discharged upon the release and discharge of the Initial Lien.

SECTION 4.19. ***Limitation on Lines of Business*.**

The Issuer will not, and will not permit any Restricted Subsidiary to, engage in any business other than the Oil and Gas Business, except to the extent as would not be material to the Issuer and its Restricted Subsidiaries taken as a whole.

SECTION 4.20. ***Additional Subsidiary Guarantees*.**

If any of the Issuer's Restricted Subsidiaries that is not a Subsidiary Guarantor (other than a Foreign Subsidiary) (x) Incurs or guarantees any Indebtedness under the Senior Secured Credit Agreement or (y) otherwise Incurs or guarantees any other Indebtedness created or acquired by the Issuer or one or more of its Restricted Subsidiaries in an aggregate principal amount exceeding $~~[ ]~~1.0 million, in each case, then the Issuer shall cause such Restricted Subsidiary to become within 60 days a Subsidiary Guarantor; *provided* that any Restricted Subsidiary that constitutes an Immaterial Subsidiary need not become a Subsidiary Guarantor until such time as it ceases to be an Immaterial Subsidiary. If required to become a Subsidiary Guarantor pursuant to the immediately preceding sentence, such transferee or acquired or other Restricted Subsidiary shall:

(1) execute and deliver to the Trustee a supplemental indenture in form reasonably satisfactory to the Trustee pursuant to which such Restricted Subsidiary shall unconditionally guarantee all of the Issuer's obligations under the Notes and this Indenture on the terms set forth in this Indenture; and

(2) deliver to the Trustee an Opinion of Counsel that such supplemental indenture has been duly authorized, executed and delivered by such Restricted Subsidiary and constitutes a legal, valid, binding and enforceable obligation of such Restricted Subsidiary. Thereafter, such Restricted Subsidiary shall be a Subsidiary Guarantor for all purposes of this Indenture.

SECTION 4.21. ***Suspension of Covenants*.**

Following the first day that (a) the Notes have achieved Investment Grade Status and (b) no Default or Event of Default has occurred and is continuing under this Indenture, then, beginning on that day and continuing until the Reversion Date, the Issuer and its Restricted Subsidiaries shall not be subject to the following covenants (collectively, the "Suspended Covenants"):

(i) Section 4.10;

(ii) Section 4.11;

(iii) Section 4.12;

(iv) Section 4.13;

(v) Section 4.16;

(vi) Section 4.20; and

(vii) clause (3) of the first paragraph of Section 5.1.

If at any time the Notes cease to have such Investment Grade Status or if a Default or Event of Default occurs and is continuing, then the Suspended Covenants will thereafter be reinstated as if such covenants had never been suspended (the "Reversion Date") and be applicable pursuant to the terms of this Indenture (including in connection with performing any calculation or assessment to determine compliance with the terms of this Indenture), unless and until the Notes subsequently attain Investment Grade Status and no Default or Event of Default is in existence (in which event the Suspended Covenants shall no longer be in effect for such time that the Notes maintain an Investment Grade Status and no Default or Event of Default is in existence); *provided*, *however*, that no Default, Event of Default or breach of any kind shall be deemed to exist under this Indenture, the Notes or the Subsidiary Guarantees with respect to the Suspended Covenants based on, and neither the Issuer nor any of its Subsidiaries shall bear any liability for, any actions taken or events occurring during the Suspension Period, or any actions taken at any time pursuant to any contractual obligation arising prior to the Reversion Date, regardless of whether such actions or events would have been permitted if the applicable Suspended Covenants remained in effect during such period. The period of time between the date of suspension of the covenants and the Reversion Date is referred to as the "Suspension Period."

On the Reversion Date, all Indebtedness Incurred during the Suspension Period will be classified to have been Incurred pursuant to the first paragraph of Section 4.12 or one of the clauses set forth in the second paragraph of Section 4.12 (to the extent such Indebtedness would be permitted to be Incurred thereunder as of the Reversion Date and after giving effect to the Indebtedness Incurred prior to the Suspension Period and outstanding on the Reversion Date). To the extent such Indebtedness would not be so permitted to be Incurred pursuant to the first and second paragraphs of Section 4.12, such Indebtedness will be deemed to have been outstanding on the Issue Date, so that it is classified as permitted under clause (4)(b) of the second paragraph of Section 4.12. Calculations made after the Reversion Date of the amount available to be made as Restricted Payments under Section 4.10 shall be made as though Section 4.10 had been in effect since the Issue Date and throughout the Suspension Period. Accordingly, Restricted Payments made during the Suspension Period will reduce the amount available to be made as Restricted Payments under the first paragraph of Section 4.10. For purposes of determining compliance with Section 4.16, on the Reversion Date, the Net Available Cash from Asset Dispositions not applied in accordance with Section 4.16 will be deemed reset at zero. In addition, any future obligation to grant further Subsidiary Guarantees shall be released. All such further obligation to grant Subsidiary Guarantees shall be reinstated upon the Reversion Date. The Issuer will provide written notice to the Trustee of the occurrence of any Suspension Period or Reversion Date.

During any Suspension Period, the Issuer may not designate any of the Issuer's Subsidiaries as Unrestricted Subsidiaries pursuant to this Indenture

SECTION 4.22. ***Creation and Perfection of Liens Securing Collateral; Further Assurances.***

(a) On or prior to the Issue Date, the Issuer and the Guarantors shall have granted, created and perfected the Liens created or purported to be created by the Security Documents in the Collateral in favor of the Collateral Agent for the benefit of the Trustee, the Collateral Agent and the Holders~~[~~; *provided*, that to the extent any such security interest, mortgage or other Lien was not perfected by the Issue Date, the Issuer and the Guarantors shall use commercially reasonable efforts to have such Lien perfected as promptly as practicable following the Issue Date, and so long as such Lien is perfected concurrently with the perfection of Liens in the same assets pursuant to the Senior Secured Credit Agreement, the Issuer and the Guarantors shall be deemed to have satisfied their obligations under this Section 4.22(a).~~]~~

(b) Subject to the terms, conditions and provisions of the Security Documents and this Indenture, the Issuer and the Guarantors shall execute any and all further documents, financing statements, agreements and instruments, and take all further action that may be required under applicable law, or that the Holders, the Trustee or the Collateral Agent may reasonably request, in order to grant, create, preserve, maintain, enforce, protect and perfect the validity and priority of the Liens created or purported to be created by this Indenture and the Security Documents in the Collateral; *provided,* that the Issuer and the Guarantors shall not be required to provide, and the Collateral Agent shall not request, any additional Liens in respect of any Excluded Assets.~~[17]~~

(c) From and after the Issue Date, if the Issuer and the Guarantors are required to deliver to the Administrative Agent or the Collateral Agent under the Senior Secured Credit Agreement additional security under the Senior Secured Credit Agreement, the Issuer and the Guarantors shall deliver to the Collateral Agent, within such time periods as permitted by the Senior Secured Credit Agreement or otherwise agreed to by the Collateral Agent under the Senior Secured Credit Agreement), such additional security to the Collateral Agent and/or the Trustee, subject to exceptions and limitations otherwise set forth in this Indenture and the Security Documents (to the extent appropriate in the applicable jurisdiction), in each case with the priority required by the Security Documents.

(d) The documents and/or actions required pursuant to this Section shall be deemed to be satisfactory in respect of such matters under this Indenture and the Security Documents to the extent that such documents and/or actions are determined, in the judgment of the Collateral Agent under the Senior Secured Credit Agreement, to be satisfactory in respect of any such matters under the Senior Secured Credit Agreement.

SECTION 4.23. ***Minimum Liquidity of the Issuer.***

The Liquidity of the Issuer shall at all times remain at or above $20,000,000.00 (the "Minimum Liquidity"); *provided* that, should the Liquidity of the Issuer at any time fall below

~~[17] NTD: Under review.~~

the Minimum Liquidity, the sole remedy available to the Holders at any time prior to the Maturity Date shall be that the Issuer shall be deemed to have elected to pay PIK Interest in respect of all interest periods for which the Record Date occurs at a time when the Issuer's liquidity is below the Minimum Liquidity (notwithstanding any notice or purported election to the contrary). Interest due on the related Interest Payment Date shall be paid by PIK Interest.

SECTION 4.24. **Withholding Taxes**

Notwithstanding anything to the contrary contained in this Indenture, the Issuer may, to the extent it is required to do so by law, deduct or withhold income or other similar taxes from principal or interest payments, or make such withholdings are required in the event of a conversion, under this Indenture. To the extent that any amounts required to be withheld under applicable law or regulations are so withheld, such amounts shall be deemed for purposes of this Indenture to have been paid to the Persons in respect of which such withholding was made. Without limiting the forgoing, if the Issuer is required by applicable law to pay withholding tax the Issuer may, at its option, (i) apply a portion of any cash distribution or consideration to be made or paid under this Indenture to pay applicable withholding taxes and/or (ii) liquidate a portion of any non-cash distribution or consideration to be made or delivered (including Common Stock issuable upon conversion and any PIK Interest) under this Indenture to generate sufficient funds to pay applicable withholding taxes.

ARTICLE V.

SUCCESSOR CORPORATION

SECTION 5.1. ***Merger, Consolidation and Sale of Assets*.**

The Issuer will not consolidate with or merge with or into or wind up into (whether or not the Issuer is the surviving corporation), or convey, transfer or lease all or substantially all its assets in one or more related transactions to, any Person, *unless*:

(1) the resulting, surviving or transferee Person (the "Successor Issuer") will be a corporation, partnership, trust or limited liability company organized and existing under the laws of the United States of America, any State of the United States or the District of Columbia and the Successor Issuer (if not the Issuer) will expressly assume, by supplemental indenture, executed and delivered to the Trustee, in form reasonably satisfactory to the Trustee, all the obligations of the Issuer under the Notes and this Indenture; *provided* that in the case where the Successor Issuer of the Issuer is not a corporation, a co-issuer of the Notes is a corporation;

(2) immediately after giving effect to such transaction (and treating any Indebtedness that becomes an obligation of the Successor Issuer or any Subsidiary of the Successor Issuer as a result of such transaction as having been Incurred by the Successor Issuer or such Subsidiary at the time of such transaction), no Default shall have occurred and be continuing;

(3) immediately after giving effect to such transaction, either (a) the Successor Issuer would be able to Incur at least an additional $1.00 of Indebtedness pursuant to the first paragraph of Section 4.12 or (b) the Consolidated Coverage Ratio for the Issuer and its Restricted Subsidiaries would be equal to or greater than immediately prior to giving effect to such transaction;

(4) each Subsidiary Guarantor (unless it is the other party to the transactions above, in which case clause (1) shall apply) shall have by supplemental indenture confirmed that its Subsidiary Guarantee shall apply to such Person's obligations in respect of this Indenture and the Notes; and

(5) the Issuer shall have delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that such consolidation, merger or transfer and such supplemental indenture (if any) comply with this Indenture.

For purposes of this Section 5.1, the sale, lease, conveyance, assignment, transfer, or other disposition of all or substantially all of the properties and assets of one or more Subsidiaries of the Issuer, which properties and assets, if held by the Issuer instead of such Subsidiaries, would constitute all or substantially all of the properties and assets of the Issuer on a consolidated basis, shall be deemed to be the transfer of all or substantially all of the properties and assets of the Issuer.

The Successor Issuer will succeed to, and be substituted for, and may exercise every right and power of, the Issuer under this Indenture; and its predecessor Issuer, except in the case of a lease of all or substantially all its assets, will be released from the obligation to pay the principal of and interest on the Notes.

Notwithstanding the preceding clause (3), (x) any Restricted Subsidiary may consolidate with, merge into or transfer all or part of its properties and assets to the Issuer and the Issuer may consolidate with, merge into or transfer all or part of its properties and assets to a Wholly Owned Subsidiary and (y) the Issuer may merge with an Affiliate incorporated solely for the purpose of reincorporating the Issuer in another jurisdiction; *provided* that in the case of a Restricted Subsidiary that consolidates with, merges into or transfers all or part of its properties and assets to the Issuer, the Issuer will not be required to comply with the preceding clause (3).

In addition, the Issuer will not permit any Subsidiary Guarantor to consolidate with or merge with or into, and will not permit the conveyance, transfer or lease of substantially all of the assets of any Subsidiary Guarantor to, any Person (other than the Issuer or another Subsidiary Guarantor) *unless*:

(1) (a) the resulting, surviving or transferee Person will be a corporation, partnership, trust or limited liability company organized and existing under the laws of the United States of America, any State of the United States or the District of Columbia (b) and such Person (if not such Subsidiary Guarantor) will expressly assume, by supplemental indenture, executed and delivered to the Trustee, all the obligations of such Subsidiary Guarantor under its Subsidiary

Guarantee and this Indenture, (c) immediately after giving effect to such transaction (and treating any Indebtedness that becomes an obligation of the resulting, surviving or transferee Person or any Restricted Subsidiary as a result of such transaction as having been Incurred by such Person or such Restricted Subsidiary at the time of such transaction), no Default shall have occurred and be continuing, and (d) the Issuer shall have delivered to the Trustee an Officers' Certificate and Opinion of Counsel each stating that such consolidation, merger or transfer and such supplemental indenture complies with this Indenture; or

(2) the transaction is made in compliance with Section 4.16 and Section 12.4.

SECTION 5.2. ***Successor Corporation Substituted*.**

Upon any consolidation, combination or merger or any transfer of all or substantially all of the assets of the Issuer in accordance with Section 5.1, in which the Issuer is not the continuing corporation, the successor Person formed by such consolidation or into which the Issuer is merged or to which such conveyance, lease or transfer is made shall succeed to, and be substituted for, and may exercise every right and power of, the Issuer under this Indenture and the Notes with the same effect as if such surviving entity had been named as such.

ARTICLE VI.

REMEDIES

SECTION 6.1. ***Events of Default*.**

An "Event of Default" means any of the following events:

(1) default in any payment of interest on any Note when due, continued unremedied for [30] days;[18][11]

(2) default in the payment of principal of or premium, if any, on any Note when due at its Stated Maturity, [upon optional redemption,] upon required repurchase, upon declaration of acceleration or otherwise, continued unremedied for [3three] days;

(3) failure by the Issuer or any Subsidiary Guarantor to comply with its obligations under Section 5.1;

(4) failure by the Issuer to comply for 30 days after notice as provided below with any of its obligations under Sections 4.8, 4.10, 4.11, 4.12, 4.13, 4.15, 4.16, 4.18, 4.19 or 4.20 above (in each case, other than a failure to purchase Notes which will constitute an Event of Default under clause (2) above and other than a failure to comply with Section 5.1 which is covered by clause (3));

[18][11] NTD: UnderSubject to further review.

(5) failure by the Issuer to comply for 60 days after notice as provided below with its other agreements (not including, for the avoidance of doubt, Section 4.23) contained in this Indenture;

(6) default under any mortgage, indenture or instrument under which there may be issued or by which there may be secured or evidenced any Indebtedness for money borrowed by the Issuer or any of its Restricted Subsidiaries (or the payment of which is guaranteed by the Issuer or any of its Restricted Subsidiaries), other than Indebtedness owed to the Issuer or a Restricted Subsidiary, whether such Indebtedness or guarantee now exists, or is created after the date of this Indenture, which default:

(a) is caused by a failure to pay principal of such Indebtedness prior to the expiration of the grace period provided in such Indebtedness (and any extensions of any grace period) ("payment default"); or

(b) results in the acceleration of such Indebtedness prior to its maturity;

and, in each case, the principal amount of any such Indebtedness, together with the principal amount of any other such Indebtedness under which there has been a payment default or the maturity of which has been so accelerated, aggregates $[__] million or more;

(7) (a) the Issuer or any of its Restricted Subsidiaries that is a Significant Subsidiary or any group of Restricted Subsidiaries that, taken together, would constitute a Significant Subsidiary, pursuant to or within the meaning of any Bankruptcy Law:

(i) commences proceedings to be adjudicated bankrupt or insolvent;

(ii) consents to the institution of bankruptcy or insolvency proceedings against it, or the filing by it of a petition or answer or consent seeking reorganization or relief under applicable Bankruptcy law;

(iii) consents to the appointment of a receiver, liquidator, assignee, trustee, sequestrator or other similar official of it or for all or substantially all of its property;

(iv) makes a general assignment for the benefit of its creditors; or

(v) generally is not paying its debts as they become due; or

(b) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that:

(i) is for relief against the Issuer or any of its Restricted Subsidiaries that is a Significant Subsidiary or any group of Restricted Subsidiaries that, taken together, would constitute a Significant Subsidiary, in a proceeding in which the Issuer or any such Restricted Subsidiaries, that is a Significant Subsidiary or any group of Restricted Subsidiaries that, taken together, would constitute a Significant Subsidiary, is to be adjudicated bankrupt or insolvent;

(ii) appoints a receiver, liquidator, assignee, trustee, sequestrator or other similar official of the Issuer or any of its Restricted Subsidiaries that is a Significant Subsidiary or any group of Restricted Subsidiaries that, taken together, would constitute a Significant Subsidiary, or for all or substantially all of the property of the Issuer or any of its Restricted Subsidiaries that is a Significant Subsidiary or any group of Restricted Subsidiaries that, taken together, would constitute a Significant Subsidiary; or

(iii) orders the liquidation of the Issuer or any of its Restricted Subsidiaries that is a Significant Subsidiary or any group of Restricted Subsidiaries that, taken together, would constitute a Significant Subsidiary;

and, in the case of any of (b)(i), (ii) or (iii), the order or decree remains unstayed and in effect for 60 consecutive days;

(8) failure by the Issuer or any Significant Subsidiary or group of Restricted Subsidiaries that, taken together (as of the latest audited consolidated financial statements for the Issuer and its Restricted Subsidiaries), would constitute a Significant Subsidiary to pay final judgments aggregating in excess of $[__] million (to the extent not covered by insurance by a reputable and creditworthy insurer as to which the insurer has not disclaimed coverage), which judgments are not paid or discharged, and there shall be any period of 60 consecutive days following entry of such final judgment or decree during which a stay of enforcement of such final judgment or decree, by reason of pending appeal or otherwise, shall not be in effect;

(9) any Subsidiary Guarantee of a Significant Subsidiary or group of Restricted Subsidiaries that, taken together (as of the latest audited consolidated financial statements for the Issuer and its Restricted Subsidiaries) would constitute a Significant Subsidiary ceases to be in full force and effect (except as contemplated by the terms of this Indenture) or is declared null and void in a judicial proceeding or any Subsidiary Guarantor that is a Significant Subsidiary or group of Subsidiary Guarantors that, taken together (as of the latest audited consolidated financial statements of the Issuer and its Restricted Subsidiaries) would constitute a Significant Subsidiary denies or disaffirms its obligations under this Indenture or its Subsidiary Guarantee; or

(10) any of the Security Documents shall cease, for any reason, to be in full force and effect (except in accordance with its terms), or the Issuer ~~or~~, any Subsidiary Guarantor or any Affiliate thereof shall so assert, or any Lien created by any of the Security Documents shall cease to be enforceable and of the same effect and priority purported to be created thereby ~~in respect of collateral purported to be covered thereby with an individual fair market value in excess of $1,000,000 or an aggregate fair market value in excess of $2,000,000~~ (except in accordance with its terms);

However, a Default under clauses (4) and (5) of this paragraph will not constitute an Event of Default until the Trustee or the holders of 25% in aggregate principal amount of the outstanding Notes notify the Issuer and, in the case of a notice given by the Holders, the Trustee, in writing

of the Default and the Issuer does not cure such Default within the time specified in clauses (4) and (5) of this paragraph after receipt of such notice.

SECTION 6.2. ***Acceleration*.**

If an Event of Default (other than an Event of Default described in clause (7) of Section 6.1) occurs and is continuing, the Trustee by notice to the Issuer, or the holders of at least 25% in aggregate principal amount of the outstanding Notes by notice to the Issuer and the Trustee, may, and the Trustee at the request of such holders shall, declare the principal of, premium, if any, and accrued and unpaid interest, if any, on all the Notes to be due and payable. If an Event of Default described in clause (7) of Section 6.1 occurs and is continuing, the principal of, premium, if any, and accrued and unpaid interest, if any, on all the Notes will become and be immediately due and payable without any declaration or other act on the part of the Trustee or any Holders. The holders of at least a majority in principal amount of the outstanding Notes may waive all past defaults (except with respect to nonpayment of principal, premium, if any, or interest, if any) and rescind any such acceleration with respect to the Notes and its consequences if (1) rescission would not conflict with any judgment or decree of a court of competent jurisdiction and (2) all existing Events of Default, other than the nonpayment of the principal of, premium, if any, and interest on the Notes that have become due solely by such declaration of acceleration, have been cured or waived.

SECTION 6.3. ***Other Remedies*.**

If an Event of Default occurs and is continuing, the Trustee may pursue any available remedy by proceeding at law or in equity to collect the payment of the principal of, premium, if any, or interest on the Notes or to enforce the performance of any provision of the Notes or this Indenture.

All rights of action and claims under this Indenture or the Notes may be enforced by the Trustee even if it does not possess any of the Notes or does not produce any of them in the proceeding. A delay or omission by the Trustee or any Holder in exercising any right or remedy accruing upon an Event of Default shall not impair the right or remedy or constitute a waiver of or acquiescence in the Event of Default. No remedy is exclusive of any other remedy. All available remedies are cumulative to the extent permitted by law.

SECTION 6.4. ***Waiver of Past Defaults*.**

At any time prior to the declaration of acceleration of the Notes, the Holders of not less than a majority in aggregate principal amount of the Notes then outstanding by notice to the Trustee may, on behalf of the Holders of all the Notes, waive any existing Default or Event of Default and its consequences under this Indenture, except a Default or Event of Default specified in Section 6.1(1) or (2) or in respect of any provision hereof which cannot be modified or amended without the consent of the Holder so affected pursuant to Section 9.2. When a Default or Event of Default is so waived, it shall be deemed cured and shall cease to exist.

SECTION 6.5. ***Control by Majority*.**

Holders of the Notes may not enforce this Indenture or the Notes except as provided in this Article VI. The Holders of at least a majority in aggregate principal amount of the outstanding Notes shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred on the Trustee; *provided*, *however*, that the Trustee may refuse to follow any direction (a) that conflicts with any rule of law or this Indenture, (b) that the Trustee reasonably determines may be unduly prejudicial to the rights of any other Holder (it being understood that the Trustee does not have an affirmative duty to ascertain whether or not any such direction is unduly prejudicial to the rights of any other Holder), or (c) that may expose the Trustee to personal liability for which reasonable indemnity provided to the Trustee against such liability shall be deemed inadequate by the Trustee; *provided*, *further*, *however*, that the Trustee may take any other action deemed proper by the Trustee that is not inconsistent with such direction or this Indenture.

SECTION 6.6. ***Limitation on Suits*.**

Subject to the provisions of this Indenture relating to the duties of the Trustee, if an Event of Default occurs and is continuing, the Trustee will be under no obligation to exercise any of the rights or powers under this Indenture at the request or direction of any of the holders unless such Holders have offered to the Trustee indemnity or security satisfactory to the Trustee against any loss, liability or expense. Except to enforce the right to receive payment of principal, premium, if any, or interest when due, no Holder may pursue any remedy with respect to this Indenture or the Notes *unless*:

(1) such Holder has previously given the Trustee notice that an Event of Default is continuing;

(2) Holders of at least 25% in principal amount of the outstanding Notes have requested the Trustee to pursue the remedy;

(3) such Holder has offered the Trustee security or indemnity satisfactory to the Trustee against any loss, liability or expense;

(4) the Trustee has not complied with such request within 60 days after the receipt of the request and the offer of security or indemnity; and

(5) the Holders of a majority in principal amount of the outstanding Notes have not waived such Event of Default or otherwise given the Trustee a direction that, in the opinion of the Trustee, is inconsistent with such request within such 60-day period.

A Holder may not use this Indenture to prejudice the rights of any other Holders or to obtain priority or preference over such other Holders (it being understood that the Trustee does not have an affirmative duty to ascertain whether or not any action or forbearance by a Holder

prejudices the rights of any other Holders or to obtain priority or preference over such other Holders).

SECTION 6.7. ***Right of Holders To Receive Payment.***

Notwithstanding any other provision of this Indenture, the right of any Holder of a Note to receive payment of the principal of, premium, if any, and interest on such Note, on or after the respective due dates expressed or provided for in such Note, to convert the Notes in accordance with Article X, to vote or receive dividends or distributions with respect to Common Stock in accordance with Article XI, or to bring suit for the enforcement of any such payment on or after the respective due dates, expressed in the Note (including in connection with an offer to purchase) or such right to convert, vote or receive dividends or distributions with respect to Common Stock, shall be absolute and unconditional and shall not be impaired or affected without the consent of such Holder.

SECTION 6.8. ***Collection Suit by Trustee.***

If an Event of Default specified in clause (1) or (2) of Section 6.1 occurs and is continuing, the Trustee may recover judgment in its own name and as trustee of an express trust against the Issuer or any other obligor on the Notes for the whole amount of the principal of, premium, if any, and accrued interest remaining unpaid, together with interest on overdue principal and, to the extent that payment of such interest is lawful, interest on overdue installments of interest, in each case at the rate per annum provided for by the Notes and such further amount as shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel.

SECTION 6.9. ***Trustee May File Proofs of Claim.***

The Trustee may file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents, counsel, accountants and experts) and the Holders allowed in any judicial proceedings relative to the Issuer or the Restricted Subsidiaries (or any other obligor upon the Notes), their creditors or their property and shall be entitled and empowered to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same, and any Custodian in any such judicial proceedings is hereby authorized by each Holder to make such payments to the Trustee and, in the event that the Trustee shall consent to the making of such payments directly to the Holders, to pay to the Trustee any amount due to it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents, counsel, accountants and experts, and any other amounts due the Trustee under Section 7.7. To the extent that the payment of any such compensation, expenses, disbursements and advances of the Trustee, its agents, counsel, accountants and experts and any other amounts due the Trustee under Section 7.7 out of the estate in any such proceeding shall be denied for any reason, payment of the same shall be secured by a Lien on, and shall be paid out of, any and all

distributions, dividends, money, securities and other properties that the Holders may be entitled to receive in such proceeding whether in liquidation or under any plan of reorganization or arrangement or otherwise. Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Notes or the rights of any Holder thereof, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

SECTION 6.10. ***Priorities*.**

If the Trustee collects any money pursuant to this Article VI it shall pay out such money in the following order:

First: to the Trustee for amounts due under Section 7.7;

Second: to Holders for interest accrued on the Notes, ratably, without preference or priority of any kind, according to the amounts due and payable on the Notes for interest;

Third: to Holders for the principal amounts (including any premium) owing under the Notes, ratably, without preference or priority of any kind, according to the amounts due and payable on the Notes for the principal (including any premium); and

Fourth: the balance, if any, to the Issuer.

The Trustee, upon prior written notice to the Issuer, may fix a record date and payment date for any payment to Holders pursuant to this Section 6.10.

SECTION 6.11. ***Undertaking for Costs***.

In any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Trustee for any action taken or omitted by it as Trustee, a court may in its discretion require the filing by any party litigant in the suit of an undertaking to pay the costs of the suit, and the court in its discretion may assess reasonable costs, including reasonable attorneys' fees, against any party litigant in the suit, having due regard to the merits and good faith of the claims or defenses made by the party litigant. This Section 6.11 does not apply to any suit by the Trustee, any suit by a Holder pursuant to Section 6.7, or a suit by a Holder or Holders of more than 10% in aggregate principal amount of the outstanding Notes.

SECTION 6.12. ***Restoration of Rights and Remedies*.**

If the Trustee or any Holder has instituted any proceeding to enforce any right or remedy under this Indenture or any Note and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the Trustee or to such Holder, then and in every such case the Issuer, the Trustee and the Holders shall, subject to any determination in such proceeding, be restored severally and respectively to their former positions under this Indenture, and thereafter all rights and remedies of the Trustee and the Holders shall continue as though no such proceeding had been instituted.

ARTICLE VII.

TRUSTEE

SECTION 7.1. ***Duties of Trustee*.**

(a) If an Event of Default has occurred and is continuing and is actually known to the Trustee, the Trustee shall exercise such of the rights and powers vested in it by this Indenture and shall use the same degree of care and skill in its exercise thereof as a prudent person would exercise or use under the circumstances in the conduct of his own affairs in exercising any rights or remedies or performing any of its duties hereunder.

(b) Except during the continuance of an Event of Default:

(1) the Trustee need perform only those duties as are specifically set forth in this Indenture and no covenants or obligations shall be implied in this Indenture that are adverse to the Trustee. The permissive right of the Trustee to do things enumerated in this Indenture shall not be construed as a duty; and

(2) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture. However, in the case of any such certificates or opinions that by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall examine the certificates and opinions to determine whether or not they conform to the requirements of this Indenture.

(c) Notwithstanding anything to the contrary herein contained, the Trustee may not be relieved from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that:

(1) this paragraph does not limit the effect of paragraph (b) of this Section 7.1;

(2) the Trustee shall not be liable for any error of judgment made in good faith by a Trust Officer, unless it is conclusively determined by a court of competent jurisdiction that the Trustee was negligent in ascertaining the pertinent facts; and

(3) the Trustee shall not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to Section 6.2, 6.4 or 6.5.

(d) No provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties under this Indenture or in the exercise of any of its rights or powers if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

(e) Every provision of this Indenture that in any way relates to the Trustee is subject to paragraphs (a), (b), (c) and (d) of this Section 7.1 and Section 7.2.

(f) The Trustee shall not be liable for interest on any money or assets received by it except as the Trustee may agree in writing with the Issuer. Assets held in trust by the Trustee need not be segregated from other assets except to the extent required by law.

SECTION 7.2. ***Rights of Trustee*.**

Subject to Section 7.1:

(a) The Trustee may conclusively rely and shall be fully protected in acting or refraining from acting upon any document believed by it to be genuine and to have been signed or presented by the proper Person or Persons or to have been prepared and furnished pursuant to any of the provisions of this Indenture; and the Trustee shall be under no duty to make any investigation as to any statement contained in any such instance, but may accept the same conclusive evidence of the truth and accuracy of such statement or the correctness of such opinions. The Trustee need not investigate any fact or matter stated in the document.

(b) Before the Trustee acts or refrains from acting, it may consult with counsel of its selection and may require an Officers' Certificate or an Opinion of Counsel or both, which shall conform to Sections 11.4 and 11.5. The Trustee shall not be liable for any action it takes or omits to take in good faith in reliance on such advice or such Officers' Certificate or Opinion of Counsel.

(c) The Trustee may act through attorneys, agents, custodians or nominees and shall not be responsible for the misconduct or negligence of any attorney, agent, custodian or nominee appointed with due care.

(d) The Trustee shall not be liable for any action that it takes or omits to take in good faith which it believes to be authorized or within its rights or powers conferred upon it by this Indenture.

(e) The Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, notice, request, direction, consent, order, bond, debenture, or other paper or document, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Trustee shall determine to make such further inquiry or investigation, it shall be entitled, upon reasonable notice to the Issuer, to examine the books, records, and premises of the Issuer, personally or by agent or attorney and to consult with the officers and representatives of the Issuer, including the Issuer's accountants and attorneys, and to take such memoranda from and in regard thereto as may be desired.

(f) The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request, order or direction of any of the Holders pursuant to

the provisions of this Indenture, unless such Holders shall have offered to the Trustee security or indemnity satisfactory to the Trustee against the costs, expenses and liabilities which may be incurred by it in compliance with such request, order or direction.

(g) The Trustee shall not be required to give any bond or surety in respect of the performance of its powers and duties under this Indenture.

(h) Delivery of reports, information and documents to the Trustee under Section 4.8 is for informational purposes only and the Trustee's receipt of the foregoing shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Issuer's compliance with any of its covenants under this Indenture (as to which the Trustee is entitled to rely exclusively on Officers' Certificates).

(i) Other than a consent revoked in accordance with Section 9.4, any action taken, or omitted to be taken, by the Trustee in good faith pursuant to this Indenture upon the request or authority or consent of any person who, at the time of making such request or giving such authority or consent, is a Holder shall be conclusive and binding upon every subsequent Holder of a Note or portion of a Note that evidences the same debt as the requesting or consenting Holder's Note.

(j) In no event shall the Trustee be responsible or liable for special, indirect, punitive or consequential loss or damage of any kind whatsoever (including, but not limited to, loss of profit) irrespective of whether the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action.

(k) The rights, privileges, protections, immunities and benefits given to the Trustee, including, without limitation, its right to be indemnified, are extended to, and shall be enforceable by, the Trustee in each of its capacities hereunder, and each agent, custodian and other Person employed to act hereunder.

(l) The Trustee and the Collateral Agent shall not be responsible for filing any financing or continuation statements or for recording any documents or instruments in any public office at any time or times or for otherwise perfecting or maintaining the perfection of any security interest in the Collateral.

SECTION 7.3. ***Individual Rights of Trustee*.**

The Trustee in its individual or any other capacity may become the owner or pledgee of Notes and may otherwise deal with the Issuer, any of its respective Subsidiaries, or its respective Affiliates with the same rights it would have if it were not Trustee. Any Agent may do the same with like rights. However, the Trustee must comply with Sections 7.10 and 7.11.

SECTION 7.4. ***Trustee's Disclaimer*.**

The Trustee makes no representation as to the validity or adequacy of this Indenture or the Notes, and it shall not be accountable for the Issuer's use of the proceeds from the Notes, and

it shall not be responsible for any statement of the Issuer in this Indenture or the Notes other than the Trustee's certificate of authentication.

Under no circumstances shall the Trustee be liable in its individual capacity for the obligations evidenced by the Notes. In accepting the trust hereby created, the Trustee acts solely as Trustee for the Holders and not in its individual capacity and all Persons, including, without limitation, the Holders and the Issuer having any claim against the Trustee arising from this Indenture shall look only to the funds and accounts held by the Trustee hereunder for payment except as otherwise provided herein.

SECTION 7.5. ***Notice of Default.***

If a Default or an Event of Default occurs and is continuing and is known to the Trustee, the Trustee shall mail (or, if the Notes are in global form, in accordance with applicable DTC procedures, send electronically) to each Holder notice of the uncured Default or Event of Default within 90 days after the occurrence thereof. Except in the case of a Default or an Event of Default in payment of principal of, premium, if any, or interest, if any, on, any Note, including an accelerated payment, a Default in payment on the Change of Control Payment Date pursuant to a Change of Control Offer or on the Asset Disposition Purchase Date pursuant to an Asset Disposition Offer and a Default in compliance with Article V hereof, the Trustee shall be protected in withholding such notice if and so long as its Board of Directors, the executive committee of its Board of Directors or a committee of its directors and/or Trust Officers in good faith determines that withholding the notice is in the interest of the Holders.

SECTION 7.6. ***Reports by Trustee to Holders.***

Within 60 days after May 15 of each year beginning with the first May 15 after the Issue Date and for so long as Notes remain outstanding, the Trustee shall send to each Holder a brief report dated as of such date that complies with TIA § 313(a).

A copy of each report at the time it is sent to Holders shall be sent to the Issuer.

The Issuer shall promptly notify the Trustee if the Notes become listed or de-listed on any stock exchange and the Trustee shall comply with TIA § 313(d).

SECTION 7.7. ***Compensation and Indemnity.***

The Issuer shall pay to the Trustee from time to time such compensation for its ordinary services as has been agreed to in writing signed by the Issuer and the Trustee. The Trustee's compensation shall not be limited by any law on compensation of a trustee of an express trust. The Issuer shall reimburse the Trustee upon request for all reasonable out-of-pocket expenses incurred or made by it in connection with the performance of its duties under this Indenture. Such expenses shall include the reasonable fees and expenses of the Trustee's agents, counsel, accountants and experts. In the event that it should become necessary for the Trustee to perform extraordinary services, the Trustee shall be entitled to reasonable additional compensation

therefor and to reimbursement for reasonable and necessary extraordinary expenses in connection therewith; *provided* that if such extraordinary services or extraordinary expenses are occasioned by the gross negligence or willful misconduct of the Trustee as determined by a court of competent jurisdiction in a final non-appealable decision it shall not be entitled to compensation or reimbursement therefore.

The Issuer and the Subsidiary Guarantors shall indemnify each of the Trustee (or any predecessor Trustee) and its agents, employees, stockholders, Affiliates and directors and officers for, and hold them each harmless against, any and all loss, liability, damage, claim or expense (including reasonable fees and expenses of counsel), including taxes (other than taxes based on the income of the Trustee), which for the avoidance of doubt shall include tax-gross up, incurred by them except for such actions to the extent caused by any negligence, bad faith or willful misconduct on their part as determined by a court of competent jurisdiction in a final non-appealable decision, arising out of or in connection with the acceptance or administration of this Indenture including the reasonable costs and expenses of defending themselves against any claim or liability in connection with the exercise or performance of any of their rights, powers or duties under this Indenture. The Trustee shall notify the Issuer promptly of any claim asserted against the Trustee for which it may seek indemnity. At the Trustee's sole discretion, the Issuer or such Subsidiary Guarantor shall defend the claim and the Trustee shall cooperate and may participate in the defense; *provided*, *however*, that any settlement of a claim shall be approved in writing by the Trustee if such settlement would result in an admission of liability by the Trustee or if such settlement would not be accompanied by a full release of the Trustee for all liability arising out of the events giving rise to such claim.

Alternatively, the Trustee may at its option have separate counsel of its own choosing and the Issuer shall pay the reasonable fees and expenses of such counsel.

To secure the Issuer's and the Subsidiary Guarantors' payment obligations in this Section 7.7, the Trustee shall have a Lien prior to the Notes on all assets or money held or collected by the Trustee, in its capacity as Trustee, except assets or money held in trust to pay principal of or premium, if any, or interest on particular Notes.

When the Trustee incurs expenses or renders services after an Event of Default specified in Section 6.1(7) occurs, such expenses and the compensation for such services are intended to constitute expenses of administration under any Bankruptcy Law.

The provisions of this Section 7.7 shall survive the discharge of this Indenture or the earlier resignation or removal of the Trustee.

SECTION 7.8. ***Replacement of Trustee***.

The Trustee may resign at any time by so notifying the Issuer. The Holders of a majority in principal amount of the outstanding Notes may remove the Trustee and appoint a successor Trustee with the Issuer's consent by so notifying the Issuer and the Trustee. The Issuer may remove the Trustee if:

(1) the Trustee fails to comply with Section 7.10;

(2) the Trustee is adjudged bankrupt or insolvent;

(3) a receiver or other public officer takes charge of the Trustee or its property; or

(4) the Trustee becomes incapable of acting.

If the Trustee resigns or is removed or if a vacancy exists in the office of Trustee for any reason, the Issuer shall notify each Holder of such event and shall promptly appoint a successor Trustee. Within one year after the successor Trustee takes office, the Holders of a majority in aggregate principal amount of the outstanding Notes may appoint a successor Trustee to replace the successor Trustee appointed by the Issuer.

A successor Trustee shall deliver a written acceptance of its appointment to the retiring Trustee and to the Issuer. Immediately after that, the retiring Trustee shall transfer all property held by it as Trustee to the successor Trustee, provided all sums owing to the Trustee hereunder have been paid and subject to the Lien provided in Section 7.7, the resignation or removal of the retiring Trustee shall become effective, and the successor Trustee shall have all the rights, powers and duties of the Trustee under this Indenture. The Issuer shall send notice of such successor Trustee's appointment to each Holder.

If a successor Trustee does not take office within 30 days after the retiring Trustee resigns or is removed, the retiring Trustee, the Issuer or the Holders of at least 10% in aggregate principal amount of the outstanding Notes may petition any court of competent jurisdiction for the appointment of a successor Trustee.

If the Trustee, after written notice by any Holder of a Note who has been a Holder of a Note for at least six months, fails to comply with Section 7.10, such Holder may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

Notwithstanding any resignation or replacement of the Trustee pursuant to this Section 7.8, the Issuer's and the Subsidiary Guarantors' obligations under Section 7.7 shall continue for the benefit of the retiring Trustee.

SECTION 7.9. ***Successor Trustee by Merger, Etc*.**

If the Trustee consolidates with, merges or converts into, or sells or transfers all or substantially all of its corporate trust business to, another corporation or banking association, the resulting, surviving or transferee corporation or banking association without any further act shall, if such resulting, surviving or transferee corporation or banking association is otherwise eligible under this Indenture, be the successor Trustee; *provided*, *however*, that such corporation shall be otherwise qualified and eligible under this Article VII.

SECTION 7.10. ***Eligibility; Disqualification*.**

There shall at all times be a Trustee hereunder that is a corporation organized and doing business under the laws of the United States of America or of any state thereof that is authorized under such laws to exercise corporate trustee power, that is subject to supervision or examination by federal or state authorities and that has a combined capital and surplus of at least $50,000,000 as set forth in its most recent published annual report of condition.

This Indenture shall always have a Trustee who satisfies the requirements of TIA §§ 310(a)(1), (2) and (5). The Trustee is subject to TIA § 310(b).

SECTION 7.11. ***Preferential Collection of Claims Against the Issuer*.**

The Trustee shall comply with TIA § 311(a), excluding any creditor relationship listed in TIA § 311(b). A Trustee who has resigned or been removed shall be subject to TIA § 311(a) to the extent indicated therein. The provisions of TIA § 311 shall apply to the Issuer, as obligor on the Notes.

SECTION 7.12. ***Force Majeure*.**

In no event shall the Trustee be liable for any failure or delay in the performance of its obligations under this Indenture because of circumstances beyond the Trustee's control, including, but not limited to, acts of God, flood, war (whether declared or undeclared), terrorism, fire, riot, embargo, government action, including any laws, ordinances, regulations, governmental action or the like which delay, restrict or prohibit the providing of the services contemplated by this Indenture.

SECTION 7.13. ***Defaults and Events of Default*.**

The Trustee shall not be required to take notice or be deemed to have notice of any Default, except failure of the Issuer to cause to be made any of the payments required to be made to the Trustee, unless the Trustee shall be specifically notified by a writing of such Default by the Issuer or by the Holders of at least 25% in aggregate principal amount of all Notes then outstanding delivered to the Corporate Trust Office of the Trustee and, in the absence of such notice so delivered, the Trustee may conclusively assume no Default exists.

ARTICLE VIII.

DISCHARGE OF INDENTURE; DEFEASANCE

SECTION 8.1. ***Termination of Issuer's Obligations*.**

This Indenture will be discharged and will cease to be of further effect (except as to surviving rights of registration of transfer or exchange of the Notes, as expressly provided for in this Indenture) as to all outstanding Notes when (a) either (i) all the Notes, theretofore authenticated (except lost, stolen or destroyed Notes that have been replaced or paid and Notes

for whose payment money has theretofore been deposited in trust or segregated and held in trust by the Issuer and thereafter repaid to the Issuer or discharged from such trust) have been delivered to the Trustee for cancellation or (ii) all Notes not theretofore delivered to the Trustee for cancellation have become due and payable or will become due and payable within one year by reason of the giving of a notice of redemption or otherwise and the Issuer or any Subsidiary Guarantor has irrevocably deposited or caused to be irrevocably deposited with the Trustee as trust funds in trust solely for such purpose, cash in U.S. dollars, U.S. Government Obligations, or a combination thereof, in such amounts as will be sufficient in the opinion of a nationally recognized investment banking firm, appraisal firm or firm of independent public accountants without consideration of any reinvestment of interest, to pay and discharge the entire Indebtedness on the Notes not theretofore delivered to the Trustee for cancellation, for principal of, premium, if any, and interest on the Notes to the date of maturity or redemption together with irrevocable instructions from the Issuer directing the Trustee to apply such funds to the payment thereof at maturity or redemption, as the case may be; (b) the Issuer has paid all other sums payable under this Indenture by the Issuer; and (c) the Issuer has delivered to the Trustee an Officers' Certificate and an Opinion of Counsel stating that all conditions precedent under this Indenture relating to the satisfaction and discharge of this Indenture have been complied with; *provided*, *however*, that such counsel may rely, as to matters of fact, on a certificate or certificates of officers of the Issuer.

The Issuer may, at its option and at any time, elect to have its obligations and the corresponding obligations of the Subsidiary Guarantors discharged with respect to the outstanding Notes and Subsidiary Guarantees ("Legal Defeasance"). Such Legal Defeasance means that the Issuer shall be deemed to have paid and discharged the entire Indebtedness represented by the outstanding Notes, and satisfied all of its obligations with respect to the Notes, except for: (1) the rights of Holders to receive payments in respect of the principal of, premium, if any, and interest on the Notes when such payments are due, (2) the Issuer's obligations with respect to the Notes concerning issuing temporary Notes, registration of Notes, mutilated, destroyed, lost or stolen Notes and the maintenance of an office or agency for payments, (3) the rights, powers, trust, duties and immunities of the Trustee under this Indenture and the Issuer's and the Subsidiary Guarantors' obligations in connection therewith and (4) the Legal Defeasance provisions of this Section 8.1. In addition, the Issuer may, at its option and at any time, elect to terminate its obligations with respect to covenants contained in Sections 4.4, 4.5, 4.8 and 4.10 through 4.20 and the operation of clauses (6), (7) (with respect to Significant Subsidiaries), (8) and (9) of Section 6.1 and the limitations described in clause (3) of the first paragraph of Section 5.1 ("Covenant Defeasance") and thereafter any omission to comply with such obligations shall not constitute a Default or Event of Default with respect to the Notes. The Issuer may exercise its Legal Defeasance option notwithstanding its prior exercise of its Covenant Defeasance option. In the event of Legal Defeasance, payment of the Notes may not be accelerated because of an Event of Default with respect thereto. In the event of Covenant Defeasance, payment of the Notes may not be accelerated because of an Event of Default specified in clause (4), (5), (6), (7) (with respect to Significant Subsidiaries), (8) or (9) of Section 6.1 or because of the failure of the Issuer to comply with clause (3) of the first paragraph of Section 5.1.

In order to exercise either Legal Defeasance or Covenant Defeasance:

(1) the Issuer must irrevocably deposit with the Trustee, in trust, for the benefit of the Holders cash in United States dollars, non-callable U.S. Government Obligations, or a combination thereof, in such amounts as will be sufficient, in the opinion of a nationally recognized investment banking firm, appraisal firm or firm of independent public accountants, without consideration of any reinvestment of interest, to pay the principal of, premium, if any, and interest, if any, on the Notes on the stated date for payment thereof or on the applicable Redemption Date, as the case may be;

(2) in the case of Legal Defeasance, the Issuer shall have delivered to the Trustee an Opinion of Counsel in the United States reasonably acceptable to the Trustee confirming that (a) the Issuer has received from, or there has been published by, the Internal Revenue Service a ruling or (b) since the date of this Indenture, there has been a change in the applicable U.S. federal income tax law, in either case to the effect that, and based thereon such Opinion of Counsel shall confirm that, the beneficial owners of the Notes will not recognize income, gain or loss for U.S. federal income tax purposes as a result of such Legal Defeasance and will be subject to U.S. federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Legal Defeasance had not occurred;

(3) in the case of Covenant Defeasance, the Issuer shall have delivered to the Trustee an Opinion of Counsel in the United States reasonably acceptable to the Trustee confirming that the beneficial owners of the Notes will not recognize income, gain or loss for U.S. federal income tax purposes as a result of such Covenant Defeasance and will be subject to U.S. federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Covenant Defeasance had not occurred;

(4) no Default or Event of Default, of which the Trustee is deemed to have notice, shall have occurred and be continuing on the date of such deposit or insofar as Events of Default under Section 6.1(7) from bankruptcy or insolvency events are concerned, at any time in the period ending on the 91st day after the date of deposit;

(5) such Legal Defeasance or Covenant Defeasance shall not result in a breach or violation of, or constitute a default under this Indenture or any other agreement or instrument to which the Issuer or any of its Restricted Subsidiaries is a party or by which the Issuer or any of its Restricted Subsidiaries is bound;

(6) the Issuer shall have delivered to the Trustee (x) an Officers' Certificate stating that no Default or Event of Default has occurred and is continuing and that the deposit was not made by the Issuer with the intent of preferring the Holders over any other creditors of the Issuer or with the intent of defeating, hindering, delaying or defrauding creditors of the Issuer;

(7) the Issuer shall have delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that all conditions precedent provided for or relating to the Legal Defeasance or the Covenant Defeasance, as the case may be, have been complied with;

provided, *however*, that such counsel may rely, as to matters of fact, on a certificate or certificates of officers of the Issuer; and

(8) the Issuer shall have delivered to the Trustee an Opinion of Counsel to the effect that after the 91st day following the deposit, the trust funds will not be subject to the effect of any applicable bankruptcy, insolvency, reorganization or similar laws affecting creditors' rights generally; *provided*, *however*, that such counsel may rely, as to matters of fact, on a certificate or certificates of officers of the Issuer.

SECTION 8.2. ***Application of Trust Money*.**

The Trustee or Paying Agent shall hold in trust U.S. Legal Tender or U.S. Government Obligations deposited with it pursuant to Section 8.1, and shall apply the deposited U.S. Legal Tender and the money from U.S. Government Obligations in accordance with this Indenture to the payment of the principal of, premium, if any, and interest on the Notes. The Trustee shall be under no obligation to invest said U.S. Legal Tender or U.S. Government Obligations except as it may agree in writing with the Issuer.

The Issuer and the Subsidiary Guarantors shall pay jointly and severally and indemnify the Trustee against any tax, fee or other charge imposed on or assessed against the U.S. Legal Tender or U.S. Government Obligations deposited pursuant to Section 8.1 or the principal and interest received in respect thereof other than any such tax, fee or other charge which by law is for the account of the Holders of outstanding Notes.

SECTION 8.3. ***Repayment to the Issuer*.**

Subject to Section 8.1, the Trustee and the Paying Agent shall promptly pay to the Issuer upon request any excess U.S. Legal Tender or U.S. Government Obligations held by them at any time and thereupon shall be relieved from all liability with respect to such money. The Trustee and the Paying Agent shall pay to the Issuer upon request any money held by them for the payment of principal, interest or premium, if any, that remains unclaimed for one year; *provided*, *however*, that the Trustee or such Paying Agent, before being required to make any payment, may at the expense of the Issuer cause to be published once in a newspaper of general circulation in the City of New York or mail to each Holder entitled to such money notice that such money remains unclaimed and that after a date specified therein which shall be at least 30 days from the date of such publication or mailing any unclaimed balance of such money then remaining will be repaid to the Issuer. After payment to the Issuer, Holders entitled to such money must look to the Issuer for payment as general creditors unless an applicable law designates another Person.

SECTION 8.4. ***Reinstatement*.**

If the Trustee or Paying Agent is unable to apply any U.S. Legal Tender or U.S. Government Obligations in accordance with Section 8.1 by reason of any legal proceeding or by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, the Issuer's and the Subsidiary Guarantors' obligations

under this Indenture and the Notes and the Subsidiary Guarantees shall be revived and reinstated as though no deposit had occurred pursuant to Section 8.1 until such time as the Trustee or Paying Agent is permitted to apply all such U.S. Legal Tender or U.S. Government Obligations in accordance with Section 8.1; *provided*, *however*, that if the Issuer has made any payment of interest or premium, if any, on or principal of any Notes because of the reinstatement of its obligations, the Issuer shall be subrogated to the rights of the Holders of such Notes to receive such payment from the U.S. Legal Tender or U.S. Government Obligations held by the Trustee or Paying Agent.

SECTION 8.5. ***Acknowledgment of Discharge by Trustee***.

After (i) the conditions of Section 8.1 have been satisfied, (ii) the Issuer has paid or caused to be paid all other sums payable under this Indenture by the Issuer and (iii) the Issuer has delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that all conditions precedent referred to in clause (i) of this Section 8.5 relating to the satisfaction and discharge of this Indenture have been complied with, the Trustee upon request shall acknowledge in writing the discharge of the Issuer's obligations under this Indenture except for (x) the Issuer's and the Subsidiary Guarantors' obligations in connection with the rights, powers, trust, duties and immunities of the Trustee under this Indenture and (y) those surviving obligations specified in Section 7.7 and Section 8.1; *provided* the legal counsel delivering such Opinion of Counsel may rely as to matters of fact on one or more Officers' Certificates of the Issuer.

ARTICLE IX.

MODIFICATION OF THE INDENTURE

SECTION 9.1. ***Without Consent of Holders*.**

Without the consent of any Holder, the Issuer, the Subsidiary Guarantors and the Trustee may amend this Indenture and the Notes to:

(1) cure any ambiguity, omission, defect, mistake or inconsistency;

(2) provide for the assumption by a successor corporation of the obligations of the Issuer or any Subsidiary Guarantor under this Indenture;

(3) provide for uncertificated Notes of any series in addition to or in place of certificated Notes (*provided* that such uncertificated Notes are issued in registered form for purposes of Section 163(f) of the Code);

(4) add Guarantees with respect to the Notes, including Subsidiary Guarantees, or release a Subsidiary Guarantor from its Subsidiary Guarantee and terminate such Subsidiary Guarantee; *provided*, *however*, that the release and termination is in accord with the applicable provisions of this Indenture;

(5) secure the Notes or Subsidiary Guarantees;

(6) add to the covenants of the Issuer or a Subsidiary Guarantor for the benefit of the Holders or surrender any right or power conferred upon the Issuer or a Subsidiary Guarantor;

(7) make any change that does not adversely affect the rights of any Holder;

(8) comply with any requirement of the SEC in connection with the qualification of this Indenture under the TIA;

(9) modify this Indenture solely for the purpose of providing for the removal of the Private Placement Legend on any Note and to allow for the transfer of a Definitive Note or a beneficial interest in a global Note to a Note that has an unrestricted CUSIP number, in each case in accordance with applicable securities laws;

(10) provide for the succession of a successor Trustee; *provided* that the successor Trustee is otherwise qualified and eligible to act as such under this Indenture;

(11) in connection with any Share Exchange Event, provide that the Notes are convertible into Reference Property, subject to the provisions of Section 10.12, and make such related changes to the terms of the Notes to the extent expressly required by Section 10.12; or

(12) issue PIK Notes.

SECTION 9.2. ***With Consent of Holders*.**

Except as provided in Section 9.1 or this Section 9.2, modifications and amendments of this Indenture, the Notes and the Subsidiary Guarantees may be made with the consent of the Holders of a majority in principal amount of the Notes then outstanding (including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, Notes) and, except as provided in Section 9.1 or this Section 9.2, any past Default or compliance with any provisions may be waived with the consent of the Holders of a majority in principal amount of the Notes then outstanding (including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, Notes). However, without the consent of each Holder of an outstanding Note affected, no amendment may:

(1) reduce the principal amount of Notes whose Holders must consent to an amendment, supplement or waiver;

(2) reduce the stated rate of or extend the stated time for payment of interest on any Note;

(3) reduce the principal of or extend the Stated Maturity of any Note;

(4) make any change to the covenants described in Section 4.15 after the occurrence of a Change of Control, or make any change to the provisions relating to an Asset Disposition Offer that has been made, in each case whether through an amendment or waiver of provisions in the covenants, definitions or otherwise;

(5) make any Note payable in money other than that stated in the Note;

(6) impair the right of any Holder to receive payment of, premium, if any, principal of and interest on such Holder's Notes on or after the due dates therefor or to institute suit for the enforcement of any payment on or with respect to such Holder's Notes;

(7) make any change in the amendment provisions which require each Holder's consent or in the waiver provisions;

(8) modify the Subsidiary Guarantees in any manner adverse to the holders of the Notes;

(9) make any change to or modify the ranking of the Notes that would adversely affect the Holders or

(10) amend, change or modify the obligation of the Issuer to make and consummate a Change of Control Offer or to convert the Notes into New Common Stock at maturity or in the event of a Change of Control following maturity or after such Change of Control has occurred, including, amending, changing or modifying any definition relating thereto.

Notwithstanding the foregoing, the provisions under this Indenture relative to the Issuer's obligation to make an offer to repurchase the Notes as a result of a Change of Control may be waived or modified or terminated with the written consent of the Holders of a majority in principal amount of the Notes then outstanding (including consents obtained in connection with a tender offer or exchange offer for the Notes) prior to the occurrence of such Change of Control.

The consent of the Holders is not necessary under this Indenture to approve the particular form of any proposed amendment. It is sufficient if such consent approves the substance of the proposed amendment. A consent to any amendment or waiver under this Indenture by any Holder given in connection with a tender of such Holder's Notes will not be rendered invalid by such tender. After an amendment under this Indenture becomes effective, the Issuer is required to send to the Holders a notice briefly describing such amendment. However, failure to give such notice to all the Holders, or any defect in such notice, will not impair or affect the validity of the amendment.

SECTION 9.3. ***[Reserved]*.**

SECTION 9.4. ***Revocation and Effect of Consents*.**

Until an amendment, waiver or supplement becomes effective, a consent to it by a Holder is a continuing consent by the Holder and every subsequent Holder of a Note or portion of a Note that evidences the same debt as the consenting Holder's Note, even if notation of the consent is not made on any Note. Subject to the following paragraph, any such Holder or subsequent Holder may revoke the consent as to such Holder's Note or portion of such Note by notice to the Trustee or the Issuer received before the date on which the Trustee receives an Officers' Certificate certifying that the Holders of the requisite principal amount of Notes have consented

(and not theretofore revoked such consent) to the amendment, supplement or waiver. An amendment, supplement or waiver becomes effective upon receipt by the Trustee of such Officers' Certificate and evidence of consent by the Holders of the requisite percentage in principal amount of outstanding Notes.

The Issuer may, but shall not be obligated to, fix a Record Date for the purpose of determining the Holders entitled to consent to any amendment, supplement or waiver, which Record Date shall be at least 30 days prior to the first solicitation of such consent. If a Record Date is fixed, then notwithstanding the second sentence of the immediately preceding paragraph, those Persons who were Holders at such Record Date (or their duly designated proxies), and only those Persons, shall be entitled to revoke any consent previously given, whether or not such Persons continue to be Holders after such Record Date. No such consent shall be valid or effective for more than 90 days after such Record Date unless consents from Holders of the requisite percentage in principal amount of outstanding Notes required under this Indenture for the effectiveness of such consents shall have also been given and not revoked within such 90 day period.

SECTION 9.5. ***Notation on or Exchange of Notes.***

If an amendment, supplement or waiver changes the terms of a Note, the Trustee may require the Holder of such Note to deliver it to the Trustee. The Trustee may place an appropriate notation on the Note about the changed terms and return it to the Holder. Alternatively, if the Issuer or the Trustee so determines, the Issuer in exchange for the Note shall issue and, upon receipt of an Authentication Order in accordance with Section 2.2 hereof, the Trustee shall authenticate a new Note that reflects the changed terms.

SECTION 9.6. ***Trustee To Sign Amendments, Etc.***

The Trustee shall execute any amendment, supplement or waiver authorized pursuant to this Article IX; *provided*, *however*, that the Trustee may, but shall not be obligated to, execute any such amendment, supplement or waiver which affects the Trustee's own rights, duties or immunities under this Indenture. In executing such amendment, supplement or waiver the Trustee shall be entitled to receive indemnity satisfactory to it, and shall be fully protected in relying upon an Opinion of Counsel and an Officers' Certificate of the Issuer stating that no Event of Default shall occur as a result of such amendment, supplement or waiver and that the execution of such amendment, supplement or waiver is authorized or permitted by this Indenture; *provided* the legal counsel delivering such Opinion of Counsel may rely as to matters of fact on one or more Officers' Certificates of the Issuer. Such Opinion of Counsel shall not be an expense of the Trustee.

ARTICLE X.

CONVERSION

SECTION 10.1. ***Voluntary Conversion Privilege***

(a) Subject to the provisions of this Indenture, each Holder of a Note shall have the right, at such Holder's option, at any time prior to the close of business on the Business Day immediately preceding the Maturity Date to voluntarily convert such Note (for the avoidance of doubt, together with any accrued and unpaid interest thereon to, but not including, the Conversion Date, and any previously paid PIK Interest) into shares of New Common Stock. Any such conversion must be in respect of a principal amount of Notes that is an integral multiple of $1.00. For the avoidance of doubt, in no event will any Converting Amount include any Interest Make-Whole Premium, and no Interest Make-Whole Premium shall be directly or indirectly payable upon any conversion.

(b) The total number of shares of New Common Stock that shall be issuable upon conversion of a Note shall be determined by multiplying (a) 0.001 times (b) the sum of (x) principal amount of the Note or portion thereof surrendered for conversion (including all interest that has been previously paid in kind by increasing the principal amount of such Note), plus (y) the amount of any accrued and unpaid interest thereon to, but not including, the Conversion Date~~, plus (z) the Interest Make-Whole Premium with respect to such Note, if any~~ (such sum, the "Converting Amount") times (c) the applicable Conversion Rate for shares of New Common Stock in effect on the Conversion Date. In the event that a conversion of a Note results in fractional shares of New Common Stock, the Issuer may, at its option, (i) issue such fractional shares, (ii) pay cash in lieu of issuing such fractional shares (such cash payment to be equal to the product of (x) such fraction of a share of New Common Stock and (y) the fair market value of a share of New Common Stock on the applicable Conversion Date as determined in good faith by the Issuer) or (iii) round the number of shares to be issued to the nearest whole number with no consideration paid for any fractional shares so eliminated.

(c) Notwithstanding the foregoing, a Holder shall not be permitted to convert any Note pursuant to this Section 10.1 if (i) such Holder, or the Person to receive the shares of New Common Stock upon conversion of such Note, is a Competitor (unless the Board of Directors of the Issuer has provided prior written consent to such conversion) or (ii) such Holder, or the Person to receive the shares of New Common Stock upon conversion of such Note, would hold more than five percent (5%) of the outstanding shares of New Common Stock upon conversion (unless the Board has provided prior written consent to such conversion); provided that such restriction shall not apply to any Conditional Voluntary Conversion in respect of a Drag-Along Sale or a Tag-Along Sale.

(d) A Note in respect of which a Holder has exercised the option of such Holder to require the Issuer to repurchase such Note pursuant to a Change of Control Offer may be converted only if such Holder withdraws such Note from such Change of Control Offer in accordance with the terms of such Change of Control Offer and complies in respect of such Note with the conversion procedures specified in Section 10.2.

(e) Following conversion of any portion of the principal amount of a Note (including all interest that has been previously paid in kind by increasing the principal amount of such Note), the Holder thereof shall not receive in respect of such portion (i) any additional cash or PIK Interest Payment, (ii) any Interest Make-Whole Premium or (iii) any other rights in respect thereof.

(f) If the Issuer has received a Drag-Along Notice, the Issuer shall provide such Drag-Along Notice to the Holders on the same day the Issuer receives the Drag-Along Notice. In connection with any Drag-Along Sale, each Holder may elect a Conditional Voluntary Conversion, which conversion shall be effective immediately prior to (but contingent upon the occurrence of) the relevant Drag-Along Closing (notwithstanding anything to the contrary in Section 10.2(c)). In such case, notwithstanding anything to the contrary in this Indenture, each Holder shall be deemed to have received a number of shares of New Common Stock that would otherwise be issued upon conversion of such Notes as if the date of the Drag-Along Closing were the Conversion Date, which such shares shall be deemed to have been sold at the Drag-Along Closing such that, in lieu of each such share of New Common Stock such Holder shall receive the same per-share consideration as is received by the other Dragged Holders in the Drag-Along Sale, and each such Holder's receipt of such consideration shall be conditioned on the converting Holder's written agreement in the Notice of Conversion to be bound as a Stockholder and Dragged Holder by the applicable provisions of the Stockholders Agreement.

(g) If the Issuer has received a Tag-Along Notice, the Issuer shall provide such Tag-Along Notice to the Holders on the same day the Company receives the Tag-Along Notice. In connection with any Tag-Along Sale, each Holder may, until the Tag-Along Election Deadline (as defined in the Stockholders Agreement), elect a Conditional Voluntary Conversion, which conversion shall be effective immediately prior to (but contingent upon the occurrence of) the relevant Tag-Along Closing, but subject to the inclusion of such New Common Stock in the Tag-Along Closing (notwithstanding anything to the contrary in Section 10.2(c)). In such case, notwithstanding anything to the contrary in this Indenture, each Holder shall be deemed to have received a number of shares of New Common Stock that would otherwise be issued upon conversion of such converted Notes as if the date of the Tag-Along Closing were the Conversion Date, which such shares shall be deemed to have been sold at the Tag-Along Closing such that, in lieu of each such share of New Common Stock such Holder shall receive the same per-share consideration as is received by the other Tag-Along Sellers in the Tag-Along Sale (subject, for the avoidance of doubt, the provisions of the Stockholders Agreement applicable to the Tag-Along Sellers), and each such Holder's receipt of such consideration shall be conditioned on the converting Holder's written agreement in the Notice of Conversion to be bound as a Stockholder and Tag-Along Seller by the applicable provisions of the Stockholders Agreement. Whether a Holder may participate in a Tag-Along Sale and the number of shares of New Common Stock the Holder may sell and, accordingly, receive following exercise of this contingent conversion right, shall be determined based on the procedure set forth in the Stockholders Agreement.

SECTION 10.2. ***Conversion Procedure***

(a) To convert a Note, a Holder must (i) complete, manually sign and deliver a medallion-stamped guaranteed ~~irrevocable~~ conversion notice in the form as set forth on the back of the Note (a "Notice of Conversion") to the Conversion Agent, (ii) surrender the Note to the Conversion Agent, (iii) with respect to any converting Holders or recipient of shares of New Common Stock issuable upon such conversion that are not already party to the Stockholders Agreement, deliver to the Issuer a duly completed and executed joinder agreement, in substantially the form attached as Exhibit [E] hereto, or other documentation in form and substance acceptable to the Issuer in its sole discretion (any such agreement or documentation, a "Joinder Agreement"), pursuant to which such Holder or recipient, as the case may be, agrees to be bound by, and acknowledges that all New Common Stock issued upon such exercise will be subject to, the terms and conditions of the Stockholders Agreement, (iv) furnish appropriate endorsements and transfer documents if required by the Registrar or the Conversion Agent and (v) pay any transfer or other tax, if required by Section 10.4; *provided*, *however*, if the Note is held in book-entry form, then such Holder must surrender the Note to the Conversion Agent, and complete and deliver to the Registrar or the Depository, as the case may be, appropriate instructions pursuant to the Applicable Procedures. The Issuer may refuse to deliver the certificates (or book-entry evidence) representing the shares of New Common Stock being issued (x) in a name other than the Holder's name until the Issuer receives a sum sufficient to pay any tax that is due by such Holder and (y) until the Issuer receives a Joinder Agreement in accordance with the immediately preceding sentence.

(b) Each Notice of Conversion shall be irrevocable; provided that (i) any Notice of Conversion that, according to such Notice of Conversion, is in connection with a Drag-Along Sale may be made contingent upon the occurrence of the closing of such Drag-Along Sale by checking the applicable box in such Notice of Conversion and such Holder (or recipient of the shares of New Common Stock issuable upon conversion) agreeing in such Notice of Conversion to be bound as a Stockholder and a Dragged Holder under, and as provided in, the Stockholders Agreement and (ii) any Notice of Conversion that, according to such Notice of Conversion, is in connection with a Tag-Along Sale may be made contingent upon the occurrence of the closing of such Tag-Along Sale by checking the applicable box in such Notice of Conversion and such Holder (or recipient of the shares of New Common Stock issuable upon conversion) agreeing in such Notice of Conversion to be bound as a Stockholder and a Tag-Along Seller under, and as provided in, the Stockholders Agreement (each of clause (i) and (ii), a "Conditional Voluntary Conversion").

(c) [Any date on which a converting Holder satisfies all of the foregoing requirements shall be referred to as a "Fulfillment Date." The Trustee (and if different, the Conversion Agent) shall notify the Issuer of any conversion pursuant to ~~this Article X~~Section 10.1 on the Fulfillment Date for such conversion. Except as permitted by the Catch-Up Mechanism (as defined below) or in respect of any Conditional Voluntary Conversion, any conversion of Notes requested by a converting Holder pursuant to this Section 10.2 shall not be deemed effective until twenty-five (25) days following the applicable Fulfillment Date (the "Conversion Date"). Following receipt of a Notice of Conversion and satisfaction of the

foregoing requirements, the Issuer shall cause to be filed with the Trustee and the Conversion Agent and to be sent to each other Holder, as promptly as practical but in any event no later than seven (7) days after the applicable Fulfillment Date, a notice, which may be in the form of an Officers' Certificate, stating (A) that a Holder has converted Notes pursuant to this Article X, (B) a fraction, expressed as a percentage, the numerator of which is the principal amount of Notes being converted by the converting Holder and the denominator of which is the principal amount of Notes held by the converting Holder and, to the extent known to the Issuer, the converting Holder's Affiliates on the applicable Fulfillment Date (the "Applicable Percentage"), (C) the applicable Conversion Rate, (D) the Converting Amount of the converted Notes and the calculation thereof, (E) the total number of shares of New Common Stock issuable upon conversion with respect to the Converting Amount of the convert Notes and (F) the Conversion Date. [Each Holder (other than the Holder whose conversion was the subject of the notice given pursuant to the preceding sentence) that satisfies the conditions set forth in the first sentence of this Section 10.2 by 5:00 p.m. Eastern time on the date that is five (5) days prior to such Conversion Date set forth in such notice from the Issuer shall be permitted to convert, and, notwithstanding anything to the contrary in this Indenture, such conversion shall be effective on such Conversion Date, a Converting Amount relating to principal amount of Notes of not more than the product of (1) such Holder's principal amount of outstanding Notes on the applicable Fulfillment Date and (2) the Applicable Percentage (the "Allowed Notes") (the procedure set forth in this sentence, the "Catch-Up Mechanism").] To the extent a Holder desires to convert more than the Allowed Notes (such difference, the "Excess Notes"), such Excess Notes may be converted only by following the procedures set forth in this Section 10.2 (which will result in a later Fulfillment Date and a later Conversion Date with respect to the Excess Notes, and will cause other Holders to be provided an opportunity to convert a proportionate share of Notes on such later Conversion Date by utilizing the Catch-Up Mechanism, it being understood that all Holders shall have the opportunity to utilize the Catch-Up Mechanism with respect to a proportionate amount of Notes being converted on any particular Conversion Date until five (5) days before such Conversion Date).][19]

(d) As soon as practicable, but in no event more than seven (7) Business Days after a Conversion Date, the Issuer shall deliver to the converting Holder or Holders book-entry notations or physical certificates, as applicable, of the number of shares of New Common Stock issuable upon the conversion in satisfaction of the Issuer's conversion obligation pursuant to this Indenture.

(e) If a Holder converts more than one Note at the same time, the number of shares of New Common Stock issuable upon the conversion shall be based on the Converting Amount for all Notes converted by such Holder.

(f) Upon surrender of a Note that is converted in part, the Issuer shall execute, and the Trustee shall, upon receipt of an Authentication Order, authenticate and deliver to the Holder, a new Note equal in aggregate principal amount to the unconverted portion of the principal amount of the Note surrendered.

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[19] ~~NTD: Under review.~~

(g) Upon the conversion of an interest in a Global Note, the Trustee shall make a notation on such Global Note as to the reduction in the principal amount represented thereby. The Issuer shall notify the Trustee in writing of any conversion of Notes effected through any Conversion Agent other than the Trustee.

(h) The Person in whose name any shares of New Common Stock shall be issuable upon conversion shall be treated as a stockholder of record of such shares as of the close of business on the relevant Conversion Date.

SECTION 10.3. ***Mandatory Conversion***

(a) All outstanding Notes shall automatically convert ~~to~~(or, in connection with a Tag-Along Sale, conditionally convert) to New Common Stock ~~at~~upon the ~~election of the Holders~~conversion of a majority of the then outstanding principal amount of the Notes ~~as if the "Conversion Date" for such Notes is the date the Issuer receives notice of such election from the requisite Holders (with a copy to the Trustee~~(including, for the avoidance of doubt, upon effectiveness of conversions in connection with a Drag-Along Sale) during any [12 month] period (the "Mandatory Conversion Trigger") and the Conversion ~~Agent)~~Date for such automatically converted Notes is the relevant Mandatory Conversion Date. The Issuer shall promptly forward ~~such~~ notice to the Holders~~.~~, the Trustee and the Conversion Agent (if other than the Trustee) of the occurrence of any Mandatory Conversion Date after obtaining actual knowledge thereof. Any Notes subject to automatic conversion as a result of the election to convert of a majority in aggregate principal amount of the Notes pursuant to Section 10.1(f) in connection with a Drag-Along Sale or Section 10.1(g) in connection with a Tag-Along Sale shall be converted in the manner set forth in, and subject to the conditions of, such Section 10.1(f) or Section 10.1(g), as the case may be (including, for the avoidance of doubt, the condition to conversion in connection with a Tag-Along Sale of the inclusion of the New Common Stock issuable upon conversion in the Tag-Along Closing).

(b) If any New Common Stock is to be issued upon any mandatory conversion pursuant to this Section 10.3, with respect to any converting Holders or recipient of shares of New Common Stock issuable upon such conversion that are not already party to the Stockholders Agreement, each such Holder or recipient shall deliver to the Issuer a duly completed and executed Joinder Agreement pursuant to which such Holder or recipient, as the case may be, agrees to be bound by, and acknowledges that all New Common Stock issued upon such conversion will be subject to, the terms and conditions of the Stockholders Agreement. The Issuer may refuse to deliver the certificates (or book-entry evidence) representing the shares of New Common Stock being issued upon any mandatory conversion pursuant to this Section 10.3 until the Issuer receives a Joinder Agreement in accordance with the immediately preceding sentence.

SECTION 10.4. ***Taxes on Conversion***

Upon conversion of a Note, the Issuer shall pay any documentary, stamp or similar issue or transfer tax due on the issue of shares of New Common Stock upon such conversion.

However, the converting Holder shall pay any such tax which is due because such Holder requests the shares of New Common Stock to be issued in a name other than the Holder's name. The Issuer may refuse to deliver the shares of New Common Stock being issued in a name other than the Holder's name until the Issuer receive a sum sufficient to pay any tax which will be due because the shares of New Common Stock are to be issued in a name other than the Holder's name. Nothing in this Section 10.4 or elsewhere in this Indenture shall preclude any tax withholding required by law or regulations.

SECTION 10.5. ***Issuer to Provide Shares of New Common Stock***

The Issuer shall from time to time as may be necessary, reserve, out of its authorized but unissued shares of New Common Stock a sufficient number of shares of New Common Stock to permit the conversion of all outstanding Notes and accrued and unpaid interest thereon for shares of New Common Stock.

The Issuer covenants that all shares of New Common Stock delivered upon conversion of the Notes shall be newly issued shares of New Common Stock, shall be duly authorized, validly issued, fully paid and non-assessable and shall be free from preemptive rights and free of any lien or adverse claim.

The Issuer will endeavor promptly to comply with all federal and state securities laws regulating to the offer and delivery of shares of New Common Stock upon conversion of Notes, if any, and will list or cause to be approved for listing or included for quotation, as the case may be, such shares of New Common Stock on each national securities exchange or in the over-the-counter market or such other market on which the shares of New Common Stock are then listed or quoted, if any.

SECTION 10.6. ***Subdivision or Combination of Shares of New Common Stock***

In case the Issuer shall at any time subdivide its outstanding shares of New Common Stock into a greater number of shares of New Common Stock, exclusively issue shares of New Common Stock as a dividend or distribution on shares of the New Common Stock or combine its outstanding shares of New Common Stock into a smaller number of shares of New Common Stock, the Conversion Rate in effect immediately prior to such subdivision, dividend or combination shall be appropriately adjusted in a manner deemed equitable by the Board of Directors. Notwithstanding anything to the contrary in this Indenture or otherwise, the Conversion Rate shall not be adjusted upon the issuance of any shares of New Common Stock or options or rights to purchase those shares pursuant to any present or future employee, management, director or consultant benefit plan or program of or assumed by the Issuer or any of the Issuer's Subsidiaries.

SECTION 10.7. ***Calculations***. All calculations and other determinations under this Article X shall be made by the Issuer and shall be made to the nearest one-ten thousandth (1/10,000th) of a share.

SECTION 10.8. ***Adjustment for Tax Purposes***. The Issuer shall be entitled to make such increases in the Conversion Rate, in addition to any adjustments made pursuant to Section 10.6, as the Board of Directors considers to be advisable in order to avoid or diminish income tax to beneficial owners of Common Stock or rights to purchase shares of Common Stock in connection with a dividend or a distribution of shares (or rights to acquire shares) or similar event.

SECTION 10.9. [Reserved.]

SECTION 10.10. [Reserved.]

SECTION 10.11. ***Notice of Adjustment***

Whenever the Conversion Rate is adjusted, the Issuer shall promptly file with the Trustee and any Conversion Agent an Officers' Certificate setting forth the Conversion Rate after such adjustment and setting forth a brief statement of the facts requiring such adjustment. Unless and until a Responsible Officer of the Trustee and the Conversion Agent shall have received such Officers' Certificate at the Corporate Trust Office of the Trustee, neither the Trustee nor the Conversion Agent shall be deemed to have knowledge of any adjustment of the Conversion Rate and may assume without inquiry that the last Conversion Rate of which it has knowledge are still in effect. Promptly after delivery of such Officers' Certificate, the Issuer shall prepare a notice of such adjustment of the Conversion Rate setting forth the adjusted Conversion Rate and the date on which each adjustment becomes effective and shall send such notice of such adjustment of the Conversion Rate to each Holder, within 20 days after execution thereof. Failure to deliver such notice shall not affect the legality or validity of any such adjustment.

SECTION 10.12. ***Notice of Certain Transactions***

In case:

(a) the Issuer shall declare a dividend (or any other distribution) on its shares of New Common Stock, other than a Permitted Payments to Parent; or

(b) the Issuer shall declare the granting to the holders of its shares of New Common Stock, of rights, warrants or options to subscribe for or purchase any share of any class or any other rights, warrants or options; or

(c) of any reclassification of the shares of New Common Stock (other than a subdivision or combination of outstanding shares of New Common Stock), or of any consolidation, merger, or equity exchange to which the Issuer is a party and for which approval of any equity holders of the Issuer is required, or of the sale or transfer of all or substantially all of the assets of the Issuer; or

(d) of the voluntary or involuntary dissolution, liquidation or winding-up of the Issuer;

then the Issuer shall cause to be filed with the Trustee and the Conversion Agent and to be sent to each Holder, as promptly as possible but in any event at least 30 days prior to the applicable date hereinafter specified, a written notice stating (x) the date on which a record is to be taken for the purpose of such dividend, distribution or granting of rights, warrants or options, or, if a record is not to be taken, the date as of which the holders of shares of New Common Stock of record to be entitled to such dividend, distribution or grant of rights, warrants or options are to be determined, or (y) the date on which such reclassification, consolidation, merger, share exchange, sale, transfer, dissolution, liquidation or winding-up is expected to become effective or occur, and, if applicable, the date as of which it is expected that holders of shares of New Common Stock of record shall be entitled to exchange their shares of New Common Stock for securities or other property deliverable upon such reclassification, consolidation, merger, share exchange, sale, transfer, dissolution, liquidation or winding-up. Failure to give such notice, or any defect therein, shall not affect the legality or validity of such dividend, distribution, grant, reclassification, consolidation, merger, sale, share exchange, transfer, dissolution, liquidation or winding-up. For the avoidance of doubt, delivery of such notice to the Trustee and the Conversion Agent is for informational purposes only, and neither the Trustee's nor Conversion Agent's receipt of such shall constitute constructive notice of any information contained therein or determinable from information contained therein.

SECTION 10.13. ***Effect of Reclassification, Consolidation, Merger, Share Exchange or Sale on Conversion Privilege***

If any of the following shall occur: (i) any reclassification or change of outstanding shares of New Common Stock (other than as a result of a subdivision or combination involving only shares of New Common Stock); (ii) any consolidation, combination, merger or share exchange to which the Issuer is a party other than a merger in which the Issuer is the continuing Person and which does not result in any reclassification of, or change (other than as a result of a subdivision or combination involving only shares of New Common Stock) of or in outstanding shares of New Common Stock; (iii) any sale or conveyance of all or substantially all of the assets of the Issuer, then the Issuer, or such successor or purchasing Person; or (iv) any statutory share exchange, in each case, as a result of which the New Common Stock would be converted into, or exchanged for, stock, other securities, other property or assets (including cash or any combination thereof) (any such event, a "Share Exchange Event"), then, at and after the effective time of such Share Exchange Event, the right to convert each Note shall be changed into a right to convert such Note into the kind and amount of shares of stock, other securities or other property or assets that a holder of a number of shares of New Common Stock equal to the Conversion Rate immediately prior to such Share Exchange Event would have owned or been entitled to receive (the "Reference Property," with each "unit of Reference Property" meaning the kind and amount of Reference Property that a holder of one share of New Common Stock is entitled to receive) upon such Share Exchange Event and, prior to or at the effective time of such Share Exchange Event, the Issuer or the successor or purchasing Person, as the case may be, shall execute with the Trustee and deliver to the Trustee a supplemental indenture providing that, on such terms and subject to such conditions as shall be as nearly equivalent as may be practicable to the provisions set forth in this Indenture; *provided*, *however*, that at and after the

effective time of the Share Exchange Event any shares of New Common Stock that the Issuer would have been required to deliver upon conversion of the Notes in accordance with Section 10.1 shall instead be deliverable in the amount and type of Reference Property that a holder of that number of shares of New Common Stock would have been entitled to receive in such Share Exchange Event.

If the Share Exchange Event causes the New Common Stock to be converted into, or exchanged for, the right to receive more than a single type of consideration (determined based in part upon any form of stockholder election), then (i) the Reference Property into which the Notes will be convertible shall be deemed to be the types and amounts of consideration actually received by the holders of New Common Stock, and (ii) the unit of Reference Property for purposes of the immediately preceding paragraph shall refer to the weighted average of the consideration referred to in clause (i) attributable to one share of New Common Stock. If the holders of the New Common Stock receive only cash in such Share Exchange Event, then for all conversions for which the relevant Conversion Date occurs after the effective date of such Share Exchange Event (A) the consideration due upon conversion of each Notes shall be solely cash in an amount equal to the Conversion Obligation in effect on the Conversion Date, multiplied by the price paid per share of New Common Stock in such Share Exchange Event and (B) the Issuer shall satisfy the Conversion Obligation by paying cash to converting Holders on or prior to the seventh Business Day immediately following the relevant Conversion Date. The Issuer shall notify Holders, the Trustee and the Conversion Agent (if other than the Trustee) of such weighted average as soon as practicable after such determination is made.

Such supplemental indenture described in the second immediately preceding paragraph shall provide for adjustments of the Conversion Rate which shall be as nearly equivalent as may be practicable to the adjustments of the Conversion Rate provided for in this Article X. If, in the case of any such Share Exchange Event, the Reference Property includes shares of Capital Stock or other securities and property of a Person other than the successor or purchasing Person, as the case may be, in such reclassification, change, consolidation, combination, merger, share exchange, sale or conveyance, then such supplemental indenture shall also be executed by such other Person and shall contain such additional provisions to protect the interests of the Holders as the Board of Directors shall reasonably consider necessary by reason of the foregoing.

The provisions of this Section 10.12 shall similarly apply to successive reclassifications, changes, combinations, consolidations, mergers, share exchanges, sales or conveyances.

In the event the Issuer shall execute a supplemental indenture pursuant to this Section 10.12, the Issuer shall promptly file with the Trustee an Officers' Certificate briefly stating the reasons therefor, the kind or amount of shares of stock or securities or property (including cash) receivable by Holders upon the conversion of their Notes after any such reclassification, change, consolidation, combination, merger, share exchange, sale or conveyance, any adjustment to be made with respect thereto and that all conditions precedent have been complied with.

SECTION 10.14. ***Trustee's Disclaimer***

The Trustee and any Conversion Agent shall not at any time be under any duty to or have any responsibility to any Holder to determine or make any calculations in this Article X nor shall it or they have any duty to or responsibility to any Holder to determine when an adjustment under this Article X should be made, how it should be made or what such adjustment should be made or to confirm the accuracy of any such adjustment, but may accept as conclusive evidence of the correctness of any such adjustment, and shall be protected in relying upon, the Officers' Certificate with respect thereto which the Issuer are obligated to file with the Trustee pursuant to Section 10.10 or upon request therefor. The Trustee and any Conversion Agent shall not be accountable for and make no representation as to the validity or value (or the kind or amount) of any securities or assets or cash, that may at any time be issued upon conversion of Notes; and the Trustee and any Conversion Agent shall not be responsible for the Issuer's failure to comply with any provisions of this Article X. Neither the Trustee nor the Conversion Agent shall be responsible for any failure of the Issuer to make or calculate any cash payment or to issue, transfer or deliver any shares of New Common Stock or certificates or other securities or property or cash upon surrender of any Note for the purpose of conversion. The Issuer will make all calculations in good faith and, absent manifest error, its calculations will be final and binding on the Holders. The Trustee and/or Conversion Agent will forward such calculations to any Holder upon the request of such Holder. Each Conversion Agent (other than the Issuer or an Affiliate of the Issuer) shall have the same protection under this Section 10.13 as the Trustee.

The Trustee and any Conversion Agent shall not be under any responsibility to determine the correctness of any provisions contained in any supplemental indenture executed pursuant to Section 10.12, but may accept as conclusive evidence of the correctness thereof, and shall be protected in relying upon, the Officers' Certificate with respect thereto which the Issuer are obligated to file with the Trustee pursuant to Section 10.12; provided, that the Trustee or Conversion Agent's conduct does not constitute willful misconduct or gross negligence.

The rights, privileges, protections, immunities and benefits given to the Trustee under this Indenture, including, without limitation, its right to be compensated, reimbursed, and indemnified, are extended to, and shall be enforceable by, the Trustee in each of its capacities hereunder, including its capacity as Conversion Agent.

SECTION 10.15. ***Voluntary Increase of the Conversion Rate***

The Issuer from time to time may increase the Conversion Rate by any amount for a period of at least twenty (20) days so long as the Board of Directors shall have made a determination that such increase would be in the best interests of the Issuer, which determination shall be conclusive. Whenever the Conversion Rate is increased pursuant to this Section 10.14, a notice of the increase in the Conversion Rate must be disclosed in accordance with Section 10.10 and must be sent to Holders at least fifteen (15) days prior to the date the increased Conversion Rate takes effect, which notice shall state the increased Conversion Rate, and the period during which such Conversion Rate will be in effect.

SECTION 10.16. ***Simultaneous Adjustments***

If more than one event requiring adjustment pursuant to this Article 10 shall occur before completing the determination of the Conversion Rate for the first event requiring such adjustment, then the Board of Directors (whose determination shall be conclusive), shall make such adjustments to the Conversion Rate (and the calculation thereof) after giving effect to all such events as shall preserve for Holders the Conversion Rate protection provided in this Article 10.

ARTICLE XI.

COLLATERAL AND SECURITY

SECTION 11.1. ***Grant of Security Interest***

The due and punctual payment of the principal of, and interest or premium (including the Interest Make-Whole Premium) on the Notes when and as the same shall be due and payable, whether on an interest payment date, at maturity, by acceleration, repurchase, redemption or otherwise, and interest on the overdue principal of and interest or premium (including the Interest Make-Whole Premium) (to the extent permitted by law) on the Notes (including, but not limited to, all interest accrued or accruing (or which would, absent commencement of an insolvency or liquidation proceeding (and the effect of provisions such as Section 502(b)(2) of the Bankruptcy Law), accrue) after commencement of an insolvency or liquidation proceeding, whether or not the claim for such interest is allowed as a claim in such insolvency or liquidation proceeding), and performance of all other Note Obligations of the Issuer and the Guarantors to the Holders or the Trustee under this Indenture and the Notes, according to the terms hereunder or thereunder, shall be secured by the Collateral, subject to any Intercreditor Agreement. Each Holder, by its acceptance of Notes, consents and agrees to the terms of any Intercreditor Agreement and the other Security Documents (including, without limitation, the provisions providing for foreclosure and release of Collateral) as the same may be in effect or may be amended, waived, supplemented or modified from time to time in accordance with its terms and authorizes and directs the Collateral Agent to enter into any Intercreditor Agreement and the other Security Documents and to perform its Note Obligations and exercise its rights thereunder in accordance therewith. At all times when the Trustee is not itself the Collateral Agent, the Issuer will deliver to the Trustee copies of all documents delivered to the Collateral Agent pursuant to the Security Documents. The Trustee and the Collateral Agent are hereby authorized to enter into the Security Documents, including any Intercreditor Agreement.

SECTION 11.2. ***Release of Collateral***

(a) Subject to subsections (b), (c) and (d) of this Section 11.2, Collateral will be released from the Lien and security interest created by the Security Documents in accordance with the provisions of the Security Documents ~~and under~~which may include the following circumstances:

(i) if any Subsidiary that is a Guarantor is released from its Note Guarantee pursuant to the terms of this Indenture, that Subsidiary Guarantor's assets will also be released from the Liens securing the Notes;

(ii) pursuant to Section 9.2 hereof, with consent of Holders of the requisite percentage of the outstanding Notes;

(iii) if required in accordance with the terms of any Intercreditor Agreement;

(iv) if such Collateral becomes Excluded Assets or is permitted to be sold or disposed of pursuant to the terms of the Note Documents;

(v) if the Issuer exercises its Legal Defeasance option or Covenant Defeasance option pursuant to Sections 8.1, 8.2 and 8.3 hereof;

(vi) upon satisfaction and discharge of this Indenture or payment in full of all Note Obligations that are then due and payable pursuant to Section 13.1 hereof.

(b) In addition, upon the request of the Issuer pursuant to an Officers' Certificate certifying that all conditions precedent hereunder have been met and stating whether or not such release is in connection with a sale or disposition of assets and (at the sole cost and expense of the Issuer) the Collateral Agent will release Collateral that is sold, conveyed or disposed of in compliance with the provisions of this Indenture.

(c) Notwithstanding anything to the contrary contained herein, at any time the Trustee or Collateral Agent is requested to acknowledge or execute a release of Collateral, the Trustee and/or the Collateral Agent shall be entitled to receive an Officers' Certificate that, unless such release is required to be made automatically pursuant to the terms of the relevant Security Document, all conditions precedent in this Indenture or the Security Documents to such release have been complied with. The Trustee may, to the extent permitted by Sections 7.1 and 7.2 hereof, accept as conclusive evidence of compliance with the foregoing provisions the appropriate statements contained in such documents. Upon receipt of such documents the Trustee and/or Collateral Agent shall execute, deliver or acknowledge any instruments of termination, satisfaction or release reasonably requested of it to evidence the release of any Collateral permitted to be released pursuant to this Indenture or the Security Documents.

SECTION 11.3. ***Authorization of Actions by the Trustee Under the Security Documents***

Subject to the provisions of Sections 7.1 and 7.2 hereof and the terms of any Intercreditor Agreement, the Trustee may, in its sole discretion and without the consent of Holders, direct, on behalf of the Holders, the Collateral Agent to take all actions it deems necessary or appropriate in order to:

(i) enforce any of the terms of the Security Documents; and

(ii) collect and receive any and all amounts payable in respect of the Note Obligations of the Issuer hereunder.

The Trustee will have power to institute and maintain such suits and proceedings as it may deem expedient to prevent any impairment of the Collateral by any acts that may be unlawful or in violation of the Security Documents or this Indenture, and such suits and proceedings as the Trustee may deem expedient to preserve or protect its interests and the interests of Holders in the Collateral (including power to institute and maintain suits or proceedings to restrain the enforcement of or compliance with any legislative or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid if the enforcement of, or compliance with, such enactment, rule or order would impair the security interest hereunder or be prejudicial to the interests of Holders or of the Trustee).

SECTION 11.4. ***Authorization of Receipt of Funds by the Trustee Under the Security Documents***

The Trustee is authorized to receive any funds for the benefit of Holders distributed under the Security Documents, and to make further distributions of such funds to the Holders according to the provisions of this Indenture and the Security Documents.

SECTION 11.5. ***Termination of Security Interest***

Upon the payment in full of all obligations of the Issuer, or upon Legal Defeasance, the Trustee will, at the request of the Issuer, deliver a certificate to the Collateral Agent stating that such obligations have been paid in full, and instruct the Collateral Agent to release the Liens pursuant to this Indenture.

SECTION 11.6. ***Trustee's Duties with Respect to Collateral***

(a) Beyond the exercise of reasonable care in the custody thereof, the Trustee shall have no duty as to any Collateral in its possession or control or in the possession or control of any agent or bailee or any income thereon or as to preservation of rights against prior parties or any other rights pertaining thereto and the Trustee shall not be responsible for filing any financing or continuation statements or recording any documents or instruments in any public office at any time or times or otherwise perfecting or maintaining the perfection of any security interest in the Collateral. The Trustee shall be deemed to have exercised reasonable care in the

custody of the Collateral in its possession if the Collateral is accorded treatment substantially equal to that which it accords its own property and shall not be liable or responsible for any loss or diminution in the value of any of the Collateral, by reason of the act or omission of any carrier, forwarding agency or other agent or bailee selected by the Trustee in good faith.

(b) The Trustee shall not be responsible for the existence, genuineness or value of any of the Collateral or for the validity, perfection, priority or enforceability of the Liens in any of the Collateral, whether impaired by operation of law or by reason of any action or omission to act on its part hereunder, except to the extent such action or omission constitutes gross negligence, bad faith or willful misconduct on the part of the Trustee, for the validity or sufficiency of the Collateral or any agreement or assignment contained therein, for the validity of the title of the Issuer to the Collateral, for insuring the Collateral or for the payment of taxes, charges, assessments or Liens upon the Collateral or otherwise as to the maintenance of the Collateral. The Trustee shall have no duty to ascertain or inquire as to the performance or observance of any of the terms of this Indenture or the Security Documents.

ARTICLE XII.

MISCELLANEOUS

SECTION 12.1. ***[Reserved].***

SECTION 12.2. ***Notices.***

Any notices or other communications required or permitted under this Indenture shall be in writing, and shall be sufficiently given if made by hand delivery, by telex, by telecopier or registered or certified mail, postage prepaid, return receipt requested, addressed as follows:

if to the Issuer and/or any Subsidiary Guarantor:

c/o Chaparral Energy, Inc.
701 Cedar Lake Boulevard
Oklahoma City, OK 73114
Attn: General Counsel

if to the Trustee or the Collateral Agent:

Wilmington Savings Fund Society FSB
500 Delaware Avenue
Wilmington, Delaware 19801
Telecopier Number: (302) 421-9137
Attn: Geoffrey J. Lewis

The Issuer, the Subsidiary Guarantors and the Trustee by written notice to the other may designate additional or different addresses for notices to such Person. Any notice or communication to the Issuer or the Trustee shall be deemed to have been given or made as of the

date so delivered if hand delivered; when receipt is acknowledged, if faxed; and five (5) calendar days after mailing if sent by registered or certified mail, postage prepaid (except that a notice of change of address shall not be deemed to have been given until actually received by the addressee).

Any notice or communication sent to a Holder shall be (x) mailed to him by first class mail or other equivalent means at his address as it appears on the registration books of the Registrar ten (10) days prior to such mailing and shall be sufficiently given to him if so mailed within the time prescribed or (y) sent as otherwise provided by the applicable procedures of DTC.

Failure to mail a notice or communication to a Holder or any defect in it shall not affect its sufficiency with respect to other Holders. If a notice or communication is mailed in the manner provided above, it is duly given, whether or not the addressee receives it.

SECTION 12.3. ***Communications by Holders with Other Holders.***

Holders may communicate pursuant to TIA § 312(b) with other Holders with respect to their rights under this Indenture or the Notes. The Issuer, the Trustee, the Registrar and any other Person shall have the protection of TIA § 312(c).

SECTION 12.4. ***Certificate and Opinion as to Conditions Precedent.***

Upon any request or application by the Issuer and/or any Subsidiary Guarantor to the Trustee to take any action under this Indenture, the Issuer and/or any Subsidiary Guarantor shall furnish to the Trustee:

(1) an Officers' Certificate, in form and substance satisfactory to the Trustee, stating that, in the opinion of the signers, all conditions precedent to be performed by the Issuer, if any, provided for in this Indenture relating to the proposed action have been complied with; and

(2) an Opinion of Counsel stating that, in the opinion of such counsel, all such conditions precedent to be performed by the Issuer, if any, provided for in this Indenture relating to the proposed action have been complied with (which counsel, as to factual matters, may rely on an Officers' Certificate).

SECTION 12.5. ***Statements Required in Certificate or Opinion.***

Each certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture, other than the Officers' Certificate required by Section 4.6, shall include:

(1) a statement that the Person making such certificate or opinion has read such covenant or condition;

(2) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based;

(3) a statement that, in the opinion of such Person, he has made such examination or investigation as is reasonably necessary to enable him to express an informed opinion as to whether or not such covenant or condition has been complied with; and

(4) a statement as to whether or not, in the opinion of each such Person, such condition or covenant has been complied with.

SECTION 12.6. ***Rules by Trustee, Paying Agent, Registrar*.**

The Trustee may make reasonable rules in accordance with the Trustee's customary practices for action by or at a meeting of Holders. The Paying Agent or Registrar may make reasonable rules for its functions.

SECTION 12.7. ***Legal Holidays*.**

A "Legal Holiday" used with respect to a particular place of payment is a Saturday, a Sunday or a day on which commercial banking institutions in New York, New York or Dallas/Fort Worth, Texas or at such place of payment are authorized or required by law to close. If a payment date is a Legal Holiday at such place, payment may be made at such place on the next succeeding day that is not a Legal Holiday, and no interest shall accrue for the intervening period.

SECTION 12.8. ***Governing Law*.**

THIS INDENTURE, THE NOTES AND THE SUBSIDIARY GUARANTEES SHALL BE GOVERNED BY AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK. Each of the parties hereto agrees to submit to the jurisdiction of the courts of the State of New York in any action or proceeding arising out of or relating to this Indenture.

SECTION 12.9. ***No Adverse Interpretation of Other Agreements*.**

This Indenture may not be used to interpret another indenture, loan or debt agreement of the Issuer or any of its Subsidiaries. Any such indenture, loan or debt agreement may not be used to interpret this Indenture.

SECTION 12.10. ***No Personal Liability*.**

No director, officer, employee, incorporator or stockholder of the Issuer or director, officer, employee, incorporator or stockholder of any Subsidiary Guarantor, as such, shall have any liability for any of the Issuer's obligations under the Notes or this Indenture, the Subsidiary Guarantors' obligations under the Subsidiary Guarantees or this Indenture or any claim based on, in respect of, or by reason of these obligations or their creation. Each Holder, by accepting a

Note, waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes. The waiver may not be effective to waive liabilities under the federal securities laws and it is the view of the SEC that such a waiver is against public policy.

SECTION 12.11. ***Successors*.**

All agreements of the Issuer and the Subsidiary Guarantors in this Indenture, the Notes and the Subsidiary Guarantees shall bind their successors. All agreements of the Trustee in this Indenture shall bind its successors.

SECTION 12.12. ***Duplicate Originals*.**

All parties may sign any number of copies of this Indenture. Each signed copy shall be an original, but all of them together shall represent the same agreement. Delivery of an executed signature page to this Indenture by facsimile or other electronic transmission shall be effective as delivery of a manually executed counterpart thereof.

SECTION 12.13. ***Severability*.**

In case any one or more of the provisions in this Indenture or in the Notes shall be held invalid, illegal or unenforceable, in any respect for any reason, the validity, legality and enforceability of any such provision in every other respect and of the remaining provisions shall not in any way be affected or impaired thereby, it being intended that all of the provisions hereof shall be enforceable to the full extent permitted by law.

SECTION 12.14. ***Independence of Covenants*.**

All covenants and agreements in this Indenture and the Notes shall be given independent effect so that if any particular action or condition is not permitted by any of such covenants, the fact that it would be permitted by an exception to, or otherwise be within the limitations of, another covenant shall not avoid the occurrence of a Default or an Event of Default if such action is taken or condition exists.

SECTION 12.15. ***Waiver of Jury Trial*.**

EACH OF THE ISSUER, EACH SUBSIDIARY GUARANTOR AND THE TRUSTEE HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS INDENTURE, THE NOTES, THE SUBSIDIARY GUARANTEES OR THE TRANSACTION CONTEMPLATED HEREBY.

SECTION 12.16. ***Electronic Storage*.**

The parties hereto agree that the transactions described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic

files, and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action, or suit in the appropriate court of law.

ARTICLE XIII.

SUBSIDIARY GUARANTEE OF NOTES

SECTION 13.1. ***Unconditional Subsidiary Guarantee*.**

Subject to the provisions of this Article XII, each Subsidiary Guarantor, if any, hereby, jointly and severally, unconditionally and irrevocably guarantees, on an unsecured senior basis to each Holder of a Note authenticated and delivered by the Trustee and to the Trustee and its successors and assigns, irrespective of the validity and enforceability of this Indenture, the Notes or the obligations of the Issuer or any other Subsidiary Guarantors to the Holders or the Trustee under this Indenture or thereunder, that: (a) the principal of, premium, if any, and interest on the Notes shall be duly and punctually paid in full when due, whether at maturity, upon redemption at the option of Holders pursuant to the provisions of the Notes relating thereto, by acceleration or otherwise, and interest on the overdue principal and (to the extent permitted by law) interest, if any, on the Notes and all other obligations of the Issuer or the Subsidiary Guarantors to the Holders or the Trustee under this Indenture or thereunder (including amounts due the Trustee under Section 7.7 hereof) and all other obligations shall be promptly paid in full or performed, all in accordance with the terms hereof and thereof; and (b) in case of any extension of time of payment or renewal of any Notes or any of such other obligations, the same shall be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at maturity, by acceleration or otherwise. Failing payment when due of any amount so guaranteed, or failing performance of any other obligation of the Issuer to the Holders under this Indenture or under the Notes, for whatever reason, each Subsidiary Guarantor shall be obligated to pay, or to perform or cause the performance of, the same immediately. An Event of Default under this Indenture or the Notes shall constitute an event of default under the Subsidiary Guarantees, and shall entitle the Holders of Notes to accelerate the obligations of the Subsidiary Guarantors under this Indenture in the same manner and to the same extent as the obligations of the Issuer.

Each of the Subsidiary Guarantors hereby agrees that its obligations under this Indenture shall be unconditional, irrespective of the validity, regularity or enforceability of the Notes or this Indenture, the absence of any action to enforce the same, any waiver or consent by any Holder of the Notes with respect to any provisions hereof or thereof, any release of any other Subsidiary Guarantor, the recovery of any judgment against the Issuer, any action to enforce the same, whether or not a Subsidiary Guarantee is affixed to any particular Note, or any other circumstance which might otherwise constitute a legal or equitable discharge or defense of a guarantor. Each of the Subsidiary Guarantors hereby waives the benefit of diligence, presentment, demand of payment, filing of claims with a court in the event of insolvency or bankruptcy of the Issuer, any right to require a proceeding first against the Issuer, protest, notice and all demands whatsoever and covenants that its Subsidiary Guarantee shall not be discharged

except by complete performance of the obligations contained in the Notes, this Indenture and its Subsidiary Guarantee. Each Subsidiary Guarantee is a guarantee of payment and not of collection. If any Holder or the Trustee is required by any court or otherwise to return to the Issuer or to any Subsidiary Guarantor, or any custodian, trustee, liquidator or other similar official acting in relation to the Issuer or such Subsidiary Guarantor, any amount paid by the Issuer or such Subsidiary Guarantor to the Trustee or such Holder, its Subsidiary Guarantee, to the extent theretofore discharged, shall be reinstated in full force and effect. Each Subsidiary Guarantor further agrees that, as between it, on the one hand, and the Holders of Notes and the Trustee, on the other hand, (a) subject to this Article XII, the maturity of the obligations guaranteed hereby may be accelerated as provided in Article VI hereof for the purposes of its Subsidiary Guarantee, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the obligations guaranteed hereby, and (b) in the event of any acceleration of such obligations as provided in Article VI hereof, such obligations (whether or not due and payable) shall forthwith become due and payable by the Subsidiary Guarantors for the purpose of its Subsidiary Guarantee.

No stockholder, officer, director, employee, partner or incorporator, past, present or future, or any Subsidiary Guarantor, as such, shall have any personal liability under the Subsidiary Guarantees by reason of his, her or its status as such stockholder, officer, director, employee, partner or incorporator.

SECTION 13.2. ***Limitations on Subsidiary Guarantees*.**

The obligations of each Subsidiary Guarantor under its Subsidiary Guarantee will be limited to the maximum amount which, after giving effect to all other contingent and fixed liabilities of such Subsidiary Guarantor and after giving effect to any collections from or payments made by or on behalf of any other Subsidiary Guarantor in respect of the obligations of such other Subsidiary Guarantor under its Subsidiary Guarantee or pursuant to its contribution obligations under this Indenture, will result in the obligations of such Subsidiary Guarantor under its Subsidiary Guarantee not constituting a fraudulent conveyance or fraudulent transfer under federal or state law.

SECTION 13.3. ***Execution and Delivery of Subsidiary Guarantee Notation*.**

To further evidence its Subsidiary Guarantee set forth in Section 12.1, each Subsidiary Guarantor hereby agrees that a notation of such Subsidiary Guarantee, substantially in the form of Exhibit D herein, shall be endorsed on each Note authenticated and delivered by the Trustee. Such notation shall be executed on behalf of each Subsidiary Guarantor by either manual or facsimile signature of one Officer of each Subsidiary Guarantor, who, in each case, shall have been duly authorized to so execute by all requisite corporate action. The validity and enforceability of any Subsidiary Guarantee shall not be affected by the fact that such notation is not affixed to any particular Note.

Each of the Subsidiary Guarantors hereby agrees that its Subsidiary Guarantee set forth in Section 12.1 shall remain in full force and effect notwithstanding any failure to endorse on each Note a notation of such Subsidiary Guarantee.

If an Officer of a Subsidiary Guarantor whose signature is on this Indenture or on a notation of a Subsidiary Guarantee no longer holds that office at the time the Trustee authenticates the Note on which such notation is endorsed or at any time thereafter, such Subsidiary Guarantor's Subsidiary Guarantee of such Note shall be valid nevertheless.

The delivery of any Note by the Trustee, after the authentication thereof under this Indenture, shall constitute due delivery of any Subsidiary Guarantee set forth in this Indenture on behalf of each Subsidiary Guarantor.

SECTION 13.4. ***Release of a Subsidiary Guarantor*.**

(a) If no Default exists or would exist under this Indenture, (i) upon the sale or disposition of all of the Capital Stock of a Subsidiary Guarantor by the Issuer or a Restricted Subsidiary of the Issuer in a transaction constituting an Asset Disposition in accordance with Section 4.16, or upon the consolidation or merger of a Subsidiary Guarantor with or into any Person in compliance with Article V (in each case, other than to the Issuer or an Affiliate of the Issuer or a Restricted Subsidiary), (ii) upon the designation of a Subsidiary Guarantor as an Unrestricted Subsidiary in accordance with the definition of "Unrestricted Subsidiary," (iii) in connection with any Legal Defeasance or satisfaction and discharge of the Notes as provided in Section 8.1 or (iv) upon the liquidation or dissolution of such Subsidiary Guarantor in a transaction or series of related transactions that does not violate the terms of this Indenture, such Subsidiary Guarantor and each Subsidiary of such Subsidiary Guarantor that is also a Subsidiary Guarantor shall be deemed released from all obligations under this Article XII without any further action required on the part of the Trustee or any Holder; *provided*, *however*, that each such Subsidiary Guarantor is sold or disposed of or designated in accordance with this Indenture. Any Subsidiary Guarantor not so released or the entity surviving such Subsidiary Guarantor, as applicable, shall remain or be liable under its Subsidiary Guarantee as provided in this Article XII.

(b) The Trustee shall deliver an appropriate instrument evidencing the release of a Subsidiary Guarantor upon receipt of a request by the Issuer or such Subsidiary Guarantor accompanied by an Officers' Certificate certifying as to the compliance with this Section 12.4 and an Opinion of Counsel; *provided* the legal counsel delivering such Opinion of Counsel may rely as to matters of fact on one or more Officers Certificates of the Issuer.

Except as set forth in Articles IV and V and this Section 12.4, nothing contained in this Indenture or in any of the Notes shall prevent any consolidation or merger of a Subsidiary Guarantor with or into the Issuer or another Subsidiary Guarantor or shall prevent any sale or conveyance of the property of a Subsidiary Guarantor as an entirety or substantially as an entirety to the Issuer or another Subsidiary Guarantor.

SECTION 13.5. ***Waiver of Subrogation*.**

Until this Indenture is discharged and all of the Notes are discharged and paid in full, each Subsidiary Guarantor hereby irrevocably waives and agrees not to exercise any claim or other rights which it may now or hereafter acquire against the Issuer that arise from the existence, payment, performance or enforcement of the Issuer's obligations under the Notes or this Indenture and such Subsidiary Guarantor's obligations under its Subsidiary Guarantee and this Indenture, in any such instance including, without limitation, any right of subrogation, reimbursement, exoneration, contribution, indemnification, and any right to participate in any claim or remedy of the Holders against the Issuer, whether or not such claim, remedy or right arises in equity, or under contract, statute or common law, including, without limitation, the right to take or receive from the Issuer, directly or indirectly, in cash or other property or by set-off or in any other manner, payment or security on account of such claim or other rights. If any amount shall be paid to any Subsidiary Guarantor in violation of the preceding sentence and any amounts owing to the Trustee or the Holders of Notes under the Notes, this Indenture, or any other document or instrument delivered under or in connection with such agreements or instruments, shall not have been paid in full, such amount shall have been deemed to have been paid to such Subsidiary Guarantor for the benefit of, and held in trust for the benefit of, the Trustee or the Holders and shall forthwith be paid to the Trustee for the benefit of itself or such Holders to be credited and applied to the obligations in favor of the Trustee or the Holders, as the case may be, whether matured or unmatured, in accordance with the terms of this Indenture. Each Subsidiary Guarantor acknowledges that it will receive direct and indirect benefits from the financing arrangements contemplated by this Indenture and that the waiver set forth in this Section 12.5 is knowingly made in contemplation of such benefits.

SECTION 13.6. ***Immediate Payment*.**

Each Subsidiary Guarantor agrees to make immediate payment to the Trustee on behalf of the Holders of all obligations under the Notes and this Indenture owing or payable to the respective Holders upon receipt of a demand for payment therefor by the Trustee to such Subsidiary Guarantor in writing.

SECTION 13.7. ***No Set-Off*.**

Each payment to be made by a Subsidiary Guarantor under this Indenture in respect of the obligations under the Notes and this Indenture shall be payable in the currency or currencies in which such obligations are denominated, and shall be made without set-off, counterclaim, reduction or diminution of any kind or nature.

SECTION 13.8. ***Obligations Absolute*.**

The obligations of each Subsidiary Guarantor under this Indenture are and shall be absolute and unconditional and any monies or amounts expressed to be owing or payable by each Subsidiary Guarantor under this Indenture which may not be recoverable from such Subsidiary

Guarantor on the basis of a Subsidiary Guarantee shall be recoverable from such Subsidiary Guarantor as a primary obligor and principal debtor in respect thereof.

SECTION 13.9. ***Obligations Continuing*.**

The obligations of each Subsidiary Guarantor under this Indenture shall be continuing and shall remain in full force and effect until all the obligations have been paid and satisfied in full. Each Subsidiary Guarantor agrees with the Trustee that it will from time to time deliver to the Trustee suitable acknowledgments of this continued liability under this Indenture and under any other instrument or instruments in such form as counsel to the Trustee may advise and as will prevent any action brought against it in respect of any default under this Indenture being barred by any statute of limitations now or hereafter in force and, in the event of the failure of a Subsidiary Guarantor so to do, it hereby irrevocably appoints the Trustee the attorney and agent of such Subsidiary Guarantor to make, execute and deliver such written acknowledgment or acknowledgments or other instruments as may from time to time become necessary or advisable, in the judgment of the Trustee on the advice of counsel, to fully maintain and keep in force the liability of such Subsidiary Guarantor under this Indenture.

SECTION 13.10. ***Obligations Not Reduced*.**

The obligations of each Subsidiary Guarantor under this Indenture shall not be satisfied, reduced or discharged solely by the payment of such principal, premium, if any, interest, fees and other monies or amounts as may at any time prior to discharge of this Indenture pursuant to Article VIII be or become owing or payable under or by virtue of or otherwise in connection with the Notes or this Indenture.

SECTION 13.11. ***Obligations Reinstated*.**

The obligations of each Subsidiary Guarantor under this Indenture shall continue to be effective or shall be reinstated, as the case may be, if at any time any payment which would otherwise have reduced the obligations of any Subsidiary Guarantor under this Indenture (whether such payment shall have been made by or on behalf of the Issuer or by or on behalf of a Subsidiary Guarantor) is rescinded or reclaimed from any of the Holders upon the insolvency, bankruptcy, liquidation or reorganization of the Issuer or any Subsidiary Guarantor or otherwise, all as though such payment had not been made. If demand for, or acceleration of the time for, payment by the Issuer is stayed upon the insolvency, bankruptcy, liquidation or reorganization of the Issuer, all such Indebtedness otherwise subject to demand for payment or acceleration shall nonetheless be payable by each Subsidiary Guarantor as provided herein.

SECTION 13.12. ***Obligations Not Affected*.**

The obligations of each Subsidiary Guarantor under this Indenture shall not be affected, impaired or diminished in any way by any act, omission, matter or thing whatsoever, occurring before, upon or after any demand for payment under this Indenture (and whether or not known or consented to by any Subsidiary Guarantor or any of the Holders) which, but for this provision,

might constitute a whole or partial defense to a claim against any Subsidiary Guarantor under this Indenture or might operate to release or otherwise exonerate any Subsidiary Guarantor from any of its obligations under this Indenture or otherwise affect such obligations, whether occasioned by default of any of the Holders or otherwise, including, without limitation:

(a) any limitation of status or power, disability, incapacity or other circumstance relating to the Issuer or any other person, including any insolvency, bankruptcy, liquidation, reorganization, readjustment, composition, dissolution, winding up or other proceeding involving or affecting the Issuer or any other person;

(b) any irregularity, defect, unenforceability or invalidity in respect of any Indebtedness or other obligation of the Issuer or any other person under this Indenture, the Notes or any other document or instrument;

(c) any failure of the Issuer, whether or not without fault on its part, to perform or comply with any of the provisions of this Indenture or the Notes, or to give notice thereof to a Subsidiary Guarantor;

(d) the taking or enforcing or exercising or the refusal or neglect to take or enforce or exercise any right or remedy from or against the Issuer or any other person or their respective assets or the release or discharge of any such right or remedy;

(e) the granting of time, renewals, extensions, compromises, concessions, waivers, releases, discharges and other indulgences to the Issuer or any other Person;

(f) any change in the time, manner or place of payment of, or in any other term of, any of the Notes, or any other amendment, variation, supplement, replacement or waiver of, or any consent to departure from, any of the Notes or this Indenture, including, without limitation, any increase or decrease in the principal amount of or premium, if any, or interest on any of the Notes;

(g) any change in the ownership, control, name, objects, businesses, assets, capital structure or constitution of the Issuer or a Subsidiary Guarantor;

(h) any merger or amalgamation of the Issuer or a Subsidiary Guarantor with any Person or Persons;

(i) the occurrence of any change in the laws, rules, regulations or ordinances of any jurisdiction by any present or future action of any governmental authority or court amending, varying, reducing or otherwise affecting, or purporting to amend, vary, reduce or otherwise affect, any of the Issuer's obligations under the Notes or this Indenture or the obligations of a Subsidiary Guarantor under its Subsidiary Guarantee; and

(j) any other circumstance (other than by complete, irrevocable payment), including release of any other Subsidiary Guarantor pursuant to Section 12.4, that might otherwise

constitute a legal or equitable discharge or defense of the Issuer under this Indenture or the Notes or of a Subsidiary Guarantor in respect of its Subsidiary Guarantee under this Indenture.

SECTION 13.13. ***Waiver*.**

Without in any way limiting the provisions of Section 12.1 hereof, each Subsidiary Guarantor hereby waives notice of acceptance hereof, notice of any liability of any Subsidiary Guarantor under this Indenture, notice or proof of reliance by the Holders upon the obligations of any Subsidiary Guarantor under this Indenture, and diligence, presentment, demand for payment on the Issuer, protest, notice of dishonor or non-payment of any of the Issuer's obligations, under the Notes or this Indenture, or other notice or formalities to the Issuer or any Subsidiary Guarantor of any kind whatsoever.

SECTION 13.14. ***No Obligation To Take Action Against the Issuer*.**

Neither the Trustee nor any other Person shall have any obligation to enforce or exhaust any rights or remedies or to take any other steps under any security for the Issuer's obligations under the notes or this Indenture, or against the Issuer or any other Person or any Property of the Issuer or any other Person before the Trustee is entitled to demand payment and performance by any or all Subsidiary Guarantors of their liabilities and obligations under their Subsidiary Guarantees or under this Indenture.

SECTION 13.15. ***Dealing with the Issuer and Others*.**

The Holders, without releasing, discharging, limiting or otherwise affecting in whole or in part the obligations and liabilities of any Subsidiary Guarantor under this Indenture and without the consent of or notice to any Subsidiary Guarantor, may:

(a) grant time, renewals, extensions, compromises, concessions, waivers, releases, discharges and other indulgences to the Issuer or any other Person;

(b) take or abstain from taking security or collateral from the Issuer or from perfecting security or collateral of the Issuer;

(c) release, discharge, compromise, realize, enforce or otherwise deal with or do any act or thing in respect of (with or without consideration) any and all collateral, mortgages or other security given by the Issuer or any third party with respect to the obligations or matters contemplated by this Indenture or the Notes;

(d) accept compromises or arrangements from the Issuer;

(e) apply all monies at any time received from the Issuer or from any security upon such part of the Issuer's obligations under the Notes and this Indenture as the Holders may see fit or change any such application in whole or in part from time to time as the Holders may see fit; and

(f) otherwise deal with, or waive or modify their right to deal with, the Issuer and all other Persons and any security as the Holders or the Trustee may see fit.

SECTION 13.16. ***Default and Enforcement.***

If any Subsidiary Guarantor fails to pay in accordance with Section 12.6 hereof, the Trustee may proceed in its name as trustee under this Indenture in the enforcement of the Subsidiary Guarantee of any such Subsidiary Guarantor and such Subsidiary Guarantor's obligations thereunder and under this Indenture by any remedy provided by law, whether by legal proceedings or otherwise, and to recover from such Subsidiary Guarantor its obligations thereunder and under this Indenture.

SECTION 13.17. ***Amendment, Etc.***

No amendment, modification or waiver of any provision of this Indenture relating to any Subsidiary Guarantor or consent to any departure by any Subsidiary Guarantor or any other Person from any such provision will in any event be effective unless it is signed by such Subsidiary Guarantor and the Trustee.

SECTION 13.18. ***Acknowledgment.***

Each Subsidiary Guarantor hereby acknowledges communication of the terms of this Indenture and the Notes and consents to and approves of the same.

SECTION 13.19. ***Costs and Expenses.***

Each Subsidiary Guarantor shall pay on demand by the Trustee any and all reasonable costs, fees and expenses (including, without limitation, legal fees on a solicitor and client basis) incurred by the Trustee, its agents, advisors and counsel or any of the Holders in enforcing any of their rights under any Subsidiary Guarantee.

SECTION 13.20. ***No Merger or Waiver; Cumulative Remedies.***

No Subsidiary Guarantee shall operate by way of merger of any of the obligations of a Subsidiary Guarantor under any other agreement, including, without limitation, this Indenture. No failure to exercise and no delay in exercising, on the part of the Trustee or the Holders, any right, remedy, power or privilege under this Indenture or the Notes shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege under this Indenture or the Notes preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges in the Subsidiary Guarantee and under this Indenture, the Notes and any other document or instrument between a Subsidiary Guarantor and/or the Issuer and the Trustee are cumulative and not exclusive of any rights, remedies, powers and privilege provided by law.

SECTION 13.21. ***Survival of Obligations*.**

Without prejudice to the survival of any of the other obligations of each Subsidiary Guarantor under this Indenture, the obligations of each Subsidiary Guarantor under Section 12.1 shall survive the payment in full of the Issuer's obligations under the Notes and this Indenture and shall be enforceable against such Subsidiary Guarantor without regard to and without giving effect to any defense, right of offset or counterclaim available to or which may be asserted by the Issuer or any Subsidiary Guarantor.

SECTION 13.22. ***Subsidiary Guarantee in Addition to Other Obligations*.**

The obligations of each Subsidiary Guarantor under its Subsidiary Guarantee and this Indenture are in addition to and not in substitution for any other obligations to the Trustee or to any of the Holders in relation to this Indenture or the Notes and any guarantees or security at any time held by or for the benefit of any of them.

SECTION 13.23. ***Severability*.**

Any provision of this Article XII which is prohibited or unenforceable in any jurisdiction shall not invalidate the remaining provisions and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction unless its removal would substantially defeat the basic intent, spirit and purpose of this Indenture and this Article XII.

SECTION 13.24. ***Successors and Assigns***.

Each Subsidiary Guarantee shall be binding upon and inure to the benefit of each Subsidiary Guarantor and the Trustee and the other Holders and their respective successors and permitted assigns, except that no Subsidiary Guarantor may assign any of its obligations under this Indenture or thereunder.

[Signature pages follow]

IN WITNESS WHEREOF, the parties hereto have caused this Indenture to be duly executed as of the date first written above.

ISSUER:

CHAPARRAL ENERGY, INC.

By: _____
Name:
Title:

SUBSIDIARY GUARANTORS:

CHAPARRAL RESOURCES, L.L.C.
CHAPARRAL REAL ESTATE, L.L.C.
CHAPARRAL CO2, L.L.C.
CEI PIPELINE, L.L.C.
CHAPARRAL ENERGY, L.L.C.
[CEI ACQUISITION, L.L.C.
GREEN COUNTRY SUPPLY, INC.
CHAPARRAL BIOFUELS, L.L.C.
CHAPARRAL EXPLORATION, L.L.C.
ROADRUNNER DRILLING, L.L.C.]
CHARLES ENERGY, L.L.C
CHESTNUT ENERGY, L.L.C.
TRABAJO ENERGY, L.L.C.

By: _____
Name:
Title:

WILMINGTON SAVINGS FUND SOCIETY
FSB, as Trustee and as Collateral Agent

By: _____
Name: ~~Geoffrey J. Lewis~~
Title: ~~Vice President~~

Summary report: **Litera® Change-Pro for Word 10.10.0.103 Document comparison done on 9/23/2020 11:09:29 AM**	
Style name: Comments+Color Legislative Moves+Images	
Intelligent Table Comparison: Active	
Original DMS: iw://DMS/AmericasActive/93613029/5	
Modified filename: Chaparral - 2L Convertible Notes Indenture.DOCX	
Changes:	
Add	470
~~Delete~~	351
~~Move From~~	15
Move To	15
Table Insert	0
~~Table Delete~~	0
Table moves to	0
~~Table moves from~~	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
Total Changes:	851